

Eastern Irrigation District

**BYLAW 944 (2021)**

Being a Bylaw to Impose a Capital Assets Charge on Parcels that have Irrigation Acres Added to the Assessment Roll [Irrigation Districts Act, Sections 125 and 177 (2)(d), (2)(j)]

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**WHEREAS** the Irrigation Districts Act authorizes a district to pass a bylaw imposing a capital assets charge on each irrigation acre added to a Titled Unit and shown on the assessment roll;

**AND WHEREAS** the Irrigation Districts Act authorizes a district to pass a bylaw establishing penalties for unpaid amounts owing the district by an irrigator to be entered on the collector's roll each calendar year and establishing the date or the amount of time given an irrigator to pay the amounts due, including payment of the penalty, after which a new or further penalty may be imposed for payment by the irrigator and all such amounts due, including all penalties, may be added to the collector's roll;

**AND WHEREAS** the Board of Directors of the Eastern Irrigation District deems it appropriate to pass a bylaw imposing a capital assets charge on each irrigation acre added to a parcel identified on the assessment roll and for the purpose of establishing penalties should the irrigator fail to pay the capital assets charge, Additional Costs or interest when due and payable;

**NOW THEREFORE**, the Board of Directors of the Eastern Irrigation District hereby enacts as follows:

1.0 This bylaw may be cited as the "**Capital Assets Charges Bylaw**".

**Definitions**

2.0 When used in this bylaw,

- (a) "Additional Costs" shall have the meaning set forth in clause 5 of this bylaw.
- (b) "Board" and "Board of Directors" means the Board of Directors of the District.
- (c) "Conversion Acres" shall have the same meaning as prescribed for these words in the Irrigation Acres Bylaw (2021).
- (d) "District" means the Eastern Irrigation District or the geographic area contained within the boundary of the Eastern Irrigation District, as the case may require.
- (e) "Efficiency Acres" shall have the same meaning as prescribed for these words in the Irrigation Acres Bylaw (2021).
- (f) "General Assessment Acres" shall have the same meaning as prescribed for these words in the Irrigation Acres Bylaw (2021).
- (g) "General Assessment Audit" shall have the same meaning as prescribed for these words in the Irrigation Acres Bylaw (2021).
- (h) "Infill Acres" shall have the same meaning as prescribed for these words in the Irrigation Acres Bylaw (2021).
- (i) "Infill Acre Cap" means the lesser of (i) 50 Infill Acres or (ii) double the number of irrigation acres ascribed by the District to an Irrigation Parcel immediately prior to an application for Conversion Acres, Efficiency Acres and/or Infill Acres being assessed for such Irrigation Parcel.
- (j) "Irrigable Unit" means those lands designated as an irrigable unit pursuant to Section 23 of the Act.
- (k) "Irrigation Acres Bylaw (2021)" means Bylaw 943 (2021) passed by the Board.
- (l) "Irrigation Parcel" mean, as the context requires, either an Irrigable Unit or a Titled Unit.
- (m) "New Parcel Irrigation Acres" shall have the same meaning as prescribed for these words in the Irrigation Acres Bylaw (2021).
- (n) "Irrigation Districts Act" or "Act" mean the *Irrigation Districts Act*, chapter I – 11, RSA 2000.

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- (o) "Titled Unit" shall have the same meaning as prescribed for these words in the Irrigation Acres Bylaw (2021).
- (p) Any other word or phrase that is defined in the Act and used in this bylaw shall have the same meaning as given to the word or phrase by the Act.

**Capital Assets Charges**

3.0 Applications

- (a) Upon applications being submitted and approved by the Board for Conversion Acres, Infill Acres, Efficiency Acres and New Parcel Irrigation Acres being added to a parcel and shown on the assessment roll, the applicable capital assets charge shall be as follows:

3.01 Conversion Acres

- (a) For each acre that has, since the 2<sup>nd</sup> day of March, 2006, been recorded continuously on the assessment roll as an acre subject to a terminable agreement and that is added to the assessment roll as an irrigation acre, the capital assets charge shall be **\$350.00** per acre.

3.02 Infill Acres and Efficiency Acres

- (a) For each irrigation acre added to the assessment roll for an Irrigation Parcel that already has irrigation acres, the capital assets charge shall be **\$950.00** per acre added to the assessment roll up to and including the Infill Acre Cap; and,
- (b) The capital assets charge shall be **\$2,300.00** per acre for each irrigation acre added to the assessment roll for an Irrigation Parcel described in clause 3.02(a) which is in excess of the Infill Acre Cap.

3.03 New Parcel Irrigation Acres

For each irrigation acre added to the assessment roll for a parcel as a result of a Titled Unit being reassessed as land with irrigation acres and such parcel not otherwise being assessed for irrigation acres on the assessment roll as of February 23, 2021, the capital assets charge shall be **\$2,300.00** per acre.

