

MUNICIPALITY OF THE COUNTY OF COLCHESTER

CHAPTER 26 LOCAL IMPROVEMENT BY-LAW

1. This By-Law is enacted pursuant to Sections 81 and 179 of the Municipal Government Act, S.N.S. 1998, c. 18, and shall be known and may be cited as the Local Improvement By-Law of the Municipality of the County of Colchester.

Definitions

2. In this By-Law:
 - a. “Corner Property” means an Adjacent Property situated at an intersection or junction of two or more Streets, such that the property has frontage on more than one Street, provided that each such street either
 - i. has been improved and has been the subject of a municipal local improvement charge attaching to the property in question for the applicable type of local improvement, irrespective of whether the charge was levied under a previous by-law or pursuant to this By-Law, or
 - ii. is unimproved but is potentially eligible for future local improvement under this By-Law in respect of the applicable type of local improvement;
 - b. “Adjacent Property” means a parcel or lot of property, other than an Exempt Property, which has a common boundary with a Street in which a Local Improvement is or will be situated, provided that some portion of the Local Improvement is located immediately beside the parcel or lot of property;”
 - c. “Central Colchester Service Delivery Area” means areas within Central Colchester designated as sewer-serviced areas in the Municipality’s Service Delivery Strategy with any additions or deletions to the sewer-serviced area of Central Colchester made by Council resolutions passed after the approval of the Service Delivery Strategy;
 - d. “Charge” means
 - i. for the provision of street lighting services in the Sewer Service Area or in the Rural Fringe where the proposed street lighting system is an extension of an immediately adjacent existing street light system, Charge means the recovery of costs of street lights

through a uniform area rate equal to the street light component of the urban service rates;

- ii. for the provision of street lighting services in the Rural Fringe where the proposed street lighting system is not immediately adjacent to an existing street light system and in all areas outside the Rural Fringe, other than the Sewer Service Area, Charge means a Flat Rate payable by the Owner of each Adjacent Dwelling for the street lighting service OR an area rate payable by the Owner or Adjacent Property determined by dividing the cost of the street lighting service by the total assessment of all properties to be provided lighting services according to the Petition; or,
 - iii. for all other Local Improvements pursuant to this By-Law, Charges means the charge payable by the Owner of each Adjacent Property as a Frontage Charge for local improvement pursuant to this By-Law and is calculated by multiplying the anticipated unit costs per foot of construction for the Local Improvement by the frontage of the Adjacent Property.”
- e. “Council” means the Council for the Municipality of the County of Colchester.
 - f. “Director of Public Works” includes any person assigned or designated by the Director to carry out tasks or activities or exercise discretion which this By-Law assigns to the Director of Public Works, including the Property Information Manager;
 - g. “Dwelling” means any property where a building exists on the property;
 - h. “Exempt Property” means property exempted by the *Municipal Government Act* from paying a charge levied under this By-Law;
 - i. “Frontage” means the length of the common boundary, or common portion of boundary, between an Adjacent Property and the portion of a Street in which a Local Improvement is or will be situated, irrespective of whether the boundary is a front, rear or side boundary of the Adjacent Property, or along a side or end of a Street. In calculating frontage the following rules shall apply:
 - i. Where a Local Improvement does not extend the full length of the Street, frontage shall only be measured to a point perpendicular to the end-point of the Local Improvement, except that at a cul-de-sac, inside corner or similar circumstance, if a property is effectively fully-serviced by a Local Improvement, the frontage

shall be measured along the entire such common boundary irrespective of perpendiculars;

- ii. For Corner Properties frontage shall be adjusted by reducing the actual measured frontage by 50% unless Council specifies otherwise at the time of approving a Petition...;

j. “Flat rate” is an amount in dollars representing the cost of providing street lighting divided by the total number of Adjacent Dwellings to determine the rate to be included in the Area Rate for street lighting services which rate may change from time to time to reflect increases in the cost of the services;

k. “Local Improvement” means the following designated improvements:

- i. The paving of a Street, and work on any curbs, gutters, culverts, retaining walls or other ancillary construction the Street which is carried out as part of the same project as the Street Paving, but excludes maintenances of the paving and ancillary works;
- ii. The provision of street lights in areas either inside the Sewer Service Area not currently serviced by street lights, or outside the Sewer Service Area.

