

The Corporation of the Town of Essex

By-Law Number 2303

Being a By-Law to provide for the Regulation of Water Supply in the Town of Essex

WHEREAS the Municipal Act, 2001, S.O. 2001, C.25, as amended, provides that municipalities may acquire, establish, maintain, and operate water works;

WHEREAS the Municipal Act, 2001, S.O. 2001, C.25, as amended, provides that By-Laws may be passed by Council for the maintenance and management of water works;

AND WHEREAS the Town controls, manages and maintains the Waterworks and Council deems it expedient to enact this By-Law to provide for the construction, maintenance, management, and control of the Waterworks;

NOW THEREFOERE be it resolved that Council hereby enacts as follows:

PART 1 – DEFINITIONS

For the purposes of this By-Law:

“Abutting Property” means a property which lies next to any road, street or easement;

“Auxiliary Water Supply” means when applied to Premises, any water supply on or available to the Premises other than the Town of Essex supplied Water for the Premises;

“Backflow” means the flowing back or reversal of the normal direction of flow of water;

“Backflow Prevention Device” means a device, certified to the CSA standard, the prevents Backflow;

“Contractor” means a person, firm or corporation who contracts to undertake the execution of work commissioned by an Owner or the Town to install or maintain watermains, services, hydrants and other appurtenances;

“Cross Connection” means any actual or potential connection between a potable water supply or system and any source of pollution and any temporary or permanent connecting arrangement through which backflow may occur;

“Corporation” includes a company, corporation, cooperative, partnership, firm, sole proprietorship, association, society, organization, any other legal entity that is not an individual;

“Council” means the Council of the Town;

“Customer” means any Person who receives Water or Water related services from the Town;

“Director” means the Town’s Director of Infrastructure, the holder of a successor position at the Town, or their designates as may be assigned from time to time;

“ICI” means Industrial, Commercial, and Institutional Premises;

“MECP” means the Ontario Ministry of the Environment, Conservation and Parks;

“Meter” means the Water Meter supplied and owned by the Town to measure the quantity of Water used by the Customer;

“Meter Chamber” means any exterior pit and/or chamber approved by the Town for the purpose of housing a Meter;

“OBC” means the Ontario Building Code;

“Officer” means a person appointed by Council, the Director, or By-Law officer assigned the responsibility administering and enforcing this By-Law. It also includes any police or peace officer appointed under the *Police Services Act, R.S.O. 1990, c.P.15*;

“Owner” means any Person who is the registered or beneficial owner of real property or who leases, rents, occupies, maintains, manages, receives rent from or otherwise controls real property;

“Permit” means a permit issued by the Town in accordance with Town of Essex By-Law 2219 for the Protection and Regulation of Town Highways, as amended;

“Permit Holder” means the Person to whom a Permit has been issued, or transferred to with the consent of the Director;

“Person” means any Person, firm or Corporation having control over real property to which this By-Law applies and includes the Owner of any building located on such real property;

“Plan of Subdivision” means a legal document that shows the exact surveyed boundaries and dimensions on which houses or buildings are to be built, the location of streets and the sites of any schools, public facilities or parks;

“Premises” means any building, tenement property or lot to which Private Service runs;

“Private Fire Service” means a pipe connected to a watermain and installed on private property for the sole purpose of fire suppression, sole ownership belongs to the registered or beneficial real property owner;

“Private Hydrant” means a fire hydrant installed on private property, sole ownership belongs to the registered or beneficial real property owner;

“Private Meter” means a water meter supplied and owned by a property owner;

“Private Service” means the portion of the Water pipe from the property line into the building, for which the Owner is responsible;

“Sanitary Sewer” means a system of underground piping that conveys sewage from properties to a wastewater treatment facility;

“Service Valve” means the valve on the service pipe owned by the Town to turn off or turn on the Water from the Waterworks system to any Premises;

“Town” means the Corporation of the Town of Essex and any agent or contractor retained or approved by the Corporation of the Town of Essex to perform work on its behalf;

“Water” means potable water supplied by the Town;

“Water Service” means the pipe and fittings that convey Water from a connection on a watermain to the private property line, including the Service Valve;

“Waterworks” means any works for the collection, production, treatment, storage, supply, transmission and distribution of Water by the Town, or any part of any of this including the Water Service but does not include Private Services.

