



Water Supply Upgrade Lending Program By-Law W-1028-17

Effective Date:

Nov 22, 2017

PURPOSE

This By-law is intended to provide a mechanism for offering a means of financing to residential landowners in the Municipality who are experiencing vulnerability or crises of security in their residential domestic water supply. The intent is to provide assistance to those who are most vulnerable while keeping in mind the financial constraints and priorities of the Municipality.

Part 1

Definitions

- 1.1 **CAO** means the Chief Administrative Officer for the Municipality, or his/her designate;
- 1.2 **event of default** includes any one of the following occurrences of any of the property owners;
- a) bankruptcy;
 - b) arrears of property taxes, sewer charges or area rates in excess of one year;
 - c) missed scheduled payment if not remedied within 90 days
- 1.3 **lending agreement** means the written, signed agreement between the owner of a Qualifying Property and the Municipality for financing of a Water Supply Upgrade (Appendix I);
- 1.4 **maximum eligible amount** means a general financing cap set by the Municipality. The Municipality of Yarmouth's maximum eligible amount is \$10,000.00;
- 1.5 **municipality** means the Municipality of the District of Yarmouth;
- 1.6 **municipal domestic water supply system** means the Town of Yarmouth Water Utility;
- 1.7 **NSDOE** means the Nova Scotia Department of Environment;
- 1.8 **qualifying property** means an owner-occupied residential property located within the Municipality but does not include multi-unit residential or non-profit owned buildings, new construction or business/ industrial premises, nor a property within the serviceable boundaries of a Municipal Domestic Water Supply system;



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- 1.9 **water supply upgrade** means a construction of a new dug or drilled well, or an upgrade to an existing well that is required to source water for the property. Upgrades may include the installation of equipment related thereto so long as the equipment is included in the “Schedule of Equipment” attached as APPENDIX III.
- 1.10 **water supply upgrade loan** means the local improvement charge levied on the property pursuant to 81A of the *Nova Scotia Municipal Government Act*, and is equal to the value of the approved eligible upgrade(s), up to the Maximum Eligible Amount;

Part 2 Administration

- 2.1 An owner of a Qualifying Property within the Municipality may apply on a prescribed form to the Municipality for financing of a Water Supply Upgrade to the property (see attached Appendix II “Water Supply Upgrade Program – Registration Form & Checklist”);
- 2.2 lending shall be subject to the approval and agreement in writing of the CAO on behalf of the Municipality which shall be subject to the sole discretion of the Municipality and the execution of a Lending Agreement. The conditions that must be met for approval include that:
- a) the owner of the qualifying property is not in default of any municipal taxes, rates or charges and has no taxes, rates or charges owing that are older than the current tax year;
 - b) water supply upgrades must comply with applicable provincial and/or federal regulations;
 - c) the contractors must have a valid NSDOE license to carry out a water supply upgrade;
 - d) other conditions as indicated in the Lending Agreement that may be modified from time to time.
- 2.3 the Water Supply Upgrade Loan shall become payable on the completion of the contract for the installation of the Water Upgrade in accordance with the Lending Agreement. The Water Upgrade Loan may consist of:
- a) the cost of the Water Supply Upgrade, including all labour costs, permit fees and applicable taxes;



