

Committee of the Whole (1) Report

DATE: Tuesday, June 7, 2022

WARD(S): ALL

TITLE: SEWER USE BY-LAW

FROM:

Zoran Postic, Deputy City Manager, Public Works

ACTION: DECISION

Purpose

The purpose of this Report is to request approval to repeal and replace the City's Sewer Use By-law (By-law No. 087-2016, as amended). The recommended revisions will enhance the Sewer Use By-law by adding clarity to various definitions, increasing alignment with York Region's Sewer Use By-law and provincial and federal regulations/legislation, strengthening the administration of fair and equitable penalties for Sewer Use By-law infractions, and improving transparency with respect to activities requiring approval or a permit from the City.

Report Highlights

- The City's Sewer Use By-Law must be routinely reviewed and updated as the City's wastewater and stormwater systems and their oversight evolve in response to community growth, ageing infrastructure improvements, environmental protection efforts, legislative requirements, and business process efficiencies.
- The recommended revisions to the Sewer Use By-law are intended to strengthen the City's ability to protect the City's wastewater and stormwater systems.
- Revisions to the Sewer Use By-law will enhance the clarity and specificity of the Sewer Use By-law, facilitate alignment with York Region's Sewer Use By-law, safeguard the environment from untreated swimming pool discharge, implement provisions for permanent (long-term) private water discharge, and include provisions for Administrative Monetary Penalties.

Recommendations

1. THAT a new Sewer Use By-law be enacted that includes the recommended changes, as per Attachment 1 of this Report and in a form satisfactory to the City Solicitor;
2. THAT Sewer Use By-law 087-2016 and any amendments be repealed;
3. THAT the Administrative Monetary Penalties By-law 063-2019, as amended, be further amended, in accordance with Attachment 1 of this Report and in a form satisfactory to the City Solicitor;
4. THAT the Fees and Charges By-law 158-2021, as amended, be further amended to incorporate all fees and charges related to the new Sewer Use By-law for housekeeping purposes, in a form satisfactory to the City Solicitor;
5. THAT By-law 156-2021, which sets out wastewater rates, be repealed; and
6. THAT By-law 157-2021, which sets out stormwater rates, be repealed.

Background

Municipal by-laws are intended to complement and support the Provincial regulation of the protection and conservation of the natural environment with consideration of City-specific context and needs.

The protection of the natural environment from water pollution and contamination is regulated by the Province through the Ministry of the Environment, Conservation and Parks (MECP).

The *Environmental Protection Act, R.S.O., 1990* provides for the protection and conservation of the natural environment. The *Environmental Protection Act, R.S.O., 1990* contains a number of general provisions that are used to protect surface water and groundwater against contamination and prohibits discharges of contaminants into the natural environment in amount, concentration or level in excess of prescribed regulatory standards. Additionally, the *Ontario Water Resources Act, R.S.O., 1990* provides for the conservation, protection and management of Ontario's waters and for their efficient and sustainable use in order to promote Ontario's long-term environmental, social and economic well-being. The *Ontario Water Resources Act, R.S.O., 1990* contains a number of important mechanisms that protect water resources, prohibits the discharge of polluting material in or near water, regulates the discharge of sewage, requires approvals for sewage works, and enables the issuance of orders requiring measures to prevent, reduce or alleviate impairment of water quality.

Sections 8, 9, and 10 of the *Municipal Act, 2001* authorize a municipality to pass by-laws that are necessary or desirable for municipal purposes and, in particular, related to economic, social, and environmental well-being of the municipality; health, safety, and

well-being of persons; services and things that the municipality is authorized to provide; and protection of persons and property. Additionally, Section 391 of the *Municipal Act, 2001* provides that a municipality may pass by-laws imposing fees or charges on persons for services or activities provided or done by, or on behalf of, the municipality and that the costs included in a fee or charge may include costs incurred by the municipality related to administration, enforcement, and the establishment, acquisition, and/or replacement of assets.

The City's Sewer Use By-law was first enacted in the 1970s and has been reviewed and amended over time to ensure it has evolved in response to community growth, ageing infrastructure improvements, environmental protection efforts, legislated requirements, and business process efficiencies.

The City's Sewer Use By-law was first enacted in 1974 and was most recently amended in 2016. The Sewer Use By-law defines the roles and responsibilities of both property owners and the City to improve operational efficiency and protect public health, the environment, and infrastructure. The Sewer Use By-law protects sewer systems, creeks, rivers, streams and lakes from harmful substances by regulating the release of water and waste into the sanitary and storm sewer systems. This keeps the sewers from becoming overloaded and damaged and protects by establishing limits and controls for the concentration of substances like heavy metals, natural and chemical pollutants being put into the City's sewers.

