



The Corporation of the City of Peterborough

By-Law Number 25- 005

Being a by-law to establish a Stormwater Management Fee and to delegate authority related thereto

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Recitals

- A. The Council of The Corporation of the City of Peterborough considers it appropriate for the effective and efficient administration of the City to establish a Stormwater Management Fee and to delegate authority related thereto.
- B. Sections 8, 9 and 11 of the Municipal Act, 2001, S.O. 2001, c. 25, authorize a municipality to pass by-laws necessary or desirable for municipal purposes, and in particular paragraph 3 of subsection 11(2) authorizes by-laws respecting the financial management of the municipality;
- C. Subsection 391(1) of the Municipal Act, 2001 provides that sections 9 and 11 of that Act authorize a municipality to impose fees or charges on any class of persons for services or activities provided or done by or on behalf of the municipality and for the use of the municipality's property, including property under its control;
- D. Subsection 391(2) of the Municipal Act, 2001 provides that a fee or charge imposed for capital costs related to services or activities may be imposed on persons not receiving an immediate benefit from the services or activities but who will receive a benefit at some later point in time;
- E. Subsection 391(3) of the Municipal Act, 2001 provides that the costs included in a fee or charge may include costs incurred by the municipality or local board related to administration, enforcement and the establishment, acquisition and replacement of capital assets;
- F. Subsection 391(4) of the Municipal Act, 2001 provides that a fee or charge may be imposed whether or not it is mandatory for the municipality or local board imposing the fee or charge to provide or do the service or activity, pay the costs or allow the use of its property;

- G. Subsection 391(5) of the Municipal Act, 2001 provides that, in the event of a conflict between a fee or charge by-law and the Municipal Act, 2001, other than Part XII thereof, or any other act or regulation made under any other act, the by-law prevails;
- H. The City of Peterborough (the "City") has constructed, and is operating and maintaining a stormwater drainage system for the benefit of residents and property owners in the City;
- I. Council has deemed it just that the cost of operating, maintaining, repairing, replacing and upgrading the stormwater drainage system be paid for by those who benefit from this system;
- J. The City desires to maintain a dedicated funding option for the long-term enhancement and operation of its existing stormwater drainage system through effective and efficient capital construction, operation and maintenance programs;
- K. The creation of a separate stormwater fee to fund such stormwater management program will bring transparency to the actual costs of providing and maintaining the stormwater drainage system within the City;
- L. On the date this By-law becomes effective Council imposes a stormwater management fee on property owners;

Now therefore, The Corporation of the City of Peterborough by its Council hereby enacts as follows:

Short Title

- 1. This By-law may be referred to as the "Stormwater Management Fee By-law".

Interpretation

- 2. Unless otherwise stated:
 - a. a reference to any statute or regulation refers to a statute or regulation of Ontario as it may be amended or replaced from time to time;
 - b. a reference to a by-law refers to a by-law of the City as it may be amended or replaced from time to time; and
 - c. a reference to a section, paragraph or clause is a reference to this By-law's section, paragraph or clause.
- 3. The table of contents and headings in this By-law are for convenience only and do not form part of this By-law.
- 4. If any part of this By-law is determined to be invalid by a court of competent jurisdiction, the invalid part is severed and the remainder continues to be valid.

Definitions

- 5. In this By-law:
 - a. "Adjustment" means a process by which changes are made to information associated with a given Stormwater Account;
 - b. "Agricultural Property" means a property to which MPAC has assigned the Agricultural tax classification or a subcategory thereof;;
 - c. "Billing Error" means an undercharge or overcharge caused by an error in the preparation of the Stormwater Bill that is clerical or factual in nature, including the transposition of figures, a typographical error or similar errors;

