

Local Improvements By-Law # 011



Town of Quispamsis

BY-LAW NO. 011

**A GENERAL BY-LAW OF THE MUNICIPALITY OF QUISPAMSIS
RELATING TO LOCAL IMPROVEMENTS**

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BY-LAW NO. 011

A GENERAL BY-LAW OF THE MUNICIPALITY OF QUISPAMSIS RELATING TO LOCAL IMPROVEMENTS

The Council of the town of Quispamsis, under authority vested in it by Sections 117 to 148 of the Municipalities Act of New Brunswick, enacts as follows:

1. TITLE

- a) This by-law may be cited as the “General Local Improvement By-law”.

2. DEFINITION

In this by-law, unless the context otherwise requires,

- a) “**Abutting Parcel**” means a lot or parcel of land abutting on that portion of the street or right of way wherein or whereon a work is or is to be made;
- b) “**Act**” means the Municipalities Act of New Brunswick, and amendments thereto;
- c) “**Clerk**” means the Clerk of the town of Quispamsis;
- d) “**Council**” means the Council of the town of Quispamsis;
- e) “**Domestic Sewer**” means a sewer which is intended to carry domestic, commercial or industrial sewage;
- f) “**Frontage**” means the side or limit of a lot that abuts on a work;
- g) “**Metre Frontage**” means the lineal measurement in metres of a frontage;
- h) “**Owner**” means the person in whose name an abutting parcel is assessed under the Assessment Act of New Brunswick;

- i) **"Owners' Portion of the Cost"** means that part or proportion of the cost of a work that is to be specially assessed upon abutting parcels;
- j) **"Sewerage Works"** means all facilities for collecting, pumping, treating and disposing of sewage;
- k) **"Street"** means a public highway, street, lane, alley and square and the bridges thereon;
- l) **"Surface Sewer"** means a sewer that is intended to carry storm and surface water and drainage and includes a surface drain;
- m) **"Treasurer"** means the Treasurer of the town of Quispamsis;
- n) **"Town"** means the town of Quispamsis, a municipality in the county of Kings and the Province of New Brunswick;
- o) **"Water Main"** means a pipe or conduit for carrying potable water;
- p) **"Water System"** means all facilities for storing, pumping, treating and distributing water for domestic, commercial, industrial and fire protective services.
- q) **"Work"** means a work that may be undertaken as a local improvement;

3. AUTHORIZATION

- a) The Council, by by-law carried by the affirmative vote of not less than two-thirds of the whole Council, may authorize any work of the following classes to be undertaken as a local improvement:
 - i) Opening, constructing, widening, straightening, extending, grading, graveling, leveling, diverting, surfacing or paving of a street;
 - ii) Constructing a sidewalk;
 - iii) Curbing, sodding or planting a street;

- iv) Constructing, deepening, enlarging, extending or making connections with a surface sewer, domestic sewer, sewerage works, water main or water system.
- b) Work of two or more of the classes mentioned in subsection 3a) may be undertaken as one work.

4. NOTIFICATION

- a) Where the Town intends, on its own initiative, to undertake a work, pursuant to Section 123 of the Act, the form of the notice to be published shall be in accordance with Form "A" hereto.
- b) Where the Town intends to undertake a work on the initiative of and pursuant to a petition presented to Council by the owner or owners it shall do so in accordance with the provisions of Section 122 of the Act.

5. RATES

- a) Pursuant to Sections 127(2) and 130(1) of the Act, the owners' portion of the cost of a class of work shall be assessed upon the abutting parcels according to the extent of their respective metre frontage by an equal rate per metre frontage and calculated as follows:
 - i) With respect to the owners' portion of work assessed upon parcels abutting Town designated arterial roads as follows:

Gondola Point Arterial Road
Hampton Road
Industrial Drive and new Collector Road
Palmer Brook Road

an amount equal to zero (0) percent of the amount obtained by subtracting from the total cost of such work on such street, the amount of any stimulation or other grant provided by the Government of Canada or the Province of New Brunswick and intended for such purpose, in proportion to their respective metre frontage thereon; and

- ii) With respect to the owners' portion of work assessed upon parcels abutting Town designated collector roads as follows:

