

# Sewer System Charge By-law

WM-15 – Consolidated – May 17, 2010

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<b>OFFICE CONSOLIDATION</b> <b>INCLUDING AMENDMENT WM-15-10001 (May 17, 2010)</b>
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Bill No. 44  
2005

By-law No. WM-15

A by-law for imposing a sewer system charge

WHEREAS under section 221 of the previous *Municipal Act*, a municipality had the power to impose upon owners or occupants of land who use sewage works a sewage service rate, defined as a charge for the operation, repair and maintenance of sewage works;

AND WHEREAS under section 221 of the previous *Municipal Act*, a municipality had the power to establish by by-law a sewage service rate structure upon which sewage service rates shall be based and calculated and, in establishing the rate structure, the council shall have regard to differentiating between classes of users, nature, volume and frequency of use and all other relevant matters to ensure that sewage service rates are imposed upon a basis that is equitable and just, and where the sewage service rate is based on the water rate it shall be collectable in the same manner as water rates;

AND WHEREAS under section 221 of the previous *Municipal Act*, a municipality had the power to exempt any property or class of property from all or part of the rate based on the amount of service received or the amount of benefit derived or derivable from the construction of the sewage works;

AND WHEREAS under section 11 of the *Municipal Act, 2001*, a municipality may pass by-laws respecting matters within the sphere of jurisdiction of Public utilities, and Public utilities includes a system to provide for services relating to sewage, which is defined to include storm water and other drainage from land and commercial wastes and industrial wastes that are disposed of in a sewage system;

AND WHEREAS section 9(1) of the *Municipal Act, 2001* provides that section 11 shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues;

AND WHEREAS section 9(2) of the *Municipal Act, 2001* provides that in the event of ambiguity in whether or not a municipality has the authority to pass a by-law under section 11, the ambiguity shall be resolved so as to include, rather than exclude, municipal powers that existed on December 31, 2002;

AND WHEREAS Ontario Regulation 244/02 under the *Municipal Act, 2001* imposes enhanced public notification requirements where fees or charges are imposed for the use of a sewage system, and the City has held a public meeting and provided notice of the public meeting in accordance with that Regulation.

THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

## **SEWER SYSTEM CHARGE BY-LAW**

### **DEFINITIONS**

1. In this by-law,

“land” means land in the City of London and includes any estate, term, easement, right or interest in, to, over or affecting land;

“City” means the Corporation of the City of London;

"Company" means London Hydro Inc.;

"construction" includes reconstruction, improvements, extension, alteration, replacement, and repairs;

"sewage" includes drainage, storm water, commercial wastes and industrial wastes and such other matter or substance as is specified by regulations made under clause 75(1)(j) of the *Ontario Water Resources Act*;

"sewage service" means the acceptance, collection, transmission, storage, treatment and disposal of sewage, or any one or more of them;

"sewage works" means any works for the collection, transmission, treatment and disposal of sewage or any part of such works but does not include plumbing to which the *Building Code Act, 1992* applies.

#### **ADMINISTRATION OF BY-LAW**

2. The administration of this by-law is assigned to the City Treasurer.

#### **ALTERNATE NAME FOR CHARGE**

3. Sewage system fees and charges under this by-law may be referred to as a Sewer System Charge, a Sanitary Sewer Charge or a Storm Drainage Charge, as the case may be.

#### **CALCULATION OF CHARGE**

4. (1) The following classifications are established for the purposes of this by-law:

1. residential, which includes but is not confined to a single dwelling with or without an accessory apartment or home occupation, a duplex dwelling, a triplex dwelling, and a fourplex, and a townhouse serviced by one water meter.
  2. commercial, which includes but is not confined to an office building, a shopping mall or plaza, a hotel, a motel, a financial institution, a restaurant, an automotive service station, a retail establishment, a dental, legal, medical or other professional office serviced by one water meter, and a dwelling with five or more dwelling units serviced by one water meter, and a building whose use is predominantly commercial but which contains no more than four accessory dwelling units.
  3. industrial, which includes but is not confined to a facility for manufacturing, assembling, raw materials processing, food and beverage processing, and pharmaceutical and medical products manufacturing, publicly-owned facility for waste management, treatment or landfilling, water processing, pollution control, and hazardous substance treatment.
  4. institutional, which includes but is not confined to an educational facility, health care facility, and a building of a municipal, provincial or federal government, and of a local board or agency.
- (2) A Sewer System Charge payable under this by-law shall be calculated in accordance with Tables 1 and 2 of the Schedule of Sewer System Fees and Charges Bylaw with reference to,
- (a) Line 1, if the land in respect of which the rate is imposed is supplied with water based from time to time on a residential classification;
  - (b) Line 2, if the land in respect of which the rate is imposed is supplied with water based from time to time on a commercial classification;
  - (c) Line 3, if the land in respect of which the rate is imposed is supplied with water based from time to time on an institutional classification and if the total quantity of water consumed in the preceding calendar year does not exceed 600,000 cubic metres;

- (d) Line 4, if the land in respect of which the rate is imposed is supplied with water based from time to time on an institutional classification and if the total quantity of water consumed in the preceding calendar year exceeds 600,000 cubic metres;
- (e) Line 5, if the land in respect of which the rate is imposed is supplied with water based from time to time on an industrial classification and if the total quantity of water consumed in the preceding calendar year does not exceed 600,000 cubic metres;
- (f) Line 6, if the land in respect of which the rate is imposed is supplied with water based from time to time on an industrial classification and if the total quantity of water consumed in the preceding calendar year exceeds 600,000 cubic metres but does not exceed 1,200,000 cubic metres; and
- (g) Line 7, if the land in respect of which the rate is imposed is supplied with water based from time to time on an industrial classification and if the total quantity of water consumed in the preceding calendar year exceeds 1,200,000 cubic metres.