The Sewer Use By-law regulates the installation and connection of private sewers to the City's wastewater and stormwater systems, regulates the discharge of sewage, stormwater, and land drainage within the City, prohibits practices and other actions that put the integrity of the City's infrastructure at risk, and defines a system of recourse and penalties for the purpose of enforcing the Sewer Use By-law.

Fair and equitable administration of the Sewer Use By-law has been prioritized since its enactment with a focus on business process improvements which have been further enhanced with the addition of dedicated Water and Wastewater By-law Enforcement Officers. The recommended revisions to the Sewer Use By-law are intended to enhance the clarity and specificity of the Sewer Use By-law and include provisions for Administrative Monetary Penalties.

Opportunities to improve the City's Sewer Use By-law were identified since the most recent Sewer Use By-law amendment in 2016 which serve to clarify requirements, ensure the Sewer Use By-law is administered fairly and equitably, and improve alignment with York Region's Sewer Use By-law.

The recommended Sewer Use By-law revisions clarify requirements for property owners and enforcement while providing flexibility to ensure the appropriate level of protection is achieved to ensure the conservation of the natural environment.

The recommended revisions to the City's Sewer Use By-law are considered to have minor impact with respect to the applicability, general context, and current administration of the By-law but serve to address the identified opportunities for improvement. Each of the proposed changes are identified in Attachment 1 with some of the more significant proposed changes detailed herein. Additionally, staff recommend repealing By-laws 156-2021 and 157-2021 and adding the approved fees to the Fees and Charges By-law 158-2021, as amended.

Enforcement of the City's Sewer Use By-law is governed by the *Provincial Offences Act*, R.S.O. 1990, c. P.33; however, the recommended revisions bring the Sewer Use By-law in alignment with the City's enforcement capabilities through Administrative Monetary Penalties (AMPs) to expedite the enforcement process.

When an individual violates a provincial statute or municipal by-law, the current system treats the violation as an "offence" to be prosecuted under the *Provincial Offences Act*, R.S.O. 1990, c. P.33. This process often mirrors the criminal trial process, which is designed to emphasize the seriousness of an offence.

AMPs are a civil mechanism for enforcing compliance with regulatory requirements. They are an effective, quick, clear, and tangible way for regulators and Enforcement Officers to respond to infractions of the law and by-laws. In practice, a monetary penalty is assessed and imposed in the form of a notice with a prescribed date and time for payment. While monetary penalties do not lead to convictions or pose a risk of imprisonment, administrative decisions may still be made.

With Enforcement Officers now in place to enforce water and wastewater compliance, there is opportunity to expedite the realization of fines through AMPs. The structure of the AMP system grants further flexibility for Enforcement Officers to either proceed and take punitive action through the court system or process by-law infractions through an administrative penalty. Where a property owner is not in compliance with required regulations and standards and/or found to be in contravention of the Sewer Use By-law, they will be assessed a penalty which will be based on the type, severity and frequency of the contravention.

The recommended Sewer Use By-law revisions are also intended to protect the environment and the City's watercourses by improving transparency with respect to the applicability of the Sewer Use By-law to discharge water from swimming pools, hot tubs, and spas.

The Provincial government regulates and limits the quality and quantity of substances of concern discharged into the environment via municipal sewer systems. As a result, municipalities have by-laws within their jurisdictions that control the quality and quantity of those substances discharged into sewer systems by wastewater generators. The objective of the municipal by-law is to prevent or limit discharges to ensure public health and safety, protect the natural environment, maintain sewer systems and sewage treatment processes, and comply with Provincial legislation.

The water from swimming pools, hot tubs, and spas contains chemicals that keep them clean and safe for swimming however, these chemicals can be harmful to fish and organisms and contribute to generally higher in-stream concentrations of chloride than from winter road salt applications. The main chemicals found in swimming pools, hot tubs, and spas are chlorine, bromine, salt, copper-based algaecides, nonylphenols and nonylphenol ethoxylates. While a single, residential pool might contribute small quantities of chemical pollutants to a sewer system, collectively the thousands of individual residential pools in the City, as a whole, can be a significant contributor. It is therefore critical that every pool owner, operator, or service contractor take appropriate measures to prevent substances of concern from entering the City's sewers.

Through targeted education, outreach, and engagement initiatives undertaken by By-law Enforcement Officers and communicated through the Corporate and Strategic Communications Department, it was found that increased clarity was required with respect to the applicability of the Sewer Use By-law to discharge water from swimming pools, hot tubs, and spas to ensure residents are aware of their obligations under the Sewer Use By-law.

Previous Sewer Use By-law amendments standardized the approval process for temporary (short-term) private water discharge however, changes in the development landscape, including higher density developments, have resulted in the City considering the impact of permanent (long-term) private water discharge.

