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## **SPECIAL COUNCIL MEETING**

Monday, September 21, 2020  
**10:00 AM**

### **AGENDA - REVISED**

Mayor Jaworsky in the Chair

- 1. ROLL CALL**
  
- 2. DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF**
  
- 3. CLOSED MEETING**

**Recommendation:**

That Council hold a closed meeting for the purposes of considering the following subject matter:

- a) the security of the property of the municipality or local board (Covid-19 Pandemic Update, Large Public Gatherings)
  
- b) personal matters about an identifiable individual, including municipal or local board employees (Committee Vacancy, Covid-19 Pandemic Update);

- c) a proposed or pending acquisition or disposition of land by the municipality or local board (Potential Disposition of Land);
- d) labour relations or employee negotiations (Covid-19 Pandemic Update);
- e) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act; (MFIPPA s. 8)(Large Public Gathering)
- g) a position plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board (Potential Disposition of Land, Covid-19 Pandemic Update)

## **COUNCIL MEETING WILL RECESS AND RECONVENE AT 2:00 PM**

- 4. ROLL CALL**
- 5. TERRITORIAL ACKNOWLEDGEMENT**
- 6. MOMENT OF REFLECTION**
- 7. DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF**
- 8. APPROVAL OF MINUTES**

That the previous meeting minutes be approved.

- a) **August 24, 2020 – Special Council Meeting**

**Page 11**

**Recommendation:**

That the minutes of the special Council meeting held on August 24, 2020 be approved as printed.

## **9. DELEGATIONS**

### **a) ISO Certification**

Patricia J McCarney, President & CEO, World Council on City Data  
James Patava, VP of Public Affairs & International Relations, World Council on City Data

## **10. CONSENT MOTION**

That consent motion items (a) and (b) be approved.

<b>a) Title:</b>	<b>2020 Second Quarter Health and Safety Report</b>	<b>Page 29</b>
Report No.:	CORP2020-047	
Prepared By:	Lisa Dunlop	

#### **Recommendation:**

1. That Council receives this report for information.

<b>b) Title:</b>	<b>Recommendation Pursuant to Public Nuisance By-law 2011-125</b>	<b>Page 34</b>
Report No.:	CORP2020-019	
Prepared By:	Shayne Turner	

#### **Recommendation:**

1. That Council approve report COM2020-019
2. That Council designates September 25, 26 and 27, 2020, as a "designated time" pursuant to the Public Nuisance By-law, 2011-125

## **11. ITEMS REMOVED FROM THE CONSENT MOTION**

## **12. STAFF REPORTS**

<b>a) Title:</b>	<b>Financial Impact of COVID-19</b>	<b>Page 37</b>
Report No.:	CORP2020-043	
Prepared By:	Paul Hettinga Brad Witzel	

**Recommendation:**

1. That CORP2020-043 be approved.
2. That as part of report CORP2020-043 Council acknowledges the projected 2020 tax base deficit of approximately \$4.1M largely driven by lost revenue due to the COVID-19 pandemic.
3. That as part of report CORP2020-043 Council acknowledges the Federal / Provincial Safe Restart Agreement – Phase 1 Grant of \$2.879M, which will provide the City of Waterloo with significant financial assistance in dealing with the above projected 2020 tax base deficit

**b) Title:** **2021 Parking Rates** **Page 59**  
**Report No.:** CAO2020-011  
**Prepared By:** Christine Tettman

**Recommendation:**

1. That Council approve CAO2020-011.
2. That Council approve no hourly parking rate increase for 2021 (0%) as set out in Table #1 of report CAO2020-011.
3. That Council approve in principle the 2022-2030 hourly parking rate forecast as set out in Table #1 of report CAO2020-011.
4. That Council approve no monthly parking permit rate increase for 2021 (0%) as set out in Table #2 of report CAO2020-011.
5. That Council approve in principle the 2022-2030 monthly parking permit rate forecast as set out in Table #2 of report CAO2020-011.
6. That Council approves the Parking Fees and Charges By-law updates, as attached as Appendix A to CAO2020-011, effective as of the dates noted, and that the Fees and Charges By-law is updated accordingly.
7. That Council direct staff to make the necessary administrative changes to the 2021 and 2022 budget figures based on the recommended 2021-rate freeze.

c) Title: **Sanitary and Stormwater Services By-Law** Page 69  
Report No.: IPPW2020-008  
Prepared By: Natasha Glauser

**Recommendation:**

1. That the proposed Sanitary and Stormwater Services by-law, attached as Appendix A to staff report IPPW2020-008, be approved.

d) Title: **Legislative Changes via Bill 108  
Interest Policy on Development Charges** Page 79  
Report No.: CORP2020-012  
Prepared By: Michael Pugliese

**Presentation:** Michael Pugliese, Senior Financial Analyst

**Recommendation:**

1. That report CORP2020-012 be approved.
2. That Council approve the charging of interest pursuant to Section 26.1 of the Development Charges Act, 1997 at an annual rate of Prime + 2% for Development Charges that are deferred via payment plans for:
  - (a) rental housing that is not non-profit housing;
  - (b) institutional development.
3. That Council approve the charging of interest pursuant to Section 26.1 of the Development Charges Act, 1997 at 0% for Development Charges that are deferred via payment plans for:
  - (a) non-profit housing developments.
4. That Council approve the charging of interest pursuant to Section 26.2 of the Development Charges Act, 1997 at an annual rate of Prime + 2% for Development Charges that are frozen prior to Building Permit issuance.
5. That the Development Charge Interest Policy as recommended in Appendix A, FC-023 be approved to administer the charging of interest in Recommendations 2through 4; retroactively effective as at January 1, 2020.

6. That Council authorize the City's Chief Financial Officer to execute any agreements related to Development Charge Payment Agreements and Section 27 agreements for payment of development charges before or after payments would otherwise be made, in a legal form satisfactory to the City's Solicitor and upon business terms satisfactory to the Chief Financial Officer.

e) Title: **Electronic Meetings of Council**

Page 100

Report No.: CORP2020-048

Prepared By: Julie Scott

## Recommendation:

1. That Council approve report CORP2020-048.
2. That procedure by-law amendments to provide for electronic meetings be brought forward for council consideration at the October 5, 2020 Special meeting of Council.
3. That procedure by-law amendments provide for electronic delegations when an electronic meeting is being hosted including delegations on non-agenda items.
4. That the implementation of an advance public packet begin January 2021.

## **Title: East Side Branch Library – Award of RFT**

Page 104

Report No.: COM2020-020

Prepared By: Kevin Van Ooteghem

## Recommendation

1. That Council approve report COM2020-020.
2. That Council approve the award of tender RFT#20-01 – East Side Branch Library Project to Fortis Construction Group Inc. for the lowest submitted price of \$7,064,222.93 before applicable taxes.

3. That the Mayor and Clerk be authorized to sign the Agreement between the Corporation of the City of Waterloo and Fortis Construction Group Inc., and any other documents related to this project, subject to the satisfaction of the City's Solicitor.

**g) Title:** **Proposed Demolition of Residential Dwellings: 8 George Street** **Page 111**  
**Report No.:** IPPW2020-062  
**Prepared By:** Fredrick VanRooyen

**Recommendation:**

1. That Council approve report IPPW2020-062.
2. That Council grant relief from the requirement of subsection 7.b. of the Demolition Control Area By-law to allow for the demolition of the existing dwelling at 8 George Street prior to the owner obtaining Site Plan Approval.

**h) Title:** **Green Building Policy Implementation - Funding Release** **Page 119**  
**Report No.:** COM2020-018  
**Prepared By:** Sachith Thelge  
Kevin Van Ooteghem

**Recommendation:**

1. That Council approve report COM2020-018.
2. That Council approve the release of the remaining capital funding for 2020 for the Green Building Policy Implementation project in the amount of \$347,000, funded from the Capital Reserve Fund (CRF), as per the 2020-2022 approved Capital Budget (ref #271).
3. That Council approve the release of capital funding for January 1, 2021 for the Green Building Policy Implementation project in the amount of \$530,000, funded from the Capital Reserve Fund (CRF), as per the 2020-2022 approved Capital Budget (ref #271).

4. That Council approve the release of capital funding for January 1, 2022 for the Green Building Policy Implementation project in the amount of \$225,000, funded from the Capital Infrastructure Reinvestment Reserve Fund (CIRRF), and the amount of \$440,000, funded from the Capital Reserve Fund (CRF), as per the 2020-2022 approved Capital Budget (ref #271).

**13. PUBLIC MEETINGS**

None

**14. CONSIDERATION OF NOTICE OF MOTION GIVEN AT PREVIOUS MEETING**

None

**15. NOTICE OF MOTION**

None

**16. COMMUNICATIONS AND CORRESPONDENCE**

None

**17. UNFINISHED BUSINESS**

None

**18. QUESTIONS**

**19. NEW BUSINESS**

**20. ENACTMENT OF BY-LAWS**

**Recommendation:**

That the By-laws listed below be read a first, second and third time and finally passed, numbered sequentially commencing with By-law Number 2020-058 and that the Mayor and Clerk be authorized to sign them accordingly.

- a) By-law to make certain regulations for sanitary and stormwater services and to require the connection of

buildings to the aforesaid services. (IPPW2020-008, Council September 21, 2020)

- b) By-law establishing (widening) a public highway in the City of Waterloo known as Albert Street (SP-19-17)
- c) By-law to amend By-law No. 2018-050 being a Zoning By-law controlling land use development within the City of Waterloo, to correct, update, and/or add provisions as Part 2 of General Amendments. (Zoning By-law Amendment Z-19-06, IPPW2020-051, Council August 24, 2020, City-wide)
- d) By-law to amend By-law No. 2018-050 being a Zoning By-law controlling land use development within the City of Waterloo, to modify regulations pertaining to electric vehicle parking. (Zoning By-law Amendment Z-19-06, IPPW2020-051, Council August 24, 2020, City-wide).
- e) By-law to amend By-law No. 2018-050 being a Zoning By-law controlling land use development within the City of Waterloo, for the lands known municipally as 40 Blue Springs Drive, to rezone a remnant parcel from Zone Change Application (ZC) to Parks & Recreation (OS1). (Zoning By-law Amendment Z-19-06, IPPW2020-051, Council August 24, 2020).
- f) By-law to amend By-law No. 2018-050 being a Zoning By-law controlling land use development within the City of Waterloo, to rezone the lands adjacent to 139 Father David Bauer Drive from [no zoning] to Residential Mixed-Use (RMU-20) / Mixed-Use Office (C4-40). (Zoning By-law Amendment Z-19-06, IPPW2020-051, Council August 24, 2020).
- g) By-law to amend By-law No. 2018-050 being a Zoning By-law controlling land use development within the City of Waterloo, for the lands known municipally as 285 Benjamin Road, to modify the "I-10" and "OS3" zoning boundaries and establish site specific provisions. (Zoning By-law Amendment Z-19-06, IPPW2020-051, Council August 24, 2020).
- h) By-law to amend By-law No. 2018-050 being a Zoning By-law controlling land use development within the City of Waterloo, for the lands known municipally as 605 & 609 Davenport Road, to amend Exception C79 to permit a new

mid-rise apartment building with tailored zoning regulations. (Zoning By-law Amendment Z-19-06, IPPW2020-051, Council August 24, 2020).