Cedar Ridge Drive
Donlyn Drive
Gondola Point Rd (Quispamsis Rd. to Rothesay Border)
Pettingill Road
Quispamsis Road (North) Vincent Rd. to Pettingill Rd.
Vincent Road

an amount equal to twenty (20) percent of the amount obtained by subtracting from the total cost of such work on such street, the amount of any stimulation or other grant provided by the Government of Canada or the Province of New Brunswick and intended for such purpose, in proportion to their respective metre frontage thereon; and

- iii) With respect to the owners' portion of work assessed upon parcels abutting Town designated connector roads as follows:

Bradley Lake Road
Chamberlain Road
Elliot Road
French Village Road
Hammond River Road
Meenan's Cove Road
Model Farm Road
Neck Road
Quispamsis Road (North) Vincent to Gondola Pt. Rd.
Stock Farm Road

an amount equal to fifty (50) percent of the amount obtained by subtracting from the total cost of such work on such street, the amount of any stimulation or other grant provided by the Government of Canada or the Province of New Brunswick and intended for such purpose, in proportion to their respective metre frontage thereon; and

- iv) With respect to the owners' portion of work assessed upon parcels abutting on all other roads in the Town as follows:

an amount equal to seventy five (75) percent of the amount obtained by subtracting from the total cost of such work on such street, the amount of any stimulation or other grant provided by the Government of Canada or the Province of New Brunswick and intended for such purpose, in proportion to their respective metre frontage thereon.

- b) When a special frontage assessment is to be made, the Clerk shall, within ninety (90) days after the first reading, but before third reading, of a by-law directing the undertaking of a work as a Local Improvement, deliver to the owner of each abutting parcel a notice in Form "B" hereto.

6. ASSESSMENT

- a) Except as provided in the Act and in this by-law, every owner of every lot or parcel of land abutting on that portion of the street or right of way whereon a work is, or is to be, made shall be assessed according to its actual frontage for the owners' portion of the cost of the work.
- b) The Town may, by a by-law authorizing the work to be undertaken, estimate the cost of such work to be paid by every owner. (AMENDMENT #1 DATED 2006-04-18)
- c) The entire cost, or a portion thereof as determined by Section 5, shall be specifically assessed upon the abutting parcels of land according to the extent of their respective metre frontage.
- d) Each year, on or before March 31, the Council shall by resolution determine the owners' portion of the cost of each work completed within the preceding year and shall direct the Clerk by Warrant of Assessment in Form "C" hereto, to assess and levy such cost;
- e) The Clerk shall prepare an assessment roll and shall endorse it with the precept in Form "D" hereto.

7. PAYMENTS

- a) The owners portion of the work shall be paid
 - i) in a lump sum; or
 - ii) by annual installment payments over a period of ten (10) years, (AMENDMENT #02, DATED 2012-04-03). The interest rate to be used in determining the annual installment is to be the interest rate paid by the Town for its most recent municipal bond sale.
- b) All payments are due to the Town on or before the 31st day of May in each year.
- c) Payments in arrears shall bear interest at the rate of one and one half percent (1.5%) per month, compounded monthly, until paid. (AMENDMENT #1 DATED 2006-04-18)
- d) Where a local improvement has been constructed pursuant to this by-law, an owner may, by written application to the Town, request that a drain connection, water service pipe and stopcocks be installed, if applicable to the local improvement, to service his lands and the Town may make and construct such a drain connection, water service pipe and stopcock provided that the owner has paid to the Town the actual cost of such service.
- e) Notwithstanding the forgoing, if a property which has a local improvement levy attached to it is subsequently sold, all remaining balances due to the Town become immediately due and payable.
- f) The Town may require an owner to enter into a written agreement regarding repayment of the owner's portion of the cost of the work associated with a local improvement." (AMENDMENT #02, DATED 2012-04-03.)

8. SUBDIVISIONS and BUILDING PERMITS

- a) It shall be a condition to the approval of a subdivision of lands within the municipality that the owner undertake by agreement with the municipality to provide such land with any work which

may be undertaken as a local improvement at the expense of the owner or at such proportion of the expense as determined by this by-law.

