

BY-LAW 7-04
WATER BY-LAW

The Council of Rothesay, under authority vested in it by section 189 of the *Municipalities Act* R.S.N.B. (1973), Chapter M-22, and amendments thereto, hereby enacts as follows:

TITLE

1. This By-law may be cited as the “Water By-law”.

DEFINITIONS

2. In this By-law, unless otherwise stated:
 - a) “Commercial unit” means a separate set of quarters used for other than residential purposes with a private entrance from outside the premises or from a common hallway or stairway inside;
 - b) “Committee” means the Water and Sewerage Committee of Rothesay, as appointed by the Mayor;
 - c) “Council” means the Mayor and Council of Rothesay;
 - d) “Dwelling unit” means a separate set of living quarters with a private entrance from outside the premises or from a common hallway or stairway inside;
 - e) “Engineer” means the Town Engineer or his designate;
 - f) “Equivalent User Units” means the rate at which non-single family residential users are charged for maintenance, construction and use of the water system; calculated with an average residential household as the base single unit;
 - g) “Fire Department” means the Rothesay Regional Fire Department Inc.
 - h) “Industrial unit” means an area of land with or without buildings or structures on which activities take place pertaining to industry, manufacturing, commerce, trade, business, or institutions as distinguished from domestic dwellings;
 - i) “Institutional unit” means an area of land with or without buildings or structures on which activities take place pertaining to public or non-profit purposes, and without limiting the generality of the foregoing, may include such uses as schools, places of worship, indoor recreation facilities, community centres, public hospitals and government buildings;
 - j) “May” is construed as permissive;

- k) "Meter" means a cold water measuring device owned and operated by the Town;
- l) "Owner" means the person in whose name the property is assessed under the *Assessment Act*, Chapter A-14, R.S.N.B. (1973) and amendments thereto, and includes executors, administrators and assigns of such person;
- m) "Person" means any individual, partnership, company, public or private corporation, or agency of the Province of New Brunswick, agency or any other legal entity;
- n) "Premises" means a building, which may contain one or more dwelling unit, institutional unit, industrial unit, and/or commercial unit, connected to the water system of the Town by a single service connection to each system;
- o) "Roadway" means that portion of a Rothesay street between the curb lines or the traveled portion of a street designed for vehicular traffic and, except where the context indicates otherwise, includes a crosswalk;
- p) "Rothesay Main Water" or "Rothesay Main Water System" means the water system for that area within the municipal boundary having its source of water supply from the Carpenters' Pond Watershed and such other sources as may be developed from time to time.
- q) "Rothesay West Water" or "Rothesay West Water System" means the water system for that area within the municipal boundary having its source of water supply from the City of Saint John.
- r) "Service Connection" means any piping system that conveys water from a water main to any premises;
- s) "Shall" is construed as being mandatory;
- t) "Specifications for Developers" means the standards adopted by the municipality as a minimum standard for new construction of streets and services within the Town;
- u) "Street" means a Rothesay street, highway, road, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts, retaining walls in connection therewith and, without restricting the generality of the foregoing, includes the full width of the right-of-way;
- v) "Town" means the town of Rothesay or the area contained within its municipal boundaries as the context requires;
- w) "Water" and "Water Supply" means the water supplied to consumers for the purposes herein specified;
- x) "Water System" means all of the property involved in the operation of the Rothesay

water utility and watershed; including all land, wells, water lines and appurtenances, treatment plants, reservoirs, pumping stations, buildings and structures, and general property.

y) “Water User Charge” means the amount charged for maintenance, construction and operation of the water system.

2.1 In this By-law where the context requires, the singular shall be taken to also mean the plural and references to the male or female gender shall be taken to include the other.

3. **COMMITTEE**

3.1 The Water and Sewerage Committee shall be appointed by the Mayor. Appointments to the Committee may include members of Council, who may be appointed for a term as determined by the Mayor, and others whose appointments shall be made for two years. Members are eligible for re-appointment.

3.2 Council may refer any matter related to the water utility to the Water and Sewerage Committee for comment and the Committee shall provide Council with a written response to any matter referred by Council.

