

**Clerk's Annotation For Official By-Law Book regarding Revised By-law #19, Curb and Sidewalk By-law**

Date of first reading: **May 29, 2008**

Date of advertisement of Notice of Intent to Consider: **June 26 and July 1, 2008**

Date of second reading: **July 11, 2008**

\*Date of advertisement of passage of By-Law: **July 29, 2008**

Date of mailing to Minister a certified copy of revised By-Law: **August 8, 2008**

I certify that By-Law #19, Curb and Sidewalk By-law, was revised and adopted by Council and published as indicated above.

\_\_\_\_\_  
Bea Renton  
Clerk

\_\_\_\_\_  
October 1, 2008  
Date

\*Effective Date of the By-Law repeal unless otherwise specified in the test of the By-Law.

## BY-LAW NO. 19

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### A BY-LAW RESPECTING CURB AND SIDEWALK CHARGES

#### Short Title

1. This By-law shall be known as and may be cited as the “Curb and Sidewalk Charges By-law”.

#### Interpretation

2. In this By-law:
  - (a) “Director of Finance/Treasurer” means the Director of Finance/Treasurer for the Town of Lunenburg;
  - (b) “Council” means the Town Council of the Town of Lunenburg;
  - (c) “Town” means the Town of Lunenburg;
  - (d) “Engineer” means the Town Engineer for the Town of Lunenburg;
  - (e) “Frontage or fronting” means the linear measurement of the property line which abuts the public street and refers to the properties that will immediately abut the proposed sidewalk; and
  - (f) “Sidewalk” means a constructed sidewalk of concrete, brick or other material as designated by Council, but does not include grass, dirt, gravel or asphalt
  - (g) “Street” means the entire right-of-way of every public street in the Town of Lunenburg.
3. The Council by Resolution may order and direct that a permanent curb, gutter and sidewalk or any one or more of them be installed, laid or constructed on any street in the Town with such materials as the Council deems necessary or advisable.
4. The cost incurred in installing, laying or constructing any such curb, gutter or sidewalk shall be paid as follows:
  - (a) The cost of installation of curbs and gutters shall be paid by the Town out of the general revenues of the Town as a budgeted capital works project unless the installation forms part of a sidewalk installation project referred to in section 5.

- (b) The cost of installation of a sidewalk shall be paid by the Town out of the general revenues of the Town as a budgeted capital works project unless the installation forms part of a sidewalk installation project referred to in section 5.
- 5.
  - (a) Where there is a petition to install a sidewalk, which shall be deemed to include any curb or gutter installed in conjunction therewith, the total cost of the installation, after deducting any grants obtained in connection with the installation, shall be cost-shared 50% by the Town and 50% by the abutters.
  - (b) Every petition for the installation of a sidewalk shall be in the form outlined in Schedule "A" attached to this By-law and every petition shall include a plan showing the street(s) to be improved, the names of any abutters, the length and width of the streets and the frontage of each abutter.
  - (c) No new sidewalk shall be installed without curb and gutter.
  - (d) The Town reserves the right to refuse any petition or other request to cost-share the installation of any sidewalk pursuant to this By-law.
  - (e) When, by petition, Council has decided to install a sidewalk involving two or more abutting lots, a servicing 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 Manager/Clerk.
  - (f) Council shall publish in one or more newspapers circulating in the Town of Lunenburg a Notice of the Intention to Install a Sidewalk.
  - (g) Council may consider any petitions resulting from the above advertisement, provided:
    - i. such a petition is received by the Town Manager/Clerk within 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 Manager/Clerk and represents 50% of the foot frontage of properties involved.
  - (h) In the event of a dispute between a property owner and the Town as to any measurements, 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 Town Manager/Clerk.

- (i) Council may consider proceeding with the installation of a sidewalk 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.
- (j) All petitions in this By-law shall be in the form attached as Schedule "A".
- (k) Foot frontage charges shall be levied in accordance with a servicing plan prepared with the list of property owners filed with the Town Manager/Clerk.
- (l) Where Council has directed that a sidewalk be installed pursuant to this sub-section, the Town Manager/Clerk shall notify, by ordinary mail, each property owner of the construction and the charges to be levied.
- (m) Every charge imposed under the provisions of this sub-section of the 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*.
- (n) The Town Engineer shall keep an account of the cost of any such work as referred to in this sub-section of the By-law and upon its completion, shall file in the office of the Director of Finance/Treasurer, a statement of the total cost of the work, the total lineal frontage of the sidewalk and a statement of the lineal frontage of each property with the name of the owners thereof.
- (o) The Director of Finance/Treasurer, from the statement filed by the Town Engineer, shall determine the amount of the charge pursuant to this sub-section of the By-law to be assessed and levied upon and paid by the property owners having frontage on the newly constructed sidewalk.
- (p) Such charges shall be due and payable on the day when the bill therefor is mailed by ordinary mail to the person liable and at the option of the respective person liable may be paid in either of the following ways:
  - i. A lump sum payment in the year in which the charge or tax is assessed; or
  - ii. By equal annual payments, each payable on the anniversary of the date on which the amount became due and payable, extended over a period of ten years with interest payable thereon annually at the same rate of interest as the Town charges on overdue taxes, with power however to prepay the whole or any part of the amount remaining, at any time, without

notice or bonus of interest 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.

Each property owner affected shall within one month after receiving the bill pursuant to this sub-section, notify the Director of Finance/Treasurer in writing which option he/she has selected and in the event of his/her failure to do so, shall be deemed to have selected the method provided in subparagraph ii. hereof.

6. Whenever the Council deems it advisable to repair or replace any existing curb, gutter or sidewalk, the entire cost thereof shall be paid out of the general revenues of the Town.
7. Save for Section 6 hereof, this By-law shall have no application to curbs, gutters and sidewalks required to be installed, laid or constructed pursuant to the Town Subdivision By-law and Specifications.

### **Repeal**

8. All former By-laws Respecting Curb and Sidewalk Charges are hereby repealed and this By-law substituted therefor.

Certified Copy of an Amendment to Sidewalk Charge By-law #19

By-law #19, Section 5.1 is deleted and amended to read:

- Cost 5.1      The cost incurred in installing, laying or constructing any such sidewalk shall be paid as follows:
- (a)      One-half of the cost, to a maximum per linear foot, as specified by Council from time to time, shall be paid by the owners of the properties fronting on the street affected in proportion to the length of frontage of each property provided however, that no property shall pay for any such improvement on more than the total frontage on the longest part of this lot which has frontage on a public street; and
  - (b)      the remainder of the cost shall be paid by the Town out of the general revenues of the Town.