

Authority: Item 10, General Issues Committee
Report 22-023 (FCS22084)
CM: December 7, 2022
Ward: City Wide

Bill No. 112

CITY OF HAMILTON

BY LAW NO. 23-112

A By-law to Establish Certain 2023 User Fees and Charges for Services, Activities or the Use of Property and to Repeal By-law No. 22-183

WHEREAS sections 8, 9 and 10 of the *Municipal Act, 2001*, authorize the City of Hamilton to pass by-laws necessary or desirable for municipal purposes, and in particular paragraph 3 of subsection 10(2) authorizes by-laws respecting the financial management of the City of Hamilton;

AND WHEREAS subsection 391(1) of the *Municipal Act, 2001*, states that sections 9 and 10 of that Act authorize the City of Hamilton to impose fees or charges on persons for services or activities provided or done by or on behalf of it; for costs payable by it for services or activities provided or done by or on behalf of any other municipality or local board; and for the use of its property including property under its control;

AND WHEREAS fees and charges listed in Schedule "A" may be administered and calculated in accordance with other City of Hamilton by-laws or provincial legislation or both including, but not limited to:

- (a) animal services by-laws
- (b) business licensing by-laws
- (c) fire prevention and suppression by-laws
- (d) parking by-laws
- (e) waste management by-laws
- (f) the *Building Code Act, 1992*, its regulations and by-laws passed under the Act or its regulations
- (g) the *Funeral, Burial and Cremation Services Act, 2002*, its regulations and by-laws passed under the Act or its regulations
- (h) the *Planning Act*, its regulations and by-laws passed under the Act or its regulations
- (i) Order in Council 1413/08 and lottery licensing by-laws passed under the Order in Council;

AND WHEREAS the City of Hamilton wishes to establish and maintain a list of services, activities, and the use of property subject to fees or charges and the

amount of each fee or charge;

Page 2 of 121

AND WHEREAS the Council of the City of Hamilton has authorized the passage of a by-law for the purpose of establishing the list of 2023 user fees and charges;

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

1. The user fees and charges set out in the “2023 Approved Fee” column of Schedule “A” shall be charged by the City of Hamilton for those services, activities or uses of property specified in column 1 of Schedule “A”, entitled “Service or Activity Provided or Use of City Property”.
2. The fees and charges set out in the “2023 Approved Fee” column of Schedule “A” are approved and imposed commencing January 1, 2023, or thereafter as set out in Schedule “A”.
- 3.(1) The fees and charges approved and imposed under section 2 are subject to any adjustment authorized by a statute, regulation or by-law in respect of the calculation or administration of a fee or charge, such adjustment to be effective as provided for in such statute, regulation or by-law.
 - (2) The fees and charges approved and imposed under section 2 may be waived or deferred by the General Manager of Finance and Corporate Services, in accordance with relevant legislation and in accordance with the Council approved policy regarding the waiving and deferring of City of Hamilton User Fees and Charges.
- (3) Despite section 2, any fee or charge:
 - (a) authorized by a by-law that comes into effect on the same or a later date than this By-law; or
 - (b) included in a valid agreement entered into by the City of Hamilton and one or more other parties, shall be the approved and imposed fee or charge for the service, activity or use of property specified.
4. Subject to section 3:
 - (a) despite any reference to a fee or charge for a service, activity or use of property set out in any other City of Hamilton by-law including any appendix or schedule attached to such a by-law, the fee or charge set out in the “2023 Approved Fee” column of Schedule “A” shall be the approved fee or charge for the service, activity or use of property specified; and
 - (b) the fee or charge for a service, activity or use of property set out in Schedule “A” continues in force until amended, repealed or replaced and for greater certainty, this includes continuing in force after

December 31, 2023 until amended, repealed or replaced. Page 3 of 121

5. No request by any person for documentary, written or printed information relating to any land, building or structure in the City, or request for services or activities provided by the City, or request to use the City's property or any application specified in column 1 of Schedule "A", entitled "Service or Activity Provided or Use of City Property", shall be processed unless and until the person requesting the information, services, activities, use of property or application, as the case may be, has paid the applicable fee or charge in the prescribed amount set out in the "2023 Approved Fee" column of Schedule "A".
6. The fees or charges as listed in Schedule "A" are subject to Harmonized Sales Tax (H.S.T.) where applicable.
7. Finance charges are applicable on all late payments of the fees or charges listed in Schedule "A" based on the current prime rate plus 2% adjusted quarterly.
8. All unpaid fees or charges imposed by this By-law on a person constitute a debt of the person to the municipality.
9. Where all or part of a fee or charge imposed by this By-law remains unpaid, such fee or charge may be added to the tax roll for the following property and collected in the same manner as municipal taxes:
 - (a) in the case of a fee or charge for the supply of a service or thing to a property, the property to which the service or thing was supplied.
 - (b) in all other cases, any property for which all of the owners are responsible for payment of the fee or charge.
10. Schedule "A" is attached to and forms a part of this By-law.
11. Should any part of this By-law, including any part of Schedule "A", be determined by a Court of competent jurisdiction to be invalid or of no force, it is the stated intention of Council that such invalid part of the By-law shall be severable and that the remainder of this By-law, including the remainder of Schedule "A", as applicable, shall continue to operate and to be in force.
12. This By-law may be referred to as the "User Fees and Charges By-law".
13. City of Hamilton By-law 22-183 is repealed immediately before the coming into force of this By-law.
14. The repeal of By-law 22-183 does not:

A By-law to Establish Certain 2023 User Fees and Charges for Services, Activities, or the Use of Property and to Repeal By-law No. 22-183

- (a) affect the previous operation of the repealed by-law; Page 4 of 121
 - (b) affect a right, privilege, obligation or liability that came into existence under the repealed by-law;
 - (c) affect an offence committed against the repealed by-law, or any penalty, forfeiture or punishment incurred in connection with the offence;
 - (d) affect an investigation, proceeding or remedy in respect of a right, privilege, obligation or liability described in section 14(b), or a penalty, forfeiture or punishment described in section 14(c).
15. An investigation, proceeding or remedy described in section 14(d) may be commenced, continued, and enforced as if By-law 22-183 had not been repealed or revoked.
16. A penalty, forfeiture or punishment described in section 14(c) may be imposed as if the By-law 22-183 had not been repealed or revoked.
17. This By-law is deemed to have come into force on January 1, 2023.

PASSED this 21st day of June 2023.

A. Horwath
Mayor

J. Pilon
Acting City Clerk