PART 2 – INTERPRETATION

1. Headings are for reference purposes and shall not affect in any way the meaning or interpretation of the provisions of this By-Law.
2. If any section, clause, sentence or provision or any part or parts thereof of this By-Law is declared by any court of competent jurisdiction to be invalid, illegal, or ultra-vires, such section, clause, sentence or provision or part or parts thereof shall be severable and shall not affect the validity of any other section, clause, sentence, provision, or part of this By-Law.
3. Where the context of this By-Law requires, singular terms shall be considered plural, and plural terms shall be considered singular.

PART 3 – SCOPE OF BY-LAW

4. This By-Law applies to all properties and buildings serviced by the Waterworks.

PART 4 – USE AND RECEIPT OF WATER

5. No Person shall use, cause, or permit Water supplied by the Town to be used other than in or on the Premises at which it is supplied.
6. No Person shall sell or resell Water supplied to them by the Town without the prior approval of the Town.
7. No Person shall obtain Water without paying the applicable charges, fees or rates for that Water.
8. No Person other than a Person authorized by the Town shall be permitted to open or otherwise interfere with or operate or take Water from any fire hydrant.
9. No Person shall hinder access, block, cover, plant or otherwise interfere with the visibility or access to a fire hydrant.
10. No permanent or temporary obstruction, including but not limited to vegetation, landscaping, or personal property shall be placed or planted within one (1) metre of a fire hydrant.
11. Section 8 through 10 of this By-Law do not apply to:
 - (a) Any member of the Town's fire department using Water for fire fighting purposes; or
 - (b) Any person the Town assigns to work on the Waterworks, acting in the course of their assignment.
12. Any contractors requiring Water for construction purposes may contact the Director to arrange a Town owned Backflow Prevention Device to be installed on a hydrant. Requests for such Backflow Prevention Device will be approved or denied on a case-by-case basis. All applicable fees and charges, as determined by the Director, will be applied to the contractor as per the Town's Fees and Charges By-Law, as amended from time to time.
13. No unauthorized Person shall open or close a valve or remove, tamper with or in any way interfere with any valve, Service Valve, Meter, structure, watermain, Water Service, or any other part of the Waterworks.

14. No Person shall use any Water supplied through a Private Fire Service for purposes other than fire protection or fire prevention.
15. The Town may, in its sole discretion, discontinue supplying Water to any Premises where there is known to be a leak that is not being remedied in a timely manner, or where a Private Service poses a health risk to the users of the Waterworks.

PART 5 – APPLICATION FOR WATER SERVICE

16. All Water Service applications shall be submitted and installed in accordance any applicable Permit and with Town of Essex Policy #052 for 'Property Servicing within the Town of Essex', as amended from time to time.
17. Any Private Service installations or Waterworks extensions shall be conducted in the manner prescribed by the Director, acting reasonably, and in consideration of all applicable laws and regulations.
18. All Private Services shall be:
 - (a) Constructed in accordance with the OBC;
 - (b) Constructed in accordance with good engineering practices; and
 - (c) Approved by the Town before construction begins, and inspected by the Town's Building Department after construction is completed.
19. If a Person connects a Premises to the Waterworks in a manner other than as approved by the Town, the Town may;
 - (a) Require the Owner or Contractor to re-excavate the connection for inspection and testing and, if the Town considers it necessary, may require the Owner to reinstall or repair the connection to be in full compliance with the Town requirements, all at the expense of the Owner; and
 - (b) Shut off or disconnect the Water supply until the Owner is in full compliance with the Town requirements, all at the expense of the Owner.
20. No Water Service shall be connected inside a Premises that is also connected to an Auxiliary Water Supply.
21. All Water Service pipe and related equipment installed on public property shall be inspected by a qualified Town representative.
22. No Person shall install or cause the installation of a Water Service that services more than one Premises without written permission from the Director.
23. No Person shall connect a Water Service into a Town Waterworks without prior approval from the Town.
24. For all new ICI construction requiring a Water service and Private Fire Service, only one tap shall be attached to the watermain. The Private Fire Service and Water service shall separate on private property in accordance with the Town's Development Standards Manual, as amended from time to time.
25. For all new construction, only one Water Service and one Meter will be supplied by the Town per Premises, at the Owners expense.
26. If an existing Water Service is to be replaced, such existing connection shall be disconnected at the watermain at the same time as the new connection is installed, all at the expense of the Owner.

