

# THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE



## BY-LAW

No. 2024 -

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### Being a By-law to Impose Water and Sewage Connection Requirements and Charges

30 Rae Street and 124 King Street (Tiverton), Municipality of Kincardine

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**Whereas** The Corporation of the Municipality of Kincardine (the “Municipality of Kincardine”) provides sanitary sewer services, wastewater services and municipal water services within the settlement area of Tiverton; and

**Whereas** the Municipality of Kincardine is required to collect municipal service connection charges within the geographic boundaries of the Municipality of Kincardine; and

**Whereas** by Section 11 (3) Paragraph 4 of the Municipal Act, 2001, S.O. 2001, as amended (the “Municipal Act”), the Municipality of Kincardine, which is a lower-tier municipality, may pass by-laws to provide public utilities (which includes the collection of sanitary sewage, wastewater, sewage treatment and municipal water facilities) under its sphere of jurisdiction; and

**Whereas** Section 8 (3) of the Municipal Act provides that a by-law under Section 11 may regulate matters set out in Section 11; and

**Whereas** Section 391 of the Municipal Act provides that a municipality may pass by-laws imposing charges on any class of persons for capital costs payable for services which are provided or will, in the future, be provided by a municipality; and

**Whereas** Section 398 of the Municipal Act confirms that all fees and charges imposed by the Municipality of Kincardine for services constitutes debts of the property owner owed to the Municipality of Kincardine with such amounts being eligible to be added to the tax roll and collected in like manner as municipal taxes; now therefore be it

**Resolved** that the Council of The Corporation of the Municipality of Kincardine hereby enacts as follows:

#### Definitions

1. In this By-law:

- a) “Capital Costs” means the cost of constructing Water Works and/or Sanitary Sewer Works, inclusive of all items of cost usually and properly chargeable to a capital account and all legal fees, administrative fees and any other expenses relating to the Works;
- b) “Connection Charge(s)” means the charge(s) imposed in accordance with the provisions of this By-law for recovering the Capital Costs associated with connecting to or making available Water Works and/or Sanitary Sewer Works provided or done by or on behalf of the Municipality of Kincardine;
- c) “Chief Building Official” means the Chief Building Official for the Municipality of Kincardine, including any Deputy or authorized alternatives;

- d) "Council" means the Council of the Municipality of Kincardine;
- e) "Lot" means a parcel of land under distinct and separate ownership from adjoining lands and being separately assessed according to the most current assessment roll at the time the Connection Charge(s) is due and payable in accordance with the provisions of this By-law;
- f) "Owner" means the registered owner of a Lot within the Service Area;
- g) "Sanitary Sewer Charge" means a charge for the Capital Cost of the Sanitary Sewer Works or any part or parts thereof;
- h) "Sanitary Sewer Works" means the Municipality of Kincardine sanitary sewer collection system, including all pipes, pumps, meters, chambers and all associated installations and equipment, providing sanitary sewer collection and treatment to the Service Area;
- i) "Service Area" means the properties municipally known as 30 Rae Street, Tiverton and 124 King Street, Tiverton as set out in Schedule "A" of this By-law;
- j) "Treasurer" means the Treasurer for the Municipality of Kincardine, including any Deputy or authorized alternates;
- k) "Water Works" means any public works for the collection, production, treatment, storage, supply, or distribution of water, or any part of such works;
- l) "Works" means the Water Works and/or Sanitary Sewer Works.

### **Mandatory Connections**

2. The Owner of any Lot within the Service Area in which there is located municipal Water Works or Sanitary Sewer Works and such service or services are presently available shall connect any premises on the Lot directly to the said service or services at the Owner's expense in accordance with the provisions of this By-law.
3. In the event that the municipal Water Works and/or Sanitary Sewer Works become available after the date of passage of this By-Law, the Owner of a Lot within the Service Area shall connect their premises directly to the services in accordance with Section 2 herein within the earlier of: (i) twelve (12) months of such services being available for public use; or (ii) twelve (12) months from the date indicated on a connection notice issued by the Municipality of Kincardine.
4. For the purposes of Section 2, any house, building, premises or structure accessed by an easement or right of way which abuts any Water Works or Sanitary Sewer Works shall be deemed to abut the said Water Works or Sanitary Sewer Works.

### **Connection Charges Imposed**

5. Every Owner of a Lot within the Service Area shall be responsible to remit payment of the Connection Charges calculated in accordance with the provisions of this By-law and such Connection Charges are hereby authorized.
6. Every Connection Charge imposed by this By-law constitutes a debt of the Owner to the Municipality of Kincardine. The Treasurer of the Municipality of Kincardine may add the Connection Charge(s) imposed by this By-law to the tax roll for such Owner's Lot.

### **Calculation of Connection Charge(s)**

7. Subject to the provisions of this By-law, the Connection Charge(s) against a property or Lot shall be imposed and calculated in accordance with the allocations set out in Schedule "B" of this By-law.