- i) By-law to amend By-law No. 2018-050 being a Zoning By-law controlling land use development within the City of Waterloo, for the lands known municipally as 635 Erb Street West & 12 Westhill Drive, to clarify the first storey height regulation in Exception C226. (Zoning By-law Amendment Z-19-06, IPPW2020-051, Council August 24, 2020).
- j) By-law to amend By-law No. 2018-050 being a Zoning By-law controlling land use development within the City of Waterloo, for the lands known municipally as 651-663 Erb Street West, to add uses to Exception C86 to align with existing and future tenancies. (Zoning By-law Amendment Z-19-06, IPPW2020-051, Council August 24, 2020).
- k) By-law to amend By-law No. 2018-050 being a Zoning By-law controlling land use development within the City of Waterloo, for the lands known municipally as 108-110 Erb Street West, Barrel Yards Boulevard, Father David Bauer Drive, 22-42 Avondale Avenue North, to correct a zoning reference error in Exception C82, regarding the westerly lot line regulation. (Zoning By-law Amendment Z-19-06, IPPW2020-051, Council August 24, 2020).
- l) By-law to amend By-law No. 2018-050 being a Zoning By-law controlling land use development within the City of Waterloo, to add and modify definitions as well as modify regulations pertaining to private roads. (Zoning By-law Amendment Z-19-06, IPPW2020-051, Council August 24, 2020, City-wide).
- m) By-law to confirm all actions and proceedings of Council, September 21, 2020 – Special

## **21. ADJOURNMENT**



**STAFF REPORT  
City Utilities**

Title: Sanitary and Stormwater Services By-Law  
Report Number: IPPW2020-008  
Author: Natasha Glauser  
Meeting Type: Council Meeting  
Council/Committee Date: September 21, 2020  
File: N/A  
Attachments: Appendix A: Proposed Sanitary and Stormwater Services By-law  
Appendix B: Sewage and Stormwater Services By-law 2013-114, Sewage and Stormwater Services By-law 09-059 and City of Waterloo 1987 Engineering Report (ER3355)  
Ward No.: All

**Recommendations:**

1. That the proposed Sanitary and Stormwater Services by-law, attached as Appendix A to staff report IPPW2020-008, be approved.

**A. Executive Summary**

The current Sewage and Stormwater Services by-law (2013-114), formerly Sewage and Stormwater Services (09-059) and Sewer and Drainage (81-118) by-laws, has undergone a comprehensive review to evaluate its accuracy and conformity with current operational practices. The review also assessed where additional safeguards could be included to provide further protection of the City's sanitary and stormwater systems while still meeting customers' needs and maintaining regulatory compliance. A major objective of the review and subsequent proposed new by-law is to ensure proper regulation and consistent methodology in the application and enforcement of the by-law.

The changes include:

1. Update the name of the by-law to Sanitary and Stormwater Services By-law;
2. Reference the Region of Waterloo's sewer use by-law which regulates and controls the discharge of wastewater into the sanitary and stormwater collection system within the Waterloo Region;
3. Clarify existing and add new definitions;
4. Define and delineate the systems' ownership and responsibility;

5. Clarify the City's authority over connections to the sanitary and storm system and their protection;
6. Update the commitment to replace black pipe sewer laterals on private property at City cost to have an end date of such commitment of December 31, 2021, unless evidence can be provided that indicates prior commitment was given by the City; and,
7. Update the stormwater sections to address operational and maintenance gaps.

### **B. Financial Implications**

Significant cost savings can be achieved by discontinuing the practice of replacing black pipe sewer laterals on private property (and removing the associated reference to the program from the by-law as of December 31, 2021). Going forward, the City would only replace black pipe laterals within the municipal right-of-way (i.e. to the property line), similar to current practice for sewer laterals replacements of other material composition.

The approved 2020-2022 capital budget and 2023-2029 capital forecast includes \$2.3M of funding from the Sanitary Sewer capital reserve for proactive black pipe replacements (Ref. #518). Pending approval of this report, capital funding will no longer be required for proactive black pipe replacements, though a portion of the 2020 funding may be retained within Ref. #518 for any replacements previously committed by the City prior to the by-law update, and any further private side replacements to the end of 2021. For context, the City has spent approximately \$200,000 annually for trenchless black pipe replacements through the City's contractor over the past few years. Any unused funding from Ref. #518 will return to the reserve and will be available for other projects through future capital budgeting processes. If the updated by-law is approved, the 2021 City Utilities rate report will account for these un-used funds through updating of the financial model and resultant future rate forecasts.

### **C. Technology Implications**

None

### **D. Link to Strategic Plan**

(Strategic Objectives: Equity, Inclusion and a Sense of Belonging; Sustainability and the Environment; Safe, Sustainable Transportation; Healthy Community & Resilient Neighbourhoods; Infrastructure Renewal; Economic Growth & Development)

(Guiding Principles: Equity and Inclusion; Sustainability; Fiscal Responsibility; Healthy and Safe Workplace; Effective Engagement; Personal Leadership; Service Excellence)

Sustainability and the Environment – provides the City with a greater ability to protect the City's sanitary and stormwater network while protecting human health and the environment.

Infrastructure Renewal – resources can be utilized more efficiently to renew existing City infrastructure to work towards addressing the infrastructure deficit.

### 3      Integrated Planning & Public Works

#### **E.      Previous Reports on this Topic**

- IPPW2013-038 Collections Policy – Water, Sanitary Sewer and Stormwater Receivables
- PWS2009-18 New Sewage and Drainage By-law to Replace By-law 81-118
- ER3355 City Policies on Sewer Blockages and Replacements

#### **F.      Approvals**

<b>Name</b>	<b>Signature</b>	<b>Date</b>
<b>Author:</b> Natasha Glauser		
<b>Director:</b> Leigh McDermott		
<b>Commissioner:</b> Cameron Rapp		
<b>Finance:</b> Filipa Reynolds		
		CAO



**Sanitary and Stormwater Services By-Law  
IPPW2020-008**

**Section 1: Summary of Changes**

The attached by-law includes several changes as summarized below.

Administrative changes:

- Update the by-law name from “Sewage and Stormwater Services” to “Sanitary and Stormwater Services” to reflect current industry terminology;
- Update terminology to reflect recent divisional changes;
- In most instances, remove reference to a specific job title and use “the City” instead;
- Reorganize the by-law for ease of use;
- Reference the Regional Municipality of Waterloo by-law that regulates and governs sewer use. The City’s by-law does not overlap the Region’s by-law with respect to discharges to the sanitary and stormwater systems; by establishing a link, it is expected that users will be directed to the Region’s by-law;
- Create, update and amend definitions to reduce ambiguity;
- Define and delineate ownership and responsibility for the systems’ components;
- Make a distinction between sanitary and stormwater systems; and,
- Ensure a greater protection to the City’s infrastructure and its assets.

More substantive changes:

**1.1    Amended Sections (Section 3, 5 to 8)**

The majority of the amendments made to sections 3, 5 to 8 are to improve the City’s sanitary and stormwater systems’ protection by eliminating confusing and redundant wording and creating a straightforward approach to operational practices. Additionally, the private owners’ role has been defined to provide clarity around responsibility and ownership.

Section 8 was also expanded to provide recourse for the City regarding continuous non-compliance including failure to maintain and repair services as specified in the by-law. Section 8.6 of By-law 2013-114, which refers to replacing bituminous fibre (black pipe) sanitary laterals on private property, has been updated to state that full replacement at the City’s expense will cease on December 31, 2021, unless evidence is provided that indicates prior commitment was given by the City; rationale for this change is provided in Section 2: Technical Support below.

### 1.2 New Sections (Sections 9 to 13)

The intent of Section 9 (Stormwater Management Systems on Private Lands), is to protect property, the City's infrastructure and the natural environment by enhancing watercourses' water quality. Additionally, Section 9 provides the authority for the City to take enforcement action against property owners to maintain their private stormwater management systems.

Section 10 (Discharge to the Services) and Section 13 (Disconnection of the Services), were added to provide additional protection to the City's sanitary and stormwater systems by clearly stating property owners' limitations.

In an effort to improve the security of the City's sanitary and stormwater systems and to reduce ambiguity in relation to replacing a service pipe or making changes to a service pipe, Section 11 (Replacement of the Services) and Section 12 (Changes to the Services), were added.

### **Section 2: Technical Support**

#### **2.1 Addition of Stormwater Management Systems**

The stormwater sections of the by-law have been updated to appropriately address or mitigate issues related to the stormwater network, ensuring that proper regulation and enforceability are built in. More specifically, the updates are intended to provide guidance; introduce clarification to reduce confusion and ambiguity with respect to certain sections of the respective by-law; recognize current stormwater management trends; and, address maintenance concerns on private stormwater management systems identified to date.

#### **2.2 Discontinuation of Black Pipe Replacement Program**

To provide context for the proposed discontinuation of black pipe replacement on private property at the City's cost from the current by-law (2013-114), the following subsections provide a brief description of black pipe, the history of its use, and current and past policies and practices in the City of Waterloo and other municipalities.

##### **2.2.1 Background**

During the Second World War to the late 1960s, bituminous fibre pipe, often referred to as black pipe (BP), was widely adopted throughout North America and Europe. The evolution and popularity of BP was due in part to the scarcity of metal during the war, along with the low cost of manufacturing. At the time, BP was used for various infrastructure applications including sanitary service laterals, storm sewers, and utility conduits (Canadian Concrete Pipe & Precast Association, 2019).

Black pipe is constructed from compressed paper fibre tubes that are vacuum impregnated with bituminous coal tar pitch, composed of approximately 25% fibre stock

and 75% bitumen (Centre for Advancement of Trenchless Technologies, n.d.). The manufacturing of BP was regulated by industry standards (ASTM D1861/ASTM D1862) that controlled several properties such as the strength and chemical resistance of the pipe (Canadian Concrete Pipe & Precast Association, n.d.). Despite these regulations, many homeowners reported premature failures or extreme deterioration of their BP laterals. Although the cause for this was unknown at the time, subsequent studies indicated BP cannot handle the hot water temperatures discharging from modern appliances such as dishwashers (Hopper, 2015). Additionally, the lack of proper pipe bedding in some instances was also noted by the City as a cause for failure.

The typical lifespan of a sanitary service lateral can be estimated as 50 years (WaterWorld, 1999). Given that BP installations in the City of Waterloo occurred during the 1950s and 1960s, all remaining BP laterals can be considered to have fulfilled their industry-accepted life expectancy.

