

**THE TOWN OF ST. STEPHEN**

**BY-LAW NO. W-1**

**A BY-LAW RESPECTING WATER AND SEWER RATES AND CHARGES**

BE IT ENACTED BY THE COUNCIL OF THE TOWN OF ST. STEPHEN AS FOLLOWS:

**1. INTERPRETATION**

In this by-law,

"chief administrative officer" means the Chief Administrative Officer appointed by the Council pursuant to subsection 74(1) of the *Municipalities Act*,

"council" means the Mayor and Councillors of The Town of St. Stephen,

"consumer" and "owner" means the person in whose name a property is assessed under the *Assessment Act*, and amendments thereto, of the Province of New Brunswick, and includes the executors, administrators and assigns of such person,

"director of operations" means the Director of Operations for The Town of St. Stephen appointed by Council to oversee the administration of this by-law and is accountable to Council through the Chief Administrative Officer,

"treasurer" means the Treasurer for The Town of St. Stephen duly appointed by Council pursuant to the *Municipalities Act* of the Province of New Brunswick.

**2. OWNER RESPONSIBILITY**

- 2.01 The owner of a property is liable for all water and sewer rates and charges imposed with respect to such property whether occupied by himself/herself or his/ her tenants and shall pay to the Town all such rates and charges at the times prescribed in this by-law.
- 2.02 The owner of a building in which a sprinkler system for fire protection is installed and the owner of a property upon which a hydrant is located shall pay to the Town the cost of any repairs, made or service provided by the Town in respect of such sprinkler or hydrant at the request of such owner.
- 2.03 The owner shall pay the cost of repair when any damage to a meter is caused by negligence by the owner or occupants of the building for which he/she is the owner. Normal wear and tear (natural deterioration with normal usage) will be the responsibility of the Town.

- 2.04 An authorized representative of the Town may, at any reasonable hour, enter any premises in the execution of his or her duties respecting the water and sewer system for purposes of inspection, measurements, maintenance, repairs, sampling and testing.

**3. SHUT-OFF OF WATER SUPPLY**

- 3.01 The Director of Operations, in consultation with the Chief Administrative Officer, may shut off the water supply to any property with respect to which any rates, charges or penalties payable under this by-law remain unpaid after the expiration of time imposed from time to time by the Council.
- 3.02 Where a notice of shut-off has been given and the account remains unpaid by the date established for shut-off, the owner shall pay a fee of Fifty Dollars (\$50.00), together with any amount in arrears to settle the account in full regardless of whether a physical shut-off has been accomplished.

**4. REFUND OF RATES**

- 4.01 Upon application of an owner the Director of Operations may, in consultation with the Chief Administrative Officer grant a refund of rates or charges or an allowance up to a maximum of One Thousand Dollars (\$1,000.00) for any cause which is deemed proper. Any amount over One Thousand Dollars (\$1,000.00) must have approval of the Council.
- 4.02 No consumer of water shall be entitled to have any portion of a payment refunded for non-use occasioned by absence, or for shutting off for violation of by-laws or for purposes of additions or repairs to the water system or that of the Town.
- 4.03 In case the premises occupied by a consumer become vacant or if for any other reason the water supply shall not be used, no rebate or reduction of the water rates shall be allowed unless notice of such vacancy or disuse shall have been given in writing to the Town, and then only from the time of the service of such notice.

**5. EMERGENCIES**

- 5.01 The Council may, by resolution, declare that a water emergency exists when, in the opinion of the Council, the efficiency of the water supply for domestic and fire protection purposes is impaired by water shortage due to drought, system damage, excessive use, or other cause.
- 5.02 Following the passage of such resolution, the Council may place such restrictions on the use of water as it deems necessary.

- 5.03 Consumers shall be given notice of such restrictions either,
- (i) by ordinary mail addressed to all householders,
  - (ii) by means of a public address system,
  - (iii) by publication in a newspaper with general circulation in the Town, or
  - (iv) by broadcast over a local radio station.
- 5.04 A person who violates or fails to comply with the restrictions of which notice has been given pursuant to subsections 5.02 and 5.03 commits an offence punishable under Part II of the *Provincial Offences Procedure Act* as a category D offence.
- 5.05 A violation as provided for in subsection 5.04 is a continuing offence and a separate information may be laid for each day such offence continues and the penalty provided for in subsection 5.04 shall be imposed for each conviction resulting from the laying of each information.
- 5.06 The conviction of a person under this section does not operate as a bar to further prosecution for the continued neglect or failure on his or her part to comply with the provisions of this by-law.
- 5.07 The water service of a consumer found violating any of such restrictions may, by resolution of the Council, be suspended for such period as deemed appropriate by the Council.

