

**Authority:** Item 4, General Issues Committee Report 23-024 (FCS23056/PED23170)  
CM: September 13, 2023 Ward: City Wide

**Bill No. 046**

## **CITY OF HAMILTON**

### **BY-LAW NO. 24-**

#### **To Impose a Storm Sewer Charge Upon Owners of Land Abutting Osprey Drive from Intersection with Shaver Road to Servicing Easement, in the City of Hamilton**

**WHEREAS** the Council of the City of Hamilton authorized the recovery of a portion of costs associated with the construction of a Storm Sewer Work on Osprey Drive from Intersection with Shaver Road to Servicing Easement, in the City of Hamilton, (the “Works”) by approving, on September 13, 2023, Item 4 of General Issues Committee Report 23-024 (Report FCS23056/PED23170);

**WHEREAS** the Developer, Prologis Canada Holding 3 GP ULC, in satisfaction of terms and conditions of Consent Agreement for External Works, DA-19-146, 1020 Osprey Drive, constructed the Works, in the City of Hamilton, as more particularly described in Schedule “B” attached to this By-Law;

**WHEREAS** the construction of the Works benefits the property owners described in Schedule “B”, and such Works were provided or done on behalf of the City of Hamilton with the express intention that Section 391(1)(a) of the *Municipal Act, 2001, S.O. 2001, c. 25* as amended would apply thereto;

**WHEREAS** the cost of the Works, that relate to the benefitting property(ies) described in Schedule “B” is \$33,227.75 and this amount is the total amount eligible to be recovered from all benefitting property owners as set forth in this By-Law, (the “Charges”); and,

**WHEREAS** the Charges are imposed pursuant to Part XII of the *Municipal Act, 2001, 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:

#### **Interpretation**

1. In this By-Law,

- (a) **“Assessed Owner(s)”** means the owners of land who benefit from the construction of the Works described in Schedule “B”.
- (b) **“Benefitting property(ies)”** means those lands that will derive a benefit from construction, installation and/or provision of the Works described in Schedule “B”.

- (c) **“Charges”** means the amount be recovered from benefitting property owners as described in Schedule “B”.
  - (d) **“Effective Period”** means the period beginning on the date that this By-Law comes into force and ending on the date which it expires.
2. Any defined term in the *Municipal Act, 2001, S.O., 2001, c.25* that has not been defined in Section 1 of this By-Law, shall have the meaning given to it in the Act.

### **Schedules**

3. The following schedules to this By-Law forms an integral part of this By-Law:

Schedule “A”:	Map of Completed Works
Schedule “B”:	Storm Sewer Charge

### **Lands Affected**

4. Charges are imposed upon the owners of land who benefit from the construction of the Works (the “Assessed Owners”).

### **Amount of Charge**

5. The Charges have been established using the approved method for cost apportionment per City of Hamilton Report TOE205b/FCS02026b/PED07248 (Funding Methodologies for Municipal Infrastructure Extensions Review and Update).
6. The Storm Sewer Frontage Charge shall be based on the local storm sewer component of the City of Hamilton Rates for Over-sized Works Constructed Under Subdivision Agreements in effect at the time of connection to the storm sewer. The 2023 rate is \$139.28 per metre of property frontage.

### **Collection of Charge**

7. For each Benefitting Property, the amount resulting from the application of the Charges (the “Indebtedness”) shall become due and payable and shall be collected upon the issuance of a Permit during the Effective Period for the connection of that Benefitting Property to the Works.
8. The Assessed Owners have the option of paying the Indebtedness by way of instalments over a period of fifteen (15) years. Charges are calculated at permit issuance and entered onto the property tax roll beginning on the subsequent property tax bill, to be collected in the same manner as municipal taxes. Where the Assessed Owner elects to pay the Indebtedness by way of instalments over 15 years, annual interest shall be added, to the amount of the Charges calculated in accordance with Section 6, at the City of Hamilton’s then-current 15 year borrowing rate (2024 rate 4.61%).

9. Despite Section 8, an Assessed Owner of a Parcel described in Schedule “B” may partially or fully pay the Indebtedness without penalty, but including interest accrued to the date of payment, at any time.
10. Payments received pursuant to this By-law shall be remitted to Prologis Canada Holding 3 GP ULC pursuant to section 28(f) of its External Works Agreement with the City of Hamilton dated July 17, 2020 and registered on December 11, 2020 as instrument WE1476611.
11. Unpaid Indebtedness constitutes a debt to the City and may be added to the tax roll and collected in the same manner as municipal taxes.

#### **Date By-Law Effective**

12. This By-Law shall come into force on the day following the date of its passing.

#### **Date By-Law Expires**

13. This By-law expires on December 11, 2030.

#### **Application of By-Law**

14. 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.