4. **WATER SYSTEM**

4.1 Water shall not be furnished for any purpose other than domestic and fire protection purposes when, in the opinion of Council or the Engineer, the quality or efficiency of the water supply for domestic and fire protection purposes within the Town would thereby be impaired.

4.2 (a) The Town may, subject to the foregoing limitations, furnish water for purposes other than domestic and fire protection under an agreement in writing that the water supply may be discontinued temporarily or permanently by Council.

(b) When a development has been approved that includes a car wash facility, a recycle component shall be installed, operated and maintained as part of the system, with a capacity to reclaim a minimum of forty (40) percent and further shall be subject to Town approval.

- 4.3 Unless otherwise authorized by Council or the Engineer, the water supply to any premises shall be measured by a water meter, as regulated under Section 5 of this By-law.
- 4.4 The water supply shall be regularly tested in accordance with the *Clean Water Act*, R.S.N.B. (1973) Chapter C-6.1 and amendments thereto, and Approvals to Operate issued from time to time
- 4.5 The locations, elevations, materials and methods of installation for all public and private water mains, service pipes and appurtenances shall be approved by the Engineer prior to their construction.
- 4.6 The Owner shall use construction methods which safeguard the public and private property and work shall be carried out in strict compliance with the *Occupational Health and Safety Act*, R.S.N.B. (1983), Chapter O-0.2 as amended.
- 4.7 No person, being an Owner, tenant, or occupant of a house, building or other place within the Town supplied with water by the Town shall, without permission of Council or the Engineer:
- (a) lend or sell the water;
 - (b) give water away or permit it to be taken or carried; or
 - (c) use or apply it to the use or benefit of any other person.
- 4.8 The Town shall not be liable for any damage or injury caused or done by reason of the interruption of water supply, water system operation, water pressure or its variation, or drawing of a vacuum on the water system.
- 4.9 No person shall open or in any way interfere with any hydrant in the Town without approval of the Engineer; or in the case of Fire Department use, the Fire Chief or his designate.
- 4.10 The Engineer shall have right of access to all parts of an Owner's property or premises at all reasonable hours for the purpose of inspecting any water pipes, fittings or appliances. The Town shall have the right to suspend water service to any Owner who refuses such access or does not respond to requests by the Engineer for such access.
- 4.11 Water supply may be refused or discontinued at any time for:
- a) non-payment of water user charges;
 - b) non-payment of a water connection charge;
 - c) non-payment of any repair or maintenance related charge;
 - d) failure, in the opinion of the Engineer, of the plumbing, pipes, fittings, vents, fixtures or other related devices on the premises necessary to comply with the requirements of this By-law or if any part of the water system of such premises is in any way unsuitable, dirty, unsanitary or in an inaccessible place;

- e) violation of any provision of this By-law; or
 - f) the convenience of, and at the request of, the Owner and occupier of the premises,
 - g) use above quarterly limit of 800 cubic meters per quarter.
- 4.12 Where a water supply has been discontinued under Section 4.11, the Owner shall pay a disconnection fee, together with any amount in arrears and furthermore, a reconnection fee shall be paid before such supply will be restored. Said fees are outlined in Schedule “E”.
- 4.13 No connection shall be made to the water system for the purpose of taking water therefrom except under the direct supervision of the Engineer.
- 4.14 Where maintenance of a sprinkler system or other fire fighting system requires the removal of unmetered water from the water system, the Owner shall obtain prior permission from the Engineer and shall notify the Fire Department dispatch personnel.
- 4.15 The Owner of any building situated upon land abutting a street, right-of-way or public place wherein there is a water main shall install in such building, connections with such water main and such apparatus and appliances as may be required in the opinion of the Engineer, to ensure the proper sanitary conditions of the premises and surrounding or adjacent properties.
- 4.16 No person shall make a connection to any water main of the Town unless a permit has been issued pursuant to this By-law, in the form as set out in Schedule “A”. All installations shall be in accordance with the requirements of the “Specifications For Developers”.
- 4.17 Water shall not be supplied from the water system to any Owner’s water system unless the Owner’s water system and related plumbing is protected from frost and is approved by the Engineer, and all costs and expenses incident to the installation and connection to the water system shall be borne by the Owner.
- 4.18 Every service connection to a premises shall have a stop drain shut-off valve, of a type approved by the Engineer, in an accessible position immediately inside the wall of the premises at the service entrance.
- 4.19 When an Owner’s water system is found to have been installed in an unworkmanlike manner or in a manner insufficiently strong to resist the pressure to which it may be subjected or where water service pipes are not sufficiently protected from frost or where a person supplied with water has violated any provision of this By-law, the Engineer may direct that the water supply be discontinued until such Owner’s water system is properly installed and approved and the person supplied has complied with the provisions of this By-law.

