

BY-LAW NUMBER 172-2024

A BY-LAW TO IMPOSE A WASTEWATER SERVICE RATE IN THE CITY OF WINDSOR

Passed the 25th day of November, 2024

WHEREAS sections 8, 9 and 10 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (“Municipal Act”) authorize a municipality to pass by-laws necessary or desirable for municipal purposes, and in particular paragraph 7 of subsection 10(2) authorizes by-laws respecting services and things that the municipality is authorized to provide under subsection (1);

AND WHEREAS subsection 391 of the *Municipal Act* provides that sections 9 and 10 of the Municipal 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;

AND WHEREAS subsection 398(2) of the *Municipal Act, 2001* authorizes the treasurer to add fees and charges imposed by the municipality to the tax roll and collect them in the same manner as municipal taxes;

AND WHEREAS Ontario Regulation 581/06 made under the *Municipal Act* provides that where fees or charges imposed for the use of a sewage system are added to the tax roll, such fees and charges have priority lien status;

AND WHEREAS the City's Wastewater system is a sewage system as defined in Ontario Regulation 581/06;

AND WHEREAS The Corporation of the City of Windsor (the “City”) has constructed, and is operating and maintaining a Wastewater system for the benefit of all property owners and all property occupants in the City;

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

1 DEFINITIONS

1.1 In this By-law:

“**Access**” means any part of a property that lies within 30.5 metres of a Wastewater system.

“**Appeal**” means a process by which a person challenges information that has been associated to their Wastewater Account.

“**Applicant**” means a Property Owner or Property Occupant who submits a Wastewater Service Rate rebate or exemption application on the City approved form.

“**Billing Error**” means an undercharge or overcharge caused by a gross or manifest error in the preparation or determination of the Wastewater Charge for a Property that is clerical or factual in nature, including the transposition of figures, a typographical error or similar errors.

“**By-law**” means this Imposition and Collection of Wastewater Service Charges By-Law.

“**City**” means The Corporation of the City of Windsor or where the context requires the geographical jurisdiction of The Corporation of the City of Windsor.

“**Commission**” means the Windsor Utilities Commission.

“**Combined Sewer**” means a sewer intended to function simultaneously as a Storm Sewer and a Sanitary Sewer.

“**Commercial**” in relation to a Property means a Property that contains three or more residential units and/or contains any non-residential use, including industrial, commercial, or institutional uses, and includes a mixed-use property.

“**Complete Application**” means the Applicant has submitted all required forms, documents and answered all questions on the application form to the satisfaction of the City Engineer or designate(s).

“**Corporation**” means The Corporation of the City of Windsor.

“**Council**” means the Council of The Corporation of the City of Windsor.

“**ENWIN**” means ENWIN Utilities Ltd. or its successor or affiliates.

“**Excess Summer Consumption**” means Summer Consumption in excess of Winter Consumption. For the purposes of this definition Winter Consumption is calculated by averaging the actual monthly Water Usage during the Winter Consumption Period of the prior year.

“**Flow Differential**” means the amount of water consumed by a customer of the Commission that does not discharge to the Corporation’s Wastewater system.

“**Property**” means any real property, but shall not include a public road allowance, public highway, or public alley.

“**Property Occupant**” means any person having possession or occupancy of a Property or who otherwise has a Wastewater Service Account in relation to a Property.

“**Property Owner**” means the registered owner of a Property.

“**Residential**” in relation to a Property means a Property that contains at least one, but not more than two residential units.

“**Sanitary sewer**” means a sewer for the collection and transmission of domestic, commercial, institutional and industrial sewage, or any combination thereof.

“**Storm Sewer**” means a sewer for the collection and transmission of uncontaminated water, stormwater, drainage from land or from a watercourse, or any combination thereof.

“**Stormwater Service Rate**” means any fee charged to the Property Owner or Property Occupant under the City’s Stormwater Charge By-Law.

“**Summer Consumption**” means monthly Water Usage by a customer of the Commission during the Summer Consumption Period.

“**Summer Consumption Period**” means time period from May 1st to October 31st.

“**Wastewater**” means any discharge to the Wastewater System.

