

Authority: Item 9, Public Works, Infrastructure
and Environment Committee
Report 04-021 (PW04131/FCS04142)
CM: December 15,2004

Bill No. 202

**City of Hamilton
BY-LAW NO. 05-202
To Impose a Sanitary Sewer Charge Under the Municipal Act, 2001 Upon
Owners of Land Abutting Falcon Road, in the City of Hamilton.**

WHEREAS a developer, Peter DeSantis and Maria Giovanna DeSantis., in satisfaction of terms and conditions of a subdivision agreement with the City of Hamilton dated, October 18, 2004 for a development known as Falcon Road, hereinafter referred to as the "Subdivision Agreement", did construct both a municipal sanitary sewer and private drains on land abutting Falcon Road from Fifty Road to approximately 117 metres westerly, in the City of Hamilton, hereinafter referred to as the "Sewer Works" ;

AND WHEREAS at its meeting of December 15, 2004, the Council of the City of Hamilton did approve Item 9 of Public Works, Infrastructure and Environment Committee Report 04-21 and did thereby approve that in order to fulfill the City of Hamilton's best efforts obligation under the Subdivision Agreement, \$61,545.49 (including G.S.T.) of the amount of the capital cost of the Sewer Works would be recovered from those property owners whose land abuts Falcon Road, and who choose to connect to the said sanitary sewer, 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 "sewer charge" consisting of a charge for the capital cost of the Sewer Works (herein called the "Sewer Charge"), is hereby imposed upon the owners of land who derive, will derive or may derive a benefit from the construction of the Sewer Work, hereinafter referred to as the "Assessed Owners".
2. The Assessed Owners' lands and the Sewer Charge are as set out in Schedule "A" attached to this by-law, which Schedule forms part of this by-law.
3. The Sewer Charge shall be indexed annually with the percentage change in the composite Canada Construction Cost Index (Ontario Series), commencing one year from the passage of this by-law.
4. (a) Subject to section 6, the Sewer Charge shall be due and payable at when an Assessed Owner of a parcel of land described in Schedule "A" attached to this by-law connects to the municipal sanitary sewer on Falcon Road and shall be collected at the time of sewer permit issuance in addition to the regular permit fees.
(b) The Assessed Owners of the parcels of the land described in Schedule "A" attached to this by-law who connect to the municipal sanitary sewer on Falcon Road have the option of paying the Sewer Charge by annual

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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%) or the Council approved rate substituted therefore.

5. Notwithstanding Section 4, an Assessed Owner of a parcel land described in Schedule "A" attached to this by-law may pay the commuted value of the Sewer Charge at any time.
6. Should an Assessed 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 municipal sanitary sewer on Falcon Road or not, shall be paid to the City as a condition of the severance or subdivision approval.
7. The Sewer Charge shall be a lien and a charge upon the land and, if the Sewer Charge 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 collected.
8. The developer, Peter DeSantis and Maria Giovanna DeSantis, upon satisfying the City that it has completed its obligations with respect to the construction of the Sewer Works 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 13th day of July, 2005.


MAYOR


CLERK

SCHEDULE A to By-Law No. 05-202

City of Hamilton

**Falcon Road Sanitary Sewer
from Fifty Road to 117 metres westerly**

Sewer Charge

| Assessed Owners' lands | Municipal Sanitary Sewer | Private Drains | Total Sewer Charge with (8%Eng/Admin and 7% GST) |
|-------------------------------|---------------------------------|-----------------------|---|
| 4 | \$ 16,264.51 | \$ 2,000.00 | \$21,106.46 |
| 7 | \$ 12,822.95 | \$ 4,000.00 | \$19,440.60 |
| 11 | \$ 9,007.18 | \$ 2,000.00 | \$12,719.89 |
| 18 | \$ 5,163.84 | \$ 2,000.00 | \$8,278.54 |
| Total | \$ 43,258.48 | \$ 10,000.00 | \$61,545.49 |