

Authority: Item 17, Public Works Committee
Report 07-011
(TOE2005b/FCS02026b/PED07248)
CM: September 26, 2007
Ward: 14

Bill No. 204

CITY OF HAMILTON
BY-LAW NO. 21-204

To Impose a Storm and Sanitary Sewer and Watermain Charge Upon Owners of Land Abutting Davinci Boulevard from Rymal Road West to 24m South of Upper Paradise Road, in the City of Hamilton

WHEREAS the Council of the City of Hamilton authorized recovering a portion of costs associated with the construction of a storm and sanitary sewer and watermain on Davinci Boulevard from Rymal Road West to 24m south of Upper Paradise Road, in the City of Hamilton, by approving, on September 26, 2007, Item 17 of Public Works Committee Report 07-011 (Report TOE2005b/FCS02026b/PED07248), (the "Sewer and Watermain Works");

AND WHEREAS a developer DiCenzo Construction Company, in satisfaction of terms and conditions of Paradise Meadows Phase 1 Subdivision Agreement 62M-1118, did construct certain Sewer and Watermain Works, in the City of Hamilton, as more particularly described in Schedule "A" attached to this By-law;

AND WHEREAS to the extent that the construction of the said Sewer and Watermain Works benefits the property owners described in Schedule "A", such works were services or activities that were provided or done on behalf of the City of Hamilton with the express intention that section 392(1)(a) of the Municipal Act, S.O. 2001, c. 25 as amended would apply thereto;

AND WHEREAS the cost of the said Sewer and Watermain Works, that relate to the benefitting property owners described in Schedule "A" is \$127,067.97, and this amount is to be recovered from all benefitting property owners as set forth in this By-law, (the "Sewer and Watermain Charges");

AND WHEREAS the said Sewer & Watermain Charges are imposed pursuant to Part XII of the Municipal Act, S.O., 2001, c. 25 as amended and pursuant to section 14 of the City of Hamilton Act, 1999, S.O., 1999, c. 14, Schedule C amended;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Sewer and Watermain Charges are imposed upon the owners or occupants of land who benefit from the construction of the Sewer and Watermain Works (the "Assessed Owners").
2. The Assessed Owner's lands and the respective Sewer and Watermain Charges are more particularly described in Schedule "A", which Schedule is attached to and forms part of this By-law.

3. The Sewer and Watermain Charges have been established using the approved method for cost apportionment per City of Hamilton Report TOE02005b/FCS02026b/PED07248 (Funding Methodologies for Municipal Infrastructure Extensions Review and Update), establishing a Sewer Charge of \$821.25 per metre of property frontage attributable to each Assessed Owner of an existing lot and a Watermain Charge of \$172.40 per metre of property frontage attributable to each Assessed Owner of an existing lot. The Sewer and Watermain Charges shall be indexed in accordance with the percentage change in the composite Canadata Cost Index (Ontario Series) commencing from the completion date of construction February 6, 2009 until October 2020, then the charges will be adjusted yearly by the City of Hamilton's 15 year serial all-in interest rate for each year, (2021 rate 1.60%) to the date of permit issuance.
4. The amount resulting from the application of the Sewer and Watermain Charges (the "Indebtedness"), shall be collected at the time of permit issuance for any connection to the said Sewer and Watermain Works, in addition to any applicable permit fees.
5. The Assessed Owners have the option of paying the Indebtedness by way of annual payments over a period of 15 years from the date of permit issuance for connection by entry on the tax roll, to be collected in the same manner as municipal taxes. The interest rate utilized for the 15 year payment shall be the City of Hamilton's then-current 15 year borrowing rate (2021 rate 2.00%).
6. Notwithstanding Section 5, an Assessed Owner of a parcel described in Schedule "A" may pay the commuted value of the Indebtedness without penalty, but including interest, at any time.
7. Should an Assessed Owner sever or subdivide their parcel of land, the Sewer and Watermain Charges owed to the City of Hamilton, whether the parcel of land is connected or not, and whether or not the Assessed Owner has previously exercised the repayment option set out in Section 5 above, shall be paid forthwith to the City of Hamilton in a lump sum as a condition of the severance or subdivision approval.
8. The developer, DiCenzo Construction Company, upon satisfying the City that it has completed its obligations with respect to the construction of the said Sewer and Watermain Works, shall receive repayment of that portion of the associated cost of the construction hereunder, pursuant to the terms and conditions of its subdivision agreement.
9. Unpaid Sewer and Watermain Charges constitute a debt to the City and may be added to the tax roll and collected in the same manner as municipal taxes.
10. If any provision or requirement of this By-law, or the application of it to any person, shall to any extent be held to be invalid or unenforceable by any court of competent jurisdiction, the remainder of the By-law, or the application of it to all persons other than those in respect of whom it is held to be invalid or unenforceable, shall not be affected, and each provision and requirement of this By-law shall be separately valid and enforceable.

11. This By-law comes into force on the day following the date of its passing.

PASSED this 10th day of November, 2021.

F. Eisenberger
Mayor

A. Holland
City Clerk

Schedule "A" to By-law No. 21-204

Davinci Boulevard

Storm and Sanitary Sewer and Watermain on Davinci Boulevard from Rymal Road West to 24m South of Upper Paradise Road.

Sewer and Watermain Charges

| Property Address | Frontage (m) | Storm and Sanitary Sewer | Watermain | Total Charge |
|-------------------------|---------------------|---------------------------------|--------------------|---------------------|
| 545 Rymal Rd. W | 63.894 | \$52,472.95 | \$11,015.33 | \$63,488.28 |
| 525 Rymal Rd. W. | 63.986 | \$52,548.50 | \$11,031.19 | \$63,579.69 |
| TOTAL | | \$105,021.45 | \$22,046.52 | \$127,067.97 |
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