- 4.20 Where an Owner's water system requires a pressure reducing valve to control excess pressures, such valve, installation and related costs shall be the responsibility of the Owner, with said installation subject to approval of the Engineer.
- 4.21 No Owner or other person shall connect, cause to be connected, or allow to remain connected, any piping, fixture, fitting, container or appliance, in a manner that, under any circumstances, could allow water, waste water, or any other substance to enter the Town's water system. The determination of whether or not such condition exists shall be made solely by the Engineer.
- 4.22 No person shall connect any of the following to a service connection, or a line connected to a service connection, without obtaining a permit from the Engineer:
- a) a booster pump;
 - b) a quick opening or quick closing valve;
 - c) a flush valve;
 - d) a heat pump;
 - e) a standpipe;
 - f) a large outlet which may occasion sudden large demands of short or long duration thereby requiring oversize pipe lines; or
 - g) any device which may affect the stability or regulation of water pressure in the water system.
- 4.23 An application for a permit to install a device such as described in Section 4.22 shall be made in the form as set out in Schedule "B" and shall be accompanied by plans and specifications and such other information as required by the Engineer to properly describe the work.
- 4.24 If a condition is found to exist which in the opinion of the Council or the Engineer, is contrary to Sections 4.21, 4.22 or 4.23 hereof, Council may either:
- a) shut off the service or services; or
 - b) give notice to the Owner to correct the fault within a specified period.
- 4.25 No person shall allow an alternate source of water supply to be connected to the water system.
- 4.26 In all new construction, where water hose connections are installed for purposes other than fire protection, such hose connections shall be fitted with atmospheric vacuum breakers.
- 4.27 Water services shall be discontinued by resolution of Council to any premises declared unfit for human occupation.

5. METERED WATER

- 5.1 All water meters installed by the Town or for the Town are and shall remain the property of the Town.

- 5.2 The rental of the water meter shall be a one-time charge, payable in one payment or quarterly for a period of three years, in accordance with the rates as outlined in Schedule “E”.
- 5.3 All new construction within the Town, where services are available, shall be required to have a water meter installed prior to activation or delivery of any water to the premises. Said installation shall be in accordance with the Standards and Requirements as set out in Schedule “C”.
- 5.4 Where the premises are connected to a private distribution system, the Owner shall provide for a metering vault.
- 5.5 Every Owner shall provide a place for a water meter which place, in the opinion of the Engineer, is suitably located within the building at or near the point of entry of the water service pipe and on the Owner side of the shut-off valve, so the meter can be easily read and will not be exposed to freezing temperatures.
- 5.6 Every Owner shall provide a place for a remote meter reading device that shall be located on the exterior of the building. This remote meter reading device shall be connected to the meter by means of a wire conductor.
- 5.7 Where the premises of a Owner are of such a nature that a meter cannot be properly installed in a building, or if the building is not sufficiently frost proof as to guarantee the safety of the meter, the Engineer may order the Owner to construct an approved frost proof chamber in which the meter can be installed.
- 5.8 Where the required meter is larger than 20mm nominal pipe diameter, or services more than one above ground floor, it shall be valved on both sides. Where the required meter is larger than 20mm nominal pipe diameter, or where the required meter is a turbine type, or compound type, the Owner shall provide a valved bypass arrangement, designed and installed to the satisfaction of the Engineer, to enable testing and servicing of the meter.
- 5.9 The Engineer shall have right of access to all parts of an Owner’s property or premises at all reasonable hours for the purpose of installing, removing, repairing, reading, testing or inspecting meters or outside registers. The Town shall have the right to suspend water service to any Owner who refuses such access or does not respond to requests by the Engineer for such access.
- 5.10 No person shall remove or in any way interfere with any water meter affixed to a water service of the Town without approval of the Engineer.