l. “Majority Approval for Local Improvement” means:

- i. Majority approval, other than for approval for Street Lighting, is based on signatures from owners of Adjacent Properties having aggregate frontage with more than 66.6 % (2/3) of the total frontage of all Adjacent Properties. In the event information relied upon by Council or staff when assessing whether a petition has Majority Approval later proves to be wrong, the decision based on such information shall be as valid as if the information were correct;
- ii. Majority approval for Street Lighting means (i) Majority Approval based on signatures from Owners of Adjacent Properties having aggregate assessment of more than half of the total assessment of all Adjacent Properties, AND (ii) Majority Approval based on signatures of more than half of the Owners of all Adjacent Properties. In the event information relied upon by Council or staff when assessing whether a petition has Majority Approval later proves to be wrong, the decision based on such information shall be as valid as if the information were correct;

m. “Municipality” means the Municipality of the County of Colchester

- n. “Owner” has the same meaning as in the *Municipal Government Act*, except where the context requires otherwise;
- o. “Petition” means a document distributed to Owners of Adjacent Property as part of the Petition Process outlined at Clause 5 of this By-law which enables Owners of Adjacent Property to receive information with respect to a proposed Local Improvement and indicate their position in favour of or against the proposed Local Improvement.
- p. “Petition Process” means the process outlined at clause 5 of this By-law.
- q. “Rural Fringe” means those areas within Central Colchester as defined by Part 5 of the *Central Colchester Municipal Planning Strategy*;
- r. “Sewer Service Area” means those areas within Central Colchester serviced by a public sewer system as set out in s.2.2 of the *Central Colchester Municipal Planning Strategy*;
- s. “Street” means a Provincially or Municipally owned street, highway, road, lane, thoroughfare, bridge, or square and includes the portion of the street right-of-way which is not used for vehicular traffic but which is available for use for installation of services, or as a shoulder, ditch or buffer;
- t. “Total Cost” means the total cost to the Municipality of undertaking the Local Improvement exclusive of any direct funding for the Local Improvement provided to the Municipality by or through the Province of Nova Scotia or the Government of Canada or any funding agencies or programs of those governments.

Application of By-Law

- 3. Other than for the provision of street lighting, this By-Law does not apply to Local Improvements in the Central Colchester Service Delivery Area and nothing in this By-Law shall be deemed to prevent the Municipality from carrying out such Local Improvements in the Central Colchester Service Delivery Area and charging the cost of so doing to an area rate, by ordinary resolution, or otherwise lawfully funding such Local Improvement in the Central Colchester Service Delivery Area.

Council Approval of Local Improvement Project

- 4. Council may approve the expenditure of funds for a proposed Local Improvement, to be funded by Charges based on Frontage of Adjacent Properties, if it has received a petition in accordance with the petition process set out in this By-Law which Council is satisfied is valid and signifying Majority Approval. In spite of receiving such a petition, Council shall retain the discretionary right to

decline to carry out such a Local Improvement. If at the time of approving a Local Improvement under this Section, Council determines that it is unfair and inappropriate to reduce the Frontage for a corner property pursuant to s. 2(h)(ii), it may so direct and the Charge shall be computed accordingly, and the petition shall be deemed valid. Council may however direct that the affected property owner be contacted in the event that the change in the frontage calculation might affect the outcome of the petition process.

Petition Process

5. One or more Owners of Adjacent Properties who are proponents of the Local Improvement may, as a means of requesting Council to carry out a Local Improvement funded by Charges in accordance with this By-law, seek to initiate a Petition Process as follows:

