

**Authority:** Item 23, Committee of the  
Whole Report; 04-007  
(PW04084/FCS04102)  
CM: December 15, 04

**Bill No. 337**

City of Hamilton

BY-LAW NO. 04-337

To impose a watermain rate under the Municipal Act, 2001 upon owners of land abutting White Church Road, in the City of Hamilton.

**WHEREAS** a developer, 1536708 Ontario Inc., in satisfaction of terms and conditions of a Subdivision Agreement dated December 4, 2003 for a development known as Southhampton Estates, did construct a municipal distribution water main and fire hydrants on Whitechurch Road from Highway No. 6 to approximately 250 metres westerly, in the City of Hamilton, but excluding any connections from the watermain to the southerly limits of White Church Road:

**AND WHEREAS** at its meeting of August 12, 2004, the Council of the City of Hamilton did approve Item 23 of Committee of the Whole Report 04-007 and did thereby approve that in order to fulfill the City of Hamilton's best efforts obligations under the said Subdivision Agreement, \$66,125.00 (including G.S.T.) of the amount of the capital cost of the said municipal distribution watermain would be recovered from those property owners whose land abuts White Church Road, and who choose to connect to the said watermain, all in accordance with the provisions of the Municipal Act, 2001;

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

1. A "watermain rate" consisting of a charge for the capital cost of the Watermain Work described below (herein called the "Watermain Rate"), is hereby imposed upon the owners of land who derive, will derive or may derive a benefit from the construction of a watermain on White Church Road, from Highway No. 6 to approximately 250 metres westerly, but excluding any connections from the watermain to the southerly limits of White Church Road (herein called the "Watermain Work").

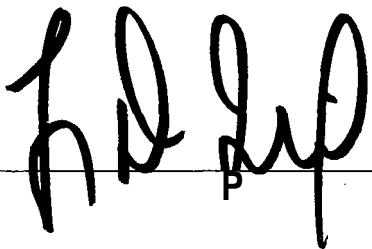
2. The Watermain Rate as set out in Schedule " A attached to this by-law, shall be imposed upon the owners of each of the lands described in said Schedule "A".
3. The Watermain Rate shall be indexed annually in accordance with the percentage change in the composite Canadata Construction Cost Index (Ontario Series), commencing one year from the date of the passage of this by-law.
4.
  - (a) Subject to section 6, the Watermain Rate shall be payable when an owner of a parcel of land described in Schedule " A attached to this by-law connects to the Watermain Work and shall be collected at the time of water permit issuance in addition to the regular permit fees.
  - (b) The owners of the parcels of the land described in Schedule " A attached to this by-law who connect to the Watermain Work have the option of paying the Watermain Rate by way of annual payments over a period of fifteen (15) years by entry on the collector's roll, to be collected in the same way, as municipal taxes are collected.
  - (c) The interest rate utilized for the 15 year payment shall be the annual interest rate approved for the City's Municipal Act Program (2004 rate – 5.75%) of the Council approved rate substituted therefor.
5. Notwithstanding Section 4, an owner of a parcel of land described in Schedule " A attached to this by-law may pay the commuted value of the Indebtedness at any time.
6. Should an owner sever or subdivide his or her parcel of land, then the amount owed to the City, whether the parcel of land is connected to the Watermain Work or not, shall be paid to the City as a condition of the severance or subdivision approval.
7. The Watermain Rate shall be a lien and a charge upon the land and, if the Watermain Rate or any part thereof remains unpaid after the due date established in 4(a) or section 6 of this by-law, the amount unpaid may be entered on the collector's roll to be collected in the same way, as nearly as may be, as municipal taxes are collectable.
8. The developer, 1536708 Ontario Inc., upon satisfying the City that it has completed its obligations with respect to the construction of the Watermain Work shall receive repayment of the associated cost pursuant to the terms and conditions of the Subdivision Agreement.

9. If any provision or requirement of this by-law, or the application thereof to any person or land shall to any extent be held to be invalid or unenforceable by any court of competent jurisdiction, the remainder of this by-law, or application of such provisions or requirements to all persons and lands other than those in respect of whom it is held to be invalid or

unenforceable, shall not be affected thereby and each provision and requirement of this by-law shall be separately valid and enforceable.

10. This by-law shall come into force and take effect on the day following the date of its passing and enactment.

PASSED and ENACTED this 15<sup>th</sup> day of December, 2004.

Mayor 

  
City Clerk

# City of Hamilton

## Schedule "A" to By-law No.04-337

**White Church Road (Distribution Watermain) Municipal Act Project  
from Hwy. No. 6 to 250m westerly**

PROPERTY SOUTH SIDE			Frontage (m)	Watermain Rate
1	3610	Hwy. No. 6	47.80	\$6,411.38
2	9027	White Church	12.65	\$1,697.39
3	9033	White Church	12.65	\$1,697.39
4	9037	White Church	14.17	\$1,901.20
5	9043	White Church	14.17	\$1,900.05
6	9047	White Church	12.50	\$1,676.13
7	9049	White Church	12.50	\$1,676.13
8	9055	White Church	14.02	\$1,879.94
9	9061	White Church	14.02	\$1,879.94
10	9065	White Church	22.86	\$3,065.29
11	9075	White Church	45.72	\$6,130.58
12	9087	White Church	23.47	\$3,147.09
<b>NORTH SIDE</b>				
13	Roman Catholic Episcopal	White Church	30.48	\$12,840.56
14	Roman Catholic Episcopal	White Church	56.77	\$13,071.22
15	3530	Hwy. No. 6		\$7,150.72
			333.78	\$66,125.00

**Note: Capital cost of \$66,125 includes the watermain and the hydrants but does not include the water service (from the watermain to the road allowance) and the connection to the watermain.**

**Note : Prices Rounded to Match Schedule F2 Costs(\$) Southhampton Estates Phase 1 Subdivison Agreement**