- 5.11 The Owner shall be responsible for the meter on his service pipe and shall protect such water meter. The Owner shall be liable for any damage to the meter or outside register resulting from carelessness, hot water, steam, or the action of frost or any other cause not the fault of the Town or its agents and employees. The cost to the Town occasioned by the damage to the water meter or outside register shall be paid by the Owner. If, after the rendering of an invoice by the Town to the Owner for the cost, the invoice is not paid within thirty (30) days from the date rendered, the supply of water to the premises may be suspended until all charges are paid.
- 5.12 Meters shall be read every quarter and the water user charge shall be invoiced in accordance with Section 7 of this By-law.
- 5.13 Where an Owner requests a Town-owned water meter be tested for accuracy, a fee, as outlined in Schedule "E", shall be paid prior to the test being conducted. Such fee may be refundable only if the tested meter is found to register volumes higher by more than four percent (4%) of the standard test. The Owner may choose to be present during testing and the meter shall be tested in accordance with the "Statement of Standard Procedure, Settlement of Disputes", as set out in Schedule "D".
- 5.14 Where an Owner, or an Owner's agent, requests that the water meter be read at any time other than the time that it is normally read, the Owner shall be liable to pay a fee, as outlined in Schedule "E".

6. MAINTENANCE AND BLOCKAGE

- 6.1 The main line of the water system shall be maintained and operated by the Town.
- 6.2 The service connection from and including the curb stop at the property line to the main line of the water system shall be maintained and operated by the Town.
- 6.3 The service connection from but NOT including the curb stop at the property line to the building, and all fixtures, piping and appurtenances within the building shall be maintained and operated by the Owner.

7. RATES

- 7.1 Every Owner of land on which any building is situated that:
- (a) fronts on any street, right-of-way or highway in which a water line is situated;
 - (b) fronts on any right-of-way which connects to a street or highway in which a water line is situated; or
 - (c) Council has ordered connected to a water system;
- shall pay to the Town a "Water User Charge" for the construction, operation and maintenance of the water system of the Town, as outlined in Schedule "E".

- 7.2 The “Water User Charge” shall be comprised of:
- (a) a fixed charge that shall be billed to each Owner of property connected to, or who has access to the system,
 - (b) a consumption charge based on the volume of water recorded by the meter on the service or as estimated in a manner approved by Council, and
 - (c) an annual stand-by charge for such buildings that are connected to the Town water system and are equipped with water sprinkler systems.
- 7.3 The fixed charge portion of the “Water User Charge” shall be set in accordance with the meter size and shall be reviewed periodically and approved by Council. Consumption rates per cubic meter and the annual stand-by charge shall be as outlined in Schedule “E”.
- 7.4 The “Water User Charge” shall be invoiced quarterly, including the fixed charge and consumption charge.
- 7.5 Owners who choose not to connect to the water system, when access to the system is available, shall be invoiced the fixed charge portion of the “Water User Charge”.
- 7.6 The water user charge payable by the Owner shall be paid to the Town on or before the end of the calendar month next following the date the invoice is mailed to such Owner and shall be payable whether or not the invoice is received by the Owner. If the account is not paid in full, the amount owing to the Town shall bear interest at a rate as outlined in Schedule “E” and such rate of interest shall be set forth on the invoice. A fee shall be charged to the account for “NSF” cheques, as outlined in Schedule “E”.
- 7.6.1(a) Where recommended by the Committee, the Town Manager may authorize a payment schedule for any account with an outstanding balance that includes at least five hundred dollars (\$500.) that is in arrears for longer than one year.
- (i) Such payment schedule may be for a period of no longer than twenty-four (24) months and shall provide for payment of the outstanding balance including interest accrued to the date of the payment schedule as well as estimates of the new charges that would accrue during the payment period. The payment schedule may provide that, should the Owner make all payments due in accordance with the payment schedule, interest that would otherwise accrue on the outstanding balance during the payment period will be waived.
 - (ii) In exceptional circumstances and with the approval of Council, a payment schedule may exceed twenty-four (24) months.
- (b) Where the Owner fails to make any payment by the date specified in the payment schedule, the full amount will become due and payable forthwith, including interest compounded in the normal fashion as if no payment schedule had ever been approved.

