

HALIFAX

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Item No. 14.1.4
Halifax Regional Council
February 27, 2018

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by 

SUBMITTED BY: _____
Jacques Dubé, Chief Administrative Officer

DATE: January 29, 2018

SUBJECT: **By-law C-1000 Respecting Financing and Charges for Homeowners to Resolve Inadequate On-Site Water Supply**

ORIGIN

On May 23, 2017, Regional Council PUT and PASSED the following motion:

That Halifax Regional Council request a staff report for the establishment of an HRM by-law or Administrative Order (AO) to permit residents to secure a better on-site water supply (wells) that have gone dry or extremely low from drought conditions to apply for refinancing options to be made available through the municipality.

LEGISLATIVE AUTHORITY

Subsection 79 (1) of the *Halifax Regional Municipality Charter* states that "The Council may expend money required by the Municipality for (adb) providing for, financing and installing equipment, including containers, on private property for the purposes of the supply, use, storage or conservation of water".

Subsection 104A (1) of the *Halifax Regional Municipality Charter* states that "The Council may make by-laws imposing, fixing and providing methods of enforcing payment of charges for the financing and installation of any of the following on private property with the consent of the property owner: (b) equipment installed pursuant to an expenditure under clause 79(1) (adb).

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Adopt By-law C-1000 *Respecting Charges for the Resolution of Inadequate Water Supply* as set out in Attachment 1 to this report; and
2. Amend Administrative Order 15, Respecting License, Permit and Processing Fees, as set out in Attachment 2 to this report.

BACKGROUND

On November 10, 2016, Bill 62 received Royal Assent. The purpose of Bill 62 was to amend the *Municipal Government Act* and the *Halifax Regional Municipality Charter* to permit municipalities in Nova Scotia to provide “for, financing and installing equipment, including containers, on private property for the purposes of the supply, use, storage or conservation of water”. Bill 62 also enabled municipalities to “make by-laws imposing, fixing and providing methods of enforcing payment of charges for the financing and installation” of this equipment on private property with the consent of the property owner.

Bill 62 was in response to months of unusually low rainfall in 2016 which resulted in many on-site water supply systems running dry. This was particularly true in the southwest part of the Province where it is reported that approximately 2,000 wells went dry. Drilling a new well can cost more than \$10,000 which is a significant financial barrier for many property owners who require a quick solution to a serious problem. Bill 62 was intended to remove the immediate financial barrier by allowing municipalities to create programs that would pay the costs of repairing or replacing on-site water supply systems upfront. These costs would then be billed back by the municipality to the property owner and repaid over a specific period with interest.

DISCUSSION

Assistance Available

HRM already provides financing for the installation of equipment on private property through the Solar City Program. That program makes use of the Local Improvement Charge (LIC) mechanism to bill and track payments. Participants may borrow funds and repay the amount owing over a period of up to 10 years. They receive an annual invoice that is separate from their property tax bills and which indicates the amount of principal and interest owing. The amount owing each year is based on 1/10th of the total amount borrowed, plus the amount of interest accrued since the last annual billing. Therefore, as the total amount borrowed is repaid over time, the amount of interest accrued each year declines. Thus, payments decline each year unless the participant falls into arrears in which case there would be additional interest charges. The annual invoice indicates the minimum amount due and payable for that year. As with any LIC, the property owner may repay a greater amount, or even the entire outstanding balance at any time without penalty. As with the Solar City Program, payments would not qualify for deferral under the Residential Property Tax Exemption and Deferral program.

Qualifying Properties

To ensure that the program addresses only urgent situations, a property would only qualify if it meets the following criteria:

1. Be a dwelling unit that is occupied on a full-time basis by the owner as their principle residence but not less than 180 days in the calendar year prior to the year of application;
2. Already have an existing on-site system which provides safe potable water which is at least one year old, but does not meet minimum pressure/flow and recharge rates as established by Nova Scotia Environment and determined by a well yield test conducted by person certified to conduct such tests; and
3. is outside of the Halifax Water water service boundary and there are no proposed plans to extend service to the property.

For greater clarity, the following properties would not qualify under this program:

1. New home construction;
2. Recreational properties (ie. cottages, cabins, vacant land with a water hook-up, etc);
3. Any dwelling unit which is not occupied by the owner on a full-time basis or which was occupied for less than 180 days in the calendar year prior to the year of application;
4. Rental or leased properties;
5. Commercial and resource properties;
6. Properties exempt from property taxes such as those owned by non-profit organizations;
7. Any property without an existing on-site water supply system, or which has an on-site water system which is less than one year old;

8. Any property with an existing on-site water system which meets standards for pressure/flow and recharge rates but which may have problems with water quality (ie. provides water which does not meet standards for safe potable water).
9. Properties that are within the Halifax Water water service boundary or for which there are plans to extend service.