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- b) interest charges, including any additional interest arising due to any default of payment.
- 2.4 the owner of a Qualifying property may elect to pay the Water Supply Upgrade loan by equal installments over a period of not more than 10 years, on which interest shall be payable as set out in the Water Supply Upgrade Lending Agreement;
- 2.5 the Municipality shall not be responsible for ongoing maintenance and operating costs of the Water Supply Upgrade; the Water Supply Upgrade is owned and maintained by the owner of the Qualifying property;
- 2.6 in the Event of Default of any payment under the Lending Agreement, the outstanding balance shall be immediately due and payable. Interest shall be accrued on the amount then due and payable at the same rate applied by the Municipality for unpaid taxes and charges in default;
- 2.7 the Municipality shall maintain a separate account of all monies due for the Water Supply Upgrade Loan, identifying, for the subject property:
- a) the names of the property owners, assessment account number, PID and civic addresses;
 - b) the original amount of the Water Supply Upgrade Loan advanced;
 - c) the annual amounts paid to the Municipality to repay the Water Supply Upgrade loan, said amounts to distinguish between principal amounts and interest amounts; and
 - d) the Municipality will provide the property owner(s), annually, on the anniversary date of the loan, with a statement of account; showing the principal balance owing at the end of the previous year, total amount paid during the year, amount of interest included in the payment(s) and the balance of principal owing at the end of the year.
- 2.8 Where a property owner has undertaken a water supply upgrade before entering into a Water Supply Upgrade Lending agreement, the Municipality may enter into a Water Supply Upgrade Lending agreement with a property owner if all of the following conditions are met:
- a) the conditions as outlined in section 2.2 have been met;
 - b) the oldest contractor invoice submitted for payment is no older than 30 calendar days; and



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- c) the applicant understands that the Municipality provides no assurance or guarantee that expenses incurred prior to application approval will be deemed eligible for financing.

2.9 The property owner will provide the Municipality with a copy of the contractor's completed NSDOE prescribed "Drilled Well Report".

Part 3 Lien

- 3.1 On completion of a Water Supply Upgrade pursuant to the Lending Agreement, the Water Supply Upgrade Loan shall become a lien levied against the property in accordance with the Municipal Government Act;
- 3.2 the portion of the annual repayment of the Water Supply Upgrade Loan shall be equal to the total loan outstanding divided by the number of years remaining, with applicable interest, subject to Section 2.4 of this By-law;
- 3.3 the Water Supply Upgrade Loan advanced pursuant to this bylaw constitutes a first lien on the property and has the same effect as rates and taxes under the Assessment Act;
- 3.4 a Water Supply Upgrade Loan is collectable in the same manner as rates and taxes under the Municipal Government Act, and is collectable at the same time and by the same proceedings as taxes upon an event of default;
- 3.5 the lien provided for in this By-law shall become effective on the date the document is filed with the Provincial Registry;
- 3.6 the lien provided for in this By-law shall remain in effect until the total Water Supply Upgrade Loan, including any accrued interest, has been paid in full.

Part 4 Interest

- 4.1 Interest shall accrue on any Water Supply Upgrade Loan which remains outstanding;
- 4.2 interest shall begin accruing on a Water Supply Upgrade loan on the date that the Loan Agreement is signed;
- 4.3 Interest is payable on amounts deemed outstanding pursuant to the Interest Policy I-068-00.



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**Part 5
Administration and Fees**


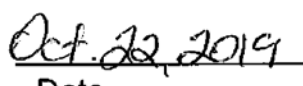
- 5.1 A one-time administration fee will form part of the application process (see Fees Policy);
- 5.2 the administration fee will be refundable at a rate of 80% if the lending agreement does not get executed;
- 5.3 the administration fee will have no effect on, and will not form part of, the final water supply upgrade loan amount;
- 5.4 applications that do not lead to a formal loan agreement at the end of 180 days from the date they are submitted will become stale-dated and considered closed;
- 5.5 for administrative efficiencies, out-of-pocket expenses, unless they collectively accumulate to an amount greater than \$1,000.00 and are presented with the submission of the contractor's invoice, will not be accepted for financing.

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Chief Administrative Officer's Annotation for Official By-Law Book	
Date of First Reading	August 28, 2019
Date of Advertisement of Notice of Intent to Consider	September 4, 2019
Date of Second Reading	September 25, 2019
Date of Advertisement of Passage of By-Law	October 16, 2019
Date of Mailing to Minister a Certified Copy of By-Law	October 22, 2019
I certify that this Water Supply Upgrade – Lending Program W-1028-17 was adopted by Council and published as indicated above.	
 _____ Chief Administrative Officer	 _____ Date

Date last reviewed: September 25, 2019
Date of last amendment: September 25, 2019