For comparison, the City does not replace sanitary laterals on private property for any other pipe material, regardless of its age. Similar to drinking water service pipes, the portion of the pipe that is on private property is the responsibility of the private property owner. Thus, any future BP lateral failures should not be considered premature, but rather to have fulfilled their expected service lives and similar to other pipe materials installed during that period, otherwise having black pipe is now a financial advantage compared to others.

### **2.2.2 Black Pipe in the City of Waterloo**

In the City of Waterloo, it has been estimated that approximately 3000 to 4000 black pipe sanitary service laterals were installed in the 1950s and 1960s.

#### **2.2.2.1 Policies and Practices**

In 1987, the City completed an engineering report, ER3355, to evaluate the increase in premature failures of BP laterals and to review current City policies (“City Policies on Sewer Blockages and Replacements”, June 30, 1987). The report recommended that an amendment be made to the “Sewer Lateral Repair Replacement” policy to include the statement, *“Where failure to this city installed [black] pipe occur, the entire cost of replacement will be borne by the City.”* The replacement cost included restoration of surface and landscape works as required.

In 2002, the City issued a letter to approximately 2,000 properties suspected to have black pipe laterals stating the City’s commitment to replacing City-installed black pipe laterals on private property.

In 2009, the City updated its Sewage and Stormwater Services By-law (09-059) to include Section 21 that states, *“Where Bituminous Fibre Pipe has been installed by the City and pipe failures occur, the City shall be liable for the costs of replacing as much*

*of the Bituminous Fibre pipe where appropriate, considering the circumstances. Reinstatement of existing lawns, driveways, and walks will be undertaken by the City to the condition before replacement. Trees or shrubs lost during reconstruction will be replaced to a standard deemed appropriate by the City.”*

In 2013, the City updated the Sewage and Stormwater Services By-law (2013-114) with no proposed changes to the text regarding black pipe.

See Appendix B for copies of each by-law and the engineering report, ER3355.

### 2.2.2.2 Black Pipe Lateral Inventory

In 1987, the ER3355 report commented on the lack of documentation regarding the quantity and location of BP laterals installed in the City. The report recommended funding and that more analysis be completed to better determine the exact number and location of BP laterals. Since then, considerable efforts have been made to improve the BP lateral inventory. Table 1 provides a summary of the City's most current GIS data available pertaining to BP laterals.

Table 1: City of Waterloo Black Pipe Sanitary Lateral Inventory

Sanitary Lateral Classification	Amount
Known Black Pipe	177
Likely Black Pipe	925
Unknown Material	341
Sub-total Remaining Black Pipe =	1443 <sup>1</sup>
Lined Black Pipe	66
Replaced Black Pipe	1373
Removed Black Pipe	97
Sub-Total Repaired/Replaced Black Pipe =	1536 <sup>1</sup>
Total Black Pipe Installed in the City (Estimated) =	2979

<sup>1</sup>Assuming unknown material is Black Pipe

The data indicates that approximately 2,979 BP laterals were installed in the City. Approximately 52% (1,536) of those have been repaired, replaced or removed and approximately 48% (1,443) remain in the system. However, it should be noted that there are still gaps in the data and these numbers are to be considered estimates.

Despite considerable financial and time investments made since the 1987 ER3355 report, the data regarding BP laterals is challenging to obtain because it often involves access to private property. Further, through the City's CCTV inspection program, road reconstructions, and other maintenance activities in recent years approximately 500 laterals originally assumed to be BP were determined to be other materials. The current data indicates approximately 1,266 (925+341) laterals that “could be” black pipe (based on location and installation date). However, recent experience has shown that

many of these may not be found to be black pipe. Therefore, the remaining inventory is likely smaller than the 1,443 assumed.

### 2.2.2.3 Black Pipe Lateral Letter Inventory

The letter stating the City's commitment to replacing black pipe laterals on private property was distributed to 2,009 residents. Based on the best available black pipe inventory data, it has been determined that 1,268 of those properties have had their lateral already replaced, or were determined to not have a black pipe lateral. This leaves 741 properties that were provided a letter in 2002 that could potentially have a black pipe lateral. Given that many properties that were estimated to potentially have black pipe have been discovered to not have a black pipe lateral, it is highly unlikely that all 741 properties have a black pipe lateral.

### 2.2.3 Black Pipe Policies and Practices in Other Municipalities

A review of how other municipalities in Canada, including one in the United States, are managing black pipe sanitary laterals was completed. Information from eight municipalities was obtained and is summarized in Table 2.

Table 2: Summary of Other Municipality's Black Pipe Sanitary Lateral Policies

Municipality	Policy	Reference
City of Kitchener, ON	Cost of black pipe lateral replacement to the owner	City of Kitchener, n.d.
City of Cambridge, ON	Cost of black pipe lateral replacement to the owner	City of Cambridge, n.d.
City of Guelph, ON	Cost of black pipe lateral replacement to the owner	City of Guelph, n.d.
City of Cornwall, ON	Cost of black pipe lateral replacement to the owner	City of Cornwall, 2000
City of Aurora, ON	Cost of black pipe lateral replacement to the owner	City of Aurora, n.d.
Halifax, NS	Loan option (max \$10,000) paid back 5 year term	Halifax Water, 2019
City of Surrey, BC	Cost of black pipe lateral replacement to the owner	City of Surrey, 2008
Ann Arbor, Michigan	Cost of black pipe lateral replacement to the owner	City of Ann Arbor, n.d.

Based on the review of other municipalities, the majority do not offer any subsidies to owner's costs for BP sanitary lateral replacement on private property.

It should be noted that many residential home insurance policies now include sewer lateral failure as part of the coverage.

**Section 3: Financial Implications**

Significant cost savings can be achieved by discontinuing the practice of replacing black pipe laterals on private property (at City cost). As of December 31, 2021, the City would only replace black pipe laterals within municipal right-of-way (i.e. to the property line), similar to current practice for sewer lateral replacements of other material composition. At the discretion of the Directors of City Utilities or Engineering, exception may be given to residents that produce evidence of the City's prior commitment to black pipe replacement.

The approved 2020-2022 capital budget and 2023-2029 capital forecast includes \$2.3M of funding from the Sanitary Sewer capital reserve for proactive black pipe replacements (Ref. #518). Pending approval of this report, capital funding will not be required for proactive black pipe replacements after December 31, 2021, though a portion of the 2020 funding may be retained within Ref. #518 for any replacements previously committed by the City prior to the by-law update and any further private side replacements required up to the end of 2021. For context, the City has spent approximately \$200,000 annually for trenchless black pipe replacements through the City's contractor over the past few years. Any unused funding for Ref. #518 will return to the reserve and will be available for other projects through future capital budgeting processes. The 2021 City Utilities rate report will account for these un-used funds through updating of the financial model and resultant future rate forecasts.

Other items, both operating and capital, that relate to sanitary lateral replacements (regardless of composition) will remain as per the approved 2020-2022 budget. Small re-allocations will occur between programs where funding is no longer needed for proactive black pipe replacement. One example is a reduction in sanitary lateral inspections (capital Ref. #516), since the City will no longer need to proactively identify black pipe laterals; they would simply be replaced within the City's right-of-way as any other lateral would. Some of the savings from capital Ref. #516 could be re-allocated to existing operational budgets for any pre-committed replacements as noted above. Shifting the remaining savings towards more mainline CCTV inspections would benefit the broader sanitary sewer system. There will also be a reduction in staff time and database management related to black pipe identification and tracking, allowing staff to focus on other areas of priority.

The scope of various road reconstruction projects managed by the Engineering Services Division also includes black pipe replacement on private property. For projects scheduled in 2020 and 2021, black pipe laterals will continue to be replaced on private property, as those projects' communications have already included that scope of work. There are three projects underway for 2020 and another three projects scheduled for 2021. For road reconstructions in 2022 and beyond, black pipe laterals will only be replaced within the City's right-of-way, thereby reducing lateral replacement costs slightly. Any funding budgeted for black pipe replacement on private property through road reconstructions in 2022 and beyond will be reallocated accordingly during the next capital budget cycle.

## 10 **Integrated Planning & Public Works**

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Based on the transition plan on capital projects works, a similar transition period will take place on operational activities. There is currently a priority black pipe replacement list that has prioritized each replacement based on structural assessment. During this two year transitional period (2020 and 2021), the properties on this list will have the BP lateral replaced on private property. For 2022 and beyond, any newly identified deficient BP laterals will have the opportunity to cost share the replacement with the City in cases where the City's right-of-way lateral is in need of replacement as well.



# THE CORPORATION OF THE CITY OF WATERLOO

## BY-LAW NO. 2020 –

### BY-LAW TO MAKE CERTAIN REGULATIONS FOR SANITARY AND STORMWATER SERVICES AND TO REQUIRE THE CONNECTION OF BUILDINGS TO THE AFORESAID SERVICES

**WHEREAS** Section 11(2)6. of the *Municipal Act, 2001*, S.O. 2001 c.25, as amended (the "Municipal Act, 2001"), allows municipalities to pass By-laws respecting the health, safety and well-being of persons;

**AND WHEREAS** Section 11(3)4. of the *Municipal Act, 2001* allows municipalities to pass By-laws respecting public utilities;

**AND WHEREAS** section 9(1) of the *Municipal Act, 2001* provides that section 11 shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues;

**AND WHEREAS** Section 80(1) of the *Municipal Act, 2001* states that a municipality may, at reasonable times, enter on land to which it supplies a public utility, (a) to inspect, repair, alter or disconnect the service pipe or wire, machinery, equipment and other works used to supply the public utility; or (b) to inspect, install, repair, replace or alter a public utility meter;

**AND WHEREAS** Section 80(3) of the *Municipal Act, 2001* states that, if a customer discontinues the use of a public utility on land or a municipality lawfully decides to cease supplying the public utility to land, the municipality may enter on the land: (a) to shut off the supply of the public utility; (b) to remove any property of the municipality; or (c) to determine whether the public utility has been or is being unlawfully used;

**AND WHEREAS** Section 81(1) of the *Municipal Act, 2001* states that a municipality may shut off the supply of a public utility by the municipality to land if fees or charges payable by the owners or occupants of the land for the supply of the public utility to the land are overdue;

**AND WHEREAS** Section 81(3) of the *Municipal Act, 2001* states that despite subsections 81(1) and 81(2), a municipality shall provide reasonable notice of the proposed shut-off

to the owners and occupants of the land by personal service or prepaid mail or by posting the notice on the land in a conspicuous place;

**AND WHEREAS** Section 81(4) of the *Municipal Act, 2001* states that a municipality may recover all fees and charges payable despite shutting off the supply of the public utility;

**AND WHEREAS** Section 82(1) of the *Municipal Act, 2001* states that a municipality is not liable for damages caused by the interruption or reduction of the amount of a public utility supplied to a municipality or to the land of any person as a result of an emergency or a breakdown, repair or extension of its public utility if, in the circumstances, reasonable notice of its intention to interrupt or reduce the supply is given;

**AND WHEREAS** Section 83 of the *Municipal Act, 2001* states that, without limiting sections 9, 10 and 11, a municipality may, as a condition of supplying or continuing to supply a public utility, require reasonable security be given for the payment of fees and charges for the supply of the public utility or for extending the public utility to land;

**AND WHEREAS** Section 398(2) of the *Municipal Act, 2001* states that the treasurer of a local municipality may add fees and charges imposed by the municipality to the tax roll for the following property in the local municipality and collect them in the same manner as municipal taxes: (1) in the case of fees and charges for the supply of a public utility, the property to which the public utility was supplied; and (2) in all other cases, any property for which all of the owners are responsible for paying the fees and charges.

