

## **CORPORATION OF THE TOWNSHIP OF RUSSELL**

### **By-law # 2018-082**

Being a by-law to impose capital wastewater charges and capital water charges for a portion of the capital cost and the use of the Township's wastewater system and water system by privately serviced lands converting and connecting to the Township's wastewater and water system(s).

---

**WHEREAS** sections 9, 10 and 11 of the *Municipal Act*, 2001, as amended (the Act) and the Regulations thereto authorize the Township of Russell (the Township) to impose by-law fees or charges for the use of a sewage system and the supply of water; and

**WHEREAS** the Township has constructed, operates and maintains a Wastewater System and a Water System (collectively referred to as the Systems), and may be required to make additions and/or improvements to said Systems to ensure capacity for new development and connection of currently existing, privately serviced development; and

**WHEREAS** the Systems will provide a benefit to the Benefitting Properties and Benefitting Owners upon connection to the Systems (or either of them); and

**WHEREAS** section 391 of the Act provides that charges imposed for capital costs related to sewer and water services may be imposed on owners of land not receiving an immediate benefit from the services but who will receive a benefit at some later point in time; and

**WHEREAS** section 398 of the Act provides that charges imposed by a municipality on a person constitute a debt of the person to the municipality, may be added to the tax roll for the property and collected in the same manner as municipal taxes; and

**WHEREAS** section 446 of the Act provides that a municipality may recover the costs of bringing a property into compliance with a by-law and that such recovery may be from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes; and

**WHEREAS** *Ontario Regulation 581/06* provides that fees or charges imposed for the use of a sewage system and the supply of water under the Act and added to the tax roll under subsection 398(2) of the Act have priority lien status as described in subsection 1(3) of the Act; and

**WHEREAS** Council deems it expedient and appropriate to so impose upon Benefitting Owners charges for the connection of privately serviced properties to the Systems, representing a portion of the capital cost of the Systems (and necessary improvements thereto); and

**WHEREAS** such charges shall be in addition to, and not in lieu of, any charge which may be imposed on such owners related to the capital cost associated with an extension of the existing Systems necessary to bring services to the owner's property, which charges will be imposed by way of further By-law pursuant to Section 391 of the Act; and

**WHEREAS** the charges imposed by this By-law shall reflect the charges imposed on new development, under the *Development Charges Act*, with the intention of distributing fairly the capital costs to the Township related to the Systems and improvements thereto; now therefore be it

**RESOLVED THAT THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF RUSSELL HEREBY ENACTS AS FOLLOWS:**

**1.0 SHORT TITLE**

1.1 This By-law is the "**Private Wastewater and Water System Conversion Capital Charges By-law**".

**2.0 DEFINITIONS**

For the purposes of this By-law, the following definitions shall apply:

2.1 *Act* means the *Municipal Act, 2001*, S.O. 2001, c.25, as amended;

2.2 *Benefitting Property* means all lands within the Township of Russell serviced by private sewage and water and not connected to the Wastewater System or Water System, or both;

2.3 *Benefitting Owner* means the registered owner(s) of a Benefitting Property;

- 2.4 *By-law* means this By-law as it may be amended from time to time. The recitals to, and the Schedules attached to this By-law are considered integral parts of it;
- 2.5 *Capital Cost* means the cost associated with the Wastewater System and Water System, inclusive of all costs properly chargeable to capital account, and otherwise chargeable on new development for sewer and water services pursuant to the Township's *Development Charges By-law*, amended from time to time, as set out in this By-law, but does not include a lateral connection, building connection, any other permit fees, development charges, construction, and material costs, charges for the extension of the Wastewater or Water System to the Benefitting Property, nor user fees or user rates established by by-laws;
- 2.6 *Capital Charges* means the capital wastewater and water charges imposed by this By-law;
- 2.7 *Council* means the Municipal Council of the Corporation of the Township of Russell;
- 2.8 *Development Charges By-law* means By-law No 2016-148 of the Township of Russell;
- 2.9 *Wastewater System* means all sewers, sewer systems, sewage pumping stations, sewage lagoons, water pollution control plants and all other works for the collection, acceptance, transmission, treatment or disposal of sanitary sewage in the Township of Russell; including necessary improvements thereto, which provides a benefit or future benefit to the Benefitting Owner(s);
- 2.10 *Water System* means the Township's municipal drinking water system, and includes the existing water works and any necessary new water works or improvements which provide a benefit or future benefit to the Benefitting Owner(s).

