

HALIFAX

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Item No. 11.1.10
Halifax Regional Council
September 1, 2020

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 
Jacques Dubé, Chief Administrative Officer

DATE: August 11, 2020

SUBJECT: Amendments to By-law S-400 - Provincial Aid-to-Municipality Program

ORIGIN

On June 9, 2020 Halifax Regional Council passed the following motion:

“Direct the CAO to prepare the necessary amendments to By-law S-400 to implement Option No.1 as outlined in the Discussion Section of this report as the preferred approach for cost-sharing with the Province and abutters on the paving of provincially-owned village and subdivision streets.”

LEGISLATIVE AUTHORITY

HRM Charter, subsection 73(a): The Municipality may enter into and carry out agreements for highway construction, improvement and maintenance and other purposes pursuant to the Public Highways Act.

HRM Charter, clause 104(1)(f): The Council may make By-laws imposing, fixing and providing methods of enforcing payment of charges for laying out, opening, constructing, repairing, improving and maintaining streets, curbs, sidewalks, gutters, bridges, culverts and retaining walls, whether the cost is incurred by the Municipality directly or by, or pursuant to, an agreement with Her Majesty in right of the Province, the Minister of Transportation and Infrastructure Renewal or any person.

By-law S-400, the Street Improvement By-law.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Suspend the rules of procedure under Schedule 7 of the Transportation Standing Committee Terms of Reference under Administrative Order One, the *Procedures of the Council Administrative Order*, and,
2. Adopt By-law S-449, further amending By-law S-400, the *Street Improvement By-law*, as set out in Attachment A of this report.

BACKGROUND

The Aid-to-Municipality Program is an agreement between the Nova Scotia Department of Transportation and Infrastructure Renewal (NSTIR) and other Nova Scotian municipalities (including Halifax Regional Municipality) to upgrade provincially-owned and maintained gravel roads, ("J" class only) to asphalt or chipseal. The Province defines "J" class roads as local residential roads with a design speed of 50 km/hr. As of 2017, there were approximately 93 "J" class gravel roads located within the Halifax Regional Municipality (HRM). The cost to pave all 93 roads is estimated to be roughly \$14,000,000 (Class D).

Currently, the program is cost-shared between the Province and the Municipality, each paying 50% of the total construction costs. However, HRM's portion is recovered in its entirety by levying an LIC to the abutting properties on the relevant streets. Under this program, the Province is responsible to design, tender, and provide contract administration and inspection during construction, while HRM's role is to identify the streets to be paved, survey the residents to ascertain level of interest, and facilitate the Local Improvement Charge (LIC) process pursuant to By-law S-400. The authority to impose a levy on property owners is prescribed in By-Law S-400.

HRM also owns and maintains a number of gravel roads and operates under a separate program to upgrade gravel roads to asphalt. This program is cost-shared between the residents and the Municipality. Prior to 2017, property owners had to be surveyed in order to determine their level of commitment to upgrade the road. If the survey was successful, the road would be considered for paving under the capital budget process, and both HRM and the property owners would be responsible to pay 50% of the total construction costs. In 2017, Regional Council approved a modification to this program whereby all remaining HRM-owned gravel roads were to be paved without the requirement of a survey, and the cost sharing apportionment was to be split 33.33% to the residents and 66.67% to the Municipality. As of 2017, there were 62 HRM owned and maintained gravel roads. Currently, there are 43 gravel roads remaining to be paved at an estimated of \$5,000,000 (Class D).

As a note, gravel road paving projects are selected and prioritized (for both programs identified above) based on geographic, maintenance and road classification criteria.

DISCUSSION

At the September 11, 2018, Regional Council meeting, Councillor Hendsbee moved: "That Halifax Regional Council request a staff report to reassess and make possible recommendations to the current Provincial Aid to Municipality Program for the cost-share paving of subdivision streets Outside the Urban Core area."

At the June 9, 2020, Regional Council meeting, Council approved the following recommendation: "Direct the CAO to prepare the necessary amendments to By-law S-400 to implement Option No.1 as outlined in the Discussion Section of this report as the preferred approach for cost-sharing with the Province and abutters on the paving of provincially-owned village and subdivision streets."

