

#28. TOWN OF LUNENBURG
PROCEDURAL POLICY: ELECTRIC UTILITY EASEMENTS
FOR LINE EXTENSIONS

WHEREAS the Town of Lunenburg (Town) operates an Electric Utility ("Utility") providing electricity to properties inside and outside of the Town as per the Utility Regulations;

AND WHEREAS there are instances where Utility electric line extensions are required to provide property owners with power, the Town therefore wishes to establish the terms under which it will accept electric line extension easements authorizing access to private property before installing same;

BE IT RESOLVED that the Town adopt the following Policy in relation to the acceptance of Electric Utility Easement Agreements ("Easement") in relation to the provision of electricity without the necessity of resolution of Council:

1. **Purpose**

The object of this policy is to establish the criteria pursuant to which the Manager/Clerk ("TM/C") or designate may accept, on behalf of the Town of Lunenburg, an Easement for the provision of electrical power. This will apply to areas within the Utility service jurisdiction.

2. **Procedural Statement**

- A. The form of Easement which may be accepted by the TM/C on behalf of the Town after completion and inclusive of the required information as designated therein (as applicable under the circumstances), is attached hereto as Schedule "A" [subject to minor variations in form as may be determined applicable by the TM/C, Electric Utility Superintendent ("Superintendent") or Town Solicitor].
- B. A property owner ("applicant") requiring a connection for electrical power from the Utility where an Easement will be required shall contact the Superintendent who shall first determine if it is appropriate to install electricity in this location. If acceptable, the Superintendent shall determine the number and location of electric poles and guys which will be subject to the Easement. The Superintendent shall determine the width of the Easement which is required in those circumstances. Generally, this will be 20 feet in width but in certain circumstances, it may be reduced from 20 feet where it would unduly negatively impact upon the property over which the Easement is granted and the Superintendent determines that the electric poles and guys may be properly installed, replaced and maintained within that lesser width.

- C. If the proposed Utility line extension lay-out is acceptable to the Superintendent, he shall advise the applicant and request payment of a \$100.00 non-refundable application fee to the Town of Lunenburg to partially off-set Town staff and Town Solicitor time to review the Agreement. On payment, the Superintendent shall provide the applicant with a draft Easement as per Schedule "A" attached for the applicant to complete. The applicant shall complete the draft Easement and forward it to the Town Solicitor for review and comment. The Town Solicitor in consultation with the Town Manager/Clerk and Superintendent shall advise the applicant (or their solicitor) in writing of any changes required, which the applicant shall be responsible for at their expense.
- D. The applicant (or their solicitor) shall prepare a final Easement as per the direction of the Town Solicitor. The applicant shall then arrange for the execution of the approved Easement by the appropriate persons.
- E. The applicant shall provide the TM/C with the executed Easement and recording fee for the recording of the Deed (which at present is \$70.00) and the cost of the line extension as per the Electric Utility Regulations which shall be calculated by the Superintendent.
- F. The Superintendent shall not install the line extension until the executed Easement has been provided and all applicable fees paid as per this Policy.

Amended Policy Approved by Council
resolution: June 12, 2003

AND WHEREAS the property is subject to a Mortgage to the Mortgagee recorded at the Registry of Deeds Office, Bridgewater, Nova Scotia in Book _____ at Page _____ under No. _____ and/or the following liens:

OR

AND WHEREAS there are no liens or Mortgages on the property.

WITNESSETH that in consideration of the sum of One Dollar (\$1.00) now paid by the Town to each of the Grantors (and Releasor if applicable), receipt whereof is hereby acknowledged, the Grantor does hereby grant unto the Town, its successors and assigns, the owner or owners from time to time of the Dominant Tenement, the free and uninterrupted privilege, right and easement in perpetuity to do the following:

- (A) To enter on, over, across, or under that portion of the Servient Tenement shown outlined in red on the sketch attached hereto as Schedule "A" (being 20' feet in width and located as shown on the said sketch attached hereto as Schedule "A") (the Easement) to lay down, install, construct, operate, maintain, inspect, patrol, alter, remove, replace, repair, reconstruct and safeguard a transmission and/or distribution facility or facilities on the Easement consisting of poles, guys, anchors, underground conduits, wires, cables and/or other structures or equipment for the distribution of electrical power and energy, and the transmission of telecommunication signals and all other communication signals (the "Equipment") and to clear the easement of all or any part of any trees, growth, buildings, impediments or obstructions now or hereafter on the Easement which might in the opinion of the Town interfere with the rights of the Town or endanger the Equipment;
- (B) To enter upon the lands immediately adjacent to the Easement from time to time as may be reasonably required by the Town to carry out the foregoing work;
- (C) To manage and control by any method deemed expedient by the Town any vegetation on the Easement that may interfere with or endanger the Equipment in the opinion of the Town, acting reasonably;
- (D) To use such vehicles, machinery, equipment and personnel as may be deemed expedient by the Town in the exercise of the powers under this Easement, on the Servient Tenement;
- (E) Generally to do all acts necessary or incidental to the exercise of the rights and privileges granted herein.