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Amendment Number	Description of amendment	Date approved by Council
1	<p>PURPOSE section added</p> <p>Part 1 Definitions added: <i>municipal domestic water supply system</i>, <i>NSDOE</i>, <i>qualifying property</i> (amended to refer to municipal domestic water supply system), and <i>water supply upgrade</i> (amended to refer to Appendix III :Schedule of Equipment)</p> <p>Part 2.2 (a) – changed from no default in municipal taxes for the past three years to no default older than the current tax year</p> <p>Part 2.8 (a) – removed mention of approval of CAO and referred to conditions in Section 2.2</p> <p>Part 2.8 (b) – changed maximum timeline of contractor invoices from 90 days old to 30 days old</p> <p>Part 2.8 (c) – added section regarding Municipality not providing any assurances or guarantees that expenses incurred prior to application approval will be deemed eligible for financing</p> <p>Part 2.9 – added reference to NSDOE “Drilled Well Report”</p> <p>Part 3.5 – changed effective date of lien from date when CAO receives confirmation of improvement completion to date on which lien is registered</p> <p>Part 4.2 – changed date on which interest begins accruing from the earlier of Certificate of Completion date or 30 days from last submitted invoice to date the loan agreement is signed</p> <p>Part 5.4 – added “applications that do not lead to a formal loan agreement at the end of 180 days from the date they are submitted will become stale-dated and considered closed”</p> <p>Part 5.5 – added “out-of-pocket expenses, unless they collectively accumulate to an amount greater than \$1000.00 and are presented with the submission of the contractor’s invoice, will not be accepted for financing”</p>	May 22, 2019



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Appendix I

Water Supply Upgrade Lending Agreement

1. Property Owner: Name _____

2. Property Owner: Name _____

3. Property Owner: Name _____

Civic Address: House Number and Street _____

Community _____

RR# _____ Postal Code _____

Property Tax Information: Assessment Roll Number _____

Parcel Identification Description (PID) _____

Loan amount _____

Interest Rate _____

Loan Term _____

Total Interest _____

THIS FINANCING AGREEMENT is made this ____ day of _____ 20____ (“Effective Date”)

BETWEEN:

PROPERTY OWNER(S)

-and-

MUNICIPALITY OF THE DISTRICT OF YARMOUTH

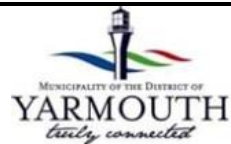
[Hereafter called the “Municipality” and, together with the Property Owner(s), the “Parties”]

In consideration of the mutual covenants herein contained, the Parties agree as follows:

Definitions

1. In this agreement;
 - a. **“approved quote”** means the Contractor quote for the completion of part or all of the approved Water Supply Upgrades that has been obtained by the Property Owner(s) and provided to and approved by the Program Administrator;

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- b. **“CAO”** means the Chief Administrative Office for the Municipality, or his or her designate;
- c. **“contractor”** means an insured and licensed person by the Department of Environment retained by the Property Owner(s) to complete the Water Supply Upgrades;
- d. **“completion”** means the date that the Water Supply Upgrade work has been done as set out in the NSDOE prescribed “Drilled Well Report”;
- e. **“Director of Finance”** means the Director of Finance for the Municipality, or his or her designate;
- f. **“effective date”** means the date on which the final Water Supply Upgrade Lending Agreement is signed;
- g. **“enabling upgrade”** means to supply water from the new or repaired well to the residence which may include the installation of a well pump, the water line and electrical hookup as required; and also including the connection to a municipal domestic water supply system;
- h. **“maximum eligible amount”** means a general financing cap set by the Municipality. The Municipality of the District of Yarmouth’s maximum eligible amount is ten thousand dollars (\$10,000.00);
- i. **“municipal domestic water supply system”** means the Town of Yarmouth Water Utility;
- j. **“NSDOE”** means Nova Scotia Department of Environment;
- k. **“program administrator”** means the Municipality, and includes its employees and agents, or designated third party contractor;
- l. **“property”** means a residential property located within the Municipality that meets the eligibility criteria for participation in the Water Supply Upgrade Lending Program;
- m. **“qualifying property”** means an owner-occupied residential property located within the Municipality but does not include multi-unit residential or non-profit owned buildings, new construction or business/industrial premises or a property within the serviceable area of a municipal domestic water supply system;
- n. **“repayment period”** means the period from the date the financing charge first becomes due and payable to the date the final payment is due, and shall in no case be greater than ten (10) years;
- o. **“water supply upgrade”** means a construction of a new dug or drilled well, or an upgrade to an existing well, or a connection to a municipal domestic water supply system, that is required to source water for the property. Upgrades may include the installation of equipment related thereto;
- p. **“water by-law”** means the Water Supply Upgrade Lending Program By-Law W-1028-17, approved by the Municipality on March 28, 2018;
- q. **“water supply upgrade lending program” or “program”** means a program established by the Municipality under which owners of properties may obtain financing for construction of water supply upgrades;

