

BY-LAW NUMBER 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) "Dwelling unit" means a room or suite of rooms used, or designed or intended for use by, one person or persons living together, in which culinary and sanitary facilities are provided for the exclusive use of such person or persons;

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- 5) "Grade" means the average level of finished ground adjoining a building or structure at all exterior walls;
 - 6) "Gross floor area" means the total floor area measured between the outside of exterior walls, or between the outside of exterior walls and the centre line of party walls dividing the building from another building, or between the centre lines of party walls, of all floors above Grade;
 - 7) "Local services" means those services or facilities which are under the jurisdiction of the municipality and are related to a plan of subdivision or within the area to which the plan relates, required as a condition of approval under s.51 of the *Planning Act*, or as a condition of approval under s.53 of the *Planning Act*;
 - 8) "Long-term care home" means a place that is occupied by persons for the primary purpose of receiving nursing and other health care services and that is licensed as a for profit long-term care home under the Long-Term Care Homes Act, 2007, or as a for-profit nursing home under the Nursing Homes Act, 1990.
 - 9) "Multiple dwelling" means all dwellings other than single-detached, semi-detached and apartment dwellings;
 - 10) "Municipality" means The Corporation of the City of Kingston;
 - 11) "Non-residential use" means a building or structure of any kind whatsoever used, designed or intended to be used for other than a residential use and includes all commercial, industrial and institutional uses;
 - 12) "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;
 - 13) "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

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- single detached dwelling, a semi-detached dwelling, a multiple dwelling, an apartment dwelling, and the residential portion of a mixed-use building or structure;
- 14) "Semi-detached dwelling" means a building divided vertically into two dwelling units, each of which has a separate entrance and access to grade;
 - 15) "Sewage works" means any public works for the collection, transmission, treatment or disposal of sewage, or any part of any such works;
 - 16) "Sewer rate" means a charge for the capital cost of sewage works;
 - 17) "Single-detached dwelling unit" means a residential building consisting of one dwelling unit and not attached to another structure and includes mobile homes;
 - 18) "Water works" means any works for the collection, production, treatment, storage, supply or distribution of water, or any part of any such works;
 - 19) "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:
 - 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*;

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- 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";
 - 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 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.
6. 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*.
7. 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.
8. 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

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- 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.
- 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 non-residential purposes, no water works and sewer rates will be imposed to the extent that the existing non-residential gross floor area to be demolished would have been, if newly constructed, subject to the payment of water works and sewer rates at the time of building permit issuance for the new building or structure and is replaced by new non-residential gross floor area; however, water works and sewer rates will be imposed on all additional non-residential gross floor area in excess of the existing non-residential gross floor area that has been or will be demolished.
 - 3) 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 purposes, there shall be no reduction in the rates payable.
9. 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.
10. 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.
11. 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;

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- 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
 - 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.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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.

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

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

Schedule "A" - Water Works and Sewer Rates

19. 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.

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

GIVEN FIRST AND SECOND READINGS September 1, 2009

GIVEN THIRD READING AND FINALLY PASSED September 15, 2009

MAYOR

CITY CLERK

SCHEDULE "A"
TO BY-LAW NO. 2009-138

Schedule of Water Works and Sewer Rates

SERVICE	RESIDENTIAL					NON-RESIDENTIAL	
	Single-Detached & Semi-Detached	Apartments 2+ Bedrooms		Other Multiple Dwellings		All Other Non- residential (per s.f. of Gross Floor Area)	Long Term Care Nursing Homes (per s.f. of Gross Floor Area)
		2 Bedrooms +	Bachelor and 1 Bedroom	2 Bedrooms +	Dwelling < 750 s.f. with 1 Bedroom		
Water Works	\$ 2,405	\$ 1,538	\$ 1,076	\$ 1,841	\$ 1,076	\$ 3.78	\$ 2.64
Sewer	1,733	1,109	776	1,327	776	3.01	2.11
TOTAL IMPOST FEE	\$ 4,138	\$ 2,647	\$ 1,852	\$ 3,168	\$ 1,852	\$ 6.79	\$ 4.75

Includes financing costs.