

# CITY OF KELOWNA

## BYLAW NO. 9123

### Amendment No. 2 to Utility Billing Customer Care Bylaw No. 8754

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The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT Utility Billing Customer Care Bylaw No. 8754 be amended by:

(a) Deleting part 5. **SECURITY DEPOSITS** and replacing it with the following:

**“5. SECURITY DEPOSITS**

**5.1 Deposit Required**

A refundable security deposit shall be charged to all **Customer Service Accounts** related to commercial or residential premises.

**5.2 Payment of Deposit**

(1) In the case of a **Customer Service Account** being opened by a person who has not previously had a **Utility Service** terminated for the reasons outlined in section 10.1 of this bylaw, the security deposit shall be paid in full on or before the due date, as outlined in section 8.3 of this bylaw, for the first invoice in relation to the **Customer Service Account**, unless the **Customer** is able to demonstrate that severe financial hardship would result, in which case the security deposit may be paid in no more than three equal instalments over the first three invoice periods.

(2) In the case of a **Customer Service Account** being opened by a person who has previously had a **Utility Service** terminated for the reasons outlined in section 10.1 of this bylaw, the security deposit, along with all other outstanding amounts owing as outlined in section 4.4 of this bylaw, shall be paid in full before the **Customer Service Account** is opened or re-opened, as the case may be.

**5.3 Interest on Security Deposits**

The **City** shall pay interest on any security deposit received, which shall be calculated using the annual “Security Deposit Interest Rate” set by the Residential Tenancy Office of the Province of British Columbia’s Ministry of Public Safety and Solicitor General, on the following terms:

- (1) interest shall be calculated and credited on the first invoice or billing notice of each calendar year to all **Customer Service Accounts** for which a security deposit is held; and
- (2) if a **Customer Service Account** is being closed, interest still outstanding shall be calculated and credited on the final invoice or billing notice.

#### 5.4 Exceptions

Despite section 5.1 of this bylaw, a security deposit shall not be charged if one or more of the following circumstances applies:

- (1) The **Customer Service Account** was open and active as of the date of coming into force of this bylaw; or
- (2) The application for the **Customer Service Account** is accompanied by a "Security Deposit Waiver", as outlined in Schedule A which is attached to, and is part of, this bylaw, signed by the registered owner(s), or authorized signatory(s), of the property on which the premises to which the **Utility Service** relates is located, acknowledging the potential for unpaid amounts to be deemed to be taxes in arrears, under section 8.6 of this bylaw; or
- (3) The application for the **Customer Service Account** is made in relation to **Utility Services** to be provided to premises which:
  - (a) qualify for mandatory exemption from payment of local government property taxes under the *Community Charter* or other applicable legislation; or
  - (b) qualify for permissive exemption from payment of local government property taxes under the *Community Charter* or other applicable legislation and have been exempted by the **City** for the current year; or
- (4) The amount of the calculated security deposit is less than \$25.00.

#### 5.5 Previous Discontinuance

Despite section 5.4 of this bylaw, a security deposit shall be charged to all **Customer Service Accounts** where the **Customer** has previously had **Utility Service** to any premises discontinued pursuant to section 10.1 of this bylaw or any other applicable bylaw.

#### 5.6 Amount of Deposit

The amount of the security deposit referred to in section 5.1 or 5.5 of this bylaw shall be equal to:

- (1) the total amount of the user rate (based on consumption or estimated consumption) charged, for the two months in the previous twelve months, during which the consumption was the highest for the premises to which the **Utility Service** and the **Customer Service Account** relates; or
- (2) where no **Utility Service** has been provided to the premises in the past, or where the size, capacity or type of **Utility Service** has previously been different than what is being applied for (for example, but not exclusively, where a premises was previously used as a laundromat but is in future to be used as a clothing store), or where no **Customer Service Account** has existed, the total amount of the estimated user rate charged, for the two consecutive months, in the previous twelve months, during which the consumption would have been the highest, for a similar premises being used in a similar manner.

#### 5.7 Letter of Credit

If the security deposit is calculated to be greater than \$1,000.00, a Letter of Credit, which shall be renewed annually for the period that the security deposit is required, may be provided in place of cash payment.

#### 5.8 Refund of Deposit

A security deposit, plus any outstanding interest calculated pursuant to section 5.3(2) of this bylaw, shall be refunded by crediting the amount of the deposit to the **Customer Service Account** for which it was paid, if:

- (1) in the case of a **Customer Service Account** relating to **Utility Service** to a residential premises, within the period of twelve months from the date the security deposit was paid, the **Customer Service Account** is, and has been for the entire period, in good standing with no outstanding amounts owing or penalties applied; or
- (2) in the case of a **Customer Service Account** relating to **Utility Service** to a commercial premises, within the period of three years from the date the security deposit was paid, the **Customer Service Account** is, and has been for the entire period, in good standing with no outstanding amounts owing or penalties applied; or

- (3) the **Customer Service Account** is closed entirely and is not transferred under the same **Customer** to another premises within the **City**.