### **3.0 Connection to Wastewater and/or Water System**

3.1 Each Benefitting Owner who wishes to convert from private wastewater and/or water services and connect to the Wastewater System or Water System shall obtain the approval of the Township before connecting to the Wastewater System or Water System. Such connection shall not be completed without the written authorization of the Township and all necessary permits shall have been obtained before any such connection is completed. Each Benefitting Owner shall be responsible for the construction of a lateral connection and a building connection at its sole expense, to be constructed as per the requirements of the Township.

### **4.0 Capital Charges Calculation**

4.1 Capital Charges to pay for a portion of the capital cost of the Wastewater System and Water System and for the use of the Wastewater System and Water System shall be calculated as follows:

4.1.1 in the case of residential development, or the residential portion of a mixed use development, based upon the number and type of dwelling units, all as defined in the *Development Charges By-law*; or

4.1.2 in the case of non-residential development, or the non-residential portion of a mixed-use development, based upon the gross floor area of such development, all as defined in the *Development Charges By-law*.

4.2 Capital Charges, in accordance with the amounts indicated for "Wastewater Services" and "Water Services" in Schedule "A" to this By-law shall be imposed on connecting Benefitting Owners of residential uses of lands, buildings or structures, including a dwelling unit accessory to a non-residential use and, in the case of a mixed use building or structure, on the residential component of the mixed use building or structure, according to the type of residential use, all such uses as defined in the *Development Charges By-law*

4.3 Capital Charges, in accordance with the amounts indicated for "Wastewater Services" and "Water Services" in Schedule "A" to this By-law shall be imposed on connecting Benefitting Owners of non-residential uses of lands,

buildings or structures, including a non residential use accessory to a dwelling unit and, in the case of a mixed use building or structure, on the non-residential component of the mixed use building or structure, according to the type of non-residential use., all such uses as defined in the *Development Charges By-law*.

- 4.4 The Capital Charges, calculated in accordance with Schedule A attached hereto shall be adjusted without amendment to this By-law annually on January 1<sup>st</sup> in each year, commencing on January 1, 2019, in accordance with the most recent twelve month change in Statistics Canada Quarterly, Construction Price Statistics with the base index value being that in effect as at August 31<sup>st</sup> in the prior year.

#### **5.0 *Extension of Services***

- 5.1 Each Benefitting Owner will be subject to an additional charge for a portion of capital costs associated with the installation and construction of any extension of the Wastewater System or Water System necessary to permit the eventual connection of the Benefitting Property to the System(s), such charges to be imposed by a separate By-law pursuant to s.391 of the Act.

#### **6.0 *Payment of Capital Charges***

- 6.1 The full amount of the Capital Charges imposed by this By-law constitutes a debt of the Benefitting Owner(s) to the Township, and is hereby due and payable on the earlier of:

6.1.1 The date the Township approves an application by the Benefitting Owner(s) to connect any building or structure on the Benefitting Property to the Wastewater System and/or Water System, as a condition of such approval; or

6.1.2 the date the Benefitting Owner(s) is required by law or regulation to connect any building or structure on the Benefitting Property to the Wastewater and/or Water System.

#### **7.0 *Collection of Capital Charges***

- 7.1 The Treasurer is hereby authorized and directed to add the Capital Charges to the tax roll for the Benefitting Property in accordance with subsection

398(2) of the Act and to collect the Capital Charges in the same manner as municipal taxes.

7.2 The Capital Charges added to the tax roll under subsection 398(2) of the Act have priority lien status as described in subsection 1(3) of the Act, and the Capital Charges:

7.2.1 may be collected in the same manner as taxes on the Benefitting Property;

7.2.2 may be recovered with costs as a debt to the Township from the assessed owner(s) of the Benefitting Property at the time the Capital Charges are added to the tax roll and from any subsequent owner(s) of the Benefitting Property or any part of it;

7.2.3 are a special lien on the Benefitting Property in the same manner as are taxes under subsection 349(3) of the Act; and

7.2.4 may be included in the cancellation price under Part XI of the Act in the same manner as are taxes on the Benefitting Property.

## **8.0 *Non-payment of Capital Charges***

8.1 On all Capital Charges which are in default on the day following their payable date as set out above, a penalty of 1.25% shall be added and thereafter a penalty of 1.25% per month will be added on the first day of each and every month the default continues.

8.2 In addition to the provisions of this By-law and the Act respecting the collection of Capital Charges which are in default, the Township may, in accordance with Section 81 of the Act, shut off the supply of water to the Benefitting Property if the Capital Charge for the Water System payable by the Benefitting Owner(s) are overdue and in default.

