



CITY OF KINGSTON

Ontario

By-Law 2009-138

**A BY-LAW TO IMPOSE WATER RATES AND SEWER RATES TO RECOVER THE
CAPITAL COST OF INSTALLING WATER AND SANITARY SEWER SERVICES
NECESSARY TO BENEFIT USERS OF THE SYSTEM**

PASSED: September 15, 2009

As amended by:

Schedule A replaced	September 27, 2011
By-Law No. 2011-143	December 7, 2011

(Office Consolidation)

City of Kingston By-Law 2009-138

A BY-LAW TO IMPOSE WATER RATES AND SEWER RATES TO RECOVER THE CAPITAL COST OF INSTALLING WATER AND SANITARY SEWER SERVICES NECESSARY TO BENEFIT USERS OF THE SYSTEM

PASSED: September 15, 2009

WHEREAS the City of Kingston (the "Municipality") has determined to construct certain water and sewage works to service and benefit users of the systems;

AND WHEREAS the Council is authorized by section 391 of the *Municipal Act, 2001*, R.S.O. 2001, c. 25, as amended (the "*Municipal Act*") to impose a water works and sewer rate upon owners or occupants of land who derive or will derive a benefit from the construction of water and sewer works sufficient to pay all or such portion of the capital costs of the works as Council deems appropriate;

AND WHEREAS the lands to be benefited and charged with the water works and sewer rates are all lands in the Municipality connecting to the system or systems as applicable;

AND WHEREAS the Municipality has determined that the capital costs of such water works and sewage works shall be rated against the lands in the Municipality and shall be borne by users of the systems;

NOW THEREFORE, the Council of the City of Kingston enacts as follows:

1. In this By-law:

- 1) "Apartment dwelling" means any dwelling unit within a building containing four or more dwelling units where the residential units are connected by an interior corridor;
- 2) "Capital cost" means the cost of constructing sewage works or water works, inclusive of all items of cost usually and properly chargeable to capital account, and where applicable, the interest amounts payable on the debentures to be issued for the works;
- 3) "Development" means any activity or proposed activity in respect of land that requires one or more of the actions referred to in section 2 of this by-law and includes the redevelopment of land or the redevelopment, expansion, extension or alteration of a use, building or structure;
- 4) "Owner" means the owner of land or a person who has made application for an approval for the development of land upon which a water works rate or sewer works rate is imposed;

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- 5) "Primary Manufacturing" – Food Processing" means the use of lands, buildings or structures where dairy products, food products and agricultural products, including meat and poultry products, are washed, cleaned, dusted, waxed, or otherwise prepared or packaged and from which such products are shipped to a wholesale or retail outlet. A Food Processing Plant shall not include an abattoir.

(By-law No. 2009-138; 2011-143)

- 6) "Residential uses" means lands, buildings or structures or portions thereof used, or designed or intended for use as a home or residence of one or more individuals, and shall include a single detached dwelling, a semi-detached dwelling, a multiple dwelling, an apartment dwelling, and the residential portion of a mixed-use building or structure;
- 7) "Semi-detached dwelling" means a building divided vertically into two dwelling units, each of which has a separate entrance and access to grade;
- 8) "Sewage works" means any public works for the collection, transmission, treatment or disposal of sewage, or any part of any such works;
- 9) "Sewer rate" means a charge for the capital cost of sewage works;
- 10) "Single-detached dwelling unit" means a residential building consisting of one dwelling unit and not attached to another structure and includes mobile homes;
- 11) "Water works" means any works for the collection, production, treatment, storage, supply or distribution of water, or any part of any such works;
- 12) "Water works rate" means a charge for the capital cost of water works.
- 13) "Owner" means the owner of land or a person who has made application for an approval for the development of land upon which a water works rate or sewer works rate is imposed;

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- 14) "Residential uses" means lands, buildings or structures or portions thereof used, or designed or intended for use as a home or residence of one or more individuals, and shall include a single detached dwelling, a semi-detached dwelling, a multiple dwelling, an apartment dwelling, and the residential portion of a mixed-use building or structure;
 - 15) "Semi-detached dwelling" means a building divided vertically into two dwelling units, each of which has a separate entrance and access to grade;
 - 16) "Sewage works" means any public works for the collection, transmission, treatment or disposal of sewage, or any part of any such works;
 - 17) "Sewer rate" means a charge for the capital cost of sewage works;
 - 18) "Single-detached dwelling unit" means a residential building consisting of one dwelling unit and not attached to another structure and includes mobile homes;
 - 19) "Water works" means any works for the collection, production, treatment, storage, supply or distribution of water, or any part of any such works;
 - 20) "Water works rate" means a charge for the capital cost of water works.
2. Every Owner of land in the Municipality shall pay to the Municipality a water works rate and a sewer rate, as applicable and as calculated in this by-law, whenever the Owner's lands are developed and the development requires an approval described in (1) below and the Owner's land is connected to the water works or sewage works systems.
- 1) Subject to subsection (2), water works rates and sewer rates shall be calculated and collected in accordance with the provisions of this by-law and be imposed on land where the development requires:

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2. 1) cont'd:
 - a) the passing of a zoning by-law or an amendment thereto under Section 34 of the *Planning Act*;
 - b) the approval of a minor variance under Section 45 of the *Planning Act*;
 - c) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
 - d) the approval of a plan of subdivision under Section 51 of the *Planning Act*;
 - e) a consent under Section 53 of the *Planning Act*;
 - f) the approval of a description under Section 50 of the *Condominium Act*, R.S.O. 1990, c.C.26; or
 - g) the issuing of a permit under the *Building Code Act*, in relation to a building or structure.
- 2) Where no approval described in (1) above is required, the Owner shall pay a water works rate and a sewer rate as calculated in this by-law when the Owner first connects to the water works or sewage works systems, as applicable.
3. Water works rates and sewer rates against land shall be imposed, calculated and collected in accordance with the base rates set out in Schedule "A".

1. The water works rates and sewer rates applicable to land shall be calculated as follows:

- (a) in the case of residential development or redevelopment, or the residential portion of a mixed-use development or redevelopment, the sum of the product of the number of dwelling units of each type multiplied by the corresponding total water works rate and sewer rate for such dwelling unit type, as set out in Schedule "A";

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2. 3) cont'd:

- (b) in the case of non-residential development or redevelopment, or the non-residential portion of a mixed-use development or redevelopment, the product of the gross floor area of such development multiplied by the corresponding total water works rate and sewer rate for such gross floor area, as set out in Schedule "A".
- 4. The Owner of land for which a water works rate or sewer rate is payable shall pay the applicable rate on the date of issuance of a building permit for the development of the land, or where no building permit is required, on the date of the connection to the system or systems as applicable, whichever shall first occur.
- 5. The water works rate and sewer rate imposed pursuant to this By-Law are payable in full, subject to the exemptions herein, from the effective date of this By-Law and amendments thereto.
 - (a) Every applicant for a building permit that seeks an exemption to this By-Law shall make an application in a form approved by the Municipality in which the applicant certifies that its proposed use will qualify for the exemption upon issuance of the occupancy permit and shall not be materially altered in any manner such that the use would no longer qualify for the exemption granted in this By-Law for a period of three years subsequent to the issuance of the occupancy certificate and if the application is approved by the Municipality shall enter into such agreements as required by the Municipality.
 - (b) Upon approval by the Municipality, the requirement to pay water and sewer rates shall be deferred for a period of three years subsequent to the issuance of an occupancy permit and subject to subsection 5. (c) shall at the end of that period be permanently waived and exempted.
 - (c) In the event that the actual use does not conform to the use described in the application for exemption as approved by the Municipality and does not qualify otherwise for an exemption pursuant to this By-Law, at the time of issuance of the occupancy certificate or at any time within three years subsequent to issuing of the occupancy permit, the applicant shall be deemed to not qualify for the exemption and the applicant shall forthwith pay all fees that were deferred pursuant to this By-Law failing which the amount unpaid will be added to the tax roll and collected in the same manner as taxes

(By-law 2009-138; 2011-143)

- 6. The rates imposed by this by-law shall be separate from and in addition to any other rates that the Municipality may be authorized by law to impose with respect to the cost of construction of water works or sewage works, the cost of connecting the land to the systems, the operation, maintenance, and repair of the water works or sewage works, or the supply of the water.

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7. No property is exempt from a water works rate or sewer rate imposed under this by-law by reason only that it is exempt from taxation under the *Assessment Act*.
8. Where all or part of a residential, non-residential or mixed-use building or structure is demolished or redeveloped, otherwise applicable water works rates and sewer rates shall be reduced as follows:
 1. where a water works rate or sewer rate has been imposed on the lands under a previous by-law, the reduction shall be equal to the previously imposed water works rate and sewer rate;
 2. where no water works rate or sewer rate has been imposed on the lands under a previous by-law, the reduction shall be calculated as in section 9 below, provided that:
 - (a) the residential, non-residential or mixed use building or structure was occupied within five years prior to the issuance of a building permit for redevelopment of the lands; and
 - (b) in the case where the residential, non-residential or mixed-use building or structure is demolished, a demolition permit has been issued within five years prior to the issuance of a building permit for redevelopment of the lands.
9. Where a residential, non-residential or mixed-use building or structure qualifies for a reduction in otherwise applicable water works rates or sewer rates pursuant to Section 7 above, the amount the rates payable shall be reduced as follows:
 - 1) in the case of a residential building or structure, or the residential uses in a mixed-use building or structure, which is being redeveloped for residential or non-residential purposes, the rates payable will be reduced by an amount calculated by multiplying the applicable residential water works rate and sewer rate in Schedule "A" by the number of dwelling units or dwelling rooms that have been or will be demolished or converted to another type of residential use or non-residential use, and according to the type of dwelling unit or dwelling room so demolished or converted.