“**Wastewater Service Account**” means the City’s wastewater service customer account to which charges for such services to a property are invoiced.

“Wastewater Service Rate” means the fee charged for the operation, repair, maintenance and expansion of a Wastewater System and includes a fee for depreciation, deferred maintenance or a reserve fund for any such purpose. Wastewater Service Rate is composed of the fixed wastewater surcharge rate set out in Schedule “A” and the variable wastewater surcharge rate set out in Schedule “B”.

“Wastewater System” means any system owned or operated by the City for the collection, transmission, treatment or disposal of wastewater or any part of such system and includes any Sanitary Sewer or Combined Sewer maintained by the Corporation.

“Water Rate” means a fee or charge that is imposed by the Commission for the supply of water.

“Water Usage” means actual water used as determined by the Commission for the supply of water.

“Water System” means any system for the collection, production, treatment, storage, supply or distribution of water, or any part of any such system.

“Winter Consumption” means the average monthly Water Usage by a customer of the Commission during the Winter Consumption Period.

“Winter Consumption Period” means time period from November 1st to April 30th.

2 WASTEWATER SERVICE RATE

- 2.1 There is hereby imposed upon all Property Owners or Property Occupants of the lands used for Residential purposes in the City of Windsor, who have Access to a sewage system, a monthly Wastewater Service Rate composed of a fixed wastewater surcharge rate by meter size as set out in Schedule “A”, plus a variable wastewater surcharge rate based on actual Water Usage as set out in Schedule “B”.
- 2.2 There is hereby imposed upon all Property Owners or Property Occupants of the lands used for commercial purposes in the City of Windsor, who have Access to a sewage system, a monthly Wastewater Service Rate composed of a fixed wastewater surcharge rate by meter size as set out in Schedule “A”, plus a variable wastewater surcharge rate based on actual Water Usage as set out in Schedule “B”.
- 2.3 Variable wastewater surcharge rates will be calculated as follows:
 - a) During the Winter Consumption Period, the variable wastewater surcharge rate will be applied to the actual Water Usage by a customer of the Commission; and
 - b) During the Summer Consumption Period, the variable wastewater rate will be applied to the actual Water Usage by a customer of the Commission and reduced by the variable wastewater surcharge rate applied to the Excess Summer Consumption.
- 2.4 The Wastewater Service Rate is a user fee and no Property owner or Property Occupant shall be exempt from such fee by reason only that it is exempt from taxation under the *Assessment Act*, R.S.O. 1990, c.A31, as amended.
- 2.5 The Commission shall have charge of and the power and responsibility for the billing and collection of the Wastewater Service Rate. The Commission shall bill such Wastewater Service Rates in conjunction with its billing of the Water Rate charged or chargeable in respect of all Property in the City of Windsor.

- 2.6 The Commission shall assess and collect a penalty for late payment of the Wastewater Service Rate and such penalty shall be equal to the penalty prescribed by the Commission for the late payment of the Water Rate charged by the Commission.
- 2.7 The Wastewater Service Rate shall be collected in accordance with the billing and collection schedule practice of the Commission and the Commission may, in accordance with its own policies, refund such charges billed due to administrative errors.
- 2.8 All monies collected by the Commission that constitute Wastewater Service Rate shall be trust monies held for the benefit of the Corporation and shall be payable to the Corporation on the first day of each month. The Commission shall account for such monies and the Corporation's auditors shall report on the activities and position of such collection.
- 2.9 The monies received by the Corporation from the Commission pursuant to this section constitute a reserve fund in accordance with Section 417(1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, for the operation, repair, maintenance and expansion of a Wastewater System and includes a fee for depreciation, deferred maintenance or a reserve fund for any such purpose.
- 2.10 The Commission shall be authorized to delegate all, or a part of, the authority granted to it under this By-law to ENWIN for the purposes of administering this By-law and, where so delegated any reference to the Commission, or the commissions policies and/or standard procedures shall also be deemed to include ENWIN, and ENWIN's policies and/or standard procedures.
- 2.11 Despite the other provisions of s. 2, and s. 3 of this by-law, in the event that the Commission requires access to the Wastewater System in connection with the Commission's operations at the Albert H. Weeks Water Treatment Plant, the Commission shall pay to the Corporation a monthly Wastewater Service Rate, which will be invoiced monthly by the Corporation. The Wastewater Service Rate shall be calculated based solely on the Variable Wastewater surcharge rate for the Commercial Wastewater Service Rate set out in Schedule "B" and the daily flow to Wastewater System data submitted by the Commission to the Corporation on a monthly basis. The daily flow to Wastewater System data is to be measured by a sewage flow meter installed by the Commission to the satisfaction of the Corporation. On an annual basis the Commission shall submit to the Corporation flow meter calibration certificates for the previous 12 months.

