

THE MUNICIPAL CORPORATION OF THE CITY OF IQALUIT, NUNAVUT

BY-LAW NO. 972

DEVELOPMENT AGREEMENT COST-SHARING BYLAW

WHEREAS Section 77.1(2) of the Cities, Towns, and Villages Act, R.S.N.W.T. 1998, c. C-8, as amended, mandates council to state the sources of funding for all costs relating to sewage, water, or drainage systems, that will be incurred by the municipal corporation;

AND WHEREAS Section 37 of the Planning Act, R.S.N.W.T. 1988, c.P-7, as amended, provides the authority for the City to enter into a Development Agreement with a proponent as a condition of issuing a Development Permit;

AND WHEREAS the City of Iqaluit deems it fiscally and ethically responsible to standardize the proportions of private contributions to public infrastructure upgrades which benefit abutting real property.

NOW THEREFORE, the Council of the Municipal Corporation of the City of Iqaluit, in session duly assembled, enacts as follows:

**PART 1
DEFINITIONS**

1. Definitions

- (1) **“Access Vault”** means any structure containing one or more pipes, conduits, manholes, handhole or other such facilities that provide safe access for Municipal worker entry to the Municipality’s underground water and wastewater facilities.
- (2) **“Developer”** means a person who, or company that, undertakes development or redevelopment.
- (3) **“Development”** Follows the definition provided in the City of Iqaluit Zoning By-law.
- (4) **“Development Site”** means the legal lot or lots where a Development is taking place.
- (5) **“Development Agreement”** follows the definition provided in the City of Iqaluit Zoning By-law.
- (6) **“Development-related service works”** means and includes the replacement, improvement, temporary upgrade, or installation of:
 - a. Water facilities, including but not limited to watermains, access vaults, water pump or pressure stations, and reheat stations;
 - b. Wastewater facilities, including but not limited to sewer mains, sewer force mains, access vaults, and sewage lift stations;
 - c. Drainage facilities, including but not limited to ditches, swales, catch basins, and culverts;

- d. Transportation and civil works, including but not limited to roadbeds, access driveways, roadcuts, paving, sidewalks, pathways, bridges, snowmobile trails and retaining walls.
- (7) **“Cost of Development-related service works”** means the capital cost of service provision including expenses incurred by study, design, construction, installation and administration, engineering, surveying, municipal staff time, inspection, quality control, and financing costs whether financed internally or externally.

PART 2 ADMINISTRATION

2. Purpose of By-law

- (1) The purpose of this bylaw is to establish the Developer’s portion of the costs of certain classes of Development-related service works that form part of a Development Agreement.
- (2) This by-law applies to all Development applicants whose Development(s) result in a net increase of activity or use at a Development Site, and whose Developments require Development-related service works.

3. Administration of By-law

- (1) The administration of this by-law is assigned to the person appointed by Council to act as the “Development Officer” under the City’s Zoning By-law, or their designate.

PART 3 PROVISIONS

4. Area to Which By-law Applies

- (1) As a condition of development approval, the Development Officer may determine whether the City or the Developer will undertake the required Development-related service works relating to the classes of work listed in Section 2, where such works are deemed necessary for the normal operation of the proposed development. The required Development-related service works will be outlined in a Development Agreement executed by the City and/or the Developer.
- (2) In cases where multiple developers are involved, the Development Officer will allocate the proportionate costs among the developers based on the benefit each parcel derives from the Development-related service works. The proportions in Part 3, Section 3, represent the sum of private contributions, which will be shared among the developers benefiting from the works.
- (3) The proportion of the costs to be allocated against the parcels benefiting from or abutting Development-related service works, as the Developer’s portion, is hereby established as follows:

5. Watermains

- (a) **WHERE** the class of work is the construction or extension of a new watermain –

30% where the watermain is part of a capital project identified and approved in the City's budget pertaining to the year of construction; OR

100% otherwise.

- (b) **WHERE** the class of work is the replacement of an existing watermain that has been assessed in accordance with "Schedule "A" of this By-law –

25% where the watermain has been assessed and demonstrates capacity for an adequate flow rate following the Development's increased service demand, yet requires replacement due to poor condition; OR

50% where the watermain has been assessed and requires replacement to achieve an adequate flow rate following the Development's increased service demand, and requires replacement due to poor condition; OR

100% where the watermain has been assessed and requires replacement to achieve adequate flow following the Development's increased service demand yet is in good condition.