- a. The Owner(s) may make a formal written request for the Local Improvement to the Municipal Councillor for the area in which the proposed Local Improvement would be located.
- b. The Municipal Councillors in receipt of formal written requests for Local Improvements shall bring all such formal written requests to Council for Council's consideration.
- c. Should Council be in favour of proceeding to seek Petitions in support of a requested Local Improvement, Council shall direct staff of the Municipality to initiate a Petition Process.
- d. The Petition Process shall be as follows:
 - i. Staff of the Municipality shall organize an open house meeting for all Owners of Adjacent Properties, which shall inform Owners of Adjacent Property of the scope of the construction of the Local Improvement, the potential costs of the construction of the Local Improvement, the uncertainty of cost estimates, the evaluation of Petitions, the decision-making process of Council and the process for seeking a repeal of a Local Improvement approved or conditionally approved by Council.
 - ii. At the open house meeting, each Owner of an Adjacent Property in attendance shall be provided with a Petition relating to their individual property. For Owners of Adjacent Properties who are not in attendance at the open house meeting, their Petition shall be sent by way of regular mail to the mailing address noted on those Owner's tax accounts.
 - iii. Petitions shall include the following:
 - a. a description of the nature of the proposed Local Improvement and its geographic location, identified on a plan or diagram showing the Local Improvement and identifying each and every Adjacent Property;
 - b. a summary of the Local Improvement funding mechanism set out in this By-Law;

- c. an estimate, prepared by the Director of Public Works, of the anticipated unit cost per foot of Frontage for the Local Improvement, historic unit costs per foot for similar projects for the last four years, anticipated Total Cost of the Local Improvement, the anticipated annual payment (if applicable), the proposed Charge, which shall include the qualification that the Municipality shall not be liable for, and Owners of Adjacent Properties shall not be relieved of paying, the true amount of the Charge in the event that any such estimates prove to be incorrect;
 - d. an individual signature sheet upon which the Owner of the Adjacent Property may sign his or her support for the proposed Local Improvement, which shall include
 - a. one signature space;
 - b. the civic address, property identification number and Owner(s) of the Adjacent Property according to the records of the Municipality;
 - c. an estimate of length of Frontage for the subject Adjacent Property;
 - d. a qualification that the Municipality shall not be liable for, and Owners of Adjacent Properties shall not be relieved of paying, the true amount of the Charge in the event that any estimates which have been provided prove to be incorrect; and,
 - e. a warning in a form approved by the Director of Public Works from time to time indicating that estimates may be inaccurate or subject to change.
- iv. Petitions shall be returned to the Director of Public Works within thirty (30) days of the open house meeting. The failure of an Owner of Adjacent Property to return a Petition will be interpreted as that Owner of Adjacent Property being ‘not in favour’ of the proposed Local Improvement.
- v. Where an Adjacent Property has more than one Owner, the signature of one of the Owners of the Adjacent Property shall be taken to signify the consent of all other Owners of the same Adjacent Property.
- vi. The Director of Public Works shall review the Petitions received from the Owners of Adjacent Property, and may carry out such verification or validation process as he or she deems fit before submitting the Petitions to Council with an opinion from the Director of Public Works as to whether the Petitions are valid and signify Majority Approval for Local Improvement.

- e. The petition process shall apply to all Local Improvements as defined under this By-law, including Street Paving and Street Lights.

Repeal of Approval for Local Improvement Due to Delay Before Construction

6. Where Council has approved or conditionally approved construction of a Local Improvement pursuant to section 4 of this By-Law, but construction of the Local Improvement has neither commenced nor been contracted for within twenty-four (24) months of Council's approval for any reason, including by reason of uncertainties over funding contributions or approvals from other levels of government, an Owner of Adjacent Property may seek repeal Council's approval or conditional approval by seeking to re-initiate a Petition Process as set out in clause 5 of this By-law, in which case the Petition Process shall be generally be similar but shall be subject to any necessary modifications for context and shall include up-to-date information in any Petitions that are distributed to Owners of Adjacent Properties. In the event that a Petition Process which seeks to repeal Council's approval for conditional approval indicates that there is no longer Majority Approval for Local Improvement, Council may reverse its decision which approved or conditionally approved of the Local Improvement.

Charge and Lien

Local Improvement shall be funded by Charges. Other than the provision of street lighting, upon completion of construction of a Local Improvement, the Director of Public Works shall calculate the amount of the Charge which shall be applied to each Adjacent Property in respect of the Local Improvement and shall present a Certificate to the Treasurer certifying the completion of the Local Improvement, its total Cost and the amount of the Charge applicable to each Adjacent Property. The Charge shall become effective, and due and payable upon the filing of such Certificate and the Certificate shall be deemed conclusive in respect of the quantification of a charge unless an error is brought to the attention of the Treasurer within 30 days.