Application Requirements

1. Completion of the program application form and loan agreement which provides full disclosure of the rights and obligations of HRM and the applicant;
2. Payment of the application fee which will be set at \$150 which is the same amount as for the Solar City Program;
3. The applicant must not be in arrears on their property taxes or, if applicable, LIC payments due;
4. Be the owner(s) of the property in fee simple;
5. Except for home-based businesses, not use the Property in the operation of a business or industry;
6. Provide a signed contract and quotation from a contractor who has a certificate of qualification from Nova Scotia Environment. The Director of Finance or designate must approve the estimate prior to installation;
7. Documentation from a certified individual indicating that the current on-site water supply system does not meet minimum pressure/flow and recharge rates as established by Nova Scotia Environment.

Documentation required after well upgrade or replacement completed

1. A copy of the well construction record required by Nova Scotia Environment indicating that the well meets minimum standards for quantity and quality.
2. Final itemized invoice from the qualified contractor for the full cost of the repairing or replacing the on-site water supply system. As with the Solar City Program, the total amount qualifying for financing is limited to 105% of the quotation.
3. A copy of the pump installation report required by Nova Scotia Environment which indicates the operating pressure range.
4. Any other information required particular to the type of water supply improvement.

Determination of Program Interest Rate

Since this would be a permanent program, the proposed by-law must provide flexibility to change the interest rate as the cost of borrowing changes based on fluctuations in market rates. Therefore, the by-law provides that the interest rate will be set at the prime rate of the Municipality's banker plus 2%. However, once the interest rate is set for an applicant, it will remain fixed at that rate until the loan is repaid in full.

FINANCIAL IMPLICATIONS

Since the full cost of the program plus interest would be billed back to the applicant, there are no significant financial implications to HRM.

RISK CONSIDERATION

Because of HRM's ability to impose a lien on properties which are indebted to the Municipality, the risk is considered low. There is a risk that the drilling of a well could adversely affect wells on adjacent properties. However, the risk imposed to HRM is low because the Municipality is only providing financing assistance to the homeowner and not conducting the installation on behalf of the owner.

COMMUNITY ENGAGEMENT

A public hearing is not required but may be held at Council's discretion.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications resulting from the recommendations in this report.

ALTERNATIVES

1. Council may choose to target the program to low-income households. The same income criteria could be used as that for the Residential Property Tax Exemption and Deferral program.
2. Council may choose to not adopt By-law C-1000 or the amendments to AO 15.

ATTACHMENTS

Attachment 1 - *By-law C-1000 Respecting Charges for the Resolution of Inadequate Water Supply*

Attachment 2 - Amending Administrative Order 15

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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**By-law C-1000 Respecting Financing and Charges for
Homeowners to Resolve Inadequate On-Site Water Supply**

**HALIFAX REGIONAL MUNICIPALITY
BY-LAW NUMBER C-1000**

RESPECTING CHARGES FOR THE RESOLUTION OF INADEQUATE WATER SUPPLY

BE IT ENACTED by the Council of the Halifax Regional Municipality as follows:

Short Title

1. This By-law shall be known as By-law C-1000 and may be cited as the *Charges for Water Supply Improvement By-Law*.

Interpretation

2. In this By-law,

(a) "Director" means the director of the department of the Municipality for Finance, and includes a person acting under the supervision and direction of the Director;

(b) "owner" includes

(i) a part owner, joint owner, tenant in common or joint tenant of the whole or any part of and or a building,

(ii) in the case of the absence or incapacity of the person having title to the land or building, a trustee, an executor, a guardian, an agent, a mortgagee in possession on a person having the care and control of the land or building,

(iii) a person who occupies shores, beaches or shoals, and

(iv) in absence of proof to the contrary, the person assessed for the property;

(c) "principal residence" means a dwelling unit occupied for at least 180 days in the calendar year immediately prior to the year of application;

(d) "recreational property" means a dwelling unit used as a secondary place of residence for vacation or leisure activity;

(e) "Treasurer" means the Treasurer of the Municipality, and includes a person acting under the supervision and direction of the Treasurer; and

(f) "water supply improvement" means the installation or upgrade of a water system on the subject property for the supply, use, storage or conservation on water, including cisterns, water from fog systems, or greywater collection.

Application of By-law

3. This By-law shall apply to the installation and financing of water supply improvement on a property in the Municipality where the property:

(a) is a principle residence;

(b) is outside of the Halifax Water water service area and there are no proposed plans to extend service to the property or building;

(c) the property has an existing water system that provides potable water but does not meet minimum requirements for pressure, flow or recharge rates; and

(d) the owner of the property,

(i) makes an application to the Municipality whereby the Municipality will pay for the costs of providing for, financing, and installing of water supply improvement; and

(ii) agrees to repay such costs to the Municipality pursuant to this By-law and an agreement entered into pursuant to clause 5(i).