6. Sanitary Sewers

- (a) **WHERE** the class of work is the construction or extension of a new sanitary sewer –

30% where the sanitary sewer is part of a capital project identified and approved in the City's budget pertaining to the year of construction; OR

100% otherwise.

- (b) **WHERE** the class of work is the replacement of an existing sanitary sewer that has been assessed in accordance with "Schedule "B" of this By-law –

25% where the sanitary sewer has been assessed and demonstrates capacity for an adequate flow rate following the Development's increased service demand, yet requires replacement due to poor condition; OR

50% where the sanitary sewer has been assessed and requires replacement to achieve an adequate flow rate following the Development's increased service demand, and requires replacement due to poor condition; OR

100% where the sanitary sewer has been assessed and requires replacement to achieve an adequate flow rate following the Development's increased service demand yet is in good condition.

7. Access Vaults

- (a) **WHERE** the class of work is the construction of a new Access Vault or the replacement of an existing manhole with a new Access Vault –

30% where the new Access Vault is part of a capital project identified and approved in the City's budget pertaining to the year of construction; OR

50% where the Development Officer has declared the new Access Vault to be a long-term benefit to the City; OR

100% otherwise.

- (b) **WHERE** the class of work is the replacement or upgrade of an existing Access Vault that has been assessed in accordance with “Schedule “C” of this By-law, and the Development requires direct and novel access to the Access Vault or requires that the Access Vault be relocated –

100% where the condition of the Access Vault is grade “A” or “B”.

75% where the condition of the Access Vault is grade “C”.

50% where the condition of the Access Vault is grade “F”.

- (c) **WHERE** the class of work is the improvement or upgrade of an existing Access Vault for temporary service access –

100%

8. Sidewalks or Walkways

- (a) **WHERE** the class of work is the construction, extension, upgrade, or repair of an existing sidewalk or walkway –

100% up to a length of sidewalk or walkway equal to the total length of frontage of the Development site that abuts Municipal roadways.

9. Drainage Facilities

- (a) **WHERE** the class of work is the construction, extension, or improvement of a drainage ditch, culvert, swale, catch basin, retention pond, or other storm water infrastructure upgrades –

100%.

10. Other

For all other Development-related service works not enumerated in this by-law, the Development Officer shall determine the developer’s proportion of costs according to the following general guidelines:

- (a) **WHERE** the class of work involves the construction, extension, or improvement of off-site infrastructure that is included in the capital plan pertaining to the year of construction, but where the timing of such work is advanced due to the proposed development:

The developer's contribution shall be calculated based on the percentage of demand attributed to the development. Additionally, the developer shall bear an extra 30% of the total capital project costs to compensate for the expenses incurred by initiating the works ahead of the scheduled timeline.

11. Latecomers Agreement

WHERE Development-related service works have been completed and funded by a Developer under the provisions of this by-law, and subsequent developments benefit from these works within a specified period, a Latecomers Agreement shall be established.

The Latecomers Agreement shall include the following provisions:

- (a) The eligibility period during which subsequent developers may be required to contribute to the cost of the previously completed Development-related service works shall be set at a maximum of 10 years from the completion date of the works.
- (b) The Latecomer's proportion of costs for subsequent developments benefiting from the works shall be calculated based on the following systems:

- i. Sewer Main:

The Latecomer's proportion of costs shall be determined based on the percentage of the sewer main's capacity utilized by the development at peak flows.

Determine Peak Flow Capacity: Calculate the peak flow capacity of the sewer main based on the development's projected usage using the "Design Guidelines for Drinking-Water Systems" from the Ontario Ministry of the Environment, Conservation and Parks.

Percentage of Pipe Capacity: Calculate the percentage of the sewer main's capacity that the development will use at peak flows.

Cost Proportion: The Latecomer's proportion of costs shall be equivalent to this percentage.

- ii. Watermain:

The Latecomer's proportion of costs shall be determined based on the percentage of the frontage of the development that abuts the watermain works.

Determine Total Frontage: Measure the total frontage of the development site that abuts the watermain works.

Percentage of Frontage: Calculate the percentage of the total project frontage represented by the development site's frontage.

Cost Proportion: The Latecomer's proportion of costs shall be equivalent to this percentage.