Option No. 1 is the preferred approach between HRM and NSTIR, and was approved by Council on June 9, 2020. Details of Option No. 1 include: HRM/NSTIR are to select the provincial gravel roads to be paved each year; this option eliminates the requirement for HRM to conduct surveys; NSTIR covers 50% of the construction cost; property owners pay 33.33% of the cost; HRM funds the remaining 16.67% of costs; this option better aligns with HRM's gravel road paving program.

In order to proceed with Option No. 1, amendments to By-law S-400 are required. Currently By-law S-400 requires abutters of provincially-owned village and subdivision gravel streets, otherwise known as "J" class streets, to be surveyed and to pay 50% of the actual cost of the street paving project. As directed by Council on June 9, 2020, the proposed By-law amendments will make the requirements for "J" class streets consistent with street improvements for HRM-owned gravel roads (i.e. no survey required and abutters pay only 33% of the costs).

FINANCIAL IMPLICATIONS

As noted in the June 9, 2020, Council report, staff's recommended Option No. 1 for cost-sharing with the Province on the paving of provincially-owned village and subdivision streets, results in new HRM funding of 16.67% of the total construction costs. Based upon past program experience, HRM's capital contributions would likely range between \$40K to \$170K annually; and would be requested as part of HRM's annual capital budget process.

RISK CONSIDERATION

There are no significant risks associated with the recommendations in this report at this time. The risks considered rate low.

COMMUNITY ENGAGEMENT

There is no requirement for community engagement at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications.

ALTERNATIVES

Council may choose not to approve the amendments to By-law S-400, however, staff does not recommend this alternative as Council directed staff to prepare the necessary amendments in order to implement Option No.1 as outlined in the June 9, 2020, Council report.

ATTACHMENTS

Attachment A – Amending By-law S-440

Attachment B – Showing Proposed Changes to By-law S-400

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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**HALIFAX REGIONAL
MUNICIPALITY BY-LAW S-440
RESPECTING CHARGES FOR STREET
IMPROVEMENTS**

BE IT ENACTED by the Council of Halifax Regional Municipality that By-law S-400, the *Street Improvement Bylaw*, is further amended as follows:

1. Section 1A is amended by adding the words “and “J” Class Streets” after the words “Schedule 1 Streets” in the header.
2. Subsection 1A(1) is amended by adding the words “HRM-owned gravel” after the word “those” and before the words “streets listed” and by adding the words “or for provincially-owned village and subdivision gravel streets otherwise known as “J” class streets” after the words “in Schedule 1” and before the period at the end of the sentence.
3. Subsection 1A(2) is amended by adding the words “, or for a “J” class street pursuant to a cost sharing agreement with the Province” after the words “listed in Schedule 1” and before the words “, the amount of the charge”.
4. Section 1B is repealed.

Done and passed by Council this day of , 2020.

MAYOR

MUNICIPAL CLERK

I, , Municipal Clerk of the Halifax Regional Municipality, hereby certify that the above noted by-law was passed at a meeting of the Halifax Regional Council held on , 2020.

Municipal Clerk

Halifax Regional Municipality

By-Law Number S-400

Respecting Charges for Street Improvements

Be It Enacted by the Council of the Halifax Regional Municipality as follows:

Short Title

1. This Bylaw shall be known as Bylaw S-400 and may be cited as the “Street Improvement Bylaw”.

Schedule 1 Streets and “J” Class Streets

1A (1) A survey is not required for those HRM-owned gravel streets listed in Schedule 1 or for provincially-owned village and subdivision gravel streets otherwise known as “J” class streets.

(2) If Council approves a street paving in the capital budget for a street listed in Schedule 1, or for a “J” class street pursuant to a cost sharing agreement with the Province, the amount of the charge to be paid by the owners of the property abutting the street shall include:

(a) thirty-three and one-third percent (33.33%) of the actual cost of the street paving project; and

(b) an engineering overhead fee pursuant to subsection 12(2) and the bridging financing fee pursuant to the *Financial Policy Respecting on Interest for Bridge Financing for Capital Projects*.