Upon completion of the installation of street light in the Sewer Service Area or in the rural Fringe where the proposed street light system is an extension to an immediately adjacent existing street light system, the costs of street lights will be recovered through a uniform area rate equal to the street light component of the Urban Service Rate, provided the street light is an extension of an immediately adjacent street light to the Sewer Service Area;

Upon completion of the installation of the streets inside the Rural Fringe not immediately adjacent to an existing street light system or upon completion of installation of street lighting in any area in Colchester outside the Rural Fringe, the director of Corporate Services shall calculate the amount of the Charge as set

out in the Petition which shall be applied to each Adjacent Property in respect of the street lighting.

7. The Charge shall constitute a first lien against each Adjacent Property from the time the Charge is effective, and is collectible in the same manner as other taxes, and, at the option of the Treasurer may be collected at the same time and in the same proceedings as other taxes. The lien remains in effect until the Charge, and any interest thereon, has been paid in full.
8. In the event of subdivision after a first lien comes into being, the lien shall attach to the lot or parcel bearing the same Property Identification number as the original property, or to such other property as may be determined or deemed by the Municipality to be the successor property.

Payment of Charge over Time and Interest

9. At the option of the Owner of a property which is subject to a charge, other than a charge for providing street lighting, the Charge may be paid in annual installments over 10 years, together with interest on the unpaid balance at 7% per annum, compounded annually, computed from the effective date of the Charge, subject to the provisos that:
 - a. in the event of default of payment of any installment, the entire unpaid balance, including interest, becomes due and payable;
 - b. in the event of default of payment of any installment, the interest on the amount of the default shall be computed at the same rate prescribed for the late payment of other real property taxes payable to the Municipality; and
 - c. an Owner may pay off the Charge and extinguish the lien at any time by paying the entire unpaid balance, including interest.

Transitional

10. (1) In respect of Local Improvements already approved by Council under the Municipality's former Street Improvement By-Law but in respect of which construction has not started at the time this Local Improvement By-Law comes into force, the Total Cost of such Street Improvement shall be apportioned as Charges amongst Adjacent Properties in accordance with the formula in the former By-Law, but shall otherwise have the same effect as a Charge under this Local Improvement By-Law.

(2) In respect of Local Improvements already approved by Council under the Municipality's former Street Improvement By-Law but in respect of which no annual installment payments had been billed by the Municipality to an Owner by

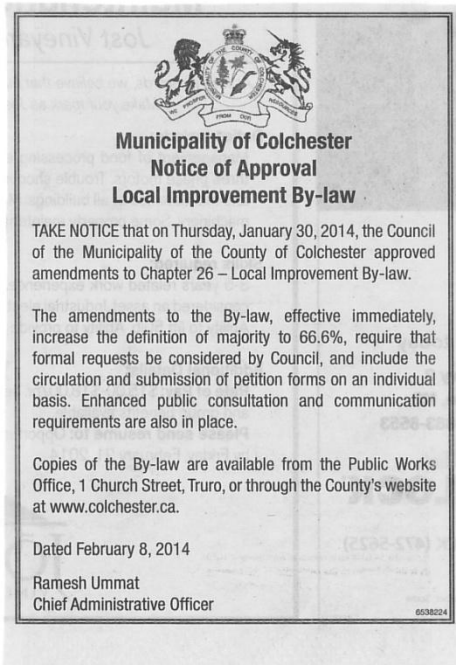
May 1, 2003, including properties to which subsection (1) of this section applies, the interest rate shall be 7%, compounded annually.

THIS IS TO CERTIFY, that By-law # 26, Local Improvement By-law, was duly approved at a duly called meeting of the Municipal Council of the Municipality of the County of Colchester, duly convened and held on the 30th day of January, A.D., 2014.

GIVEN under the hand of the Municipal Clerk and under the corporate seal of said Municipality this 10th day of February, A.D., 2014.

Ramesh Ummat

Ramesh Ummat
Municipal Clerk



I, Ramesh Ummat, Municipal Clerk of the Municipality of the County of Colchester, do hereby certify that the adjacent Notice of Approval is a true copy of the Notice of Approval of Chapter 26 – Local Improvement By-law, duly advertised in the Saturday, February 8, 2014 issue of the Truro Daily News.

Given under the hand of the Municipal Clerk and under the corporate seal of said Municipality this 10th day of February, 2014.

Ramesh Ummat

Municipal Clerk