## **THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE CITY OF WATERLOO ENACTS AS FOLLOWS:**

### **1. Citation**

- 1.1. This By-law shall be known as the "Sanitary and Stormwater Services By-law" of The Corporation of the City of Waterloo.
- 1.2. Should any By-law refer to the City's, or a department of the City's, "Sewage and Stormwater Services By-law" or "Sewage and Stormwater By-law", the aforesaid By-laws, in using any of the aforementioned terms, shall be interpreted to mean this By-law, regardless of any definition to the contrary contained within that by- law.
- 1.3. For detailed sewer use and discharge information, reference the current Regional Municipality of Waterloo By-law for sewer use that governs and regulates the discharge of water and wastewater into the sanitary and stormwater systems in the Regional Municipality of Waterloo. If any conflict arises between this By-law and the Regional By-law, the more restrictive By-law shall apply.

- 1.4. Discharges to storm and sanitary sewers must not exceed the applicable effluent criteria established in the RMOW's aforesaid By-Law. In the absence of applicable standards in the RMOW's By-Law, maximum chemical concentrations will be determined by the City's Director of City Utilities in consideration of relevant provincial standards and guidelines established under the *Environmental Protection Act* and/or *Ontario Water Resources Act*.

## 2. **Definitions**

- 2.1. In this By-law:

"Blockage" means any partial or full obstruction of a Sanitary Sewer, Storm Sewer or Service Pipe due to non-sewage related matter. Includes, but not limited to, tree roots, oil/grease, silt/gravel/dirt, construction debris, other debris;

"Building" has the same meaning as in the Building Code Act, 1992, S.O. 1992 c.23, as amended;

"Chief Financial Officer (CFO) and Treasurer" means the Chief Financial Officer (CFO) and Treasurer of the City, or his or her designate;

"Chronic Problem" means where there is consistent or repeated Blockage of the Service Pipe and that the aforesaid Blockage is caused, either directly or indirectly, by a Customer;

"City" means The Corporation of the City of Waterloo and includes its employees, servants and agents;

"Clean Out" means the maintenance access to the Service Pipe between the Building and the Sewer; can be on the City property or the private property;

"Council" means the Council of the City;

"Customer" means any Owner, occupant, lessee, tenant or any other person purchasing or receiving Sanitary or Stormwater Services from the City;

"Director of City Utilities" means the Director of City Utilities of the City, or his or her designate;

"Director of Engineering Services" means the Director of Engineering Services of the City, or his or her designate;

"Fees and Charges By-law" means the current schedule of fees, rates or other charges as established by a By-law enacted pursuant to section 391 of the *Municipal Act, 2001*, as may be amended from time to time;

"Foundation Drain" means a pipe around a foundation for the collection of groundwater. Includes weeping tiles, cellar drains, sump pumps, sump pits and other such conveyances of groundwater;

"Municipal Service" means the portion of the Sanitary or Stormwater Service Pipe that is on the City side of the Property Line and connects into the corresponding Sewer;

"Owner" means an owner of a Building and/or of land(s), and/or their agent/designate;

"Private Service" means the portion of the Sanitary or Stormwater Service Pipe that is on the private side of the Property Line, running from the Property Line to the Building or to a Private Stormwater Management System;

"Private Stormwater Management System" means a Stormwater Management System owned, operated and maintained by a person other than the City;

"Property Line" means the line, demarcation or boundary between private property and City property;

"Sanitary Sewer" means any Sewer in the City that is owned and under the jurisdiction of a municipality which receives or is intended to receive Sewage, including all or any part of facilities for the collection, storage and conveyance of Sewage provided by the City;

"Sanitary System" means the Sanitary Sewer and Municipal Service;

"Services" means the Sanitary Municipal Service and the Stormwater Municipal Service supplied by the City;

"Service Pipe" means the full length of a conduit for conveying Sewage and/or Stormwater from private property to the corresponding Sewer; a Service Pipe is dually owned, as a portion of it is located on City Property and a portion is located on private property;

"Sewage" includes residential, commercial and industrial liquid wastes discharged to the Sanitary System;

"Sewer" means the Sanitary Sewer and the Storm Sewer;

"Site Plan Agreement" means an agreement the Owner is required to enter with the City as a condition of the Site Plan Approval;

"Storm Sewer" means any Sewer in the City that is owned and under the jurisdiction of a municipality which receives or is intended to receive Stormwater, including all or any part of facilities, constructed or natural, for the collection, storage, conveyance, treatment or disposal of Stormwater provided by the City;

"Stormwater" means surface and rainwater, including melted snow and ice or other natural precipitation, and uncontaminated groundwater discharged to the Stormwater System from foundation drains;

"Stormwater Management System" means a Stormwater Best Management Practice that has been professionally designed, constructed and maintained to provide water quantity and/or quality control prior to being discharged to the receiving system (Storm Sewer or receiving water course);

"Stormwater System" means all or any part of facilities for the acceptance, collection, storage, conveyance, treatment of Stormwater provided by the City;

"Street" has the same meaning as "highway" as defined in the *Municipal Act, 2001*.

### **3. City Property**

- 3.1. All pipes, wire, machinery equipment and other works used to supply the Municipal Services shall remain the property of the City. All pipes, wire, machinery equipment and other works added by the Owner to the Private Services are the sole responsibility of the Owner.
- 3.2. Property of the City which is used for and/or in connection with the supply of the Services to Buildings and/or land is exempt from seizure:
  - 3.2.1. Against the Owner or occupant of the land and/or Building under the *Execution Act*, R.S.O. 1990, c. E.24; and,
  - 3.2.2. Against a person with a leasehold interest in the land and/or Building for overdue rent.
- 3.3. An Owner may be held liable for damages to City property caused by the Owner as a result of carelessness or negligence on the Owner's part or on the part of any person or entity acting for or on behalf of the Owner.

- 3.4. No person shall carry out any work on City owned lands without the prior written approval of the City, such as, but not limited to, a Road Occupancy Permit.

4. **Service Outside of Municipality**

- 4.1. The City shall not supply Services to anyone outside of the boundaries of the City, unless it is approved by Council.

5. **Application for the Services**

- 5.1. All Owners shall make a written application (the "Application") to the City for the provision of the Municipal Services before the Municipal Services are extended from the Sewer to the Property Line.

- 5.2. There shall be one application per property. Each property will be permitted to have one Sanitary Municipal Service. Connection to the storm sewer is not permitted, unless deemed otherwise by the City; up to one Stormwater Municipal Service may be permitted. Properties are not permitted to share Municipal Services; only one Private Service is permitted to connect to one Municipal Service.

- 5.3. For new construction and reconstruction, all Sanitary Municipal Services shall be separate from Stormwater Municipal Services; Stormwater Municipal Services may only be permitted as deemed necessary. Combined Municipal Services are not permitted and where existing, shall be separated.

- 5.4. The Application must include:

- 5.4.1. The desired location and size of the Service Pipe required;
    - 5.4.2. The use or class of occupancy of the Building;
    - 5.4.3. A plan of the Building showing the interior piping and Private Services connecting to the Municipal Services; and,
    - 5.4.4. Any other information which shall aid the City in providing adequate Municipal Services.

- 5.5. The minimum diameter of Service Pipe shall comply with the City of Waterloo's Engineering Manual.

- 5.6. The City, at any time may, among other things:

- 5.6.1. Determine the size and locations of the Municipal Services;
- 5.6.2. Limit the number of Buildings to be supplied by a single service connection; and,
- 5.6.3. Refuse to allow the Municipal Services if it considers the Municipal Services to be detrimental to existing Municipal Services or to the broader interests and operations of the City.

- 5.7. The City may deny any incomplete and/or misinformation given on the Application. In the event The City approves installation of Municipal Services that result in inadequacy and/or improper installation, due to the lack of information and/or misinformation provided on the Application, the City will not be responsible to provide any remedies.
- 5.8. By applying for the Municipal Services from the City, the Owner shall comply with all applicable laws, By-laws, rules, Regulations and requirements relating to Sewage and Stormwater and the Services provided by the City.
- 5.9. No person shall construct or permit the construction of a Stormwater Management System on non-residential, commercial or institutional land except in accordance with the City of Waterloo Engineering Manual.

## **6. Installation of the Services**

- 6.1. Upon approval of the Application, Municipal Services are permitted to be installed at cost to the Owner of the land on which the Municipal Services are being installed, including all labour, materials and other costs incurred by the City as a result of installing the Municipal Services. The City does not install Private Services.
- 6.2. In order for the Applicant to be permitted to complete servicing works in the Municipal right-of-way in the City of Waterloo, the Applicant must provide and/or demonstrate the following:
  - 6.2.1. The Applicant must provide proof of recent experience in the successful completion of servicing works in a Municipal right-of-way including but not limited to water, storm and sanitary service installation. The Applicant must submit three (3) representative projects completed in the last five (5) years with references from municipalities where work was completed;
  - 6.2.2. The Applicant shall apply for a Road Occupancy Permit a minimum of seven (7) days prior to commencement of the activity. The

Applicant is required to have Five (5) million dollars in comprehensive insurance as part of the Road Occupancy Permit application; and,

- 6.2.3. The Applicant must provide, as part of the Road Occupancy Permit, a traffic control plan in accordance with Ontario Traffic Manual Book 7 – Temporary Conditions, for any work within the Municipal right-of-way;
- 6.2.4. The Applicant must demonstrate in a reasonable time, where the land has been interfered with, how these lands will be restored, and must be to the satisfaction of the City's Director of Transportation at the sole cost of the Owner/Applicant.
- 6.2.5. The Applicant shall demonstrate working knowledge of applicable City standards, Region of Waterloo and Area Design Guideline and Supplemental Specifications for Municipal Services (DGSSMS) and Ontario Provincial Standards (OPSD) specifications.

- 6.3. Stormwater Management Systems shall be constructed in accordance with the requirements of all applicable legislative requirements and any City of Waterloo standards will be subject to inspection by the City.