~~Other Streets~~

~~1B (1) A survey is required before Council considers proceeding with a street paving project for a provincially owned street if such project will result in a charge being imposed pursuant to this Bylaw.~~

~~If a survey is required, a survey shall be provided to the owners of the property:~~

~~that abut the street of a proposed street paving; or~~

~~if subsection 2(3B) applies, that will benefit from a proposed street paving.~~

~~If the petition of the abutters has occurred and subsection 2(3B) is considered, a survey may be provided to those owners of property that are benefiting from, but not abutting on, the street.~~

~~A survey that is returned to the Municipality on or before the date stated in the survey, shall be counted for the purposes of determining the level of support for the street paving.~~

~~The level of support from the owners who returned the survey and voted in favour of the~~

~~street paving project shall be calculated as a percentage of the total frontage of the owners of the properties who returned the surveys pursuant to subsection 4 of this section and this calculation shall be provided to Council.~~

~~Council will consider the results provided to it in pursuant to subsection 5 as one of the factors in deciding whether the street paving project will proceed, including considering:~~

~~whether or not the street paving project was approved by the owners of the properties who collectively own at least 50 percent (50%) of the total frontage; and~~

~~if the owners who do not abut the street have voted against the project, whether the owners that abut the street have voted in favour of such project.~~

~~If Council approves a street paving in the capital budget, the amount of the charge to be paid by the owners of the property abutting the street, or the owners of the property abutting the street and benefiting from the paving project, shall include~~

~~fifty percent (50%) of the actual cost of the street paving project; and~~

~~the bridging financing fee pursuant to the *Financial Policy Respecting on Interest for Bridge Financing for Capital Projects*~~

Charge Imposed

2. (1) Where Council undertakes a project to install on a street paving or chip sealing, there shall be imposed a charge on persons owning property which abuts either side of the street as more particularly described in Schedule "A".

(2) A charge pursuant to subsection (1) is hereby imposed on all projects approved by Halifax Regional Council from April 1, 1996 to the date this bylaw becomes effective.

(3) Charges imposed under this Bylaw may be adjusted by the Municipality in the following circumstances:

(a) where a property abuts more than one street, the charge for the project undertaken on the first street shall be based on the total frontage of the property on all streets divided by the number of streets on which the property abuts;

(b) where due to physical barriers it is not practical to gain access from a property to a street on which a project is undertaken, the charge may be reduced by the length that such barriers front the street, including reducing the frontage to zero;

(c) unless the frontage is zero pursuant to clause b of this subsection, the minimum deemed frontage for any property shall be 30 feet;

(d) Repealed.

(e) Repealed.

(f) where a property abuts more than one street, and where one street has already been paved, there shall not be any further charges on subsequent paving of the other streets;

(g) if an easement granted to Nova Scotia Power Incorporated for the transmission of electricity via transmission towers runs perpendicular to a property that fronts on a street, the width of such easement is deducted from the total frontage of that property; and

(h) where a property abuts more than one street and a charge has already been imposed on the property for chipsealing one of those streets, the amount of the charge for the subsequent paving of another one of those streets may be reduced by the amount already imposed for the chipsealing.

(3A) The frontage of lands abutting a street owned by the Municipality or Her Majesty in Right of Canada or in Right of the Province of Nova Scotia shall be exempt from this Bylaw and shall be excluded from the calculation of the total frontage for the purposes of determining the amount of and imposing a charge pursuant to this Bylaw.

(3B) If Council determines that a street paving project benefits an area, a per property charge may be imposed on all the properties located in the area that are benefiting from the street paving project, including those properties that are abutting on the street that was paved.

(4) Notwithstanding subsections (1), (2) and (3) of Section 2, a charge is hereby imposed in those areas listed in Schedule "B" on a pro rata basis on each property assessed in each respective area in an amount sufficient to recover the cost of each project as is more particularly set out in Schedule "B".

(5) Notwithstanding Subsections (1), (2) and (3) a charge is hereby imposed on those areas listed in Schedule "C" attached hereto as is more particularly set out in that Schedule.

(6) Notwithstanding Subsections (1), (2) and (3) a charge is hereby imposed on those areas listed in Schedule "D" attached hereto, as is more particularly set out in that Schedule.

(7) Notwithstanding Subsections (1), (2) and (3) a charge is hereby imposed on those areas listed in Schedule "E" as is more particularly set out in that Schedule.

(8) Notwithstanding Subsections (1), (2) and (3) a charge is hereby imposed on those areas listed in Schedule "F" as is more particularly set out in that Schedule.

(9) Notwithstanding Subsections (1), (2) and (3) a charge is hereby imposed on those areas listed in Schedule "G" attached hereto as is more particularly set out in that Schedule.

(10) Notwithstanding Subsections (1), (2) and (3) a charge is hereby imposed on those areas listed in Schedule "H" as is more particularly set out in that Schedule.