Dewatering a property includes the discharge of private water into the City's storm or sanitary sewer systems. The City regulates this discharge of water to protect the public, environment, infrastructure, property, and staff through the Sewer Use By-law. Currently, approval for temporary (short-term) private water discharge is required for

construction dewatering including groundwater and stormwater, excess rainwater harvested or stored and released to the City's sewer systems, excess surface water that collects on private property that needs to be discharged to the City's sewers, water generated from pond cleaning and tank emptying, and any other form of discharge into the City's sewers on a temporary basis.

Sustainable private water discharge must ensure a variety of variables are managed and controlled, including the removal of regulated contaminants from the private water prior to discharge, seasonal variations in the water table, and other factors leading to fluctuations in flow, soil composition, contamination, weather, and discharge approval considerations.

Increasingly, permanent (long-term) private water discharge has been brought forward to the City, most often through higher density developments. Staff developed an interim approach to permanent (long-term) private water discharge recognizing there is a need to develop a standardized approval process to manage and control the variables that contribute to sustainable private water discharge on a long-term basis, minimize the risk associated with such discharge, and support city building. The current approval process for permanent (long-term) private water discharge includes a number of risk mitigating measures, including:

- Only permitting permanent (long-term) private water discharge to the City's stormwater system;
- Ensuring post-development flow rates discharged to the City's stormwater system do not exceed the allowable flow rates approved by Development Engineering per an Approval;
- Ensuring the quality of the post-development private water discharge is not in contravention of the Sewer Use By-law limits and prohibitions for discharge to the stormwater system; and
- Ensuring installation, maintenance, and calibration of a flow meter and sampling port for the purpose of monitoring the discharge and collecting water quality samples, respectively, and routine reporting of same to the City.

The recommended Sewer Use By-law revisions will provide increased transparency and clarity with respect to the interim approval process for permanent (long-term) private water discharge that is already in place. Recognizing the increased demand for permanent (long-term) private water discharge, staff intend to engage a consultant specializing in hydrogeology to assess the City's current approach to permanent (long-term) private water discharge and associated risk mitigating measures to provide expert guidance with respect policy development and sustainability considerations.

Previous Reports/Authority

[Sewer Use By-law Review](#) Item 7, Report No. 26, of the Committee of the Whole (Working Session), which was adopted without amendment by City Council on June 7, 2016.

[Council-Approved By-law Strategy](#) Item 3, Report No. 3, of the Priorities and Key Initiatives Committee, which was adopted without amendment by City Council on June 24, 2014.

Analysis and Options

Many Ontario municipalities have developed and updated sewer use by-laws over time to protect the environment and the integrity of their infrastructure by regulating sewage works and ensuring suitable enforcement mechanisms are in place.

As part of the Sewer Use By-law review process, sewer by-laws from the following municipalities were used for comparison purposes, and in some cases as guidance, in the development of the recommended Sewer Use By-law revisions:

- Regional Municipality of York
- City of Markham
- City of Toronto
- City of Hamilton
- City of Barrie
- City of Windsor

Additionally, staff referred to the Canadian Water Quality Guidelines for the Protection of Aquatic Life and the Ministry of the Environment, Conservation and Parks' Provincial Water Quality Objectives for guidance on discharge limits and prohibitions.

Internal stakeholders were consulted through the Sewer Use By-law review process to ensure the recommended revisions to the Sewer Use By-law aligns with the City's existing systems and processes.

Staff from By-Law and Compliance, Licensing and Permit Services, Legal Services, Development Engineering, Development Planning, and Policy Planning & Special Programs were consulted on the recommended revisions.

Stakeholders will be informed of revisions to the Sewer Use By-law through various means, such as:

- The City's website;
- Social media messaging; and

- Communication with property owners in response to service inquiries.

Staff have included a list of recommended changes and associated impacts in Attachment 2.

Financial Impact

The financial impact of incorporating the recommended revisions to the Sewer Use By-law is anticipated to be minimal and can be accommodated within the existing staff compliment.

Broader Regional Impacts/Considerations

There are no Regional implications as a result of the recommended revisions to the Sewer Use By-law. The recommended revisions will ensure the City's Sewer Use By-law better aligns with York Region's Sewer Use By-law, where applicable.

Conclusion

The recommended revisions to the Sewer Use By-law will enhance the City's ability to regulate the installation and connection of private sewers to the City's wastewater and stormwater systems, prohibit or limit discharge to the City's wastewater and stormwater systems and other actions that put the integrity of the City's infrastructure at risk, and define a system of recourse and penalties for the purpose of enforcing the Sewer Use By-law. This supports the Term of Council priority of Environmental Stewardship and the objective of protecting and respecting the natural environment. The Sewer Use Bylaw is vital to protect health and safety, the environment, and the City's wastewater and stormwater infrastructure.

For more information, please contact: Emilie Alderman, Acting Director, Environmental Services, ext. 6116.

Attachments

1. Proposed Changes to the Sewer Use By-law
2. Recommended Change and Associated Impact

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