### **Payment of Connection Charges for the Works**

8. Every Owner who is liable for a Connection Charge(s) as provided herein shall remit payment of the applicable Connection Charge(s) by making a single cash payment to the Municipality of Kincardine of the full amount of the Connection Charge(s). Such Owner must remit payment of the Connection Charge(s) on or before the due date. In the event the Owner fails to remit payment of the Connection Charge(s) on or before the due date, the Connection Charge(s) shall be added to the tax roll and collected in like manner as municipal taxes.

### **Existing Private Service Connections**

9. Every Owner within the Service Area shall disconnect and cease use of the existing septic system(s) on the Lot within the Service Area prior to connection to the Sanitary Sewer Works. Existing septic systems shall be decommissioned in accordance with the *Building Code Act*, its regulations and other applicable law.
10. Every Owner shall disconnect the existing well water system from the buildings and premises on the Owner's Lot upon connection to the Water Works and shall ensure there is no cross-connection with the municipal water supply. Upon connection to the Water Works, no person shall use an existing well for supplying drinking water to any buildings or premises on the Owner's Lot.

### **Remedial Action and Entry onto Lands**

11. The Municipality of Kincardine may, at any reasonable time, enter an Owner's land in accordance with Section 436 of the Municipal Act for the purpose of carrying out an inspection to determine whether or not this By-law is being complied with.
12. In the event that an Owner fails to make a connection as required by this By-law, the Municipality of Kincardine may enter onto the Owner's lands and make the required connections at the Owner's expense in accordance with Section 435 to 439 inclusive of the Municipal Act.
13. Any notice or order issued pursuant to this By-law shall be made personally, by regular mail or by posting a copy of the notice on the Lot and shall:
  - a) advise the Owner of the requirement to make a connection;
  - b) advise the Owner of the date by which the connection must be made;
  - c) advise that if the Owner fails to make the connection as required, the Municipality of Kincardine has the right to undertake said works as set out under this By-law at the Owner's expense and the Municipality of Kincardine shall recover the incurred expenses by action or by adding the costs to the tax roll and collecting them in the same manner as municipal taxes in accordance with the Municipal Act;
  - d) make reference to this By-law.

### **By-law Indexing**

14. The Connection Charge(s) imposed pursuant to this By-law shall be adjusted annually on the 1<sup>st</sup> day of January in each year in accordance with the most recent twelve (12) month change in the Consumer Price Index.

### **Severability**

15. If any term or provision of this By-law or the application thereof to any person shall to any extent be held to be invalid or unenforceable, the remainder of this By-law or the application of such term or provision of this By-law to all persons other than those to whom it was held to be invalid or unenforceable shall not be affected thereby and each term and provision of this By-law shall be separately valid and enforceable to the full extent permitted by law.

**General**

- 16. The Connection Charges imposed by this By-law shall be separate from and in addition to any other rates that the Municipality of Kincardine may be authorized by law to impose with respect to the cost of construction of the Works or any of them, the operation, maintenance and repair of the Works or the supply of water.
- 17. Any reference in this By-law to an Owner in the singular shall be deemed to include the plural, where applicable.
- 18. The Schedules attached hereto form an integral part of this By-law as if recited in full herein.
- 19. Every person who contravenes any provision of this By-law is guilty of an offense and upon conviction is liable to a fine of not more than \$10,000.

**Effective Date**

- 20. That this By-law shall come into full force and take effect upon third and final reading thereof.
- 21. This by-law may be cited as the “Impose Mandatory Water and Sewage Connection (30 Rae Street and 124 King Street) By-law”.

Read a First, Second and Third Time and Finally passed this 11<sup>th</sup> day of September, 2024.

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Mayor

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Clerk

**Schedule "A" to  
By-law No. 2024 -**

**Service Area**

The properties in the Service Area include:

1. 30 Rae Street, Tiverton, Ontario N0G 2T0 legally described as Pt Lt 29 Pl 76 (Subdivision of Pt W1/2 Lt 1 Con 12); Pt 3 3R8919; Municipality of Kincardine being all of PIN 33293-0770 (LT); and
2. 124 King Street, Tiverton, Ontario N0G 2T0 legally described as Part Lot 31 Plan 76 (Subdivision of Pt W1/2 Lt 1 Con 12), Parts 1,2,3,4,5 and 6 3R10024; Subject to an Easement in Gross over Parts 4,5 and 6 3R10024 as in BR74284; Municipality of Kincardine being all of PIN 33293-0557 (LT).

**Schedule "B" to  
By-law No. 2024 -**

Allocation of Connection Charges for the Water Works and the Sanitary Sewer Works

The Connection Charges for the Sanitary Sewer Works and the Water Works shall be allocated as follows:

30 Rae Street, Tiverton	78% of Capital Costs
124 King Street, Tiverton	22% of Capital Costs

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