- (c) An Owner remains obligated to pay to the Town actual new charges incurred during the payment period and not merely estimates that may have been included in a payment schedule.
- (d) The authorization of a payment schedule in accordance with Section 7.6.1 subsection (a) is merely an accommodation to an Owner by the Town and does not reduce or affect, except to the degree specifically stated in section 7.6.1, the rights of the Town including, without limitation, its rights to accrue and collect the charges and interest thereon due from an Owner to the Town under this By-law or to disconnect service to a property.
- 7.7 If the account or any part thereof remains unpaid at the end of the period hereinbefore mentioned, the Town may sue in its own name to recover the balance owing, including interest, as if the said amount were a debt due from the Owner to the Town.
- 7.8 After ten days notice in writing has been given to an Owner who is in arrears, which notice may be given by registered mail addressed to the Owner, postage prepaid, and without prejudice to any other rights which the Town may have, the Town may disconnect service to the property until such time as the account and the entire cost of disconnecting and reconnecting the service have been paid in full or arrangements for payment satisfactory to Council and approved in writing by the Town Manager have been made by the Owner.
- 7.9 For the purposes of this By-law, a water line has been installed when the Engineer has certified to Council that the system or project of which the water line forms part is substantially complete.
- 7.10 Water user charges shall be levied on the Owners of all properties liable to pay the same commencing at the beginning of the calendar year following the year in which a water line has been installed or the year in which a building on the property has been connected to the water system, whichever is earlier.

SYSTEM ACCESS FEES

- 7.11 Every person connecting to the water system shall pay a meter connection permit fee and water system access fee as outlined in Schedule "E.. The fees shall include all inspection fees and charges associated with processing of the application, control and enforcement of "Specifications for Developers" and shall be paid in full prior to the issuance of a building permit.
- 7.11.1 The Engineer, following standard practices and engineering principles shall have discretion as to the size of the meter required.

- 7.12 The meter connection permit fee and water system access fee bear interest and may be collected in the same manner as the water user charge hereinbefore mentioned.
- 7.13 Nothing in this By-law makes the Town responsible for any part of a water connection that is not in a public street, right-of-way, highway or water easement.

8. PENALTIES

- 8.1 Any person found violating any provision of this By-law or who suffers or permits any act or thing to be done in contravention or violation of any provision thereof, or neglects or fails to do any act or thing herein required, is liable to a fine as may be imposed for commission of an offence punishable under Part II of the *Provincial Offences Procedure Act*, R.S.N.B. (1973), Chapter P-22.1, and amendments thereto, as a Category C offence.
- 8.2 The provisions of Sections 7 and 8 are cumulative and optional and one or more of the remedies provided to the Town may be undertaken simultaneously at the option of the Town.

9. SEVERABILITY

If any part of this By-law shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this By-law.

10. BY-LAWS REPEALED

By-laws 2-00, 8-01 and 10-02 relating to the Rothesay water system are hereby repealed.

11. EFFECTIVE DATE

This By-law comes into effect on the **1st day of January 2005**.

FIRST READING BY TITLE : 8 November 2004

SECOND READING BY TITLE : 10 January 2005

READ BY SECTION NUMBER : 14 February 2005
(Advertised as to content on the Rothesay website in accordance with *Municipalities Act* R.S.N.B. (1973) Chapter M-22)

THIRD READING BY TITLE AND ENACTED : 14 February 2005

MAYOR

CLERK