

**Authority:** Item 17, Public Works Committee  
Report 07-011  
(TOE02005(b)/PED07248)  
CM: September 26, 2007  
Ward: 12

**Bill No. 065**

## **CITY OF HAMILTON**

### **BY-LAW NO. 22-**

#### **To Impose a Sanitary Sewer Charge Upon Owners of Land Abutting Springbrook Avenue from Approximately 24.5 metres South of Lockman Drive to Approximately 17 metres South of Regan Drive, in the City of Hamilton**

**WHEREAS** the Council of the City of Hamilton authorized recovering a portion of costs associated with the construction of a sanitary sewer on Springbrook Avenue from approximately 24.5 metres south of Lockman Drive to approximately 17 metres south of Regan Drive, in the City of Hamilton, by approving, on September 26, 2007, Item 17 of Public Works Committee Report 07-011(Report TOE02005b/FCS02026b/PED07248); and approving, on June 11, 2007, Item 5 of Committee of the Whole Report 07-020, and the OMB approved the said cost recoveries by issuance of Decision No. 2034 on July 18, 2007;

**AND WHEREAS** Landmart Realty Corp, in satisfaction of terms and conditions of a Subdivision Agreement dated the 10th day of September 2007 and registered the 11<sup>th</sup> day of October 2007, as well as the conditions imposed in accordance with the approval of Draft Plan of Subdivision "Meadowlands Phase 10" constructed certain Sewer Works, in the City of Hamilton, as more particularly described in Schedule "A" attached to this By-law (the Sewer Works");

**AND WHEREAS** Liv Developments Ltd. as successor to Landmart Realty Corp entered into an Amending Subdivision Agreement dated November 15, 2021 which extended the cost recovery obligations of the City set out in schedule "D" of the Amending Subdivision Agreement for a period of ten years from the date of the Amending Subdivision Agreement;

**AND WHEREAS** to the extent that the construction of the said Sewer Works benefits the property owners described in Schedule "A", such works were services or activities that were provided or done on behalf of the City of Hamilton with the express intention that section 391(1)(a) of the Municipal Act, S.O. 2001, c.25 as amended would apply thereto;

**AND WHEREAS** the cost of the said Sewer Works, that relate to the benefitting property owners described in Schedule "A" is \$40,000.00, and this amount is to be recovered from all benefitting property owners as set forth in the By-law, (the "Sewer Charges"); and

**AND WHEREAS** the said Sewer Charges are imposed pursuant to Part XII of the Municipal Act, S.O., 2001, c. 25 as amended and pursuant to section 14 of the City of Hamilton Act, 1999, S.O., 1999, c. 14, Schedule C as amended.

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:

1. Sewer Charges are imposed upon the owners or occupants of land who benefit from the construction of the Sewer Works (the “Assessed Owners”).
2. The Assessed Owners’ lands and the respective Sewer Charges are more particularly described in Schedule “A”, which Schedule is attached to and forms part of this By-law.
3. The Sewer Charges have been established using the approved method for cost apportionment per City of Hamilton Report TOE02005b/FCS02026b/PED07248 (Funding Methodologies for Municipal Infrastructure Extensions Review and Update), and OMB Decision No. 2034 which established a flat fee Sanitary Sewer Charge of \$5,000.00, which includes one sanitary drain connection, attributable to each Assessed Owner of an existing residential lot. The Sewer Charges shall be indexed in accordance with the percentage change in the composite Canadata Construction Index (Ontario Series) commencing from the completion date of construction March 2020 until October 2020, then the charges will be adjusted yearly by the City of Hamilton’s 15 year serial all-in interest rate for each year, (2022 rate 2.44%) to the date of permit issuance.
4. Subject to section 7 of this By-law, the amount resulting from the application of the Sewer Charges (the “Indebtedness”), shall be collected by the City from each Assessed Owner at the time of permit issuance for any connection to the said Sewer Works, in addition to any applicable permit fee.
5. The Assessed Owners have the option of paying the Indebtedness by way of annual payments over a period of 15 years from the date of permit issuance for connection by entry on the tax roll, to be collected in like manner as municipal taxes. The interest rate utilized for the 15 year payment shall be the City of Hamilton’s then-current 15 year borrowing rate (2022 rate 2.75%).
6. Notwithstanding Section 5, an Assessed Owner of a parcel described in Schedule “A” may pay the commuted value of the Indebtedness without penalty, but including interest, at any time.
7. Should an Assessed Owner sever or subdivide their parcel of land, the Indebtedness owed to the City of Hamilton, whether the parcel of land is connected or not, and whether or not the Assessed Owner has previously exercised the repayment option set out in Section 5 above, shall be paid forthwith to the City of Hamilton in a lump sum as a condition of severance or subdivision approval.
8. The developer, LIV Developments Ltd., or their successors or assigns, upon satisfying the City of Hamilton that it has completed its obligations with respect to

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the construction of the said Sewer Works, shall receive repayment of that portion of the associated cost of the construction collected hereunder, pursuant to the terms and conditions of the Subdivision Agreement as amended by the Amending Subdivision Agreement. In accordance with the terms of the Amending Subdivision Agreement, the City's cost recovery obligation under this by-law shall expire on a date that is ten (10) years after the date of the Amending Subdivision Agreement, being November 15, 2031.

9. Unpaid Sewer Charges constitute a debt to the City and may be added to the tax roll and collected in the same manner as municipal taxes.
10. If any provision or requirement of this By-law, or the application of it to any person, shall to any extent be held to be invalid or unenforceable by any court of competent jurisdiction, the remainder of the By-law, or the application of it to all persons other than those in respect of whom it is held to be invalid or unenforceable, shall not be affected, and each provision and requirement of this By-law shall be separately valid and enforceable.
11. This By-law comes into force on the day following the date of its passing.

**PASSED** this 30<sup>th</sup> day of March, 2022.

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F. Eisenberger  
Mayor

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A. Holland  
City Clerk

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**Schedule “A” to By-law No. 22-065**

**Springbrook Avenue**

**Sanitary Sewer on Springbrook Avenue from approximately 24.5m South of Lockman Drive to approximately 17m South of Regan Drive**

**Sewer Charges OMB DECISION 2034**

<b>Property Address</b>	<b>Sanitary Sewer &amp; 1 Drain Connection</b>
343 Springbrook Avenue	\$5,000.00
365 Springbrook Avenue	\$5,000.00
366 Springbrook Avenue	\$5,000.00
372 Springbrook Avenue	\$5,000.00
379 Springbrook Avenue	\$5,000.00
380 Springbrook Avenue	\$5,000.00
407 Springbrook Avenue	\$5,000.00
446 Springbrook Avenue	\$5,000.00
<b>TOTAL</b>	<b>\$40,000.00</b>