27. Only the Town shall tap a watermain and such shall be done with a qualified Town representative present.
28. The Owner is responsible for payment of all costs associated with installing a Water Service, including excavation, restoration and the water tap.
29. The installation of the Water Service shall not be scheduled or commenced in any way until all applicable applications and payments have been made.

PART 6 – DISINFECTION, SAMPLING AND TESTING

30. No Person shall connect or permit to be connected to the Waterworks until after the Private Service has been flushed, disinfected and tested in accordance with MECP “Watermain Disinfection Procedure”.
31. All costs of the procedure required by section 30 of this By-Law will be paid by the Owner at their sole expense.

PART 7 – MAINTENANCE OF PRIVATE WATER AND FIRE SERVICES

32. The Town shall maintain Water Service stubs and Service Valves up to the property line of a Premises at the Town’s sole expense.
33. The Owner shall, at their sole expense, keep all of the parts of a Private Service on their Premises in good working order and repair at all times.
34. The Owner shall, at their sole expense, repair any leak, defect or malfunction in, of or on the Private Service on the Owner’s Premises, including valves, fittings or corroded piping, as soon as possible after becoming aware of them.
35. All maintenance on private systems will be at the expense of the Owner.
36. Every Owner of Premises shall ensure that all Private Services, plumbing and appurtenances on those Premises are fully protected from freezing.
37. An Owner is solely responsible for the costs to repair any damage incurred from freezing of any Private Service, plumbing, and appurtenance on the Owner’s Premises.
38. The Town will not assist with thawing of frozen pipes/lines on private property.

PART 8 – PRIVATE HYDRANT MAINTENANCE

39. No Person shall connect, cause to be connected, or allow to remain connected, any piping, fixture, fitting, container or appliance to a privately owned fire hydrant, which under any circumstances, may allow water, wastewater or any liquid or substance to enter the Waterworks.
40. No Person shall in any way interfere with any part of a privately owned fire hydrant.
41. No Person shall obstruct the free access to any Private Hydrant.
42. Every Owner shall ensure that all its privately owned fire hydrants are installed and maintained according to:

- (a) *The Ontario Fire Code;*
- (b) *The Building Code Act;* and
- (c) *NFPA 24 – Installation of a of Private Fire Service Mains and their Appurtenances.*

- 43. The Town owns and shall maintain any fire hydrant situated on Public Property.
- 44. A Private Hydrant shall be maintained at the sole expense of the Owner of the real property on which such privately owned fire hydrant is located by a contractor engaged by the Owner.
- 45. Every Owner of a Private Hydrant shall retain a qualified inspector to prepare and submit to the Town's Fire Department, annually, an inspection report to the satisfaction of the Town, in its sole discretion, for each such hydrant.
- 46. The Chief Fire Official of the Town or his/her designate, may issue a notice requiring the Owner of the real property on which a privately owned fire hydrant is located to:
 - (a) Carry out any recommendations in the inspection report; and/or
 - (b) Complete any other requirements they consider necessary for full compliance with this By-Law.

PART 9 – CROSS CONNECTION AND BACKFLOW

- 47. All Cross Connection and Backflow shall be installed/maintained as per By-Law Number 1713 "Cross Connection Control and Backflow Prevention", as amended from time to time.