- iii. Access Vault:

The Latecomer's proportion of costs shall be calculated based on the total number of private connections to the access vault.

Determine Total Connections: Identify the total number of private connections to the access vault, assuming it was designed with blind flanges.

Latecomer Connections: Determine the number of connections used by the Latecomer's project.

Cost Proportion: The Latecomer's proportion of costs shall be calculated by dividing the number of connections used by the Latecomer by the total number of connections.

- iv. Sidewalks:

The Latecomer's proportion of costs shall be determined based on the percentage of the development site's frontage relative to the total length of the sidewalk project.

Determine Total Sidewalk Length: Measure the total length of the sidewalk project.

Development Site Frontage: Measure the length of the development site's frontage that abuts the sidewalk.

Cost Proportion: Calculate the Latecomer's proportion of costs by dividing the development site's frontage by the total sidewalk length.

v. **Drainage Facilities:**

The Latecomer's proportion of costs shall be determined based on the percentage of the development site's impervious area relative to the total impervious area contributing to the drainage system.

Determine Total Impervious Area: Calculate the total impervious area that contributes to the drainage system.

Development Site Impervious Area: Calculate the impervious area of the development site.

Cost Proportion: Calculate the Latecomer's proportion of costs by dividing the development site's impervious area by the total impervious area.

- (c) The City shall notify the original Developer when a subsequent development application is received that will benefit from the previously completed works. The original Developer will then be entitled to receive reimbursement according to the terms of the Latecomers Agreement.
- (d) The City shall collect the proportionate cost from the subsequent developers and disburse the funds to the original Developer within a reasonable timeframe, as stipulated in the Latecomers Agreement.
- (e) An administrative fee, as determined by the City's Fees and Charges By-law, shall be applied to cover the cost of managing the Latecomers Agreement. This fee shall be included in the reimbursement amount collected from subsequent developers.
- (f) Any disputes arising under the Latecomers Agreement shall be resolved through mediation, with both parties agreeing to the selection of a mediator. If mediation fails, the matter shall be resolved through arbitration, with the decision of the arbitrator being final and binding.
- (g) The Latecomers Agreement shall not be confused or combined with the front-ending agreement provisions as outlined in Iqaluit Water & Sewer Development Charge By-law, as amended from time to time.
- (h) The Latecomers Agreement shall be executed by all parties involved and registered on the title of the benefiting parcels to ensure enforceability.

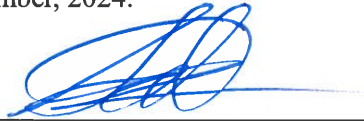
12. Appeal Process

WHERE any party disagrees with the Development Officer's decision to enter into a cost-share agreement under this by-law, they may appeal the decision:

- (a) Any party wishing to appeal the Development Officer's decision must submit a written notice of appeal to the City Clerk via email within fifteen (15) business days of receiving the decision. The notice of appeal must include the reasons for the appeal and any supporting documentation.

- (b) Upon receipt of the notice of appeal, the City Clerk shall schedule the appellant to appear as a delegate before the Planning and Development Committee of the Whole (PDCOW). The delegation shall be scheduled at an upcoming PDCOW meeting no later than 90 days from receipt of the appeal. The appellant and any other interested parties shall be notified of the date, time, and location of the meeting at least fifteen (15) business days in advance.
- (c) The appellant shall be responsible for providing any evidence they wish to submit to the PDCOW to the City Clerk five (5) business days in advance of the meeting where they are scheduled to appear as a delegate. The appellant must provide the documents to the City Clerk in both official languages of English and the Southern Baffin dialect of Inuktitut.
- (d) During the delegation, the appellant shall have the opportunity to present their case verbally, including any evidence and arguments.
- (e) The PDCOW may ask questions and request additional information from the appellant, the Development Officer, and any other interested parties as needed.
- (f) The Development Officer shall present their position as an item of new business at the same meeting as the delegation and will request a motion from the PDCOW to resolve the dispute. The PDCOW shall deliberate and recommend a motion on the appeal to City Council. The PDCOW may recommend City Council to uphold, modify, or overturn the Development Officer's decision.
- (g) City Council shall deliberate on the recommended motion from the PDCOW at their next available meeting and make a motion to resolve the dispute. The decision of the City Council shall be communicated in writing to the appellant and all other interested parties within ten (10) business days of the City Council meeting.
- (h) The decision of the City Council shall be final and binding on all parties.
- (i) Each party shall bear its own costs and expenses incurred in connection with the appeal process.
- (j) During the appeal process, the parties shall continue to comply with the Development Officer's decision, unless the City Council directs otherwise.

