

Authority: Item 9, Public Works, Infrastructure and
Environment Committee
Report 06-007 (PW03165C/FCs03166C)
CM: May 10, 2006

Bill No. 130

CITY OF HAMILTON

BY-LAW NO. 06-130

To Impose a Sanitary Sewer charge Under the Municipal Act, 2001 upon owners of land Abutting Garner Road from Hamilton Drive to Approximately 485 meters Easterly.

WHEREAS 288178 Ontario Ltd., in satisfaction of terms and conditions of a subdivision agreement with the City of Hamilton dated July 9, 2003 for a development known as Millers Pond, hereinafter referred to as the "Subdivision Agreement", did construct both a municipal sanitary sewer and private drains on land abutting Garner Road from Hamilton Drive to approximately 485 metres easterly, in the City Of Hamilton, hereinafter referred to as the "Sewer Works";

AND WHEREAS at its meeting of April 26, 2006, the Council of the City Of Hamilton did approve that a full cost recovery of the construction of the Sewer Works by way of the Municipal Act 2001, by imposing a sewer rate upon the owners of land who derive, will derive, or may derive a benefit from the Sewer Works and full recovery of the cost for each private drain connection, all in accordance with the provisions of the Municipal Act 2001;

AND WHEREAS a portion of the best efforts collection in the amount of \$101,036.45 from properties on the south side of Garner Road are deferred until such time as these lands are included in the Urban Area of the Official Plan and redeveloped.

AND WHEREAS the construction costs of the Sewer Works to be recovered is \$579,491.80, to be recovered in total from benefiting property owners.

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

1. A sewer rate is hereby imposed, pursuant to the Municipal Act 2001, upon the owners or occupants of land who derive, will derive, or may derive a benefit from the construction of the Sewer Works, hereinafter referred to as "Assessed Owners"
2. The Assessed Owners' lands and the Sewer Charge are more particularly described in Schedule "A" attached to this by-law, which schedule forms part of this by-law.
3. (a) Subject to section 5, the sewer rate shall be due and payable when an Assessed Owner of a parcel of land described in Schedule "A" attached to

By-law to Impose a Sanitary Sewer upon owners of land Abutting Garner Road

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this by-law connects to Sewer Work and shall be collected at the time of 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 Sewer Work have the option of paying the sewer rate by 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 (2006 rate- 5.00%)
4. Notwithstanding Section 3, an Assessed Owner of a parcel land described in the Schedule "A" attached to this by-law may pay the commuted value of the Sewer Charge at any time.
 5. 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 Sewer Works or not, shall be paid to the City as a condition of severance or subdivision approval.
 6. The sewer rate shall be a lien and a charge upon the Assessed Owner's lands and, if the sewer rate, or any portion thereof, remains unpaid after the due date established in 3 (a) or section 5 of this by-law, the unpaid amount may be entered on the collector's roll and collected in the same manner as municipal taxes..
 7. The developer, 288178 Ontario Ltd., upon satisfying the City that it has completed its obligation with respect to the construction of the sewer work shall receive repayment of the associated cost pursuant to the terms and conditions of the Subdivision agreement.
 8. That Schedule "A" attached hereto forms part of this bylaw.
 9. If any provision or requirement of this by-law, or the application thereof to any person or land shall to any extent by 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 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 10th day of May, 2006.

MAYOR

CLERK

SCHEDULE A TO By-Law No. 130

City of Hamilton

Garner Road Sanitary Sewer

From Hamilton Drive to Approximately 485 Meters Easterly

Sewer Charge

Assessed Owners' Land	Municipal Sanitary Sewer	Private Drains	Deferred Cost (1)	Total Cost
389 Garner Dr *	\$ 110,518.22	\$ -	\$ -	\$ 110,518.22
361 Garner Dr	\$ 36,839.41	\$ 8,586.75	\$ -	\$ 45,426.16
339 Garner Dr	\$ 56,755.00	\$ 8,586.75	\$ -	\$ 65,341.75
311 Garner Dr	\$ 36,839.41	\$ 8,586.75	\$ -	\$ 45,426.16
305 Garner Dr *	\$ 48,809.30	\$ -	\$ -	\$ 48,809.30
424 Garner Dr *	\$ 20,000.00	\$ -	\$ 16,839.41	\$ 36,839.41
392 Garner Dr	\$ 20,000.00	\$ 8,586.75	\$ 16,839.41	\$ 45,426.16
364 Garner Dr	\$ 20,000.00	\$ 8,586.75	\$ 16,839.41	\$ 45,426.16
354 Garner Dr	\$ 20,000.00	\$ 8,586.75	\$ 16,839.41	\$ 45,426.16
324 Garner Dr	\$ 20,000.00	\$ 8,586.75	\$ 16,839.41	\$ 45,426.16
318 Garner Dr	\$ 20,000.00	\$ 8,586.75	\$ 16,839.41	\$ 45,426.16
Total	\$ 409,761.34	\$ 68,694.00	\$ 101,036.46	\$ 579,491.80

* did not request a private drain

(1) Cost to be deferred until Lands are included in the Urban Area of Official Plan and redeveloped