4.0 General Assessment Acres

A capital assets charge equal to the amount of one-hundred and fifty percent (150%) of the capital assets charge set out in clause 3.03 of this bylaw shall be applicable to any General Assessment Acres added to the assessment roll.

**Owner Responsible for Irrigation Works**

5.0

- (a) Except as provided for in clause 5(b), where additional irrigation works are required to provide for the diversion of water for irrigation purposes from the Irrigation Works of the District to the parcel where the irrigation acres are to be added, the irrigator owning the parcel will pay the full cost of

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constructing or installing the irrigation works, which cost will include all labour and material costs, plant and other costs (known as Additional Costs) incurred to complete such construction or installation. The irrigator will pay the Additional Costs to the District, on or before the due date for payment of such costs as determined by the District, in addition to the applicable capital assets charge set out in clauses 3.01(a), 3.02(a) and (b), 3.03 and 4.0 of this bylaw.

- (b) Upon approval by the Board, the District will contribute 75% of the cost of eligible irrigation works to a maximum value equal to 25% of the applicable capital assets charge, subject to the following conditions:
- (i) only those irrigation works that are owned by and form part of the District's Irrigation Works (such as check structure, turnout, riser, or pipeline extension) are eligible for cost-share funding under this clause;
  - (ii) the work must be completed by the District; and,
  - (iii) the District will provide the irrigator with a detailed written quote that shows the irrigator's share of the total project cost and, prior to the District purchasing any materials or commencing work on the project, the irrigator must agree, by signed agreement, to pay his share of the project cost to the District on or before the due date for payment of such cost as determined by the District.

**Lien**

- 6.0 The whole of each parcel in which irrigation acres are added, as above provided, will be charged with an amount owing to the District equal to the total capital assets charge, including interest and penalties, if applicable, together with any Additional Costs, if any, and such charge will form a lien on that parcel.

**Payment of Capital Assets Charge**

- 7.0 In each instance where irrigation acres are approved and are added to the assessment roll of the District, the District shall be paid for the capital assets charge in the following manner:
- (a) Where the capital assets charge is less than Five Thousand Dollars (\$5,000.00), the capital assets charge must be paid in full prior to the irrigation acres being added to the assessment roll.
  - (b) Where the capital assets charge is equal to or greater than Five Thousand Dollars (\$5,000.00), the capital assets charge, at the request of the irrigator, may be paid to the District over a term to be agreed upon but of not more than ten (10) years.
  - (c) Prior to the irrigation acres being added to the assessment roll and in order to be eligible to make payments under this clause, an irrigator must first enter into a financing agreement (the "Agreement") with the District, which Agreement will include provisions for the following:
    - (i) the irrigator shall agree to pay the full amount of the capital assets charge (the "Loan") in equal annual installment payments, plus interest and penalties, if applicable, as provided for in this bylaw;
    - (ii) the first annual principal payment shall be due upon execution of the Agreement and each subsequent annual payment shall be due and payable, including all interest and penalties, by the 31<sup>st</sup> day of December in each year as set out in the Agreement;
    - (iii) the interest rate, expressed as an annual percentage, applicable during the term of a Loan, or during any period or periods of time within the term of a Loan, shall be the interest rate or rates approved, from time to time, by resolution of the Board of Directors; and,

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(iv) interest shall compound annually and shall be calculated on the full outstanding balance of principal then owing.

7.01 In addition to any interest calculated payable pursuant to subclause 7.0(c)(iv), a penalty in the amount of eight (8) percent shall be added to any amount which is past due on the 1<sup>st</sup> day of January and on the 1<sup>st</sup> day of July in each year for so long as any amount owing the District is in arrears. Any and all accrued interest and any penalty interest payable will be added to the principal for the purpose of calculating interest pursuant to subclause 7.0(c)(iv) above.

**Purchasing Irrigation Acres**

8.0 The District will pay **\$3,500.00** for each irrigation acre sold to the District by an irrigator.

**Review of this Bylaw by the Board**

9.0 The General Manager shall, at least once in each calendar year and at other times when the General Manager deems it appropriate, present this bylaw, recent land sales data and any other information the General Manager believes relevant, to the Board to assist the Board with a review of the capital assets charges and this bylaw. The Board shall determine whether to retain, amend or replace this bylaw.

**Previous Bylaws Repealed and Replaced**

10.0 This bylaw supersedes and replaces all previous bylaws for capital assets charges.

10.01 Bylaw 938 (2020) is hereby repealed.

**Effective Date**

11.0 This bylaw shall come into force and take effect on the date it is finally passed.

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
General Manager

This bylaw was introduced and read the 1<sup>st</sup> time on the **10<sup>th</sup>** day of **February 2021**.

This by-law was read the 2<sup>nd</sup> time on the \_\_\_ day of \_\_\_\_\_ **2021**.

This by-law was read the 3<sup>rd</sup> time and passed on the \_\_\_ day of \_\_\_\_\_ **2021**.