## **7. Connection to the Services**

- 7.1. Subject to Section 7.3, every Owner shall ensure that their Building(s) and/or Stormwater Management Systems are connected to the appropriate Municipal Service where available (Sanitary Service shall be connected to the Sanitary Sewer and Stormwater Service shall be connected to the Storm Sewer).
- 7.2. No person shall uncover, make any connections with or opening into, use, alter or disturb any Municipal Service or Sewer or appurtenance thereof without first obtaining permission in writing from the City.
- 7.3. Foundation Drains of Buildings constructed before July 6, 1981 shall be permitted to discharge Stormwater into the Sanitary Sewer. Foundation Drains of Buildings constructed after July 6, 1981 shall not be permitted to discharge Stormwater into the Sanitary Sewer. Roof drains, eaves troughs, sump pits and all drains which collect Stormwater shall not discharge into the Sanitary Sewer, except as provided in this paragraph..

- 7.4. If a Building has two (2) connections to the Sanitary Sewer, such as when a Foundation Drain exists, the City may require an Owner to connect or reconnect their Building's Private Services in a manner acceptable to the City and may also require a connection or reconnection to the Storm Sewer.
- 7.5. No existing Private Service that is connected to Municipal Service shall be used for a connection to a new building unless it has first been inspected and tested by the Owner and found to comply with all applicable requirements as accepted or required by the City.

## **8. Maintenance and Repair of the Services**

- 8.1. An Owner shall maintain the Service Pipes in a state of good repair and shall be responsible for all Blockages of the Service Pipe, unless such Blockage is caused by the City.
- 8.2. All Clean Outs and maintenance holes must be accessible to the City at all times.
- 8.3. Where a blockage of the Service Pipe is caused by tree roots, the City shall make reasonable efforts to determine which tree's roots are causing the blockage. If the tree which is causing the Blockage is located on private property, the Owner of the property with the Blockage shall be liable for any costs involved in clearing the Blockage of the Service Pipe.
- 8.4. Where the City determines that a Chronic Problem exists, the relevant Customer shall be liable for any costs involved in clearing the Blockage of the Service Pipe.
- 8.5. If an Owner fails to maintain, repair and/or unclog a Service Pipe, as required by this By-law, the City may maintain, repair and/or unclog the Service Pipe at the Owner's expense and the cost of so doing may be recovered by the City in a like manner as Municipal taxes.
- 8.6. Subject to Section 8.5, the City may shut off or reduce the supply of water to the land and/or Building where the Owner and/or Customer denies or otherwise prohibits access to maintain, repair and/or unclog a Service Pipe.
- 8.7. The City may charge a fee to the Owner, pursuant to the Fees and Charges By-law, for denying or otherwise prohibiting access to a Service Pipe, which would represent the reasonable costs incurred by the City. The City may add this fee to the tax roll for the relevant property and collect the fee in the same manner as Municipal taxes.

- 8.8. Where the Private Service is constructed of bituminous fibre pipe and has been installed by the City, the City will cease to replace such Private Services after December 31, 2021, but notwithstanding, grants discretion to the Directors of City Utilities and/or Engineering Services to replace bituminous fibre Private Services at the City's cost, in the event evidence has been provided that indicates prior commitment was given by the City.

## **9. Stormwater Management Systems on Private Land**

- 9.1. Every owner of private property on which Private Stormwater Management Systems are located, shall:
  - 9.1.1. Not carry out any activity which, in the opinion of the City, could reasonably be expected to impair the effective functioning of the Stormwater Management System;
  - 9.1.2. Ensure all on-site Stormwater Management Systems are maintained, subject to the Site Plan Agreement, where applicable;
  - 9.1.3. For greater certainty and without limiting the generality of the foregoing, the maintenance of the Stormwater Management System in good working order will require cleaning catch basins, oil/grit separators, pipelines and rehabilitation or replacement of any defective part of the system; and
  - 9.1.4. At all times and at the owner's expense, keep such Stormwater Management Systems functioning effectively, including undertaking refurbishment and reconstruction thereof if, in the opinion of the City, it should be reconstructed or refurbished.

## **10. Discharge to the Services**

- 10.1. No person shall discharge any gaseous, liquid or solid matter into any Service Pipe, Sewer or watercourse, except in accordance with the current Regional Municipality of Waterloo By-law for sewer use that governs and regulates the discharge of water and wastewater into the sanitary and storm systems in the Regional Municipality of Waterloo.

## **11. Replacement of the Services**

- 11.1. The City will only replace the Municipal Services from the Sewer to the Property Line. Any Private Service replacement needed on private property is the sole responsibility of the Owner of the Property.

**12. Changes to the Services**

- 12.1. Any Owner desiring a change in the location, arrangement or size of Municipal Services shall pay to the City all costs incurred for making such a change.

**13. Disconnection of the Services**

- 13.1. No person shall disconnect, except for the purpose of repair, any Private Service conveying Sewage or Stormwater without first notifying the City in writing.

**14. Manner of Invoicing**

- 14.1. Fees and charges for the Services shall be set by Council from time to time in the Fees and Charges By-law.
- 14.2. Fees and charges shall be invoiced in the same manner as the City's water and sanitary sewer charges and shall be itemized on the same invoice being issued under the Supply of Water By-law and the Stormwater Utility and Credit Program By-law.
- 14.3. Fees and charges for the Services shall be payable upon receipt of the invoice and every Customer in receipt of such invoice shall ensure payment of such invoice on or before the due date noted upon the invoice.
- 14.4. Interest shall be added after the due date for each subsequent bill issued with unpaid carry forward and charged at a rate of one and a half percent (1.5%).
- 14.5. In the case of payments received by mail, the date payment is received shall be taken as the date of payment.
- 14.6. If fees or charges are not paid after twenty one (21) days to the City by the Customer in accordance with the provisions of this By-law, the City may add the outstanding fees or charges to the tax roll for the relevant property and collect the fees or charges in the same manner as municipal taxes.
- 14.7. If, after twenty one (21) days past the due date, fees or charges are still not paid, the Chief Financial Officer and Treasurer may advise the Customer that unless the fees or charges are paid within seven (7) days, the City may shut off the supply of water to the lands or Buildings upon which the fees or charges are due, and in the event the supply of water is turned off, it shall not be turned on again until such time as all arrears are paid together with

the fees, charges and costs incurred on behalf of the City for turning the supply of water off and on. The aforesaid fees, charges and costs for turning the supply of water off and on shall be at the rates outlined in the Fees and Charges By-law.

- 14.8. Partial payments on sewer and water accounts that are in arrears shall be applied in each instance to the arrears longest outstanding.
- 14.9. The City may establish an administrative policy in relation to the collection of sewage and stormwater receivables. If any conflict arises between this By-law and any City policy, the By-law shall supersede the policy.

**15. Sewer Services Rebate**

- 15.1. A sewer services rebate shall be provided to all businesses which uses water for processing, refrigeration, cooling, etc. and where the aforesaid water is not being expelled into the Services.
- 15.2. A business seeking to benefit from the sewer services rebate must first apply to the City.

**16. Billing Errors**

- 16.1. Where billing errors have resulted in over-billing, the Customer shall be credited with the amount erroneously billed for the relevant period, but not exceeding two (2) years.
- 16.2. Where billing errors have resulted in under-billing, the Customer shall be charged the amount erroneously not billed for a period not exceeding two (2) years.

**17. Offence and Penalties**

- 17.1. Every person who contravenes any of the provisions of this By-law is guilty of an offence pursuant to Section 425 of the *Municipal Act, 2001*, S.O. 2001 c.25, as amended, and pursuant to Section 429, all contraventions of this By-law are designated as continuing offences.
- 17.2. Every person who is convicted of an offence is liable to a maximum fine of Fifty Thousand Dollars (\$50,000.00) for the first offence and One Hundred Thousand Dollars (\$100,000.00) for a subsequent offence.
- 17.3. In addition to the fine amounts set out in subsection 17.2 for each day or part of a day that an offence continues, the minimum fine shall be Five

Hundred Dollars (\$500.00) and a maximum fine shall not exceed Ten Thousand Dollars (\$10,000) per day or part of a day.

**18. Severability**

18.1. If a Court of competent jurisdiction should declare any section or part of any section of this By-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this By-law and it is hereby declared that the remainder of this By-law shall be valid and shall remain in full force and effect.

**19. Repeal and Effective Date**

19.1. By-law 2013-114 of The Corporation of the City of Waterloo, as well as all By-laws amending same and policies in relation to same or parts thereof, are hereby repealed.

19.2. Notwithstanding paragraph 19.1 above, By-law No. 2013-114 is deemed to continue enforce and effect with respect to any and all orders, appeals or prosecutions issued, filed or commenced under that By-law and any assessment, rate, charge, tax, fee, liability, fine or penalty outstanding under By-law 2013-114 may be collected as if such By-law had not been repealed.

20. This By-law shall come into force and effect on the date of its final passing.

**Enacted** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Approval	Date	Print Name	Initials
[Dept./Div.]			
Legal			
Finance			

**D. Jaworsky, Mayor**

**O. Smith, City Clerk**



# THE CORPORATION OF THE CITY OF WATERLOO

## BY-LAW NO. 2013 – 114

### BY-LAW TO MAKE CERTAIN REGULATIONS FOR SEWAGE AND STORMWATER SERVICES AND TO REQUIRE THE CONNECTION OF BUILDINGS TO THE AFORESAID SERVICES

**WHEREAS** Section 11(2)(e) of the *Municipal Act, 2001*, S.O. 2001 c.25, as amended (the “*Municipal Act, 2001*”), allows municipalities to pass By-laws respecting the health, safety and well-being of persons;

**AND WHEREAS** Section 11(3)(e) of the *Municipal Act, 2001* allows municipalities to pass By-laws respecting public utilities;

**AND WHEREAS** Section 80(1) of the *Municipal Act, 2001* states that a municipality may, at reasonable times, enter on land to which it supplies a public utility, (a) to inspect, repair, alter or disconnect the service pipe or wire, machinery, equipment and other works used to supply the public utility; or (b) to inspect, install, repair, replace or alter a public utility meter;

**AND WHEREAS** Section 80(3) of the *Municipal Act, 2001* states that, if a customer discontinues the use of a public utility on land or a municipality lawfully decides to cease supplying the public utility to land, the municipality may enter on the land: (a) to shut off the supply of the public utility; (b) to remove any property of the municipality; or (c) to determine whether the public utility has been or is being unlawfully used;

**AND WHEREAS** Section 81(1) of the *Municipal Act, 2001* states that a municipality may shut off the supply of a public utility by the municipality to land if fees or charges payable by the owners or occupants of the land for the supply of the public utility to the land are overdue;

**AND WHEREAS** Section 81(3) of the *Municipal Act, 2001* states that despite subsections 81(1) and 81(2), a municipality shall provide reasonable notice of the proposed shut-off to the owners and occupants of the land by personal service or prepaid mail or by posting the notice on the land in a conspicuous place;

**AND WHEREAS** Section 81(4) of the *Municipal Act, 2001* states that a municipality may recover all fees and charges payable despite shutting off the supply of the public utility;

**AND WHEREAS** Section 82(1) of the *Municipal Act, 2001* states that a municipality is not liable for damages caused by the interruption or reduction of the amount of a public utility supplied to a municipality or to the land of any person as a result of an emergency or a breakdown, repair or extension of its public utility if, in the circumstances, reasonable notice of its intention to interrupt or reduce the supply is given;

**AND WHEREAS** Section 83 of the *Municipal Act, 2001* states that, without limiting sections 9, 10 and 11, a municipality may, as a condition of supplying or continuing to supply a public utility, require reasonable security be given for the payment of fees and charges for the supply of the public utility or for extending the public utility to land;

**AND WHEREAS** Section 398(2) of the *Municipal Act, 2001* states that the treasurer of a local municipality may add fees and charges imposed by the municipality to the tax roll for the following property in the local municipality and collect them in the same manner as municipal taxes: (1) in the case of fees and charges for the supply of a public utility, the property to which the public utility was supplied; and (2) in all other cases, any property for which all of the owners are responsible for paying the fees and charges.

**THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE CITY OF WATERLOO ENACTS AS FOLLOWS:**

**1. Citation**

- 1.1. This by-law shall be known as the “Sewage and Stormwater Services By-law” of The Corporation of the City of Waterloo.
- 1.2. Should any by-law refer to the City’s, or a department of the City’s, “Sewage and Stormwater Services By-law” or “Sewage and Stormwater By-law”, the aforesaid by-laws, in using any of the aforementioned terms, shall be interpreted to mean this by-law, regardless of any definition to the contrary contained within that by-law.

**2. Definitions:**

- 2.1. In this By-law:

“Building” has the same meaning as in the *Building Code Act, 1992*, S.O. 1992 c.23, as amended;

“Chief Financial Officer (CFO) & Treasurer” means the Chief Financial Officer (CFO) & Treasurer of the City, or his or her designate;

“Chronic Problem” means where there is consistent or repeated blockage of the Service Pipe and that the aforesaid blockage is caused, either directly or indirectly, by a Customer;

"City" means The Corporation of the City of Waterloo and includes its employees, servants and agents;

"Clean Out" means the access to the Service Pipe between the Building and the Sewer Main;

"Customer" means any Owner, occupant, lessee, tenant or any other person purchasing or receiving Services from the City;

"Council" means the Council of the City;

"Director of Water Services" means the Director of Water Services of the City, or his or her designate;

"Fees & Charges By-law" means the current schedule of fees, rates or other charges as established by a by-law enacted pursuant to section 391 of the *Municipal Act, 2001*, as may be amended from time to time;

"Foundation Drain" means a pipe around a foundation for the collection of groundwater;

"Owner" means an owner of a Building or of lands, or their agent/designate;

"Property Line" means the line or demarcation between private property and the adjacent Street.

"Services" means the Sewage Services and the Stormwater Services supplied by the City;

"Service Pipe" means the conduit for transporting the Services from a Building to the Sewer Main;

"Sewage" includes residential, commercial and industrial liquid wastes;

"Sewage Services" means all or any part of facilities for the collection, storage, transmission, treatment or disposal of Sewage provided by the City;

"Sewer Main" means the main for either the Sewage Services or the Stormwater Services;

"Stormwater" means drainage from land, including water from precipitation or ground water;

"Stormwater Services" means all or any part of facilities for the collection, storage, transmission, treatment or disposal of Stormwater provided by the City;

"Street" has the same meaning as "highway" in the *Municipal Act, 2001*.

### **3. Application for the Services**

- 3.1. All Owners shall make a written application (the "Application") to the City for the provision of the Services before the Service Pipe is extended from the Sewer Main to the Property Line.
- 3.2. The Application shall include:
  - 3.2.1. the desired location and size of the Service Pipe required;
  - 3.2.2. the use or class of occupancy of the Building; and,
  - 3.2.3. any other information which shall aid the City in providing adequate Services.
- 3.3. The diameter of the Service Pipe shall not be less than one hundred (100) millimetres ("mm").
- 3.4. The Director of Water Services may require that a plan of the Building be supplied to the City by the Owner showing the interior piping or laterals connected to the Services.
- 3.5. The City shall not be responsible for any inadequate or improper installation of the Services resulting from a lack of information in the Application.
- 3.6. By applying for the Services from the City, the Owner shall comply with all applicable laws, rules, regulations and requirements relating to the Services.

### **4. Installation of the Services**

- 4.1. The City may install the Services from the Sewer Main to the Property Line and may charge the Owner of the land on which the Services are being installed for all labour, materials and other costs incurred by the City as a result of installing the Services.
- 4.2. The City may, among other things:
  - 4.2.1. determine the size and locations of the Service Pipe;
  - 4.2.2. limit the number of Buildings to be supplied by a single service connection; and,
  - 4.2.3. refuse to install the Services if it considers the Services to be detrimental to existing Services or to the broader interests and operations of the City.

## 5. City Property

- 5.1. All pipes, wire, machinery equipment and other works used to supply the Services between the Sewer Main and the Property Line shall remain the property of the City.
- 5.2. Property of the City which is used for or in connection with the supply of the Services to Buildings or land is exempt from seizure:
  - (a) against the Owner or occupant of the land and/or Building under the *Execution Act*, R.S.O. 1990, c. E.24; and,
  - (b) against a person with a leasehold interest in the land and/or Building for overdue rent.
- 5.3 An Owner may be held liable for damages to City property caused by the Owner as a result of carelessness or negligence on the Owner's part or on the part of any person or entity acting for or on behalf of the Owner.

## 6. Connection to the Services

- 6.1. Subject to Section 6.2, every Owner shall insure that their Building(s) are connected to the Services.
- 6.2. Foundation Drains of Buildings constructed before July 6, 1981 shall be permitted to discharge Stormwater into the Sewage Services. Foundation Drains of Buildings constructed after July 6, 1981 shall not be permitted to discharge Stormwater into the Sewage Services. Roof drains, eaves troughs and all drains which collect Stormwater shall not, except as provided in this paragraph, discharge into the Sewage Services.
- 6.3. A connection to the Services required by Section 6.1, shall be made by an Owner:
  - 6.3.1. unless otherwise specified or extended by a resolution of Council, within nine (9) months of the mailing of a notice to the Owner, indicating that a connection must be made; and,
  - 6.3.2. in accordance with the requirements set out in the notice and any applicable statute, regulation or municipal By-law.
- 6.4. If a Building has two (2) connections to the Sewage Services, such as when a cellar drain exists, the City may require an Owner to connect or reconnect their Building's Sewage Services in a manner acceptable to the City and may also require a connection or reconnection to the Stormwater Services.

- 6.5. If an Owner fails to connect their Building(s) to the Services in accordance with this By-law, the City may enter upon the lands of the Owner to perform the required works to make the aforesaid connection and charge the owner for the cost of so doing. If an Owner does not pay the City's costs for connecting their Building(s) to the Services, the cost may be added to the tax roll of the property to which the services were connected and collected in the same manner as municipal taxes.

## 7. **Service Outside of Municipality**

- 7.1. The City shall not supply Services to anyone outside of the boundaries of the City, unless it is approved by Council.

## 8. **Maintenance and Repair of the Services**

- 8.1. An Owner shall maintain the Services in a state of good repair and shall be responsible for all blockages of the Service Pipe, unless such blockage is caused by the City.
- 8.2. Where a blockage of the Service Pipe is caused by tree roots, the City shall make reasonable efforts to determine which tree's roots are causing the blockage. If the tree which is causing the blockage is located on private property, the Owner of that property shall be liable for any costs involved in clearing the blockage of the Service Pipe.
- 8.3. Where the City determines that a Chronic Problem exists, the relevant Customer shall be liable for any costs involved in clearing the blockage of the Service Pipe.
- 8.4. If an Owner fails to maintain, repair and/or unclog a Service Pipe, as required by this By-law, the City may maintain, repair and/or unclog the Service Pipe at the Owner's expense and the cost of so doing may be recovered by the City in a like manner as municipal taxes.
- 8.5. All Clean Outs must be accessible to the City at all times.
- 8.6. Where bituminous fibre pipe has been installed by the City and pipe failures occur, the City shall be liable for the costs of replacing as much of the bituminous fibre pipe where appropriate, considering the circumstances. Reinstatement of existing lawns, driveways, and walks will be undertaken by the City to the condition before the replacement. Trees or shrubs lost during reconstruction will be replaced to a standard deemed appropriate by the City.

## 9. **Manner of Invoicing**

- 9.1. Fees and charges for the Services shall be set by Council from time to time in the Fees & Charges By-law.

- 9.2. Fees and charges shall be invoiced in the same manner as the City's water and sanitary sewer charges and shall be itemized on the same invoice being issued under the Supply of Water By-law and the Stormwater Utility and Credit Program By-law.
- 9.3. Fees and charges for the Services shall be payable upon receipt of the invoice and every Customer in receipt of such invoice shall ensure payment of such invoice on or before the due date noted upon the invoice.
- 9.4. Interest shall be added after the due date for each subsequent bill issued with unpaid carry forward and charged at a rate of one and a half percent (1.5%).
- 9.5. In the case of payments received by mail, the date payment is received shall be taken as the date of payment.
- 9.6. If fees or charges are not paid after twenty one (21) days to the City by the Customer in accordance with the provisions of this by-law, the City may add the outstanding fees or charges to the tax roll for the relevant property and collect the fees or charges in the same manner as municipal taxes.
- 9.7. If, after twenty one (21) days past the due date, fees or charges are still not paid, the Chief Financial Officer & Treasurer may advise the Customer that unless the fees or charges are paid within seven (7) days, the City may shut off the supply of water to the lands or Buildings upon which the fees or charges are due, and in the event the supply of water is turned off, it shall not be turned on again until such time as all arrears are paid together with the fees, charges and costs incurred on behalf of the City for turning the supply of water off and on. The aforesaid fees, charges and costs for turning the supply of water off and on shall be at the rates outlined in the Fees & Charges By-law.
- 9.8. Partial payments on sewer and water accounts that are in arrears shall be applied in each instance to the arrears longest outstanding.
- 9.9. The City may establish an administrative policy in relation to the collection of sewage and stormwater receivables. If any conflict arises between this bylaw and any City policy, the bylaw shall supersede the policy.

## 10. Sewer Services Rebate

- 10.1. A sewer services rebate, as determined by Council from time to time, shall be provided to all businesses which uses water for processing, refrigeration, cooling, etc. and where the aforesaid water is not being expelled into the Services.
- 10.2. A business seeking to benefit from the sewer services rebate must first apply to the City.

## 11. **Billing Errors**

- 11.1. Where billing errors have resulted in over-billing, the Customer shall be credited with the amount erroneously billed for the relevant period, but not exceeding two (2) years.
- 11.2. Where billing errors have resulted in under-billing, the Customer shall be charged the amount erroneously not billed for a period not exceeding two (2) years.