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9 con'td:

2. in the case of a non-residential building or structure, or the non-residential uses in a mixed-use building or structure, which is being redeveloped for residential or non-residential purposes, the rates payable at the time of building permit issuance will be reduced by an amount calculated by multiplying the applicable water works rate and sewer rates under this By-Law by the existing gross floor area that has been or will be converted or demolished for new residential or non-residential uses, and according to the type of non-residential floor area or use so demolished or converted; however, water works and sewer rates will be imposed on all additional residential and non-residential gross floor area in excess of the existing non-residential gross floor area that has been or will be converted or demolished.

(By-law No. 2009-138; 2011-143)

10. A reduction shall not exceed the amount of the water works rate or sewer rate that would otherwise be payable, and no reduction is available if the existing land use is exempt under this by-law.
11. The Municipality may exempt lands from this by-law where the lands are designated in the City of Kingston Official Plan as part of the Community Improvement Area and the Municipality implements a Community Improvement Plan by by-law which includes the said lands.
12. Notwithstanding Section 2 above, no sewer rate or water works rate shall be imposed with respect to developments or portions of developments that result in:
 - 1) an interior alteration to an existing building or structure which does not change or intensify the use of land;
 - 2) the enlargement of an existing residential dwelling unit;
 - 3) the creation of one or two additional residential dwelling units in an existing single detached dwelling where the total gross floor area of the additional unit(s) does not exceed the gross floor area of the existing dwelling unit;
 - 4) the creation of one additional dwelling unit in a semi-detached dwelling or row dwelling where the total gross floor area of the additional unit does not exceed the gross floor area of the existing dwelling unit; or

12 cont'd:

- 5) the creation of one additional dwelling unit in any other existing residential building provided the gross floor area of the additional unit does not exceed the smallest existing dwelling unit already in the building.

13. Water works rates and sewer rates imposed pursuant to this by-law shall be adjusted annually, without amendment to this by-law, commencing on the first anniversary date of this by-law and each anniversary date thereafter, in accordance with the Statistics Canada Quarterly Construction Price Statistics (Ottawa Region), non-residential construction.

14. Monies received from payment of water works rates or sewer rates under this by-law shall be maintained in one reserve fund, and separate sub accounts shall be maintained for water works and sewage works.

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15. Where any water works rate or sewer rate, or part thereof, remains unpaid after the due date, the amount unpaid shall be added to the tax roll and shall be collected in the same manner as municipal taxes.

16. Where any unpaid water works rate or sewer rate, or part thereof, are collected as municipal taxes under section 14, the monies so collected shall be credited to the reserve funds referred to in section 13.

17. The Treasurer shall prepare an annual report to Council including, without limitation, the cost of the water works and sewage works projects to which contributions from the reserve funds have been made, the amount of such contributions to each project, and the receipt and disbursement of funds, and the balances in the reserve funds.

18. This by-law shall be administered by the Municipal Treasurer.

(By-law No. 2009-138)

19. The following schedule to this by-law forms an integral part thereof:

Schedule "A" - Water Works and Sewer Rates

(By-law No. 2009-138; 2011-143)

20. In the event any provision, or part thereof, of this by-law is found by a court of competent jurisdiction to be ultra vires, such provision, or part thereof, shall be deemed to be severed, and the remaining portion of such provision and all other provisions of this by-law shall remain in full force and effect.

21. This by-law shall come into force on the 29th day of September, 2009.

(By-law No. 2009-138)

NOTE: The amending By-law No. 2011-143 was passed on
December 7, 2011 & comes into effect on January 1, 2012

SCHEDULE "A" TO
CITY OF KINGSTON BY-LAW NO. 2009-138
Schedule of Water Works and Sewer Rates

SERVICE	RESIDENTIAL					NON-RESIDENTIAL		
	Single-Detached Dwelling & Semi-Detached Dwelling	Apartments		Other Multiple Dwellings		Non-Residential (per s.f. of Gross Floor Area)	Long Term Care Nursing Homes (per s.f. of Gross Floor Area)	Primary Manufacturing -Food Processing (per s.f. of Gross Floor Area)
		2 bedrooms+	Bachelor & 1 Bedroom	2 Bedrooms+	Dwelling <750 s.f. With 1 Bedroom			
Waterworks Sanitary (Waste Water)	\$ 2,590 1,864	\$ 1,654 1,195	\$ 1,158 835	\$ 1,982 1,428	\$ 1,158 835	\$ 4.07 3.24	\$ 2.85 2.27	\$ 0.00 0.00
TOTAL IMPOST FEE	\$4,454	\$2,849	\$1,993	\$3,410	\$1,993	\$7.31	\$5.12	\$0.00

Note: Section 12: Water works rates and sewer rates shall be adjusted annually, without amendment to this by-law, commencing on the first anniversary date of this by-law and each anniversary date thereafter

(By-law No. 2009-138; 2011-143)
