

MUNICIPALITY OF THE COUNTY OF KINGS

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BY-LAW # 100

WATER CAPITAL RECOVERY BY-LAW

SUBTITLE

A By-law providing for the Recovery of Capital Costs of Installing a Water System in certain communities in the Municipality of the County of Kings.

PREAMBLE & ENACTMENT

WHEREAS the Municipality has legislative authority and responsibility with respect to levying a Water Service Charge on taxable property assessments within a certain area, as well as imposing, fixing and providing methods of enforcing payment of charges, all to recoup the municipal portion of the capital costs of installing a Water System;

AND WHEREAS the Municipality desires to enact a by-law to impose, fix and provide for such a system and methods of enforcing payment of all such charges and fees in the communities requesting water services;

BE IT ENACTED by the Council of the Municipality as follows:

1.0 Title

This Bylaw may be cited as the Water Capital Recovery Bylaw for the Municipality of the County of Kings, and shall apply to the Municipality of the County of Kings.

2.0 Definitions

2.1 In this By-Law:

- (a) "Act" means the Municipal Government Act, R.S.N.S., Chapter 18 of the Acts of 1998.
- (b) "Building" means any dwelling, store, office, structure, or portion thereof that may require water services.
- (c) "Capital Charge" means a charge imposed pursuant to Section 81 of the Municipal Government Act in an amount to be determined pursuant to this Bylaw, and intended to recover all, or a part, of the municipal part of the actual capital cost of installing, extending or improving a public Water System.
- (d) "Capital Cost Recovery Charge Area" means an area to which a Capital Charge is imposed and as more fully described in **Schedule 'A' and Schedule 'C'**, and is hereafter referred to as "Charge Area".

- (e) “Council” means the Council of the Municipality of the County of Kings.
- (f) “Curb Stop” means a shut off valve installed on a Service Lateral with a protective housing to the ground surface.
- (g) “Engineer” means the Engineer of the Municipality and includes a person acting under the supervision and direction of the Engineer, except where the Water System is owned by a Water Utility which is not owned by the Municipality, in which case “Engineer” means the person appointed by the Water Utility to perform the functions of the Engineer set out in this By-law.
- (h) “Lot” means any piece or parcel of land on which a Building could be lawfully located.
- (i) “Municipality” means the Municipality of the County of Kings.
- (j) “Owner” as it refers to the owner of the property includes:
 - i. a part owner, joint owner, tenant in common or joint tenant of the whole or any part or parcel of land or a building;
 - ii. In the case of the absence or incapacity of the Person having title to the Lot or Building, a trustee, an executor, an administrator, a guardian, an agent, a mortgagee in possession or other Person having the care or control of any Lot or Building; and
 - iii. In the absence of proof to the contrary, the Person assessed for the taxes on the parcel of land or building.
- (k) “Person” includes a corporation and the heirs, executors, administrators or other legal representatives of a Person, but specifically excludes the Municipality.
- (l) “Service Lateral” means a pipe and the necessary valves and protective boxes, connections, thaw wires, meters and any other material necessary and actually used to connect the Water System to a Building.
- (m) “Street” means the whole or entire right-of-way of every road or road allowance vested in the Municipality or vested in the Province of Nova Scotia.
- (n) “Treasurer” means the Treasurer of the Municipality, and includes a person acting under the supervision and direction of the Treasurer.
- (o) “Water System” means a water system; consisting of the source, structures, pipes, hydrants, meters, service laterals, devices, equipment or other things used, or intended, for the collection, transportation, pumping or treatment of water.
- (p) “Water Utility” means the public water utility in any given Charge Area responsible for the delivery of water in that Charge Area.

3.0 Charge Imposed

- 3.1 Where the Municipality installs, improves or extends a public Water System in a Charge Area identified in **Schedule ‘A’ and Schedule ‘C’**, as amended from time to time, a Capital Charge is hereby levied upon every owner of real property situated in whole or part within the Charge Area.

4.0 Amount of Capital Charge

The amount of the Capital Charge levied pursuant to Section (3) shall be determined in accordance with the provisions of the By-law and of **Schedule 'A' and Schedule 'C'** of this Bylaw and may be calculated based on:

- (a) a uniform amount for each Lot or parcel of land in existence at the time of application or subsequently created by subdivision;
- (b) the frontage of each Lot on any street;
- (c) the existing or proposed use of each Lot;
- (d) the assessment classification of each Lot;
- (e) the area of each Lot;
- (f) the flow capacity or diameter of individual lateral connections of each Lot;
- (g) any combination or two or more such methods of calculating the Capital Charge; or
- (h) such other method as Council deems appropriate.