THE GRANTOR hereby covenants with the Town that it **WILL NOT**:

- (A) Excavate, drill, install, erect, construct or permit to be excavated, drilled, installed, erected or constructed on or under the Easement any foundation, building or other structure or installation, pile material or plant any growth upon the Easement which, in the opinion of the Town, might interfere with or endanger the Equipment;
- (B) Plant or establish within the Easement any trees, shrubs or other vegetation which could exceed a height of 4.57 metres (15 feet) and/or which could encroach within 3.04 metres (10 feet) of any pole installed in the Easement falling which the Town, in its discretion, shall be entitled to remove and/or manage and control by any method deemed expedient by the Town any such vegetation without notice to and at the cost of the Grantor, payable forthwith upon demand;
- (C) Remove, damage or retard in any way, any vegetation established by the Town within the Easement as part of the management of that Easement without prior written permission from the Town.

THE GRANTOR hereby agrees that the Town may authorize MTT or any other utility as well as any cable television undertaking or other telecommunication carriers to exercise the Easement rights hereby granted and to share the use of the Equipment and without limiting the foregoing, to maintain telecommunication lines on the Easement.

The parties also acknowledge that the Town, in exercising its powers hereunder, shall **not** be required to restore the surface of the ground on the servient tenement to the condition which existed prior to any work.

THE RELEASOR who is the spouse of the Grantor and who holds no title to the lands over which the Easement is located hereby consents to the Easement and all terms thereof pursuant to the provisions of the Matrimonial Property Act of the Province of Nova Scotia.

The Mortgagee is executing this Easement to give effect to the terms of this Easement and hereby confirms the granting of the Easement but shall not be obliged to perform any positive covenants hereunder unless it is a Mortgagee in possession or unless it subsequently becomes the owner of the Servient Tenement.

The Grantor warrants that subject to any liens or other Mortgages referred to herein, the Grantor has good title in fee simple to the lands and the right to grant the easement as hereby granted, that the lands are free from encumbrances and that the Grantor will procure such further assurances as may be reasonably required.

THIS AGREEMENT shall enure to the benefit of and be binding upon the Grantor, the Releasor, the Town and other utilities (including cable television undertakings, MTT or other telecommunication carriers authorized from time to time by the Town) and their respective heirs, executors, administrators, successors and assigns.

THIS AGREEMENT shall be read with all changes of number and gender required of the context.

IN WITNESS WHEREOF the Grantor has hereunto set _____ hand and affixed _____ seal and the Releasor has set _____ hand and affixed _____ seal and the Mortgagee has affixed its corporate seal identified by the signatures of its duly authorized officers.

SIGNED, SEALED AND DELIVERED
in the presence of:

_____	_____
WITNESS	
_____	_____
WITNESS	
_____	_____
WITNESS	RELEASOR
	MORTGAGEE
_____	_____
WITNESS	PER:
_____	_____
WITNESS	PER:

PROVINCE OF NOVA SCOTIA
COUNTY OF LUNENBURG

AFFIDAVIT OF STATUS

WE, _____ make oath and say as follows:

1. THAT we are the Grantor (and Releasor) in the foregoing Grant of Easement and are of the full age of nineteen (19) years.
2. THAT we are now, and intend to be at the date of closing, residents of Canada within the meaning of the Income Tax Act (Canada).
3. THAT for the purpose of this our Affidavit, "spouse" means either of a man or a woman who:
 - (i) are married to each other;
 - (ii) are married to each other by a marriage that is voidable and has not been annulled by a declaration of nullity; or
 - (iii) have gone through a form of marriage with each other, in good faith, that is void and are cohabitating or have cohabited within the preceding year.
4. THAT we are the spouses of each other and we have no other spouse as defined herein.

SWORN to at
in the County of
and Province of Nova Scotia,
this day of
200 .

A COMMISSIONER OF THE SUPREME
COURT OF NOVA SCOTIA

PROVINCE OF NOVA SCOTIA
COUNTY OF LUNENBURG

On this day of , 200 , before me, the subscriber,
personally came and appeared , a subscribing
witness to the foregoing Indenture, who, having been by me duly sworn, made oath and
said that
one/two of the parties thereto, signed, sealed, and delivered the same in h
presence.

A COMMISSIONER OF THE SUPREME
COURT OF NOVA SCOTIA