(3) For the purposes of subsection (2), if land,

- (a) is supplied during the whole or part of a subject year with water based on an industrial or institutional classification; and
- (b) was not supplied during any part of the preceding calendar year with water based on an industrial or institutional classification,

the calculation of the Sewer System Charge with reference to Lines 3, 4, 5, 6, or 7 shall be based on a reasonable estimate of the quantity of water that would have been supplied to the land in the whole of the preceding year based on an industrial or institutional classification, as the case may be.

(4) The Sewer System Charge payable is the total of the following amounts:

1. The amount payable in respect of Sanitary Sewer Charge calculated using the following formula:

$$A = B \times C$$

Where:

- A = the amount payable in respect of Sanitary Sewer Charge;
- B = the number of cubic metres of water supplied to the land; and
- C = the rate expressed as a fraction of one dollar per cubic metre of water in Table 1, for the appropriate classification for the subject year.

2. In the case of land supplied with water based from time to time on a residential, commercial or institutional classification, the amount payable in respect of Storm Drainage Charge calculated using the following formula:

$$D = E \times F$$

Where:

- D = the amount payable in respect of the Storm Drainage Charge;

E = the number of billings per account issued in respect of the subject year as determined by Section 5 Payment of Charge.

F = the rate expressed as an amount per billing per account in Table 2, for the appropriate classification for the subject year.

3. In the case of land supplied with water based from time to time on an industrial classification, the amount payable in respect of the Storm Drainage Charge calculated using the following formula:

$$G = H \times I$$

Where:

G = the amount payable in respect of the Storm Drainage Charge;

H = the area of the land expressed in terms of hectares and fractions thereof; and

I = the rate expressed in terms of dollars and fractions thereof per hectare in Table 2, for the appropriate classification for the subject year.

- (5) Despite anything in this section to the contrary, if the quantity of sewage flowing from the land to a municipal sanitary sewer pipe exceeds or is less than the quantity of water supplied to the land by the City based on an industrial classification, the amount payable in respect of Sanitary Sewer Charge may be calculated using the following formula:

$$J = K \times L$$

Where:

J = the amount payable in respect of Sanitary Sewer Charge;

K = the number of cubic meters of sewage flowing from the land (as determined by a measuring procedure approved by the City) during the subject year

L = the dividend resulting from dividing the rate (expressed as a fraction of one dollar per cubic metre of water) in Table 1 for the appropriate classification for the subject year by .85.

#### **PAYMENT OF CHARGE**

5. (1) In addition to any rate payable to the City for the supply of water, every occupant of land who uses sewage works or is supplied sewage service is liable to pay a Sewer System Charge to the City on a monthly basis.
- (2) Every owner of land, even though the owner is not the occupant of the land at the time a Sewer System Charge becomes payable in respect of the land under this by-law, is also liable to pay the charge until it is paid.
- (3) If, under the terms of occupation between the occupant and the owner, it is the obligation of the owner to pay the water rate for water supplied to the land,
- (a) this by-law does not apply to the occupant of the land; and
- (b) the owner, in addition to the water rate, is liable to pay a Sewer System Charge to the City in accordance with the provisions of this bylaw.

- (4) Notwithstanding subsection (1), where the rate for the supply of water is payable at some interval other than monthly, the Sewer System Charge shall be due and payable at the same interval and not monthly.

#### **ADDITIONAL TO OTHER RATES**

6. (1) A Sewer System Charge imposed under this by-law is payable even if,
- (a) a sewer rate has been or is imposed under subsections 221(2) or (13) of the *Municipal Act*, R.S.O. 1990, c. M45, as amended, with respect to the capital cost of the same work;
  - (b) the work with respect to which it is imposed was constructed under the *Local Improvement Act*, R.S.O. 1990, L. 26, as amended, or any other general or special Act;
  - (c) a sewer rent has been or is imposed under section 5 of the *City of London Act, 1982*;
  - (d) the work with respect to which it is imposed was constructed under a local improvement charges by-law; or
  - (e) a special rate has been levied to raise the related costs for an urban service under Ontario Regulation 931/93, a deemed by-law of the City.
- (2) Notwithstanding subsection (1), no Sanitary Sewer Charge imposed under this by-law is payable in respect of land unless the land is:
- (a) connected to a municipal sanitary sewer pipe; or
  - (b) capable of being connected to a municipal sanitary sewer pipe in the vicinity of the land.
- (3) Notwithstanding subsection (1), no Storm Drainage Charge imposed under this by-law is payable in respect of land if,
- (a) the land is outside the City of London Urban Growth Boundary;
  - (b) the land drains to drainage works and is subject to assessment under the *Drainage Act* from time to time for construction and/or maintenance costs;
  - (c) the land is located at 1424 Clarke Road in the City of London, known as Fanshawe Conservation Area, owned and operated by the Upper Thames River Conservation Authority; or
  - (d) the land forms part of the Kirk-Cousins Management Area, owned by the Kettle Creek Conservation Authority.