4.2 The Capital Charge for a Charge Area identified in **Schedule 'A'** is due upon application for a service connection.

4.3 The Capital Charge in a Charge Area identified in **Schedule 'C'** is effective when the Engineer files with the Clerk a certificate that the improvement has been completed.

4.4 The Capital Charge in any Charge Area shall cease to be collected when enough Owners have successfully applied for service connections that the Municipality has completely recouped the municipal portion of the capital costs of installing a Water System in that Charge Area plus financing costs.

5.0 Variations in Charges

The Capital Charge levied pursuant to this Bylaw may be fixed at different rates for different assessment classes or uses of properties and may be fixed at different rates for different Charge Areas.

6.0 Frontage Charge

Where the amount of the Capital Charge contains a component, calculated, in whole or in part, based upon the frontage of the Lot on a street, the component of the Capital Charge which is based upon frontage shall be calculated as follows:

- (a) for the purpose of calculating frontage, the number of lineal feet of frontage shall be a horizontal projection measured along the boundary line adjacent to the street;

- (b) where a Lot is situated such that the Lot has frontage on two or more streets, the component of the Capital Charge based upon frontage shall be calculated based upon the average Lot frontage, calculated as the total frontage divided by the number of streets the Lot has frontage on; and
- (c) notwithstanding clause 6 (a) and 6 (b), where a Lot has frontage on a street the minimum deemed frontage shall be 60 feet.

7.0 Water Connections

- 7.1 In addition to the requirements of all other Municipal Bylaws, where a Lot is located in a Charge Area identified in **Schedule 'A' and Schedule 'C'**, no connection to a Water System shall occur unless:
- (a) the Owner has confirmed in writing that the amount of the individual capital charge set and payment requirements are agreed to by the Owner;
 - (b) the Water Utility has notified the Municipal Treasurer of a request for a connection to a public Water System;
 - (c) an application for a service connection in the form prescribed by the Engineer has been submitted by the Owner or their authorized agent, along with any connection or other fee payable pursuant to any other bylaw or rules or regulations applicable to the Water System and the application has been approved by the Engineer;
- 7.2 Where a Service Lateral is not installed, the Owner shall be responsible for the construction of the Service Lateral from the Curb Stop to the Building. The applicant shall not connect to the Water System without complying with this Bylaw and all rules and regulations of the Water Utility responsible for the Water System.
- 7.3 Every Person connecting to a water line shall construct the connection including but not limited to the Service Lateral according to the rules and regulations of the Water Utility responsible for the System as determined by the Engineer.
- 7.4 A separate and independent Service Lateral shall be provided for every Building. Multiple Buildings may utilize a common Service Lateral if all of the following conditions are met:
- (a) All Buildings utilizing a common Service Lateral are located wholly on a single Lot;
 - (b) Provisions have been made that are satisfactory to the Engineer to prevent backflow conditions in the Buildings utilizing a common Service Lateral;
 - (c) Prior to installation, the Owner must submit a scaled site plan including property boundaries, easements, proposed and existing Building locations, driveway(s), and other topographical features of the Lot relevant to the installation as well as the proposed Service Lateral arrangement, proposed pipe sizes, slopes and connection details; and

- (d) The Owner must submit detailed “fixture unit” calculations as described in the current edition of the Canadian Plumbing Code for each Building in a form acceptable to the Engineer.
- 7.5 The Owner of a common Service Lateral is responsible for all repairs and maintenance of the entire Service Lateral up to the connection of the Water System.
- 7.6 All charges as described in this Bylaw shall apply to all Buildings utilizing a common service connection as if each Building had an independent service connection.
- 7.7 The Engineer is authorized to enter at all reasonable times with reasonable notices upon any premises that are subject to this By-Law to ascertain compliance with this By-Law.
- 7.8 The Person to whom a permit has been issued, or their authorized agent or successor, shall notify the Engineer when the subject Service Lateral is ready for inspection and connection to the Water System.
- 7.9 The Engineer shall inspect the subject Service Lateral within three (3) business days of the receipt of notice. If the subject Service Lateral or any portion thereof is not in compliance with this By-Law, the Engineer shall notify the Owner of the failed inspection and provide a description of all deficiencies noted and remedial actions required. Once all the remedial actions have been completed, the Owner may start the inspection process again.
- 7.10 Where a Service Lateral is not to be installed in whole on a single Lot, each Owner connecting to the Service Lateral shall obtain and record at the Land Titles Registry Office or the Registry of Deeds a legal easement to allow for the installation and maintenance of the proposed Service Lateral on that Owner’s property prior to its installation. A copy of this easement must be filed with the Engineer with the application.