3 FEE REDUCTIONS, EXEMPTIONS AND REBATES

- 3.1 Despite the provisions in this By-law:
- a) Property Owners or Property Occupants of Property used for Commercial purposes may apply to the Corporation to obtain a Wastewater Service Rate rebate for water used and not returned to a Wastewater System. Such application shall be made online and shall be supported by evidence, satisfactory to the City Engineer, of proper metering of reduced discharge into a sewage system.
 - b) Property Owners or Property Occupants of Property used for Residential purposes and located more than 30.5 metres from and not connected to Wastewater System may apply to the Corporation to obtain a Wastewater Service Rate fee exemption.

- 3.2 Any Property Owner or Property Occupant may apply for a rebate or exemption set out in section 3.1 of this By-law. Application shall be made to the Supervisor of Right-of-Way Programs, using the online application portal. All supporting material indicated on the application form shall be submitted with the form before the application can be considered a Complete Application.
- 3.3 An application for rebate or exemption will be considered where:
 - a) The provisions of section 3.1 of this By-law apply; or
 - b) The Flow Differential exceeds 20% of water consumption.
- 3.4 The Supervisor of Right-of-Way Programs shall determine if a rebate or exemption is applicable.
- 3.5 No rebate or exemption to the Wastewater Service Rate shall be given for the purpose of lawn and garden watering unless there is a dedicated seasonal service meter for lawn and garden watering.
- 3.6 For Property Owners or Property Occupants of Property used for Commercial purposes, all meters or other measuring devices shall be provided and maintained by the Applicant and the Applicant is required to provide a third-party certificate of meter calibration dated within the previous 12 months to the Supervisor of Right-of-Way Programs. The certificate must indicate a degree of measuring device accuracy of plus or minus 10% prior to any device recalibration.
- 3.7 The Corporation shall be entitled to conduct an inspection of the Applicant's Property to verify all information in the rebate application.
- 3.8 Flow Differential measurement that is not based on direct metering must be approved by the Commission.
- 3.9 For the purposes of an application for Wastewater Service Rate rebate, all Commission customers who use water service have some Water Usage that does not discharge into the Corporation's sewage system, the Wastewater Service Rate for all Property Owners or property Occupants of Property used for Commercial purposes who receive Wastewater Service Rate rebate shall be calculated on the basis of 125% of their monthly discharge into the sewage system. All such accounts shall be subject to a minimum Wastewater Service Rate based on a consumption of 45.5 cubic metres per month.
- 3.10 Any rebate in the Wastewater Service Rate given to Property Owners or Property Occupants of Property used for Commercial purposes as a result of an application, shall take effect retroactive to the date of Complete Application and shall apply only to the account in question and to the Property in question only while the ownership or occupancy of, as the case may be, remains with the Property Owner or Property Occupant in whose name the application was filed.
- 3.11 Property Owners or Property Occupants eligible for a Wastewater Service rate Rebate may be reimbursed only those approved amounts collected during the previous and current taxation year.
- 3.12 Property Owners or Property Occupants in arrears with regard to payments for Water Rates, Wastewater Service Rates or Stormwater Service Rates shall not be entitled to any rebate so long as such arrears are outstanding.
- 3.13 If a Property Owner or Property Occupant applies for and is denied a rebate or exemption or is not satisfied with the amount of rebate or exemption provided, he or she may Appeal the decision as set out in Section 4 of this By-law using the online application portal.