THIS BY-LAW READ a First Time this 10th day of September, 2024.



Solomon Awa
Mayor




Steve England
Chief Administrative Officer

THIS BY-LAW READ a Second Time this 24th day of September, 2024.



Solomon Awa
Mayor



Steve England
Chief Administrative Officer

THIS BY-LAW READ a Third Time this 24th day of September, 2024.



Solomon Awa
Mayor



Steve England
Chief Administrative Officer

SCHEDULE “A”

Watermain

Watermain condition assessment

- (1) For the purpose of this By-law, a segment of a watermain shall be given a status of “fair” or “poor” condition following an assessment of the following:
 - a. Age of pipe
 - b. Material of pipe
 - c. Corrosion of pipe
 - d. Fractures of pipe
 - e. Wall thickness of pipe
 - f. Restrictions
 - g. Soil Resistivity
 - h. Water colour
 - i. Water odor
- (2) The City’s assessment must be provided to the Developer.
- (3) The Developer reserves the right, when asked to share the costs of a watermain upgrade, to hire a certified Engineer to conduct a private assessment to determine the replaceability of the main.

Watermain flow assessment

- (4) For the purpose of this By-law, a segment of a watermain shall be given a status of “adequate” or “inadequate” estimated flow affected by the Development’s proposed increase in service demand:
 - a. Diameter of pipe
 - b. Velocity of Flow
- (5) The City’s assessment must be provided to the Developer.
- (6) The Developer reserves the right, when asked to share the costs of a water main upgrade, to hire a certified Engineer to conduct a private assessment to determine the affects of an increased service demand on the watermain.

SCHEDULE “B”

Sanitary Sewer

Sanitary Sewer condition assessment

- (1) For the purpose of this By-law, a segment of a sanitary sewer shall be given a status of “fair” or “poor” condition following an assessment of the following:
 - a. Age of Sewer
 - b. Material of Sewer
 - c. Wire breaks
 - d. Corrosion
 - e. Structural defects
 - f. Variation in wall thickness
 - g. Cavities inside pipe wall
 - h. Voids in surrounding soil
 - i. Fissure
 - j. Scouring and spalling
 - k. Delamination
 - l. Deformation
 - m. Infiltration and inflow
 - n. Exfiltration and leaks
 - o. Obstacles
 - p. Water level deviation
- (2) The City’s assessment must be provided to the Developer.
- (3) The Developer reserves the right, when asked to share the costs of a sanitary sewer upgrade, to hire a certified Engineer to conduct a private assessment to determine the replaceability of the main.

Sanitary Sewer flow assessment

- (4) For the purpose of this By-law, a segment of a sanitary sewer shall be given a status of “adequate” or “inadequate” estimated flow affected by the Development’s proposed increase in service demand:
 - a. Diameter of pipe
 - b. Velocity of Flow
- (5) The City’s assessment must be provided to the Developer.
- (6) The Developer reserves the right, when asked to share the costs of a water main upgrade, to hire a certified Engineer to conduct a private assessment to determine the affects of an increased service demand, on the sanitary sewer.

SCHEDULE "C"

Access Vault

Access Vault condition assessment

(1) For the purpose of this By-law, an Access Vault shall be given a grade of either:

"A" – 20+ years of life

"B" – 12+ years of life

"C" – 4+ years of life

"F" – 0-3 years of life; OR not in use.

(2) The Access Vault's grade is to be determined following an assessment of the following:

- a. Age of Access Vault
- b. Diameter of Access Vault
- c. Pipe material
- d. Blisters evident on interior sealant
- e. Internal pipe leaks
- f. Access Vault structural leaks
- g. Valve seizing
- h. Structural integrity
- i. Rusting and corrosion
- j. Main separation

(3) The City's assessment must be provided to the Developer.

(4) The Developer reserves the right, when asked to share the costs of a Sanitary Sewer upgrade, to hire a certified Engineer to conduct a private assessment to determine the replaceability of the Access Vault.