8.0 Lien

- 8.1 A Capital Charge imposed pursuant to this Bylaw constitutes a lien upon the real property with respect to which the Capital Charge has been made and the Capital Charge shall be collected in the same manner as taxes and shall be made payable in the same manner as taxes.
- 8.2 The lien provided for in this By-law shall become effective on the date on which the Water Utility has notified the clerk of a completed and valid connection to the public Water System.
- 8.3 In the event that any property liable for Capital Charge is sold for nonpayment of property taxes, the Treasurer may deduct from the proceeds of such sale the full amount for which such property is then liable for Capital Charge although the whole may not have been then payable.

- 8.4 Where a property subject to a lien is subdivided:
- (a) in which the Capital Charge imposed was calculated based upon frontage or Lot area, the amount of the lien plus interest then unpaid shall be apportioned among the new Lots created including any residual land, such that the amount of the lien proportioned to Lots created and any residual land is based upon the percentage of the original Lot frontage or Lot areas that the new Lots and residual land are comprised of;
 - (b) in which the Capital Charge imposed was calculated based upon a Lot charge, or use of the Lot, or any other method other than as referenced in clause (a), the amount of the lien plus interest then unpaid shall be apportioned among the new Lots created including any residual land in proportion that the value of each new Lot including any residual land bears to the total market value of the lands subdivided including any residual land, at the time of the subdivision. The market value of Lots so created must be confirmed by a provincial assessor or an accredited appraiser. Written confirmation of the market value shall be submitted to the Treasurer; and
 - (c) notwithstanding Clause 8.4 (a) and 8.4 (b), the lien shall not be proportioned to the new Lots created and any residual lands where the Capital Charge imposed was based solely upon a lateral connection.

9.0 Payment of Charges and Interest

- 9.1 A Capital Charge imposed pursuant to this By-Law may, at the option of the Owner be paid in equal installments, together with the Municipality's prevailing interest rate as prescribed, over a period not to exceed 10 years. The first installment and each succeeding installment in respect of the charge imposed by this By-law is due at the same time that taxes and rates are due in each year, and in the event of default of payment of any installment the whole balance with interest becomes due and payable.
- 9.2 The Capital Charge imposed by this Bylaw shall bear interest rate on any outstanding balance owing, but not due, and on any installment that is due and owing. The interest rate shall be as prescribed by motion of Council with respect to taxes and overdue charges and shall be applied as per this same motion.
- 9.3 The Capital Charge will be indexed upwards yearly by the Capital Charge Index Rate as set out in Schedule "B".

10.0 Penalties

Any person who violates any of the provisions of this By-Law shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding the sum of \$10,000.00 and not less than \$275.00, and each day during which any violation, contravention or breach shall continue shall be deemed as a separate offence.

11.0 Repeal

By-Law #87 of the Municipality of the County of Kings entitled Greenwich Water System Capital Connection Charge By-Law, By-Law #92 of the Municipality of the County of Kings entitled North Greenwood Water System Installation Capital Charge By-Law, By-Law #88 of the Municipality of the County of Kings entitled North Alton and Prospect Road Capital Water Charge By-Law, and By-Law #95 of the Municipality of the County of Kings entitled Kingsport, Habitant and Longspell Road Water System Capital Recovery By-Law are hereby repealed.

11.2 Previous Charges Remain in Effect

All previous charges levied under By-Law #87, By-Law #92, By-Law #88 and By-Law #95 remain in effect, including but not limited to a Uniform Charge, and are payable in accordance with the payment schedule in effect with the Municipality at the time this By-Law is passed.

12.0 Effective Date

This amended By-Law comes into force and effect on the 3rd day of January, 2017.