4. Notwithstanding section 3, this By-law shall not apply to the following:

- (a) new home construction;
- (b) property that is rented or leased;
- (c) a recreational property;
- (d) a resource property;
- (e) commercial property;
- (f) property that is exempt from residential property tax;
- (g) any property without an existing water supply system;
- (h) any property with an existing water supply system that meets acceptable standards for pressure, flow or recharge rates
 - (i) that is less than one year old; or
 - (ii) that does not provide potable water.

Eligibility

5. To be eligible for water supply improvement financing:

- (a) section 3 of this by-law must be satisfied;
- (b) the property owner must be in good standing on their property taxes and related charges;
- (c) the property is held by the owner in fee simple;
- (d) the proposed water supply improvement is for a residential purpose;
- (e) the Municipality must be provided with documentation indicating that the water supply for the subject property does not meet minimum pressure, flow or recharge rates;
- (f) the Municipality must be provided with a written estimate or a signed contract from a contractor who holds a certificate of qualification from Nova Scotia Environment;
- (g) the Director must approve the written estimate provided to the Municipality pursuant to clause (f) prior to the installation commencing;
- (h) the owner of the property must submit an application on a form as prescribed by the Director and pay the application fee in the amount set out in Administrative Order 15, *License, Permits, and Processing Fees Administrative Order*;

- (i) an agreement must be executed between the owner of the property and the Municipality respecting the provisioning, financing and installation of the water improvement on the property of such owner and the repayment of all associated costs in accordance with a payment schedule; and
- (j) the equipment installed results in a potable water supply that meets minimum pressure, flow and recharge rates for use on the property.

Confirmation of Improvement

6. Upon completion of the water supply improvement, the owner shall provide the Treasurer with
 - (a) an itemized invoice for the full cost of the water supply improvement;
 - (b) a copy of the well construction record indicating the well meets minimum standards for quantity and quality;
 - (c) a copy of the pump installation report; and
 - (d) any other information required by the Treasurer.

Charge Imposed

7. Where sections 3 and 5 are satisfied and water supply improvement equipment is installed on a property, a charge is hereby imposed in respect of the provision, financing, and installation of such equipment on the property.

Amount of Charge

8. The amount of the charge imposed pursuant to section 5 shall be calculated based on the lesser of:
 - (a) one hundred and five percent (105%) of the written estimate provided pursuant to clause 5(f), less any funding received from any person, the Government of Canada, the Government of the Province of Nova Scotia or any combination of them; or
 - (b) the actual cost of providing for, financing and installing water improvement equipment, less any funding from any person, the Government of Canada, the Government of the Province of Nova Scotia or any combination of them

Lien

9. (1) A charge imposed pursuant to this By-law constitutes a lien upon the real property with respect to which the charge has been levied in the same manner and with the same effect as taxes.
 - (2) A charge imposed pursuant to this By-law is collectable in the same manner as taxes and at the option of the Treasurer is collectable at the same time and by the same proceedings as taxes.
 - (3) The lien provided for in this By-law shall become effective on the date on which the Treasurer receives documentation confirming completion.
 - (4) The lien provided for in this By-law shall remain in effect until the charge plus interest has been paid in full.

Interest

10. Interest shall accrue and be payable annually on charges outstanding regardless of whether the owner has elected to pay by installments on the amount outstanding from the date of billing forward at a rate equal to the prime rate of the Municipality's banker plus two percentage points.

Installments

11. The amount payable may, at the option of the owner, be paid in equal annual installments over a period not exceeding ten years and the balance becomes due and payable in case of default of payment of an installment.

Exemption and Deferral Not Allowed

12. The amount charged pursuant to this By-law is not eligible for Tax Deferral or Tax Exemption.

Done and passed by Council this _____ day of _____, 2017

MAYOR

MUNICIPAL CLERK

I, Kevin Arjoon, Municipal Clerk of the Halifax Regional Municipality, hereby certify that the above noted by-law was passed at a meeting of the Halifax Regional Council held on _____, 2017

Kevin Arjoon
Municipal Clerk

Attachment 2
(Amending Administrative Order)

HALIFAX REGIONAL MUNICIPALITY
ADMINISTRATIVE ORDER 15
RESPECTING LICENSE, PERMIT AND PROCESSING FEES

BE IT ENACTED by the Council of Halifax Regional Municipality that Administrative Order 15, the *Respecting License, Permit and Processing Fees* Administrative Order is amended as follows:

1. By adding the following section number and table immediately following the table in Section 24:

25.

By-law #	Short Title	Section	Details	Fee
C-1000	<i>Charges for Water Supply Improvement</i>	5(h)	Application Fee	\$150.00