

MUNICIPALITY OF THE COUNTY OF KINGS



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BY-LAW # 92

NORTH ALTON AND PROSPECT ROAD CAPITAL WATER CHARGE BY-LAW

SUBTITLE

A By-law Providing for the Recovery of Capital Costs of Installing Water Systems in the communities of North Alton and Prospect Road in the Municipality of the County of Kings

PREAMBLE & ENACTMENT

WHEREAS the Municipality of the County of Kings has legislative authority and responsibility with respect to imposing, fixing and providing methods of enforcing payment of charges for 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 of North Alton and Prospect Road, Kings County.

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

PART 1 - GENERAL PROVISIONS

Title and Definitions

1. This By-Law may be cited as the *North Alton and Prospect Road Capital Charge By-Law*.
2. In this By-Law:
 - (a) “**Cost of project**” means the total cost of installing a water system and, without limiting the foregoing, includes expenses related to installing laterals to the street boundary, all costs of construction, installation and administration, any expenses related to professional services, incidental expenses, cost of raising funds to finance the project, and the costs of financing throughout the amortization period of the project;
 - (b) “**Council**” means the Council of the Municipality;
 - (c) “**Curb stop**” means a shut off valve installed by the Municipality on a service lateral with a protective housing to the ground surface;
 - (d) “**Engineer**” means the Engineer of the Municipality and includes a person acting under the supervision and direction of the Engineer;
 - (e) “**North Alton and Prospect Road Water System**” means a water system, the capital cost of the System or any portion thereof the Municipality paid or for which

the Municipality is liable, whether or not owned by the Municipality, and which is installed in or near North Alton and Prospect Road, Kings County, Nova Scotia;

- 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. The System also includes:
 1. Morris Crescent, Harry Drive, and Alice Drive;
 2. Elizabeth Drive from intersection with Prospect Road to intersection with Harry Drive;
 3. Poplar Drive from intersection with Elizabeth Drive to intersection with Harry Drive.
- (f) **“Main building”** means a permanent structure which is roofed in which is carried on a principal use for which a building lot is used;
- (g) **“Municipality”** means the Municipality of the County of Kings;
- (h) **“Municipal Services Specifications Manual”** means the Manual adopted by Council pursuant to the Subdivision By-Law;
- (i) **“Owner”** as it refers to the owner of property includes:
 - (i) a part owner, joint owner, tenant in common or joint tenant of the whole or any part of land or a building;
 - (ii) in the case of the absence or incapacity of the person having title to the land or building, a Trustee, an executor, a guardian, an agent, a mortgagee in possession or a person having the care or control of the land or building; and
 - (iii) in the absence of proof to the contrary, the person assessed for the property.
- (j) **“Person”** includes a corporation and the heirs, executors, administrators or other legal representatives of a person, but specifically excludes the Municipality;
- (k) **“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 main of a water system to a curb stop;
- (l) **“Treasurer”** means the Treasurer of the Municipality, and includes a person acting under the supervision and direction of the Treasurer; and
- (m) **“Water system”** means 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.

PART 2 - WATER SYSTEM INSTALLATION PROJECT

3. Council has considered and commenced a water system installation project in the communities of North Alton and Prospect Road, Kings County, after receipt of a report and recommendation from the Engineer.

PART 3 - SERVICE CONNECTIONS**Illegal Connections**

4. No person shall connect or attempt to connect or allow to be connected or allow to remain connected to the North Alton and Prospect Road Water System or premises other than in accordance with the provisions of this By-Law.

Connection Application

5. No connection to the North Alton and Prospect Road Water System shall be made until an application for a service connection has been approved by the Engineer. Each application for a service connection shall be submitted to the Engineer by the Owner or his/her authorized agent together with any Water System Capital Charge payable. Applications held by the Engineer when this By-law comes into effect are applications for the purposes of this By-law. If the connection is practicable and any Water System Capital Charge payable is paid, the Engineer shall approve the application. If such connection is not practicable, the Engineer shall notify the applicant within 60 days. The applicant shall not connect to the North Alton and Prospect Road Water System without complying with all Rules and Regulations of the Water Utility responsible for the System. Applications shall not be withdrawn after they have been submitted.