History of this By-law

Enacted December 2, 2013

Amended January 3, 2017

SCHEDULE "A"
CAPITAL COST RECOVERY CHARGE AREAS

*Applies to areas where improvements were made prior to January 1, 2016.

a) Greenwich

All Lots in or near the community of Greenwich serviced by a Water System and without limiting the foregoing, the applicable portions of the following shall pay a Capital Charge of three thousand one hundred and twenty five dollars (\$3,125) for each Lot.

b) North Greenwood

All Lots in the community of North Greenwood serviced by a Water System and without limiting the foregoing, the applicable portions of the following shall pay a Capital Charge of three thousand five hundred dollars (\$3,500) for each Lot. The community of North Greenwood is further defined as follows:

- i. Beginning on Central Avenue, at the western boundary of 14 Wing Greenwood moving westerly along Central Avenue to Bridge Street intersection, thence; northerly to the Annapolis River;
- ii. Freeman Drive (Private Road running east off Bridge Street servicing Kingston Bible College) for a distance of 350 feet;
- iii. Bowlby Park Drive easterly to 14 Wing Greenwood boundary for a distance of 1,350 feet;
- iv. Mayhew Drive running south of Bowlby Park Drive for a distance of 2,200 feet; and
- v. Sampson Drive running west to end of road for a distance of 700 feet.

c) North Alton and Prospect Road

All Lots in the community of North Alton and Prospect Road serviced by a Water System and without limiting the foregoing, the applicable portions of the following shall pay a Capital Charge of nine thousand seven hundred and twenty nine dollars (\$9,729) for each Lot. The community of North Alton and Prospect Road is further defined as follows:

- i. Beginning on Chester Road, proceeding south and west along Chester Avenue to the intersection of Ward Avenue; then proceeding south and east along Ward Avenue, then proceeding south and west to Prospect Road; then proceeding east along Prospect Road to the intersection of Prospect Road and Canaan Avenue; then proceeding north along Canaan Avenue;
- ii. Morris Crescent, Harry Drive, and Alice Drive;
- iii. Elizabeth Drive from intersection with Prospect Road to intersection with Harry Drive; and
- iv. Poplar Drive from intersection with Elizabeth Drive to intersection with Harry Drive.

d) Kingsport, Habitant and Longspell Road

The communities of Kingsport, Habitant and Longspell Road serviced by a Water System and without limiting the foregoing, the applicable portions of the following shall pay a Capital Charge of six thousand five hundred and four (\$6,504) for each Lot. The communities of Kingsport, Habitant and Longspell Road are further defined as follows, more particularly described as follows:

- i. Beginning in the Village of Canning and proceeding east along Highway 221 to the intersection of Longspell road; then proceeding east to the end of Longspell Road;
- ii. The system also includes the streets all or part of which are located within the Hamlet of Kingsport:
 1. Pleasant Street, Church Street, Main Street and Water Street, Borden Avenue, Breezy Bluff Lane;
 2. The portion of Pier Road located within the Kingsport Hamlet boundary.

e) Tremont Mountain Road/Meadowvale Road

All Lots in the community of Tremont Mountain Road/Meadowvale Road serviced by a Water System and without limiting the foregoing, the applicable portions of the following shall pay a Capital Charge of three thousand dollars (\$3,000) for each Lot. The community of Tremont Mountain Road/Meadowvale Road is further defined as follows:

- i. Beginning on Tremont Mountain Road, between Terra Nova Drive and Meadowvale Road; and
- ii. Meadowvale Road, running east from Tremont Mountain Road for a distance of 1,400 meters.

f) Whittington Road

All Lots in the community of Whittington Road serviced by a Water System and without limiting the foregoing, the applicable portions of the following shall pay a Capital Charge of three thousand dollars (\$3,000) for each Lot. The community of North Greenwood is further defined as follows:

- i. Beginning on Central Avenue running north for a distance of 170 meters.

SCHEDULE "B"

INTEREST RATES

Capital Charge Interest Rate - 0.67 percent per month compounded monthly.

CAPITAL CHARGE INDEX RATE

The Capital Charge will be indexed each year upwards by the increase in the Nova Scotia Consumer Price Index All-Items from the date that the Engineer certified the Water System as complete.

SCHEDULE "C"
CAPITAL COST RECOVERY CHARGE AREAS

*Applies to areas where improvements were made on or after January 1, 2016.

a) North Greenwood (Phase 2)

All Lots in the community of North Greenwood (Phase 2) serviced by a Water System and without limiting the foregoing, the applicable portions of the following shall pay a Capital Charge of one thousand five hundred and forty-one dollars (\$1,541) for each Lot. The community of North Greenwood (Phase 2) is further defined as follows:

- i. Beginning on Bridge Street, running west and south along Neily Crescent to the intersection of Glengary Row, moving south to intersection with Aldred Drive;
- ii. Aldred Drive, Glengary Row, Tufts Avenue, William Street, Brittany Avenue, Maggie Drive, Robie Avenue; and
- iii. Whittington Drive from intersection with Aldred Drive running south to intersection with Harley Court.