PART 10 - METERING, RATES AND CHARGES FOR WATER

- 48. Every Customer or Owner in the Town who receives Water shall create an account with the Town and shall pay the Water and Sanitary Sewer charges set by Council, as amended from time to time.
- 49. The procedure for which the Town shall charge for Water supply and Sanitary Sewer charges is outlined in Policy No. 2023-04, "Water Billing and Collection Policy", as amended from time to time.
- 50. Other than for Town firefighting purposes, only a person authorized by the Town shall use or permit the use of Water that has not passed through a Meter.
- 51. The Town shall supply the Meter for the Premises to which a Water Service connection is provided, at Owner's sole expense.
- 52. For residential Meters, the Town shall supply connection fittings and Meter flanges up to 50mm in diameter, at the Owner of such residence's sole expense.
- 53. For ICI, the Owner of the ICI or a contractor working on behalf of the Owner shall be responsible for supplying the connection fittings, Meter flanges and any other required appurtenance, all at the sole expense of the Owner.
- 54. Every Owner of Premises supplied with Water by the Town shall at the sole expense of such Owner have a Meter installed and in use at that Owner's Premises.
- 55. The Premises Owner may determine its Meter size, subject to the Town's right to modify the Meter sized to align with the range of flow to the Premises.

56. Any Person who uses Water in contravention of this By-Law, shall be billed the applicable fees and charges of Water used, as determined by the Director.
57. Every Owner shall, at reasonable times and on reasonable notice, provide the Town with unobstructed access to that Owner's Premises to permit the Town to install, remove or perform work of any kind on a Meter.
58. For the purposes of section 57 of this By-Law, such Owner shall ensure the location of the Meter is accessible, including access without a ladder or climbing device.
59. No Person shall alter or tamper, or permit someone else to alter or tamper, with any Meter or otherwise interfere with the proper registration of quantity of Water that should pass through a Meter.
60. If the Town determines that a seal on a by-pass valve or Meter serving a Premises has been tampered with or broken, the Town may chain and lock the by-pass valve in the closed position or remove such by-pass valve and reseal such Meter, at the sole expense of the Owner of such Premises.
61. The Town will replace at its own expense, any Meter it finds to be defective or past its useful life.
62. The Owner of a Premises shall pay the cost of replacing or repairing, as determined by the Director, any Meter that is lost, stolen or damaged (including freezing) in the amount specified in the Town's Miscellaneous Fees and Charges By-Law, as amended from time to time.
63. On all new residential and ICI, the Town shall supply only one Meter per Premises, at the Premises Owner's expense.
64. The Town will not install, inspect or read Private Meters, or bill consumption based on Private Meters. All Private Meters must be connected downstream of Town owned Meters.
65. At any Premises where a Meter is to be installed, the Owner shall provide space for the Meter in a location approved by the Town without any obstructions.
66. A Meter shall be installed prior to any occupancy of a new or substantially renovated Premises.
67. All new construction on an ICI shall have the Meter installed in a Meter Chamber/Pit close to the property line, as approved prior to in writing by the Town, at such ICI Owner's expense.
68. No Owner shall obstruct or permit the obstruction of a Meter Chamber.
69. Every Owner shall be responsible for maintaining, repairing and replacing any Meter Chamber containing a Meter for the Owner's Premises and for keeping it in a safe condition, as determined by the Director.
70. Ninety (90) days after the issuance of any building permit and where Water servicing is provided to the Premises, but the Meter is not installed, a monthly flat rate fee, in accordance with the Town's Fees and Charges By-Law, as amended from time to time, will be applied to such Premises Owner's account during the construction period.
71. The Owner of a Premises is responsible for pre-Metered and post-Metered Water loss from leaks or breaks that occur in the Private Service. The Director shall determine the volume of Water loss and charge for the Water loss at such Premises Owner's

expense.

72. Consideration may be given to reducing Sanitary and/or Water consumption billing as per Policy No. 2023-04 "Water Billing and Collection Policy", as amended from time to time.