- i) Any such local improvements undertaken pursuant to subsection 8.a) shall be paid for by the owner in accordance with Sections 5 and 7 of this by-law, or by some other reasonable arrangement if agreed to by both the Town and the owner; such arrangement to comply with the spirit of this bylaw, and may include a tradeoff of labour and/or material. Notwithstanding the forgoing, when the lands are subsequently sold, all remaining balances due to the Town become immediately due and payable;
- b) It shall be a condition to the issue of a building permit for the erection of any building or structure in the Town that the owner of the land on which such building or structure is to be erected shall undertake by agreement with the Town to provide such land with any work which may be undertaken as a local improvement at the expense of such owner or at such proportion of the expense as determined by this by-law; and
- c) It shall be a condition to the issue of a building permit for the erection of any building or structure in the Town that the owner of the land on which such building or structure is to be erected shall pay in respect of special frontage assessments each assessment payable thereon which have become due and payable.

9. STANDARDS

- a) The Town may enter into an agreement with the owner of any land within the Town to provide, at the expense of the owner of such land, any work that may be undertaken as a local improvement and any work undertaken as a local improvement shall be in strict conformity with specifications incorporated into such agreement and with the requirements of the Town.
- b) All work undertaken as a local improvement shall be completed in accordance with specifications, standards and procedures incorporated into such agreement, provided however that such local improvements shall not be deemed in any way to obligate the Town to share in the costs of services with a developer.

10. SEVERABILITY

- a) If any part of this by-law shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this by-law.

11. EFFECTIVE DATE

- a) This by-law comes into effect on the date of final enactment thereof.

READ FIRST TIME: October 6, 1998

READ SECOND TIME: May 25, 1999

READ THIRD TIME AND ENACTED: May 25, 1999

AMENDMENT NO. 1 READ THIRD TIME AND ENACTED: April 18, 2006

AMENDMENT NO. 2 READ THIRD TIME AND ENACTED: April 3, 2012

SEAL

MAYOR

CLERK

FORM "A"

**NOTICE BY COUNCIL OF INTENTION TO UNDERTAKE WORK
AS A LOCAL IMPROVEMENT**

PURSUANT to Section 4.a) of By-law No. 011 respecting work undertaken as a Local Improvement, NOTICE IS HEREBY GIVEN THAT:

1. The Town of Quispamsis intends to *(here give description of the work to be undertaken and describe the points between which the work is to be constructed)*, and intends to specially assess the cost upon the owners of land abutting directly on the work.
2. The cost per metre frontage to be paid by the owners is \$_____per metre, as established by the by-law.
3. Payment of this special assessment may be made in a lump sum or by ten (10) annual installments.

AND FURTHER TAKE NOTICE that unless a majority of the owners of abutting parcels proposed to be specially assessed having a value of at least one-half of all the abutting parcels proposed to be specially assessed, PETITION to the Council on or before the ____day of _____, ____ against proceeding with the proposed work, the Council may adopt a by-law authorizing and directing the undertaking of such work and shall order the cost thereof to be raised by special frontage assessment and paid pursuant to Section 6. of a general by-law respecting work undertaken as a local improvement.

The Special By-law authorizing and directing the undertaking of such work shall be considered at a Council Meeting to be held on the ____day of _____, ____ or adjournment thereof.

DATED this ____day of _____, ____

Town Clerk

FORM "B" (AMENDMENT #02, DATED 2012-04-03)

NOTICE OF SPECIAL ASSESSMENT

NAME _____ P.I.D. _____
ADDRESS: _____ ASSESSMENT NO. _____
_____ CODE NO. _____

PURSUANT to Section 5.b) of By-law No. 011, a general by-law respecting work undertaken as a Local Improvement, NOTICE IS HEREBY GIVEN THAT:

The Town of Quispamsis intends to (give description of the work to be undertaken and describe the points between which the work is to be constructed, i.e. _____ sides of _____ from the existing _____ at the intersection of _____ and _____ to a point _____ feet beyond the centre-line intersection of _____ and _____).

- I. The total estimated cost of the work is \$ _____.
- II. The owner's portion of the cost shall be assessed by a special frontage assessment at the rate of \$ _____ per meter frontage.
- III. The total metre frontage of the abutting parcels to be assessed is _____ metres.
- IV. The owner's metre frontage has been determined to be _____ metres.
- V. The owners total special assessment is \$ _____. Payment may be made in a lump sum or may be made in 10 annual installments of \$ _____ each.

The Council will be considering 3rd and final reading of the Local Improvement By-law No. 011 – 20_____-_____ at a Council Meeting to be held on the _____ day of _____, authorizing and directing the undertaking of such works and shall order the cost thereof to be raised by special frontage assessment and paid pursuant to Section 6. and 7 of Local Improvement By-law No. 11 respecting work undertaken as a local improvement.