3.14 The Commission shall have charge of and the power and responsibility for reviewing and approving requests for Wastewater Service Rate relief (due to service and/or fixture water leaks) for any Residential customers and, if approved by the Commission, reducing usage applied against the volumetric component of the Wastewater Service Rate. Wastewater Service Rate relief will be provided in accordance with the Commission's standard procedures.

4 APPEALS

4.1 An owner or occupant may Appeal as follows:

APPEAL	CATEGORY	EXPLANATION	Decision Making Authority
Inaccurate Wastewater Charge Assessment	Incorrect category	The Property has been incorrectly identified as "Residential" or "Commercial"	Supervisor of Right-of-Way Programs
Incorrect Determination of Rebate or Exemption	A. Eligibility for Rebate or Exemption	A property may or may not apply for a rebate or exemption	
	B. Amount of Rebate	The amount of rebate approved for a Property is or is not appropriate	

4.2 The filing of an Appeal does not stay the requirement for payment of a Wastewater Service Rate. Any Wastewater Service Rate billed during the course of the Appeal will be due and payable upon receipt and remain subject to the Commission's standard collection processes.

4.3 The Supervisor of Right-of-Way Programs is hereby delegated authority to:

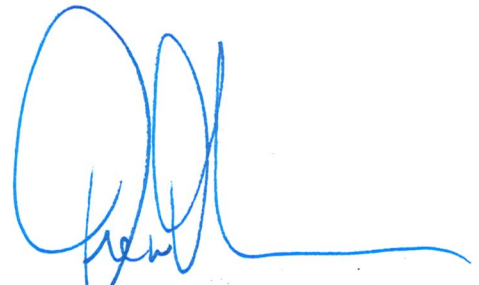
- a) approve or reject any application submitted for Wastewater Service Rate rebate or exemption;
- b) impose such terms and conditions to any application under this By-law as the Supervisor of Right-of-Way Programs considers appropriate;
- c) determine and decide any Appeal under the By-law.

and the decision of the Supervisor of Right-of-Way Programs shall be final and binding.

4.4 The Commission is hereby authorized to adjust the Wastewater Service Rate charged on any Property, to the extent it is deemed appropriate due to a Billing Error, and the account may be retroactively recalculated for a period not exceeding two (2) years from the date of detection with resulting credits or charges being applied to the Property owner's Wastewater System Account, and the decision of the Commission shall be final and binding.

5 GENERAL PROVISIONS

- 5.1 Schedules "A" and "B" attached hereto shall form part of this By-law.
- 5.2 The fees imposed under this By-law constitute a debt of the Property Owner or Property Occupant to the Corporation and the Corporation may add these fees or charges to the tax roll of the Property that has Access to the Wastewater System and collect them in the same manner as municipal taxes. Such fees have priority lien status as described in s. 1 of the Municipal Act.
- 5.3 By-law 13-2014 is hereby repealed.
- 5.4 This by-law shall come into force and take effect as of January 1, 2025.



DREW DILKENS, MAYOR



CITY CLERK

First Reading – November 25, 2024
Second Reading – November 25, 2024
Third Reading – November 25, 2024

SCHEDULE "A"
TO BY-LAW 172-2024

FIXED WASTEWATER SURCHARGE RATES BY METER SIZE

Residential Accounts

Stand Alone Fixed Wastewater Surcharge Rate
\$12.89

Commercial Accounts

Meter Size		Stand Alone Fixed Wastewater Surcharge Rate
Less than 1"	Less than 25mm	\$12.89
1"	25mm	\$116.57
1 1/2"	40mm	\$273.07
2"	51mm	\$455.84
3"	75mm	\$819.25
4"	100mm	\$1,450.72
6"	150mm	\$2,648.92
8"	200mm	\$4,413.61
10"	250mm	\$7,270.84
12"	300mm	\$10,470.00

SCHEDULE "B"
TO BY-LAW 172-2024

<u>VARIABLE WASTEWATER SURCHARGE RATES</u>	
<u>Residential</u> Wastewater Surcharge Rate	\$2.01 per cubic meter of water used
<u>Commercial</u> Wastewater Surcharge Rate	\$1.66 per cubic meter of water used