PART 11 - ORDERS AND POWERS

73. The Director shall have all powers necessary to carry out the administration and enforcement of this By-Law, including without limitation, issuing orders. For clarity, where Part 11 of this By-Law provides that the Town may take any action or do anything:
 - (a) the action or thing may be taken or done at the direction of the Director, unless this By-Law specifies otherwise;
 - (b) the Director may enlist such forces as deemed appropriate to undertake that action or thing, including without restriction, third party contractors, agents or suppliers of goods and services.
74. Where the Town has reason to believe that any Person is or will be in contravention of this By-Law, or any term or condition of a Permit, the Town may issue a Stop Work or such other order directing the activities to cease immediately upon service of the order on the Person or Persons listed in the order.
75. Where the Town has reason to believe that any Person is in contravention of this By-Law, or any term or condition of a Permit, the Town may issue an order or such other order(s) directing the Person to take such actions as are necessary to comply with this By-Law or the Permit as the case may be, within ten (10) business days of the service of the order upon the Person listed in the order.
76. Where the Town has reason to believe that a contravention of this By-Law or any term or condition of a Permit, which may result in the issuing of an order, poses a risk to public health or safety, the order may provide that the actions set out therein be taken immediately.
77. Any Person to whom an order is issued pursuant to this By-Law shall comply with the terms of such order.
78. Where the Person to whom a work order is issued fails to perform the work required by the order within the time stipulated in the order, the Town may without further notice perform such work as it deems appropriate.
79. The Town at any time may without issuing an order, and without notice:
 - a) disconnect the Premises from the Waterworks by shutting off the Service Valve at the property line.
 - b) remove, repair, remedy or alter any Private Service, Waterworks, or appurtenance for which authorization from the Town has not been issued; or
 - c) remove, repair, alter or take any other corrective action or work with respect to anything that has not been constructed, repaired, undertaken, stored, placed or deposited in accordance with this By-Law.
 - d) The decision to act pursuant to this section shall be at the sole discretion of the Director.
80. Any Person the Town reasonably determines is in contravention of this By-Law or any term or condition of any Permit may be subject to such fines, fees or charges as may be assessed by the Town and shall be jointly and severally responsible for all costs of the Town incurred in the exercise of the powers thereunder, including

administrative costs and interest. Such fines, fees, charges or costs, as determined by the Director, shall constitute a charge under the *Municipal Act, 2001, S.O. 2001, c. 25* as amended, and may be added to the tax roll and collected in the same manner as taxes relating to property Owner or other Person in the manner provided for therein.

PART 12 - SERVICE

81. An order may be served by any of the following means:
- (a) delivered personally;
 - (b) emailed to the last known email address of the Person to whom the order is directed;
 - (c) deposited in the mailbox or mail slot of the Person to whom the order is directed;
 - (d) sent by prepaid regular mail to the last known address of the Person to whom the order is directed; or
 - (e) sent by registered mail to the last known address of the Person to whom the order is directed.
82. Where service is affected by:
- (a) regular mail, it shall be deemed to be made on the tenth (10th) day after the date of mailing;
 - (b) registered mail, it shall be deemed to be made on the fifth (5th) day after the date of mailing;
 - (c) any other means, it shall be deemed effective on the day the document served was delivered, posted, emailed or deposited;
 - (d) service by multiple means, it shall be deemed effective on earliest applicable date set out in Subsections (a) through (c) of this section 82 of this By-Law.

PART 13 - ENFORCEMENT

83. For the purpose of ensuring compliance with this By-Law, the Director or an Officer may, at all reasonable times, enter upon and inspect any Premises to determine whether or not the following are being complied with:
- (a) this By-Law;
 - (b) a direction or order made under this By-Law; or
 - (c) a prohibition order made under s. 431 of the *Municipal Act, 2001*.
84. An Officer may, for the purposes of ensuring compliance with this By-Law:
- (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) require information in writing or otherwise as required by the Officer from any Person concerning a matter related to the inspection; or
 - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
85. Any cost incurred by the Town in exercising its authority to inspect, including but not limited to the cost of any examination, test, sample or photograph necessary for the purposes of the inspection, shall be paid by the Owner of the property where the inspection takes place.

86. An Officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the *Municipal Act, 2001* where he or she has been prevented or is likely to be prevented from carrying out an inspection under Section 83 this By-Law.
87. No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer from carrying out inspections of land to ensure compliance with this By-Law.