## **9.0 *Reserve Fund***

9.1 The Treasurer shall direct that Capital Charges collected pursuant to this By-law be directed to a Wastewater System and Water System reserve fund, in the same manner, but held separately, as development charges

collected pursuant to the Township's Development Charges By-law are directed to reserve funds for those purposes.

#### **10.0 Exemptions from By-law**

10.1 The conversion of the following categories of development from private services to connection to the Sewer System and Water System are hereby designated as being exempt from the payment of Capital Charges under this By-law:

10.1.1 buildings or structures used as hospitals governed by the Public Hospitals Act, R.S.O. 1990, c.P.40;

10.1.2 buildings or structures owned by and used for the purposes of the Township or other municipality, or their local boards;

10.1.3 buildings or structures owned by a Board of Education and used for school purposes pursuant to the Education Act, R.S.O. 1990, as amended;

10.1.4 buildings or structures owned by and used for the purposes of a college of applied arts and technology established pursuant to the Ministry of Colleges and Universities Act, R.S.O. 1990, c. M.19;

10.1.5 buildings or structures owned by and used for the purposes of a university established by an Act of the Legislative Assembly of Ontario; and

10.1.6 buildings or structures developed by a not-for-profit organization for subsidized housing shall be entitled to a 50% exemption of Capital Charges.

10.1.7 agricultural uses as well as farm buildings and other ancillary development to an agricultural use, excluding any residential uses, shall be exempt from the provisions of this By-law.

10.2 The conversion from private wastewater treatment to connection to the Wastewater System for buildings or structures on properties which, as of the date of the passage of this By-law, have wastewater services available

the date of the passage of this By-law, have wastewater services available to the property line but not connected to the building or structure and who are currently paying Wastewater Service Charges as per By-Law 2015-39, is hereby designated as being exempt from the payment of Capital Charges under this By-law;

- 10.3. The conversion from private water supply to connection to the Water System for buildings or structures on properties which, as of the date of the passage of this by-law, have Water Services available to the property line but not connected to the building or structure and who are currently paying Water Service Charges as per By-Law 2015-39, is hereby designated as being exempt from the payment of Capital Charges under this By-law.

#### **11.0 Other By-laws and Regulations**

- 11.1 Nothing in the By-law shall exempt any person from complying with the requirements of any other applicable by-law, agreement or legislation.
- 11.2 Charges imposed in this By-law are in addition to any other applicable charge pursuant to any other By-law, including but not limited to By-law 2015-39, as amended from time to time.

#### **12.0 Severability**

- 12.1 If a court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this By-law and it is hereby declared that the remainder of this By-law shall be valid and shall remain in force.

#### **13.0 Headings**

- 13.1 The headings used in this By-law are for convenience of reference only and shall not affect the construction or interpretation of this By-law.



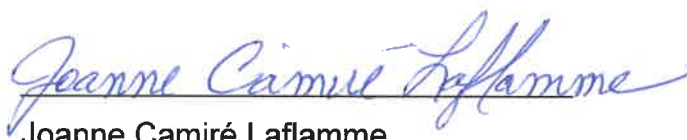
**14.0 Effective Date**

14.1 This By-law shall come into force and take effect upon final reading thereof.

READ A FIRST TIME THIS 18<sup>TH</sup> DAY OF JUNE, 2018.

READ A SECOND AND THIRD TIME AND FINALLY PASSED THIS  
1<sup>ST</sup> DAY OF APRIL, 2019.

  
\_\_\_\_\_  
Pierre Leroux  
Mayor

  
\_\_\_\_\_  
Joanne Camiré Laflamme  
Clerk

**CORPORATION OF THE TOWNSHIP OF RUSSELL  
 SCHEDULE A  
 TO BY-LAW 2018-082**

CAPITAL CHARGES	2019 Fees					
	Residential charge by Unit Type					Non-Residential
Service	Singles & Semis	Apartments - 2 Bedrms +	Appartment - Bachelor and 1 Bedroom Units	Other Multiples	Special Care/Special Needs Dwelling Units	(per ft <sup>2</sup> of Gross Floor Area)
Wastewater Services	\$1,234	\$671	\$485	\$761	\$388	\$1.55
Water Services	\$0	\$0	\$0	\$0	\$0	\$1.71
<b>Total Capital Charges</b>	<b>\$1,234</b>	<b>\$671</b>	<b>\$485</b>	<b>\$761</b>	<b>\$388</b>	<b>\$3.26</b>