

The Corporation of the Town of Essex

By-Law Number 2050

Being A By-Law Establishing Fees and Charges to recover Capital Costs Incurred related to the Installation of a water main crossing Highway 3 at the 14th Concession

WHEREAS the Council of the Corporation of the Town of Essex (the “Municipality”) has determined that it is desirable to construct and install a water main crossing at Highway 3 to service the industrial lands designated in the Town’s Official Plan and located west of Highway 3 at the 14th Concession Road.

AND WHEREAS the Municipality has further determined that the related services and activities provided by the Town of Essex and the capital costs incurred thereof in connection with the installation of said water main will provide a present or future benefit to the owners of those properties identified in Schedule A to this by-law in accordance with the cost estimates more particularly itemized and set out therein;

AND WHEREAS Section 11 of the Municipal Act, S.O. 2001 c. 25 as am. (“the Municipal Act”) provides that a lower tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public and may pass by-laws respecting matters, services and things that a municipality is authorized to provide;

AND WHEREAS municipalities are authorized to enact by-laws with respect to the production, treatment, storage and distribution of water within the jurisdiction of the municipality provided in the Municipal Act;

AND WHEREAS Section 391 of the Municipal Act authorizes a municipality to impose a fee or charge for capital costs related to services or activities provided by the Municipality on persons who derive or will derive a benefit from roads and road improvements, sanitary sewers and watermains constructed or installed to provide municipal services;

AND WHEREAS the persons to be charged for the capital costs incurred by the Municipality for its services or activities related to the construction and improvement of watermains are owners of land for which an immediate or future benefit will be derived;

AND WHEREAS the Municipality has determined that the capital costs of the construction and installation of the watermain shall be recovered through a charge to be imposed upon connection to the subject lands owned by those persons who derive or will derive a benefit at such time and in such manner as provided by this by-law;

NOW THEREFORE the Council of the Corporation of the Town of Essex enacts as follows:

1. In this By-Law:

- a. **Capital Costs** means the cost of design, construction, improvement of water infrastructure including consultants costs and financing charges and deemed to be inclusive of all items of cost usually and properly chargeable to capital account, and where if applicable, the interest amounts payable;
 - b. **Municipality** means The Corporation of the Town of Essex;
 - c. **Property** means those properties listed on Schedule A to this by-law and against which Capital Costs are to be assessed as a special fee or charge and recovered in the same manner as taxes;
 - d. **Works** means the watermain construction and improvements more particularly detailed in Schedule B to this by-law.
2. Every Owner of a property identified in Schedule A to this by-law (the "Benefiting Land") shall pay to the Municipality, upon connection to the municipal water supply, the charge or charges imposed pursuant to this by-law and as specified further in Schedule A to this by-law to recover the Capital Costs incurred by the Municipality (the "Capital Cost Recovery Charge") for its services and activities provided in the construction and improvement of the Works as described herein.
3. Owners of land for which a Capital Cost Recovery Charge is payable pursuant to this by-law shall pay the applicable charge within thirty (30) days of the date of issuance of an invoice by the Municipality unless otherwise provided herein.
4. The rates imposed by the by-law shall be separate from and/or may be in addition to any other fees and charges that the Municipality may be authorized by law to impose with respect to any further extensions of the water main that may be applicable in connection with future development of said lands.
5. No Property is exempt from payment of the Capital Cost Recovery Charge imposed under this by-law by reason only that is exempt from taxation under the Assessment Act.
6. Where any Capital Cost Recovery Charge remains unpaid after its due date, the amount unpaid shall be added to the tax roll and shall be collected in the same manner as municipal taxes unless a request to debenture upon such terms and conditions to be prescribed or otherwise mutually agreed upon is formally received and approved by the Treasurer within thirty (30) days of the date of issuance of an invoice.
7. This by-law shall be administered by the Municipal Treasurer.
8. The following schedules to this by-law form an integral part thereof:

a. Schedule A – Properties Subject to Capital Cost Recovery Charge

b. Schedule B – Description of Works

9. In the event any provision, or part thereof, of this by-law is found by a court of competent jurisdiction to be ultra vires, such provision, or part thereof, shall be deemed to be severed, and the remaining portion of such provision and all other provisions of this by-law shall remain in full force and effect.

10. This by-law shall come into force and effect on third and final reading.

Read a first and a second time and provisionally adopted on August 3, 2021.

Mayor

Clerk

Read a third time and finally adopted on August 23, 2021.

Mayor

Clerk

The Corporation of the Town of Essex

By-Law No. 2050

Schedule A

Properties Subject to Capital Cost Recovery Charge

Address	ARN	Area of Parcel (m²)	Percentage of Benefitting Land	Capital Cost Recovery Charge Assessed to Property (including applicable HST)
0 County Road 8	375457000003150	17,939.8215	4.21%	\$6,248.64
0 County Road 8	375457000003150	171,591.0282	40.23%	\$59,767.10
14028 Pinkerton Road	375457000003450	39,426.6105	9.24%	\$13,732.73
14016 Pinkerton Road	375457000003480	62,246.7224	14.59%	\$21,681.24
14978 14 th Concession	375457000003500	135,338.3816	31.73%	\$47,139.89
Total			100%	\$148,569.60

The Corporation of the Town of Essex

By-Law No. 2050

Schedule B

Description of Works

The Works consist of the design and construction of a new watermain crossing Highway 3 at the 14th Concession.