The following consent must be signed and returned to the Town of Quispamsis, Attention: Catherine Snow, Town Clerk, P. O. Box 20185, Quispamsis, NB E2E 4Z4, on or before the _____ day of _____, in order to have the works described herein completed as part of By-law No. 011_20_____-_____. Otherwise, your name will be removed from the proposed Local Improvement By-law No. 011_20_____-_____ and the works will not be completed.

DATED this _____ day of _____, A.D., _____.

Town Clerk

PROPERTY OWNER'S CONSENT

I/We _____ of _____
(name) (address)

have read the above Notice of Special Assessment and do hereby consent to having the works described herein completed to the abutting property, and in doing so do hereby agree to the following conditions:

1. Paying, by special frontage assessment, either by lump sum or through a number of annual installments over a ten (10) year period, the amount stipulated, based on the estimates provided;
2. In accordance with Section 141 of the *Municipalities Act*, that this special frontage assessment shall be deemed an assessment on land and each installment payable thereon from the date it becomes due and payable shall be a lien on the abutting parcel with respect to which it has been assessed.
3. This lien shall be in the form of a legal agreement between the Town and the undersigned and the agreement shall be registered with Service New Brunswick until such time as the monies owing have been repaid. The Town will issue said agreement to the undersigned for execution once the work has been completed and the actual costs are finalized.
4. Accompanying this consent form is my deposit in the amount of \$_____, which is non-refundable, representing 10% of the estimated total works to be completed, and will be considered my first annual installment.

If you have further inquiries concerning this Notice of Special Assessment and Consent Form, please contact the Quispamsis Town Office, at (506) 849-5778.

Signature of Property Owner

Name of Property Owner

FORM "C"

NOTICE OF WARRANT OF ASSESSMENT TO THE TOWN CLERK

To the Clerk of the town of Quispamsis,

GREETING:

WHEREAS pursuant to a By-law passed on the _____ day of _____, _____ the Council of the town of Quispamsis has completed as a local improvement the following works (describe the work), at a cost of _____ (\$ _____), within the twelve months preceding the _____ day of _____, _____.

AND WHEREAS pursuant to By-law No. _____ of the town of Quispamsis, the owner's portion of the costs of the work to be raised by special frontage assessment is _____ dollars (\$ _____);

AND WHEREAS such frontage assessment is payable in either one lump sum or ten (10) annual installments;

YOU ARE THEREFORE COMMANDED to assess and levy the sum of \$ _____ on the several parcels of land abutting on the said work and cause the same to be collected and paid by either one lump sum or ten (10) annual installments by the owner of such parcels in accordance with the provisions of the By-laws of the town of Quispamsis.

GIVEN under the Corporate Seal of the town of Quispamsis, this _____ day of _____, _____.

SEAL

MAYOR

CLERK

FORM "D"

NOTICE TO TREASURER

To the Treasurer of the town of Quispamsis

YOU ARE REQUIRED to collect from the several owners named in the annexed tax roll the sum set against their respective names under the head "lump sum or annual installment"

DATED this _____ day of _____, _____.

Town Clerk

FORM "E"

**A SAMPLE BY-LAW RESPECTING THE UNDERTAKING OF
CERTAIN WORKS AS A LOCAL IMPROVEMENT ON _____**

The Council of the town of Quispamsis, (hereinafter called "the Town") under authority vested in it by Sections 117 to 148 of the Municipalities Act of New Brunswick, (hereinafter referred to as "the Act"), enacts as follows:

1. The Town Administrator is hereby authorized to cause works to be undertaken on (name street or streets) as a local improvement as follows:
 - a. (List work to be done)
2. The Town does hereby order that the cost of the work set out in Section 1 hereof be raised by special frontage assessment as set out in Section 4 of By-law No. 011, a general by-law relating to Local Improvements, and in accordance with provisions of the Act.
 - a) The owners portion of the work shall be paid
 - i. in a lump sum; or
 - ii. by equal annual installment payments over a period of ten (10) years. The interest rate to be used in determining the annual installment is to be the interest rate paid by the Town for its most recent municipal bond sale. Installments in arrears shall bear interest at the rate of two percent (2%) per month or part thereof until paid.
 - b. All payments are due to the Town on or before the 31st day of May in each year.
3. This by-law comes into effect on the date of final enactment thereof.

SEAL

MAYOR

CLERK