**6. BILLING**

- 6.01 Water and sewer rates imposed by the authority of this by-law, and now in effect, are set forth in Schedule "A" hereto attached.
- 6.02 The Council may, by resolution, amend the water and sewer rates set forth in Schedule "A" hereto from time to time.
- 6.03 Water and sewer accounts may be rendered monthly, quarterly or on any other basis as established by Council from time to time.

**7. PENALTIES FOR NON-PAYMENT**

- 7.01 In the event that rates, fees, charges, legal fees, interest and penalties as herein authorized are not paid within sixty (60) days after rendition of the bill for such service, such charge shall constitute a special lien and charge on the real property in respect of which such charges shall have been imposed pursuant to subsection 189(10) of the *Municipalities Act*.
- 7.02 If the charges referred to in subsection 7.01 hereof shall remain unpaid after expiration of the said sixty (60) days as referred to therein, the Town may:

- (a) sue in the name of the Town in an action for debt,
  - (b) cut off the water and/or sewer service provided to such property and may discontinue such service until such time as the account, including arrears and the cost of disconnecting the service, have been paid in full by the owner, and
  - (c) proceed in accordance with subsections 7.03 to 7.09 hereof.
- 7.03 If the charges referred to in subsection 7.01 hereof shall remain unpaid after expiration of the said sixty (60) days as provided in subsection 7.02, it shall be lawful for the Chief Administrative Officer or the Town Clerk by letter under his or her hand and the seal of the Town to order and direct a licensed auctioneer or the High Sheriff of the Judicial District of Saint John, or a Deputy Sheriff of said district, to sell at public auction to the highest bidder, first giving at least four (4) weeks public notice thereof, the real property in respect of which such use or charges shall have been imposed.
- 7.04 The notice referred to in subsection 7.03 shall contain the time and place of such sale and a description of the real property to be sold as to identify the same and shall be published once in each of two consecutive weeks in a newspaper circulated in the County of Charlotte and shall be posted in the Town Office.
- 7.05 The notice referred to in subsection 7.03 shall also be served on the owner personally, or by registered or certified mail addressed to the owner at the last address shown on the Assessment Data prepared pursuant to the provisions of the *Assessment Act*.
- 7.06 The owner herein is deemed to be the owner to whom the real property is assessed pursuant to the *Assessment Act* and the term real property has the same meaning as defined in the *Assessment Act*.
- 7.07 The said auctioneer, High Sheriff or Deputy Sheriff are hereby empowered to sell the said real property to the highest bidder therefor, and the Town shall execute a deed or transfer to the purchaser thereof and deliver, seize and possession thereof to the purchaser.
- 7.08 From the proceeds of said sale the Chief Administrative Officer shall pay all charges referred to in subsection 7.01 and costs and charges of such sale and shall pay over the balance remaining thereof, if any, to the owner of such property and the deed or transfer of the Town shall transfer and convey all the right, title and interest of such owner of and in the real property so sold.

7.09 Such deed or transfer duly executed by the Mayor and Town Clerk under the seal of the Town together with an affidavit of the Town Clerk or Chief Administrative Officer that the property so conveyed was rightly seized, advertised and sold, shall be prima facie evidence that all things have been done and all proceedings have been taken necessary to authorize the sale of said property without any proof of the due imposition of the user charge or the notice or anything connected therewith.

**8. REPEAL PROVISION**

8.01 By-Law No. W-1, "A By-Law Respecting Water and Sewer Rates and Charges", passed by Town Council on December 16, 2003, and amendments thereto, is hereby repealed.

8.02 The repeal of By-Law No. W-1, "A By-Law Respecting Water and Sewer Rates and Charges" and amendments thereto, shall not affect any penalty, forfeiture or liability, incurred before such repeal or any proceeding for enforcing the same completed or pending at the time of repeal; nor shall it repeal, defeat, disturb, invalidate or prejudicially affect any matter or thing whatsoever completed, existing or pending at the time of repeal.

**IN WITNESS WHEREOF** the Town of St. Stephen has caused the corporate seal of the said Town to be affixed to this By-Law the 19<sup>th</sup> day of September, 2011.

First Reading: August 22, 2011

Second Reading: September 19, 2011

Third Reading and Enactment: September 19, 2011

  
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G. L. (Jed) Purcell, Mayor

  
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Joan M. Flewelling, Town Clerk