

BYLAW NO. 9730

The Private Crossings Over Ditches Bylaw, 2020

Whereas certain properties in the City of Saskatoon have non-compliant private crossings over ditches;

Whereas the City of Saskatoon intends to install or cause to be installed drainage improvements at those properties;

Whereas pursuant to section 361 of *The Cities Act*, S.S. 2002, c. C-11.1 (the “Act”), the amount due with respect to any work or service performed by a city pursuant to an agreement with any person is a lien on any land owned by the person for whom the work or service was performed and may be added to taxes owed on the land at the end of the year in which the work or services were performed;

Whereas pursuant to section 244 of the Act, a council of a city may, if it considers it equitable to do so, defer the collection of a tax with respect to a particular taxable property; and

Whereas the Council of the City of Saskatoon considers it equitable and in the best interests of the community to defer property taxes that are owing due to the City of Saskatoon mandating installation of drainage improvements.

Now therefore the Council of the City of Saskatoon enacts:

PART I Preliminary Matters

Short Title

1. This Bylaw may be cited as *The Private Crossings Over Ditches Bylaw, 2020*.

Purpose

2. The purpose of this Bylaw is to:
 - (a) establish requirements respecting private crossings over ditches in the City’s right-of-way;
 - (b) require certain property owners to pay for the costs of drainage improvements; and

- (c) establish a tax deferral program to allow property owners to pay for the costs of drainage improvements over time.

Definitions

3. In this Bylaw:

- (a) **“amount due”** means the amount required to be paid by a property owner to the City for the installation of drainage improvements and includes any fee to administer the deferral program as set out in section 16;
- (b) **“City”** means the City of Saskatoon;
- (c) **“deferral program”** means the Drainage Improvements Tax Deferral Program established pursuant to section 12;
- (d) **“deferred taxes”** means an amount due that has been added to the tax roll of a property pursuant to sections 244 and 361 of *The Cities Act*, the collection of which has been deferred pursuant to *The Cities Act* and the deferral program;
- (e) **“drainage improvements”** means any work intended to reduce flooding and improve drainage, such as the installation of culverts and ditches, and includes any necessary driveway restoration;
- (f) **“household income”** means the total income of all persons who live or ordinarily reside in a dwelling unit;
- (g) **“LICO”** means the low-income cut-offs that are periodically published by Statistics Canada;
- (h) **“principal residence”** means the primary location that a person inhabits;
- (i) **“private crossing”** means a private driveway crossing over a ditch in the City’s right-of-way;
- (j) **“property owner”** or **“owner”** means the registered owner of a property;
- (k) **“residential property”** means land and improvements used or intended to be used for a residential purpose;

- (l) **“tax arrears”** does not include deferred taxes or any amounts the collection of which the City has deferred pursuant any other program, policy or bylaw.

The Private Crossings Bylaw, 1968

4. Bylaw No. 4785, *A bylaw to regulate the installation of private crossings in the City of Saskatoon*, does not apply to private crossings to which this Bylaw applies.

PART II

General Requirements Respecting Private Crossings

Permit Required

5. No person shall install a private crossing without a permit from the City.

Minimum Construction Standards

6. Unless otherwise permitted in writing by the City, a private crossing must be constructed in accordance with the City’s current standard plans, specifications, and profiles for private crossings.

Installation of Drainage Improvements

7. The City may install or cause to be installed drainage improvements in the City’s right-of-way.

Costs of Drainage Improvements

8. (1) An owner of a property that has a non-compliant private crossing may be required to pay for the costs, or a portion of the costs, of installing drainage improvements.
- (2) For the purposes of subsection (1), a private crossing is non-compliant where one or more of the following apply:
 - (a) it is wider than 6.1 metres;
 - (b) it does not have a culvert that:

- (i) is installed underneath the private crossing that transports overland storm water; and
 - (ii) either:
 - (A) meets the City specifications that were in effect at the time the culvert was installed or replaced; or
 - (B) if no City specifications were in effect at the time the culvert was installed or replaced, meets the least onerous specifications that ever applied to the property.
- (3) A property owner may be eligible to participate in any policy or program the City may have to subsidize or share in the costs of the drainage improvements.

Maintenance by Property Owner

9. A property owner is responsible for maintaining any private crossing attaching to their property and the ditch and culvert under any private crossing attaching to their property, including keeping the private crossing, ditch and culvert:
- (a) clean and clear of ice and snow; and
 - (b) in a good state of repair.

Maintenance by City

10. The City may, at the expense of the owner of the property to which a private crossing attaches, carry out any repairs or cleaning of private crossings, ditches or culverts on or under the City's right of way.

Removal

11. The City may remove, or require a property owner to remove, a private crossing at any time and at the property owner's expense.

PART III
The Drainage Improvements Tax Deferral Program

Deferral Program Established

12. The Drainage Improvements Tax Deferral Program is established.

Agreement to Defer Amount Due

13. If the City installs or causes to be installed drainage improvements pursuant to section 7, an eligible property owner may, in accordance with the deferral program, enter into an agreement to pay the City the amount due over time.

Deferral Program Eligibility Requirements

14. (1) To qualify for the deferral program:
- (a) the applicant must own the property;
 - (b) the property must not be in tax arrears;
 - (c) the property must be located in the community of Montgomery Place, as determined by the City; and
 - (d) the applicant must enter into an agreement with the City respecting the work performed and the amounts to be deferred.
- (2) In addition to the requirements mentioned in subsection (1), to qualify for a ten-year deferral:
- (a) the property owner must be an individual;
 - (b) the property must be a residential property;
 - (c) the property must be the principal residence of the property owner; and
 - (d) the property owner's:
 - (i) annual household income must be below the applicable LICO income threshold; or
 - (ii) amount due must be \$10,000.00 or more.