(11) Notwithstanding Subsections (1), (2) and (3) a charge is hereby imposed on those areas listed in Schedule "I" as is more particularly set out in that Schedule.

(12) An engineering overhead fee is imposed as set out in Administrative Order 15 Respecting License, Permit and Processing Fees, on Local Improvement Projects covered under this Bylaw.

(13) Notwithstanding Subsections (1), (2) and (3) a charge is hereby imposed on those areas listed in Schedule "J" as is more particularly set out in that Schedule.

(14) Notwithstanding Subsection (1), a Local Improvement Charge is hereby imposed on those areas listed in Schedule "K".

(15) Notwithstanding Subsection (1), a uniform charge is hereby imposed on those areas listed in Schedule "L".

(16) Notwithstanding Subsections (1), (2) and (3) a charge is hereby imposed on those areas listed in Schedule "M" as is more particularly set out in that Schedule.

(17) Notwithstanding Subsections (1), (2) and (3) a charge is hereby imposed on those areas listed in Schedule "N" as is more particularly set out in that Schedule.

(18) Notwithstanding Subsections (1), (2) and (3) a charge is hereby imposed on those areas listed in Schedule "O" as is more particularly set out in that Schedule.

(19) Notwithstanding Subsections (1), (2) and (3) a charge is hereby imposed on those areas listed in Schedule "P" as is more particularly set out in that Schedule.

(20) Notwithstanding Subsections (1), (2) and (3) a charge is hereby imposed on those areas listed in Schedule "Q" as is more particularly set out in that Schedule.

(21) Notwithstanding Subsections (1), (2) and (3) a charge is hereby imposed on those areas listed in Schedule "U" as more particularly set out in that Schedule.

(22) Notwithstanding Subsections (1), (2) and (3) a charge is hereby imposed on those areas listed in Schedule "V" as more particularly set out in that Schedule.

(23) Notwithstanding Subsections (1), (2) and (3) a charge is hereby imposed on those areas listed in Schedule "W" as more particularly set out in that Schedule.

(24) Notwithstanding Subsections (1), (2) and (3) a charge is hereby imposed on those areas listed in Schedule "X" as more particularly set out in that Schedule.

(25) Notwithstanding Subsections (1), (2) and (3) a charge is hereby imposed on those areas listed in Schedule "Y" as more particularly set out in that Schedule.

(26) Notwithstanding Subsections (1), (2) and (3) a charge is hereby imposed on those areas listed in Schedule "Z" as more particularly set out in that Schedule.

(27) Notwithstanding Subsections (1), (2) and (3) a charge is hereby imposed on those areas listed in Schedule "AA" as more particularly set out in that Schedule.

Lien

3. (1) A charge imposed pursuant to this Bylaw constitutes a lien on a subject property in the same manner and with the same effect as rates and taxes under the Assessment Act.

(2) A charge imposed pursuant to this Bylaw is collectable in the same manner as rates and taxes under the Assessment Act and at the option of the Treasurer is collectable at the same time and by the same proceedings as are rates and taxes.

(3) The lien provided for in this Bylaw shall become effective on the date on which the Engineer files with the Treasurer a certificate that the improvement has been completed.

(4) The lien provided for in this Bylaw shall remain in effect until the charge plus interest has been paid in full.

(5) Repealed.

Interest

4. (1) Repealed.

(2) Repealed.

(3) Interest shall accrue on charges outstanding:

(a) for the initial billing only, from sixty (60) days from the date of billing, and

(b) for any subsequent billing such as an installment pursuant to section 5 of this Bylaw, from thirty (30) days from the date of the subsequent bill,

at a rate equal to the prime rate of the Municipality's banker plus two percentage points on the date that notification of the local improvement project is issued.

Installments

5. The amount payable may at the option of the owner of the property be paid in equal annual installments over a period not exceeding ten years and in accordance with Administration Order 18, the *Revenue Collection Administrative Order*, the whole payment may become due and payable in case of default of payment.

Repeal

6. Bylaw Number 19, the Street Improvement Bylaw of the former Halifax County Municipality, and Bylaw Number 23230, the Local Street Improvement Bylaw of the former Town of Bedford are repealed.

7. The Local Improvement Policy adopted by Council on April 29, 1997, and any amendments thereto, is repealed.

Done and passed this 31st day of March, 1998.

Mayor

Municipal Clerk