PART 14 - OFFENCES AND PENALTIES

88. Every Person who contravenes any provision of this By-Law or an order issued pursuant to this By-Law is guilty of an offence, and, upon conviction is liable to a fine or penalty in accordance with the provisions of the By-Law.
89. Every Person who contravenes any provision of this By-Law, and every director or officer of a Corporation who concurs in such contravention by the Corporation, is guilty of an offence and is liable to a fine, as provided for in the Provincial Offences Act, R.S.O. 1990, c.P.33, and/or such other penalties including such administrative penalties as may be provided for by this By-Law and the *Municipal Act, 2001*, as both may be amended from time to time.
90. In addition to section 88 and 89 of this By-Law, any Person who contravenes any provision of this By-Law is guilty of an offence and on conviction is liable to a fine to the maximum allowable under the *Provincial Offences Act*.
91. Where a contravention of a provision of this By-Law or an order is committed on or continues for more than one day, the Person who commits it is liable to be convicted for a separate offence for each day on which it is committed or continued. For clarity, in the case of an order, a contravention continues for every day or part of a day past the date set out in the order by which the work must be complete, or action taken, as the case may be.
92. Where a contravention of this By-Law has occurred, the Owner or Permit Holder may be charged with and convicted of an offence for which any Person subject to this By-Law may be charged and, on conviction, the Owner is liable to pay the penalty prescribed for the offence.
93. Pursuant to Section 431 of the *Municipal Act, 2001, S.O. 2001, c. 25*, if a Person has been convicted of an offence under this By-Law, a court of competent jurisdiction may, in addition to any penalty imposed on the Person convicted, issue an order:
 - a) prohibiting the continuation or repetition of the offence by the Person convicted; and
 - b) requiring the Person convicted to correct the contravention in the manner and within the period that the court considers appropriate.
94. If a Person is required to pay an administrative penalty under this By-Law in respect of a contravention of this By-Law, the Person shall not be charged with an offence in respect of the same contravention.
95. In accordance with Section 398(2) of the *Municipal Act, 2001, S.O. 2001, c. 25*, the Town may add unpaid fees, charges, and fines under this By-Law to the tax roll and collect them in the same manner as municipal taxes.

PART 16 - SHORT TITLE

96. This By-Law may be cited as the "Water Supply By-Law".

PART 17 – REPEAL

97. By-Law Number 729 and all amendments thereto are hereby repealed upon the final passage of this By-Law.

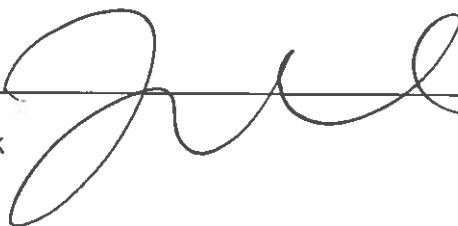
PART 18 - EFFECT

98. This By-Law shall come into full force and effect upon the final passing thereof.

Read a first, second, and third time and finally passed on January 15, 2024



Mayor



Clerk

THE CORPORATION OF THE TOWN OF ESSEX

SCHEDULE "A" TO BY-LAW NUMBER 2303

PART 1 PROVINCIAL OFFENCES ACT

By-Law Number 2303: Being a by-law to Provide for the Regulation of Water Supply in the Town of Essex

Item	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1	Unauthorized use of water	Section 5, 6, and 50	\$1,000
2	Unauthorized use of a fire hydrant	Section 8 and 39	\$1,000
3	Blocking a fire hydrant	Section 9, 10, 40, and 41	\$1,000
4	Unauthorized use of a fire hydrant for construction	Section 7 and 12	\$1,000
5	Unauthorized use of the water system	Section 13	\$2,000
6	Tampering with a water meter	Section 13 and 59	\$500
7	Theft of water	Section 22, 50, and 60	\$500
8	Unauthorized use of a fire service	Section 14	\$1,000

The general penalty provision for the offences indicated above is section 88 of By-Law Number 2303, a certified copy of which has been filed.