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- r. “**water supply upgrade loan**” means the local improvement charge levied on the property pursuant to section 81A of the *Nova Scotia Municipal Government Act*, and is equal to the value of the approved eligible upgrade(s), up to the maximum eligible amount.

Term of Agreement

2. This lending agreement commences on the effective date and terminates at the end of the repayment period or when the loan is paid in full.

Water Supply Upgrades

3. The property owner(s) acknowledges and agrees that only those water supply upgrades approved by the program administrator are eligible for financing through the program, and that the property owner(s) shall be solely liable for the cost of any unapproved upgrades completed on the property;
4. the property owner(s) further acknowledges and agrees that they shall be solely liable for the cost of any work in excess of the approved loan amount, regardless of whether the excess costs were for the installation of approved water supply upgrades;
5. in the event that an enabling upgrade is necessary in order to enable a water supply upgrade, the enabling upgrade and the water supply upgrade must both be installed to be eligible for the program;

Payment to Contractor

6. Upon completion of the approved water supply upgrades, the property owner will sign any/all eligible invoices for completed work (submitted by the contractor) and forward them to the program administrator within 10 business days for payment to the contractor up to the maximum eligible amount;
7. if, after starting the installation of the water supply upgrades at the property, a contractor or the property owner(s) causes the installation of the upgrades to be stopped for any reason, including reasons related to safety (including structural deficiencies, hazardous materials or other safety hazards), or discovery of unforeseen conditions, this is a matter to be resolved between the property owner and the contractor.

Reportable Deficiencies

8. If the program administrator discovers any deficiencies with the property relative to compliance with codes, standards, or other applicable regulations, the property owner(s) acknowledges that the program administrator shall be obligated to report such deficiencies to the applicable regulatory authority.

Lien Against Property

9. The water supply upgrade loan shall be a first lien on the real property and shall be collectable in the same manner as other taxes, subject to an Event of Default. The lien shall be recorded at the Provincial Land Registry office. The Municipality shall be responsible to record and pay any fees associated with the registration.

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Repayment

10. the water supply upgrade loan shall become payable on completion of installation of the water supply upgrade in accordance with the water supply upgrade lending agreement;
11. if the property owner exits the program without completing the water supply upgrades, and only if a lending agreement has not been executed, 80% of the administration fee will be refunded. Program exit is based on confirmation by the property owner of their decision to not proceed.
12. the water supply upgrade loan may consist of:
 - a. the cost of water supply upgrades, including all labour costs, permitting fees, and applicable taxes;
 - b. interest charges, including any additional interest arising due to any default of payment.
13. payment of the water supply upgrade loan shall occur as follows:
 - a. the property owner(s) will make equal monthly or annual payments over a period not exceeding 10 years to repay the outstanding water supply upgrade loan, including interest payable on the unpaid water supply upgrade loan. Interest will be calculated on the basis of the Municipality's cost to borrow at the time of the effective date. Payments may be made by whatever payment methods are advertised as acceptable methods to make payments generally to the Municipality. The payment schedule will be made available through the municipality. The property owner will be responsible for any charges incurred for non-sufficient funds;
 - b. interest will begin accruing when the water supply upgrade is completed as evidenced by the date on a NSDOE prescribed Drilled Well Report or 30 days after the date of the last invoice submitted for payment, whichever is earlier.