- d. "Billing Enquiry" means a request for review by a Property Owner based on a perceived Billing Error, pursuant to Section 20.
- e. "By-law" means this Stormwater Management fee By-law;
- f. "City" means The Corporation of the City of Peterborough or where the context requires the geographical jurisdiction of The Corporation of the City of Peterborough;
- g. "Commercial" means a property to which MPAC has assigned the Commercial tax classification or a subcategory thereof;
- h. "Commissioner of Infrastructure, Planning and Growth Management" means the City's Commissioner of Infrastructure, Planning and Growth Management or his/her designate.
- i. "Commissioner of Finance and Corporate Support Services" means the City's Commissioner of Finance and Corporate Support Services and Treasurer or his/her designate;
- j. "Council" means the elected council of the City;
- k. "HST" means harmonized sales tax;
- l. "Industrial" means a property to which MPAC has assigned the Industrial tax classification or a subcategory thereof;
- m. "MPAC" means the Municipal Property Assessment Corporation of Ontario;
- n. "Person" includes an individual, sole proprietorship, partnership, corporation, municipal corporation, unincorporated association or organization, trust, and a natural person in his or her capacity as trustee, executor, administrator, or other legal representative;
- o. "Property" means any real property within the City, including buildings, structures and improvements of any nature and kind in or upon such lands, but excludes any real property which is exempt, under Assessment Act, from the requirement to pay municipal taxes;
- p. "Property Owner" means the registered owner of property and any other person, firm or corporation having control over or possession of the property or any portion thereof, including a property manager, mortgagee in possession, receiver and manager, trustee and trustee in bankruptcy;
- q. "Residential" means a Property to which MPAC has assigned the Residential tax classification or a subcategory thereof;
- r. "Stormwater Account" means the City's customer account to which Stormwater Bills are invoiced;
- s. "Stormwater Management Bill" means the City's Stormwater Management Fee as invoiced by the City in the same manner as the City's water and wastewater utility charges and itemized on the same monthly or quarterly invoice or separately as a Stormwater Management fee-only invoice;
- t. "Stormwater Management Fee" means the City's stormwater management fees and charges pursuant to ss. 9 and 11 and Part XII of the Municipal Act, 2001 and as calculated with reference to the rate set out in the City's User Fees and Charges By-law;
- u. "Stormwater Drainage System" means the infrastructure used, controlled, maintained or operated by the City to manage stormwater flow and drainage and all appurtenances thereto owned, and includes, but is not

limited to, storm sewers, catch basins, storm service connections, drains, pipes, overland conveyance systems including road corridors, culverts, channels, ditches, rivers, streams, creeks, ravines and watercourses, stormwater management facilities including landscaping features, storage ponds or tanks, and oil and grease interceptors that control quantity or quality of stormwater runoff, pumping stations, outfalls, swales and all equipment laid within any highway or road allowance, City right-of-way or easement or City-owned property used for the collection, transmission, detention and treatment of stormwater or uncontaminated water.

Scope of By-law

6. A Stormwater Management Fee shall be imposed upon each Property Owner in the City in accordance with the City's annual User Fees and Charges By-law, which shall contain a rate based on each \$100,000 of assessed value, or part thereof, as determined by MPAC, for each of the following tax classifications, being Agricultural, Commercial, Industrial and Residential and their subcategories. If a Property has more than one Property Owner, the liability of each Property Owner is joint and several. If a Property has more than one water meter, the Stormwater Management Fee will be divided equally. The Stormwater Management Fee for a Property with multiple tax classifications, shall be applied based on the Property's primary tax classification, as determined by the Commissioner of Finance and Corporate Support Services.
7. The Commissioner of Infrastructure, Planning and Growth Management, in consultation with the Commissioner of Finance and Corporate Support Services, shall be responsible for administering this By-law and shall prescribe all forms necessary to implement this By-law and may amend such forms from time-to-time as the Commissioner of Infrastructure, Planning and Growth Management deems necessary.
8. Council hereby establishes Stormwater Management Fees as annually identified in the City's User Fees and Charges By-law. Stormwater management fees will be subject to HST where applicable.

Exemptions

9. Any Property which is exempt from paying municipal taxes under Assessment Act, R.S.O. 1990, c.A.31 or a regulation enacted under the Assessment Act, is exempt from the Stormwater Management Fee.

Administration and Enforcement

10. The City is hereby authorized to invoice and collect the City's Stormwater Fees pursuant to this By-law, together with any interest and fees related to such collection.
11. The City may assign a Property type and area for Stormwater Management Fee purposes, based on land use information as informed by the Assessment Act, information from MPAC, City's property tax practices, the water billing database, and by the City's geographical information system.
12. Unless exempted through Section 9, the City will include the Stormwater Management Fee, including the payment due date on the Property's water bill.
13. Unless exempted through Section 9, the City will issue to each Property Owner a itemized utility bill which will include the Stormwater Management Fee the water rate, and the waste water rate (the "Utility Bill").
14. The City shall send the Utility Bill to the Property's municipal address, unless the Property Owner has, in writing to the Commissioner of Finance and Corporate Support Services, directed the City to send the bill to another address, in which case it shall be sent to that address. The Property Owner's direction will continue until revoked in writing by the Property Owner.