#### **NO EXEMPTION FROM CHARGE**

7. No land is exempt from a Sewer System Charge imposed under this by-law by reason only that the land is exempt from taxation under the *Assessment Act*.

#### **NON-PROFIT HOSPITAL SERVICE CORPORATION**

8. (1) In this section, "non-profit hospital service corporation" means a corporation without share capital that provides laundry or food service to one or more public hospitals, as defined in the *Public Hospitals Act*.
- (2) Land occupied by a non-profit hospital service corporation and used chiefly by the corporation for one or both of the services mentioned in subsection (1) is not exempt from a Sewer System Charge imposed under this by-law.

#### **COLLECTION OF CHARGE**

9. (1) The Company is appointed to collect the Sewer System Charge imposed under this by-law in the same manner and at the same time as water rates.
- (2) The Company is authorized to mail a notice or cause it to be mailed to the address of the residence or place of business of a person mentioned in subsections 5(1) and (3).

- (3) The notice shall specify the amount of the Sewer System Charge, the day by which payment of the charge is due, the place or places where such payment may be made, and the total of the charge and the percentage charge imposed under subsection (5) on the first day of default.
- (4) Payment of a Sewer System Charge is due and shall be paid no later than the sixteenth day following the day notice was first given in accordance with this bylaw.
- (5) If a Sewer System Charge or any portion thereof remains unpaid after the day mentioned in subsection (4), a charge of 5 per cent of the unpaid amount shall be imposed on the first day of default as a penalty for non-payment of the charge and shall be added to the unpaid amount.
- (6) The Company may accept part payment from time to time on account of any Sewer System Charge due and to give a receipt for such part payment, but the acceptance of any such part payment does not affect the collection of any percentage charge imposed and collectible in respect of non-payment of any Sewer System charges.
- (7) The receipts arising from the collection of the Sewer System Charge shall be paid over by the Company to the City Treasurer as directed by the City Treasurer.
- (8) The receipts paid over to the City Treasurer shall form part of the funds of the City for the purpose of the construction, operation, repair, and maintenance of sewage works and the supply of sewage service.
- (9) The Company shall not collect a Storm Drainage Charge against a bulk water meter (for a duplex, triplex, fourplex or previously bulk-metered townhouse block) where individual water meters have been installed to measure water supplied to each individual dwelling unit, and where the Storm Drainage Charge is payable for the individual meters.

#### **CHARGE HAS PRIORITY LIEN STATUS**

10. (1) A Sewer System Charge imposed under this by-law upon any owner or occupant of land has priority lien status and may be added to the tax roll against the property in respect of which the sewer service was supplied.
  - (2) If a Sewer System Charge or any part thereof remains unpaid after its due date the City Clerk, upon notice to the owner or occupant of the amount due, the person by whom it is due, shall add the same to the tax roll.
  - (3) If an amount is added to the tax roll in respect of a property under subsections (1) or (2), that amount, including interest:
    - (a) may be collected in the same manner as taxes on the property;
    - (b) may be recovered with costs as a debt due to the municipality from the assessed owner of the property at the time the charge was added to the tax roll and from any subsequent owner of the property or any part of it;
    - (c) is a special lien on the property in the same manner as taxes under subsection 349(3) of the *Municipal Act, 2001*; and
    - (d) may be included in the cancellation price under Part XI of the *Municipal Act, 2001* in the same manner as are taxes on the property.
11. (a) The City Engineer may, in default of payment of the Sewer System Charge by the owner or occupant of land in respect of which the charge is imposed, shut off the supply of water provided by the City to such land, but the charges in default, any percentage charge imposed as a penalty, and any costs for shutting off the supply of water are nevertheless recoverable.

- (b) Despite subsection 11(a), the City Engineer shall provide reasonable notice of the proposed shut-off to the owners and occupants of the land by personal service or prepaid mail or by posting the notice on the land in a conspicuous place.

12. The amount payable to the City in respect of the Sewer System Charge and any percentage charge imposed as a penalty is a debt and may be recovered by action in a court of competent jurisdiction.

13. The proper officers of the City are authorized to do all things necessary or advisable to effect the changes for the transition to and implementation of the Sewer System Charge under this by-law as soon as practicable after the bylaw comes into force.

14. By-law WM-13 and all amendments thereto, are hereby repealed.

15. This by-law comes into force and effect on January 1<sup>st</sup>, 2005.

PASSED in Open Council on December 20, 2004.

Anne Marie DeCicco  
Mayor

Kevin Bain  
City Clerk

First Reading - December 20, 2004  
Second Reading – December 20, 2004  
Third Reading – December 20, 2004