**PASSED** this 10<sup>th</sup> day of April, 2024

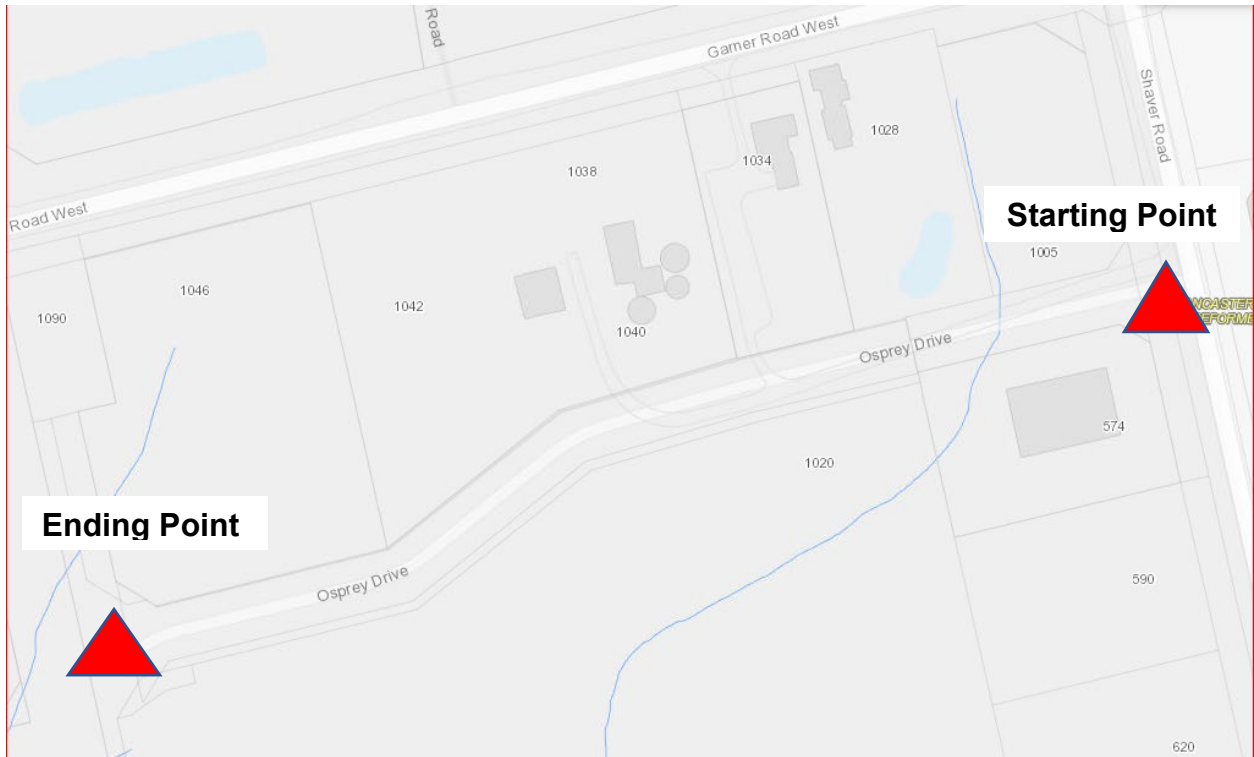
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A. Horwath  
Mayor

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J. Pilon  
Acting City Clerk

**Schedule "A" to By-law No. 24-046**



**Schedule “B” to By-Law No. 24-046**

Osprey Drive

Storm Sewer Charge Upon Owners of Land Abutting Osprey Drive from Intersection with Shaver Road to Servicing Easement, in the City of Hamilton.

**Storm Sewer Charge**

<b>Benefitting Properties</b>	<b>Property Roll Number</b>	<b>Legal Description</b>	<b>Property Frontage</b>	<b>Storm Sewer Charge (2023 Rate \$139.28 Per Metre)*</b>	<b>Total Charge</b>
1040 Garner Road West (1040 Osprey Drive)	140 410 43500	CON 4 PT LOT 36 RP 62R8869 PT PART IRREG 3.40 AC 448.57FR D	144.692	\$20,152.70	\$20,152.70
1034 Garner Road West (1034 Osprey Drive)	140 410 43600	CON 4 PT LOT 36 REG 41834.97SF 141.01FR 296.68D	43.080	\$6,000.18	\$6,000.18
1028 Garner Road West (1028 Osprey Drive)	140 410 43800	CON 4 PT LOT 36 REG 1.23AC 167.00FR 320.00D	50.796	\$7,074.87	\$7,074.87
<b>TOTAL CHARGE</b>				<b>\$33,227.75</b>	<b>\$33,277.75</b>

\*New Roads Servicing Rate 2023 is \$139.28 Per Metre (No private drain connections were constructed)