Deferral

15. Payment of deferred taxes shall be as follows:

- (a) for a one-year deferral, the entire amount of the deferred taxes becomes due and payable on June 30 of the calendar year in which the amount due is added to the tax roll of the property;
- (b) for a three-year deferral, one third of the deferred taxes becomes due and payable on June 30 of the calendar year in which the amount due is added to the tax roll of the property, with one of the remaining thirds becoming due and payable on June 30 of each of the subsequent two calendar years;
- (c) for a five-year deferral, one fifth of the deferred taxes becomes due and payable on June 30 of the calendar year in which the amount due is added to the tax roll of the property, with one of the remaining fifths becoming due and payable on June 30 of each of the subsequent four calendar years;
- (d) for a ten-year deferral, other than a ten-year deferral resulting from an election made pursuant to clause (e), one tenth of the deferred taxes becomes due and payable on June 30 of the calendar year in which the amount due is added to the tax roll of the property, with one of the remaining tenths becoming due and payable on June 30 of each of the subsequent nine calendar years;
- (e) in cases where the deferred taxes exceed \$5,000.00 but are less than \$10,000.00, a property owner may elect the following deferral option:
 - (i) \$1,000.00 becomes due and payable on June 30 of the calendar year in which the amount due is added to the tax roll of the property, with \$1,000.00 becoming due and payable on June 30 of each of the subsequent calendar years; and
 - (ii) once the amount owing falls below \$1,000.00, the remaining amount owing shall become due and payable on June 30 of the year following the final payment of \$1,000.00.

Administrative Fee

16. The amount due includes the following administrative fee:

- (a) for a one-year deferral, \$0;

- (b) for a three-year deferral, \$190.00;
- (c) for a five-year deferral, \$240.00;
- (d) for a six-year, seven-year or eight-year deferral, \$300.00;
- (e) for a nine-year or ten-year deferral, \$365.00.

Amount Due Added to Taxes

- 17. (1) If the drainage improvements are installed on or before September 30, the amount due, if unpaid, may be added to the tax roll of the property and form part of the taxes on January 1 of the next calendar year.
- (2) If the drainage improvements are installed after September 30, the amount due, if unpaid, may be added to the tax roll of the property and form part of the taxes on January 1 of the year following the next calendar year.
- (3) Prior to adding the amount due to the tax roll of the property, the City may record the amount due as a pending liability.

Lien

- 18. The amount due is a lien on the property.

Registration of Lien

- 19. (1) In order to ensure repayment of the deferred taxes under the deferral program, the City may register a lien against the property.
- (2) The lien shall remain on the title of the property for as long as there are deferred taxes unpaid with respect to the property.
- (3) The lien shall be removed by the City upon repayment of the deferred taxes.

Early Repayment of Deferred Taxes

- 20. Notwithstanding section 15, the total outstanding amount of the deferred taxes shall be repaid to the City upon:
 - (a) failure to pay the deferred taxes as required by section 15;

- (b) the property falling into tax arrears;
- (c) the death of the property owner; or
- (d) sale of the property.

Duty to Notify City of Sale or Death

21. (1) A property owner who sells a property that is subject to a tax deferral under the deferral program shall, within 60 days of the sale:
- (a) notify the City that the property has been sold; and
 - (b) provide the City with the property owner's new address and contact information.
- (2) If a property owner dies, a representative of the property owner's estate shall, within 60 days of the property owner's death, notify the City that the property owner is deceased.

Notice to Repay Taxes

22. (1) Upon the City becoming aware of the existence of one or more of the circumstances mentioned in section 20, the City shall notify the property owner, the property owner's estate or, in the case of a property sale, the new owner of the property of the amount of the deferred taxes that remains outstanding.
- (2) The deferred taxes shall be due and payable to the City 30 days after the date of the notification mentioned in subsection (1).
- (3) If the deferred taxes remain unpaid after the expiration of the period mentioned in subsection (2), the City may impose penalties on the taxes outstanding at the rates established by Bylaw No. 6673, *A bylaw of the City of Saskatoon to provide for the payment of taxes and the application of discounts and penalties thereto*.

Voluntary Repayment

23. A property owner may, at any time, repay the deferred taxes without penalty.

PART IV
Offences and Penalties

Offences and Penalties

24. (1) No person shall:
- (a) furnish the City with false or misleading information on an application under the deferral program;
 - (b) fail to notify the City of the death of a property owner;
 - (c) fail to notify the City of the sale of a property or fail to provide the City with the property owner's new address and contact information;
 - (d) fail to make any payment that is required to be made pursuant to section 8, 10, 11, 15, 20, 22 or 25;
 - (e) fail to maintain a private crossing attaching to their property or the ditch or culvert under that private crossing;
 - (f) fail to obtain a permit when required to do so pursuant to section 5;
 - (g) fail to construct a private crossing in accordance with section 6; or
 - (h) contravene any other provision of this Bylaw.
- (2) Every person who contravenes subsection (1) is guilty of an offence and liable on summary conviction:
- (a) in the case of a first offence, to a fine of not less than \$100.00 and not more than \$500.00; and
 - (b) in the case of a second or subsequent offence, to a fine of not less than \$200.00 and not more than \$1,000.00.

Repayment Upon Conviction

25. (1) If a person is convicted of an offence under this Bylaw, in addition to any fine imposed, the deferred taxes become immediately due and payable to the City within 30 days after the date of conviction.