15. The amounts levied by this By-law shall be due and payable on the due date identified on the bill and be payable to the City of Peterborough. Properties enrolled in the Preauthorized Payment program shall have the Stormwater Management Fee levied by this By-law due and payable in the same manner as agreed to by the Property Owner under the provisions of the preauthorized debit agreement, for payment of the water and wastewater consumption charges for the Property.
16. Interest on any outstanding accounts shall be applied and calculated per the interest charge for late payment as identified in the City's User Fees and Charges By-law. Interest shall accrue from the due date and shall be added to the next subsequent Stormwater Management Bill that is issued, together with unpaid and carried-forward Stormwater Management Fees.
17. A Stormwater Management Fee imposed upon a Property Owner under this By-law, which shall be deemed to include any interest charges, penalties and all costs of collection, constitutes a debt of the person to the City.
18. Notwithstanding Section 17 of this By-law, all costs, including any interest on such costs, recoverable by the City pursuant to this By-law or otherwise pursuant to the Municipal Act, 2001, may be recovered by any lawful means available to the City, and such recovery methods may include pursuant to subsection 398(2) of the Municipal Act, 2001 and any outstanding monies owed with respect to Stormwater Management Fees may be added to the tax roll of the Property in respect of the money owed, and shall be collected in the same manner as municipal taxes.
19. The Commissioner of Finance and Corporate Support Services shall have delegated authority and is authorized to (1) make an Adjustment; and (2) to change the Stormwater Management Fee on any Property, to the extent it is deemed appropriate due to a Billing Error or the outcome of a Billing Enquiry, each change may be retroactive for up to one year or for such time-period as the Commissioner of Finance and Corporate Support Services determines to be appropriate. Any resulting credits or charges will be applied to the Property Owner's Stormwater Account. In all such matters, the decision of the Commissioner of Finance and Corporate Support Services shall be final and binding and not subject to review.

Billing Enquiry

20. Billing Enquiry:
 - a. A Property Owner may file a Billing Enquiry with the Commissioner of Finance and Corporate Support Services if the Property Owner thinks that a Billing Error has occurred due to one or more of the following reasons:
 - i. an incorrect tax classification was assigned to the Property
 - ii. MPAC has amended the tax roll; or
 - iii. a Billing Error was caused by the City
 - b. A Person filing a Billing Enquiry is required to include all the particulars of all grounds upon which their Billing Enquiry is based. Notwithstanding, the foregoing, the City may require the Property Owner to provide additional information and the Property Owner shall forthwith provide such information, failing which the Commissioner of Finance and Corporate Support Services may determine that no Billing Error occurred.
 - c. The filing a Billing Enquiry does not stay the Property Owner's requirement to pay the Stormwater Management Fee. Any Stormwater Management Fee billed during the course of a Billing Enquiry will be due and payable as provision of Sections 10 through 19 of this By-law.

21. No Billing Enquiry may be commenced more than 2-years after a Property's Stormwater Management Fee has been established

General

22. It is Council's opinion that the delegations in this By-law to the Commissioner of Finance and Corporate Support Services and to the Commissioner of Infrastructure, Planning and Growth Management are of a minor nature. In forming this opinion, Council had regard to the number of people, the size of geographic area and the time period affected by the exercise of each delegated power.
23. In accordance with Section 248.14 of the Municipal Act, 2001, no decision made, or a veto power or other power exercised, legally and in good faith under this By-law shall be quashed or open to review in whole or in part by any court because of the unreasonableness or supposed unreasonableness of the decision or exercise of the veto power or other power.
24. Words importing the singular number shall include the plural, and words importing the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of this By-law otherwise requires.
25. Any decision or determination required to be made by the City or any official of the City under this By-law shall be made in the sole and absolute discretion of the City or the City official.
26. No proceeding for damages or otherwise may be commenced against the City, a Member, or an officer, employee or agent of the City or a person acting under the instructions of the officer, employee or agent for any act done in good faith in the performance or intended performance of a duty or authority under this By-law or for any alleged neglect or default in the performance in good faith of the duty or authority.

Effective Date

27. This By-law shall come into effect on the day on which it is passed.

By-law passed this 3rd day of February, 2025.

Jeff Leal, Mayor

John Kennedy, City Clerk