Lump Sum Payments

14. The Property Owner may at any time, and without prepayment penalty or charges, make a lump-sum payment to the Municipality toward the outstanding balance of the Water Supply Loan. The lump sum payment under this program must be no less than 10% of the original loan amount. The lump sum payment will first be applied to accrued interest, and the balance remaining to the outstanding principal. The Municipality will recalculate and deliver to the property owner, a revised repayment schedule based on the original terms and conditions.

Late Payments

15. In the event of default of payment under the water supply upgrade lending agreement, the outstanding balance shall be immediately due and payable. Interest shall be accrued on the amount then due and payable at the same rate applied by the Municipality for unpaid taxes and charges in default at rates as published in the Municipality's Interest Policy I-068-00. Once in default status, the lien will be subject to the default rate until entirely repaid.

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Sale and Release

16. The property owner(s) shall have the unfettered right to sell, transfer, charge and mortgage, encumber or otherwise deal with the property without the prior consent of the Municipality;

17. in the event the property is transferred to a new owner the entire amount becomes immediately payable to the Municipality and the loan shall be repaid in full, including accrued interest, by the original owner

Disclaimer

18. Neither the Municipality, nor their respective affiliates, agents, successors and assigns shall be liable to the property owner(s) for any damages arising in, but not limited to tort, including but not limited to negligence, breach of contract, or under any other provision of law including property damage, direct and incidental losses, economic loss, or personal injury resulting from the installation or use of the water supply upgrade or anything done in accordance with the program.

Property Owner Responsibilities

19. The property owner(s) will be responsible for:
 - a. obtaining quotes from contractors for the proposed water supply upgrades and submitting these quotes to the program administrator;
 - b. applying to the relevant government authority for the appropriate permit(s) to complete the water supply upgrades;
 - c. advising the program administrator if there are any hazardous substances at or on the property, or other defects, deficiencies or impediments that might impact the installation of the water supply upgrade;
 - d. forwarding the contractor invoices for the completed water supply upgrades immediately upon their receipt;
 - e. informing his or her property insurance provider that the water supply upgrade is being installed and purchasing appropriate insurance coverage in this regard, if applicable, and
 - f. securing from the contractor and submitting to the Municipality, a NSDOE prescribed Drilled Well Report.

Assignment by Municipality

20. This agreement binds the property owner(s) and their successors, heirs and assigns. The Municipality may, at its sole discretion, assign this agreement in whole or part, to a third party without notice, for any purpose.

Consent

21. The property owner(s) consents to the program administrator or its agents accessing the premises with reasonable notice.

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No Warranty

22. There is no implied nor express representation or warranty by the Municipality, the program administrator, or their respective affiliates, agents, successors and assigns related to the design, installation or operation of the water supply upgrades, and the municipality, the program administrator and their respective affiliates, agents, successors and assigns expressly disclaim any and all warranties relating to the water supply upgrades, associated equipment or materials as to workmanship, quality, fitness for purpose or performance.
Home Owner(s) Initial _____
23. The parties hereto acknowledge and agree that the communicating of this agreement may be transmitted by way of e-mail transmission and that the parties hereto agree to accept such signatures and documents as legal and binding on the parties.

Authorized Signature of Property Owner(s)

24. By signing below, the property owner(s) agree(s) to the terms and conditions described above, and hereby confirms that he/she/they is/are a registered property owner(s);
25. if the water supply upgrade dollar amount surpasses the approved loan amount, the surplus dollar amount is the sole responsibility of the property owner(s). Contractor invoices will be processed in the order in which they are received up to the approved loan amount. The property owner is responsible for making contractors aware that any invoice fee that exceeds the approved loan amount will be the responsibility of the property owner.