## 12. **Offence & Penalties**

- 12.1. Every person who contravenes any of the provisions of this by-law is guilty of an offence pursuant to section 425 of the *Municipal Act, 2001*, S.O. 2001 c.25, as amended, and pursuant to section 429, all contraventions of this by-law are designated as continuing offences.
- 12.2. Every person who is convicted of an offence is liable to a maximum fine of Fifty Thousand Dollars (\$50,000.00) for the first offence and One Hundred Thousand Dollars (\$100,000.00) for a subsequent offence.
- 12.3. In addition to the fine amounts set out in subsection 12.2 for each day or part of a day that an offence continues, the minimum fine shall be Five Hundred Dollars (\$500.00) and a maximum fine shall not exceed Ten Thousand Dollars (\$10,000) per day or part of a day.

## 13. **Severability**

- 13.1. If a Court of competent jurisdiction should declare any section or part of section of this By-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this By-law and it is hereby declared that the remainder of this By-law shall be valid and shall remain in full force and effect.

## 14. **Repeal & Effective Date**

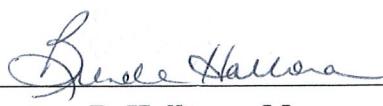
- 14.1. By-law 09-059 of The Corporation of the City of Waterloo, as well as all by-laws amending same, are hereby repealed.
- 14.2. Notwithstanding paragraph 14.1 above, By-law No. 09-059 is deemed to continue enforce and effect with respect to any and all orders, appeals or prosecutions issued, filed or commenced under that By-law and any assessment, rate, charge, tax, fee, liability, fine or penalty outstanding under By-law 09-059 may be collected as if such By-law had not been repealed.

15. **Coming Into Force**

15.1. This by-law shall come into force and effect on the date of its passage.

**Enacted** this 18 day of November 2013.

Approval	Date	Print Name	Initials
CORP/FIN	Nov 6/13	P. Methya	PM
Legal	Nov 5/13	P. Ivalum	PI
Finance	Nov 6/13	K. Patel	KP

  
B. Halloran  
B. Halloran, Mayor

  
S. Greatrix  
S. Greatrix, City Clerk

## CITY OF WATERLOO

BY-LAW NO. 09- 059

### BEING A BY-LAW TO MAKE CERTAIN REGULATIONS FOR SEWAGE AND STORMWATER SERVICES AND TO REQUIRE THE CONNECTING OF BUILDINGS TO THE AFORESAID SERVICES

**WHEREAS** Section 11(2)(6) of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, allows municipalities to pass By-laws respecting the health, safety and well-being of persons;

**AND WHEREAS** Section 11(3)(4) of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, allows municipalities to pass By-laws respecting public utilities;

**AND WHEREAS** Section 80(1) of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, states that a municipality may, at reasonable times, enter on land to which it supplies a public utility, (a) to inspect, repair, alter or disconnect the service pipe or wire, machinery, equipment and other works used to supply the public utility; or (b) to inspect, install, repair, replace or alter a public utility meter;

**AND WHEREAS** Section 80(3) of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, states that, if a customer discontinues the use of a public utility on land or a municipality lawfully decides to cease supplying the public utility to land, the municipality may enter on the land: (a) to shut off the supply of the public utility; (b) to remove any property of the municipality; or (c) to determine whether the public utility has been or is being unlawfully used;

**AND WHEREAS** Section 81(1) of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, states that, without limiting sections 9, 10 and 11, a municipality may shut off the supply of a public utility by the municipality to land if fees or charges payable by the owners or occupants of the land for the supply of the public utility to the land are overdue;

**AND WHEREAS** Section 81(3) of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, states that despite subsections 81(1) and 81(2), a municipality shall provide reasonable notice of the proposed shut-off to the owners and occupants of the land by personal service or prepaid mail or by posting the notice on the land in a conspicuous place;

**AND WHEREAS** Section 81(4) of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, states that a municipality may recover all fees and charges payable despite shutting off the supply of the public utility;

**AND WHEREAS** Section 82(1) of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, states that a municipality is not liable for damages caused by the interruption or reduction of the amount of a public utility supplied to a municipality or to the land of any person as a result of an emergency or a breakdown, repair or extension of its public utility if, in the circumstances, reasonable notice of its intention to interrupt or reduce the supply is given;

**AND WHEREAS** Section 83 of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, states that, without limiting sections 9, 10 and 11, a municipality may, as a condition of supplying or continuing to

supply a public utility, require reasonable security be given for the payment of fees and charges for the supply of the public utility or for extending the public utility to land;

**AND WHEREAS** Section 398(2) of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, states that the treasurer of a local municipality may add fees and charges imposed by the municipality to the tax roll for the following property in the local municipality and collect them in the same manner as municipal taxes: (1) in the case of fees and charges for the supply of a public utility, the property to which the public utility was supplied; and (2) in all other cases, any property for which all of the owners are responsible for paying the fees and charges.

**NOW THEREFORE** the Council of The Corporation of the City of Waterloo enacts as follows:

**Definitions**

1. In this By-law:

- (a) "Building", pursuant to s. 1(1) of the *Building Code Act, 1992*, S.O. 1992, c.23, (the "*Building Code Act, 1992*") means:
  - (i) a structure occupying an area greater than ten square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto;
  - (ii) a structure occupying an area of ten square metres or less that contains plumbing, including the plumbing appurtenant thereto;
  - (iii) plumbing not located in a structure;
  - (iv) a sewage system; or,
  - (v) structures designated in the building code.
- (b) "Chronic Problem" means where there is consistent or repeated blockage of the Service Pipe and that the aforesaid blockage is caused, either directly or indirectly, by a Consumer.
- (c) "City" means The Corporation of the City of Waterloo;
- (d) "Clean Out" means the access to the Service Pipe between the Building and the Sewer Main;
- (e) "Consumer" means any Owner, occupant, lessee, tenant or any other person purchasing Services from the City;
- (f) "Council" means the Council of the City;
- (g) "Fee Guide" means the current schedule of applicable fees, rates or other charges for the Services, which may be amended by Council from time to time.

- (h) “Foundation Drain” means a pipe around a foundation for the collection of groundwater;
- (i) “General Manager of Public Works” means the General Manager of Public Works of the City, or his or her designate;
- (j) “Owner” means an owner of a Building or of lands, or his/her agent/designate;
- (k) “Property Line” means the line or demarcation between private property and the adjacent Street.
- (l) “Services” means the Sewage Services and the Stormwater Services supplied by the City;
- (m) “Service Pipe” means the conduit for transporting the Services from a Building to the Sewer Main;
- (n) “Sewage” includes residential, commercial and industrial liquid wastes;
- (o) “Sewage Services” means all or any part of facilities for the collection, storage, transmission, treatment or disposal of Sewage provided by the City;
- (p) “Sewer Main” means the main for either the Sewage Services or the Stormwater Services;
- (q) “Stormwater” means drainage from land, including water from precipitation or ground water;
- (r) “Stormwater Services” means all or any part of facilities for the collection, storage, transmission, treatment or disposal of Stormwater provided by the City;
- (s) “Street” means any highway, road, street, lane, alley, square, place, thoroughfare or way within the City; and,

### **Application for the Services**

2. All Owners shall make a written application (the “Application”) to the City for the provision of the Services before the Service Pipe is extended from the Sewer Main to the Property Line.
3. The Application shall include:
  - (a) the desired location and size of the Service Pipe required;
  - (b) the use or class of occupancy of the Building; and,
  - (c) any other information which shall aid the City in providing adequate Services.
4. The diameter of the Service Pipe shall not be less than one hundred (100) millimetres (“mm”).

5. The General Manager of Public Works may require that a plan of the Building be supplied to the City showing the interior piping or laterals connected to the Services.
6. The City shall not be responsible for any inadequate or improper installation of the Services resulting from a lack of information in the Application.
7. By applying for the Services from the City, the Owner agrees to abide by the rules, regulations or other requirements of the City as well as the City's Fee Guide.

### **Installation of the Services**

8. The City may install the Services from the Sewer Main to the Property Line and may charge an Owner for all labour, materials and other costs incurred by the City as a result of installing the Services.
9. The City may, among other things:
  - (a) determine the size and locations of the Service Pipe;
  - (b) limit the number of Buildings to be supplied by a single service connection; and,
  - (c) refuse to install the Services if it considers the Services to be detrimental to existing Services or to the broader interests and operations of the City.

### **Connection to the Services**

10. Subject to Section 11, every Owner shall insure that their Building(s) are connected to the Services.
11. Foundation Drains of Buildings constructed before July 6, 1981 shall be permitted to discharge Stormwater into the Sewage Services. Foundation Drains of Buildings constructed after July 6, 1981 shall not be permitted to discharge Stormwater into the Sewage Services. Roof drains, eaves troughs and all drains which collect Stormwater shall not, except as provided in this paragraph, discharge into the Sewage Services.
12. A connection to the Services required by Section 10, shall be made by an Owner:
  - (a) unless otherwise specified or extended by a resolution of Council, within nine (9) months of the mailing of a notice to the Owner, indicating that a connection must be made; and,
  - (b) in accordance with the requirements set out in the notice and any applicable statute, regulation or municipal By-law.
13. If a Building has two (2) connections to the Sewage Services, such as when a cellar drain exists, the City may require an Owner to connect or reconnect their Building's Sewage Services in a manner acceptable to the City and may also require a connection or reconnection to the Stormwater Services.

14. If an Owner fails to connect their Building(s) to the Services in accordance with this By-law, the City may enter upon the lands of the Owner to perform the required works to make the aforesaid connection and charge the owner for the cost of so doing. If an Owner does not pay the City's costs for connecting their Building(s) to the Services, the cost may be collected by the City in a like manner as municipal taxes.

### **Service Outside of Municipality**

15. The City shall not supply Services to anyone outside of the boundaries of the City, unless it is approved by Council.

### **Maintenance and Repair of the Services**

16. An Owner shall maintain the Services in a state of good repair and shall be responsible for all blockages of the Service Pipe, unless such blockage is caused by the City.
17. Where a blockage of the Service Pipe is caused by tree roots, the City shall make reasonable efforts to determine which tree's roots are causing the blockage. If the tree which is causing the blockage is located on private property, the Owner of that property shall be liable for any costs involved in clearing the blockage of the Service Pipe.
18. Where the City determines that a Chronic Problem exists, the relevant Consumer shall be liable for any costs involved in clearing the blockage of the Service Pipe.
19. If an Owner fails to maintain, repair and/or unclog a Service Pipe, as required by this By-law, the City may maintain, repair and/or unclog the Service Pipe at the Owner's expense and the cost of so doing may be recovered by the City in a like manner as municipal taxes.
20. All Clean Outs must be accessible to the City at all times.
21. Where Bituminous Fibre Pipe has been installed by the City and pipe failures occur, the City shall be liable for the costs of replacing as much of the Bituminous Fibre Pipe where appropriate, considering the circumstances. Reinstatement of existing lawns, driveways, and walks will be undertaken by the City to the condition before the replacement. Trees or shrubs lost during reconstruction will be replaced to a standard deemed appropriate by the City.