PART 4 - WATER SYSTEM CAPITAL CHARGE**Charge**

6. Every Owner who successfully applies for a service connection to a water system shall pay a Water System Capital Charge to the Municipality. The Water System Capital Charge payable by an Owner shall be calculated as shown in Schedule "A" of this By-Law.

Due

7. The Water System Capital Charge is due upon application for a service connection.

Payable

8. The Water System Capital Charge is payable, at the option of the Owner, either:
 - (a) if the North Alton and Prospect Road Water System is not complete at the date of the application, within 30 days of the Engineer certifying to the Treasurer that the construction of the North Alton and Prospect Road Water System is complete; or

- (b) if the Engineer has certified to the Treasurer that the construction of the North Alton and Prospect Road Water System is complete, upon application for a service connection; or
- (c) if application for a service connection is received by the Municipality within 12 months of the Engineer certifying to the Treasurer that the construction of North Alton and Prospect Road Water System is complete, in ten annual installments of charge, the first payment payable upon application for a service connection and annually thereafter. The Owner may submit an application to connect to the system within 1 year of project completion without penalty and may be eligible for financing by the Municipality. Following the 1 year period, the Owner will be charged an annual interest charge in addition to the capital charge.
- (d) Interest is payable annually on the entire amount outstanding and unpaid, whether or not the Owner has elected to pay by instalments, at a rate set by policy of Council.
- (e) The Owner may prepay the whole or any part of the Charge, or the balance outstanding, plus interest accumulated to the date of payment, at any time without notice.

PART 5 - LIEN

Lien

- 9. The Water System Capital Charge payable pursuant to this By-Law is a first lien on the land which will benefit from the service connection and the Charge may be collected in the same manner as other taxes and, at the option of the Treasurer, be collectable at the same time, and by the same proceedings, as taxes. The lien is effective when the Charge is due.

PART 6 - INSPECTION

Inspection

- 10. The officers and employees of the Municipality are authorized to enter at all reasonable times upon any premises which are subject to this By-Law to ascertain compliance with this By-Law.

PART 7 - PENALTIES

Penalties

- 11. 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.

PART 8 - GENERAL PROVISIONS

- 12. Schedule "A" is attached to and forms part of this By-Law.

13. If any part, section, sentence, clause, phrase or word of this By-law is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder which shall continue in full force and effect and be construed as if the By-law had been adopted without the invalid portion.

SCHEDULE "A"**NORTH ALTON AND PROSPECT ROAD CAPITAL CHARGE**

The Water System Capital Charge payable by an Owner to the Municipality applicable to the North Alton and Prospect Road shall be the lesser of \$9000.00 and the amount determined by using the following formula:

CP minus FC
multiplied by OSC
divided by TSC
equals WSCC

where:

CP = cost of project;

FC = total financial contributions of Federal, Provincial and municipal governments, not including the Municipality;

OSC = number of service laterals to the Owner's property from the water system that the Owner has applied to connect to;

TSC = total number of service laterals from properties to the water system at the time of completion of the System, determined on the following basis: each lot of land shall have its own service lateral to the System; each main building on a lot shall have one service lateral except when a separate lateral is required for fire protection purposes or when building size or zoning or use makes the addition of a further lateral necessary; where two or more main buildings exist on one lot and where such lot can be subdivided, each building shall have a separate service lateral; any lot with greater than 100 feet of frontage along a street and that can be subdivided shall have one service lateral for each 100 feet of frontage; and

WSCC = Water System Capital Charge payable.

After the entire cost of the project is recovered by the Municipality from the payment of Capital Charges, no new Capital Charges shall be due or payable.

Note:

This charge (WSCC) will be indexed annually by the interest rate set annually by policy through Council.

History of this By-law

Enacted - September 2, 2008