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PROPERTY OWNER 1	
Name (Print):	
Signature:	
Date:	

PROPERTY OWNER 2	
Name (Print):	
Signature:	
Date:	

PROPERTY OWNER 3	
Name (Print):	
Signature:	
Date:	

Municipal Staff	
Name (Print):	
Signature:	
Title:	
Date:	
File Approval Number	

Attachment: Loan amortization schedule.

Please mail or email the completed Financing Agreement to:

Municipality of the District of Yarmouth
932 Highway1
Hebron, NS, B5A 5Z5
admin@district.yarmouth.ns.ca

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APPENDIX II

**WATER SUPPLY UPGRADE LENDING PROGRAM
REGISTRATION FORM and CHECKLIST**
(Please complete in full. Use additional paper if necessary)

Thank you for your interest in the Water Supply Upgrade Lending Program administered by the Municipality of Yarmouth.

By registering for this program, you are applying for a low-interest loan from the Municipality to help you complete a *water supply upgrade* on your property. This lending program shall also require you to sign a lending agreement which will outline your roles and responsibilities and those of the program administrator (the Municipality).

An administration fee of \$200.00 plus applicable taxes must accompany this form.

(the physical address listed must be the physical address where the Upgrade Project will occur)

Primary Property Owner Information:		AAN:	
First Name:		Last Name:	
Street Number:		Street Name:	
City/Town:		Province:	
Postal Code:		Email:	
Mailing Address (if different from above):			
Home Phone:		Cell Phone:	
Preferred Method of Communication:			
<input type="checkbox"/> Postal Mail			
<input type="checkbox"/> E-Mail			
<input type="checkbox"/> Telephone			
Assignment of Agent:			
Do you wish to assign an agent for this work? <input type="checkbox"/> Yes <input type="checkbox"/> No Agent: _____			
List of Property Owners:			
If there are other owners of this property, please list them all below.			

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Property owner #2:	
Property owner #3:	
Property owner #4:	
Consent Statement:	
I have read the attached By-Law regarding the Water Supply Upgrade Lending Program and acknowledge and agree to comply with the conditions under which a lending agreement may be entered in if all conditions are met.	
Signature: _____ Date: _____	
For Office Use Only:	
Form Received by: _____	
Date Request Received: _____	
Loan Amount Request: _____ Project #: _____	
Process Checklist:	
Tax Clerk / Administration:	
1. Owner information is complete / All property owners have been identified.	
2. Tax account history is reviewed and attached.	
3. Proposed contractor is on the NSDOE Approved list. Contractor # _____	
4. Property owner has delivered a quote from a contractor.	
5. Administration fee received.	
Director of Finance:	
1. The property qualified under By-Law # W-1028-17.	
2. The loan request is not more than the funding cap.	
3. The loan amortization schedule has been prepared.	
4. The Municipal solicitor has vetted the Loan Agreement where necessary.	
5. Is there room remaining in the current year budget to accommodate the loan request.	
6. Has met with property owner to explain the loan agreement and terms.	
7. The property owner(s) has signed the Loan Agreement	
8. The property owner has/will deliver the Drilled Well Report on completion of the upgrade.	

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Tax Clerk:	
1. Has taken steps necessary to have the lien registered with the Provincial Registry.	
2. Municipal seal has been applied to the loan agreement prior to submission for registration.	
3. "Request for Automated Funds Transfer" form has been attached and completed.	
Accounting Clerk:	
1. Establish G/L sub-ledger account for record keeping. Acct # _____	
FINAL REVIEW AND APPROVAL (C.A.O.):	
The property owner's application has been approved on this _____ day of _____, 20_____, by the program administrator, as signed and witnessed below:	
Signature: _____ C.A.O.	Date: _____
Signature: _____ Witness	Date: _____

Attachments: Tax Account History
Contractor quote

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APPENDIX III

**MUNICIPALITY OF THE DISTRICT OF YARMOUTH
WATER SUPPLY UPGRADE LENDING PROGRAM
SCHEDULE OF EQUIPMENT**

- Foot valve
- In-well pump
- Pressure tank
- PVC line
- Lateral line (including related excavation) from a Municipal Domestic Water Supply system.