5.9 Despite section 5.1 of this bylaw, no security deposit shall be charged to a **Customer Service Account**, in relation to City of Kelowna Water Utility service, which is opened for a temporary residence of a **Customer** who has been displaced as a result of the destruction of his or her usual residence by the August 2003 Okanagan Mountain Park Forest Fire.

- (b) Deleting section 8.6 Deemed Taxes in Arrears and replacing it with the following:

8.6 Deemed Taxes in Arrears

Any amounts due and payable in accordance with this bylaw, and which:

- (a) remain unpaid after December 31<sup>st</sup> of any year; and
- (b) are in relation to a **Customer Service Account** that is no longer receiving **Utility Service**;

whether incurred by an owner or another **Customer** at the property address to which the **Utility Service** has been provided, shall be deemed to be taxes in arrears and added to the property taxes on that property, and shall be subject to the same interest and penalties, and be recoverable in the same manner, as property taxes as provided for in the *Community Charter*.

- (c) Deleting section 9.4 Other Cause and replacing it with the following:

9.4 Other Cause

Where an error of under-billing is found to have been made in the amount invoiced or billed to a **Customer Service Account**, and that error is a result of unauthorized use of a **Utility Service**, or can reasonably be said to be a result of fraud, theft, tampering with a **Meter** or other equipment, or any other similar act, the amount of the under-billing, plus any direct administrative costs incurred by the **City** in investigating the circumstances, plus interest and penalties at the rate normally charged on unpaid accounts receivable by the **City** shall be charged to the **Customer Service Account**. Where such amount is due and payable, and remains unpaid after December 31<sup>st</sup> of any year, it shall be deemed to be taxes in arrears and shall be recoverable as outlined in section 8.6 of this bylaw.

- (d) Deleting part **10. TERMINATION OF SERVICE/CLOSURE OF ACCOUNTS** and replacing it with the following:

**10. TERMINATION OF SERVICE/CLOSURE OF ACCOUNTS**

10.1 Termination by City

The **City** may terminate **Utility Service** where an amount has been invoiced and is due and payable, and remains unpaid as of the payment due date as set out in section 5.2 or section 8.3 of this bylaw. The **City** may also terminate **Utility Service** where

safety of life or property is at risk or where any provision of this bylaw or the City's Electrical Regulation Bylaw, or the City's Sewer Connection Charge Bylaw or the City's Water Regulation Bylaw has been violated.

#### 10.2 Notice of Termination

- (1) In a case where safety of life or property is at risk, **Utility Service** may be terminated immediately and without notice.
- (2) In a case where the **City** plans to terminate a **Utility Service** because of unpaid amounts that have been invoiced and are due and payable, a notice of termination shall be provided which shall include at least one of the following:
  - (a) a "Cut Off Notice" billing message included on an invoice for the relevant **Customer Service Account**;
  - (b) a warning letter mailed to the mailing address supplied by the **Customer** or delivered to the service location of the **Customer Service Account**;
  - (c) a telephone call to the relevant **Customer**, which may include speaking directly with the **Customer** or leaving a message on an answering service or machine at the **Customer's** contact telephone number; or
  - (d) a notice or tag left on the door at the service location of the **Customer Service Account** at least two working days prior to scheduled termination.
- (3) In a case where the **City** plans to terminate a **Utility Service** because of a violation of any provision of this bylaw or the City's Electrical Regulation Bylaw, or the City's Sewer Connection Charge Bylaw or the City's Water Regulation Bylaw, other than for non-payment of a fee or charge, a notice of termination shall include at least one of the formats outlined in subsections 10.2(2)(a), (b), (c) or (d) and the affected **Customer** shall be given an opportunity to make a presentation to Council regarding the planned termination.

#### 10.3 Request for Termination from Customer

A **Customer** wishing to close his/her **Customer Service Account** shall give the **City** a minimum of two full business days' notice of

the date on which the **Customer Service Account** is to be closed. Where such notice is not provided, the **Customer** shall be responsible for payment of any amounts attributed to use or consumption of the **Utility Service** for the period between the date that notice was received by the **City**, and the earlier of the date service was terminated or twenty four hours following such notice.

No **Customer Service Account** shall be closed, whether or not related **Utility Service** has been terminated, until all outstanding amounts owing have been paid.

- 10.4 Despite section 10.1 of this bylaw, the **City** shall not terminate a **Utility Service** for the reason of late-payment of an amount that has been invoiced and is due and payable, but not paid by the payment due date, in relation to City of Kelowna Water Utility service, where the location to which the service is provided was under Evacuation Order by order of the BC Fire Commissioner during to the August 2003 Okanagan Mountain Park Forest Fire, for the billing period that included service during the time that the Evacuation Order applied.

2. This bylaw shall be cited as "Amendment No. 2 to City of Kelowna Utility Billing Customer Care Bylaw No. 8754".
3. This bylaw will come into full force and be binding on all persons as of the date of final adoption.

Read a first, second and third time by the Municipal Council this                      day of                      , 200 .

Adopted by the Municipal Council of the City of Kelowna this                      day of                      , 200 .

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Mayor

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City Clerk