### **Rates & Payments**

22. Rates or charges for the Services shall be set by Council from time to time and are outlined in the Fee Guide.
23. If, after fifteen (15) days past the due date, fees or charges are still not paid, the General Manager of Public Works may advise the Consumer that unless the fees or charges are paid within seven (7) days, the City may discontinue the Services to the lands or Buildings upon which the fees or charges are due, and in the event the Services are discontinued, they shall not be continued until such time as all arrears are paid together with the fees/charges and costs incurred on behalf of the

City for turning the Services off and on. The aforesaid fees/charges and costs for turning the Services off and on shall be at the rates outlined in the Fee Guide

24. If fees or charges are not paid to the City by the Consumer in accordance with the provisions of this By-law, the City may add the outstanding fees or charges to the tax roll for the relevant property and collect the fees or charges in like manner as municipal taxes.
25. Payments for all fees or charges imposed by the City on any Consumer or other person are due and payable on the date noted on the bill and there shall be a five percent (5%) charge for late payment.

### **Sewer Services Rebate**

26. A sewer services rebate, as determined by Council from time to time, shall be provided to all businesses which use water for processing, refrigeration, cooling, etc. and where the aforesaid water is not being expelled into the Services.
27. A business seeking to benefit from the sewer services rebate must first apply to the City.

### **Billing Errors**

28. Where billing errors have resulted in over-billing, the Consumer shall be credited with the amount erroneously billed for the relevant period, but not exceeding six (6) years.
29. Where billing errors have resulted in under-billing, the consumer shall be charged the amount erroneously not billed for a period not exceeding:
  - (a) two (2) years, in the case of a residential Consumer who was not responsible for the error; and,
  - (b) six (6) years in all other cases.

### **Offence & Penalties**

30. Every person who contravenes any of the provisions of this By-law is guilty of an offence and, on conviction, is liable to a fine pursuant to the *Provincial Offences Act*, R.S.O. 1990, c.P.33, as amended.

### **Severability**

31. If a Court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this By-law and it is hereby declared that the remainder of this By-law shall be valid and shall remain in full force and effect.

**Repeal**

32. By-law 81-118 of the City, as well as all By-laws amending the same, and any portions of the Municipal Code relating to the Services in the City, are hereby repealed.

**Coming Into Force**

33. This By-law shall come into force on the date of its passage by Council.

PASSED this 25<sup>th</sup> day of May, 2009.

Brenda Halloran  
Brenda Halloran, Mayor

Susan Greatrix  
Susan Greatrix, City Clerk

Approval	Date	Authorized By	Initials
PWS	May 15/09	One Garibaldi	mg
Legal	May 19/09	mg	mg
Financial	May 20/2009	JLL	JL

 <b>Waterloo</b> <small>CITY OF</small>	DATE:	87 07 07	<b>TITLE:</b> City Policies on Sewer Blockages and Replacements	
	REPORT:	ER3355		
<b>ATTACHMENTS</b> ER 3355 - 6 pp. Map - 1 p. Appendix A - 5 pp. Appendix B - 2 pp. Appendix C - 2 pp. Appendix D - 3 pp. Appendix E - 1 p.	<b>PREPARED BY:</b> J. Innes			
	<b>DEPARTMENT:</b> Public Works/Operations			
	<b>CLEARANCE:</b>			
	T.C.C. (87 07 15)			

**RECOMMENDATION**

THAT THE COUNCIL OF THE CITY OF WATERLOO APPROVE:

1. The Policy for Sewer Lateral Repair/Replacement dated 87 07 27.
2. The Policy for Clearing Sewer Lateral Blockages dated 87 07 27.
3. That current outstanding invoices for the replacement of sewer connections be written off.
4. That no refunds be made for previous payments for "black pipe" sewer replacements.
5. That a flat rate fee for after hours call-out for blockage clearing be set at \$100.00 and that the User Fee Task Force review and report on this practice.
6. That the Director of Purchasing be authorized to obtain quotes immediately for a sewer inspection mini-camera (estimated cost \$17 500.00) to be funded from the Public Works Equipment Reserve.
7. That the Operations Division of the Public Works Department budget for the acquisition of a video camera, player and monitor for 1988.
8. That the new policies be published on the City of Waterloo community information page in the two local newspapers.

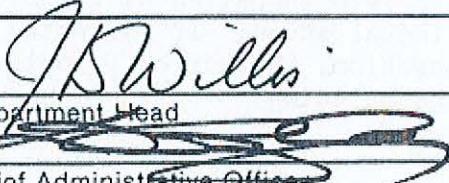
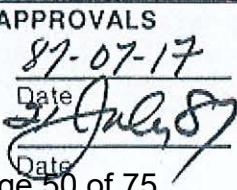
**EXECUTIVE SUMMARY**

On February 11, 1987, the Technical Co-ordinating Committee established a Sewer Policy Review Committee consisting of John Innes (Engineering), Chairman; Murray Kieswetter (Operations/Sewer Personnel); Darrah Kuehl (Sewer Supervisor); Lorne Musselman (Operations Superintendent); and Heather Welch (Finance Department).

The terms of reference were outlined in a memorandum from J. D. Willis to John Innes dated 87 03 02 and they are summarized as follows:

- a. review current policies related to sewer connections, i.e. maintenance, blockages, repair and/or replacement;
- b. review the legal ramifications relative to sewer maintenance practices and acquire input from the City's solicitor;
- c. study the implications of any recommended changes and obtain comments from our insurers and the solicitor.

The results of the investigations by the Committee are contained in the attached Engineering Report 3355.

 Department Head	<b>APPROVALS</b>	
	87-07-17	John Innes
 Chief Administrative Officer Special Council Meeting	Date	Other
	July 87	Other
	Page 50 of 75	
	September 21, 2020	



# CITY OF WATERLOO ENGINEERING REPORT

File ..... Sewer Policy Review Date ..... 87 06 30 ..... E.R. ..... 3355 .....

Subject: ..... City Policies on Sewer Blockages and Replacements.....

## PREAMBLE

At its meeting of February 11th, 1987 the Technical Co-ordinating Committee established a Sewer Policy Review Committee consisting of John Innes (Engineering), Chairman; Murray Kieswetter (Operations/Sewer Personnel); Darrah Kuehl (Sewer Supervisor); Lorne Musselman (Operations Superintendent); and Heather Welch (Finance Department).

The terms of reference were outlined in a memorandum from J. D. Willis to John Innes dated 87 03 02 and they are summarized as follows:

- a. review current policies related to sewer connections, i.e. maintenance, blockages, repair and/or replacement;
- b. review the legal ramifications relative to sewer maintenance practices and acquire input from the City's solicitor;
- c. study the implications of any recommended changes and obtain comments from our insurers and the solicitor.

The group first met on 87 04 01 to discuss their responsibilities and duties. The list of information sources generated included the following:

- a. current City policies;
- b. policies of other municipalities;
- c. municipal records and files;
- d. current staff, and former City employees;
- e. City's solicitor and insurers.

## REVIEW OF CURRENT CITY OF WATERLOO POLICIES RELATED TO SEWER CONNECTIONS

It was found that three policies and one municipal By-law formed the basic City of Water philosophy relative to sewer connection, maintenance, blockages, and repair/replacement.

The 1975 policy approved by City Council entitled Sanitary Sewer Warranty stated that the City would repair sanitary sewer connections which were installed by the City for a period of twenty-five (25) years from the date of installation. It was noted in the policy that if the City installed the entire connection, the warranty applied to the full length from the main to one metre outside the building.

In 1983 two policies were developed which also dealt with sewer laterals - one addressed blockages and the other their repair or replacement. The policies established that the latter was the responsibility of the property owner from the building to the City sewer as the connection was legally an appurtenance to the private property that no one else could use. It was also indicated that the City provided a sewer lateral blockage clearing service at no cost during regular hours and at nominal charge for overtime clearing. It further explained that repairs on the public road allowance were to be undertaken by City forces, however on private property, the owner had the option to use a licensed drainlayer or plumber. Charges were outlined and basically stated that all restoration was the responsibility of the owner or City subject to the twenty-five (25) year warranty policy and that a deposit would be required if the owner was to be assessed costs. It was stressed that where notice to the owner was required, that it should be in writing and accepted in writing by the owner. The applicable City By-law, 81-119 places the entire responsibility for maintenance and repair of the sewer connection between the building line and the main sewer on the property owner. It makes the owner responsible for any blockages caused by objects or other matter placed in the sewer by the occupants or users of the sewer connection. It states that if tree roots become a problem the responsibility for costs will lie with the owner of the tree. The By-law also indicates that the owner must repair or unclog a sanitary connection, otherwise the City will do so at his expense. These policies are included in Appendix A.

#### POLICIES OF OTHER MUNICIPALITIES

The Committee decided that the quickest way to determine the approach of other municipalities was a telephone survey. Fourteen cities in southern and southwestern Ontario ranging in size from 30 000 to 125 000 population were contacted. The questions asked are summarized below:

1. Whose responsibility is the sewer lateral?
2. Does your city charge the property owner for replacement?
3. Does your city provide a guarantee or warranty period?
4. Did your city ever install bituminous fibre pipe?
5. How do you charge property owners for clearing blockages?

The response to these questions was as follows:

1. All cities queried consider the portion of the sewer connection on the road allowance to be the responsibility of the City, and the portion from the street line to the building to be the responsibility of the property owner.
2. None of the cities polled charge the property owner for the section within the road allowance.
3. No other cities have a guarantee or warranty period.

4. Several cities (60% of those polled) permitted the installation of bituminous fibre pipe on the road allowance. All have had experience with it and comment negatively. Not one of the cities did work on private property.
5. Policies varied but 65% assess costs to owner.

#### INFORMATION FROM CITY RECORDS, FILES, CURRENT AND FORMER EMPLOYEES

From these sources, the Committee Members were able to determine the general areas of installation of "black pipe" and the locations of replacements. Record keeping in the early 1950's and 1960's was not as detailed as now, consequently information on the different types and sizes of "black pipe" that were used is rather sketchy. Interviews with the former sewer foreman and construction crew members yielded much valuable information on actual locations of "black pipe" installation. Having assembled this information, we were able to delineate on a map the limits of its placement and also the locations where replacements have occurred (see Map 1).

#### REVIEW AND SUMMARY OF DATA

The Committee spent considerable time reviewing and discussing the accumulated data. Early in this process it became evident that Waterloo's Policy regarding sewer replacements was unique among cities of similar size throughout southern Ontario. The members of the Committee were frustrated by the lack of factual information and contradictions that became obvious upon researching City records. Contracts from the 1950's did not reveal the type of sewer connection installed and Engineering Department street files were often "hit or miss" and incomplete in their reference to lateral material. When information had been accurately recorded, it often confirmed what had been told to the Committee by staff members (both current and retired), thus this review relies to a great degree on that input.

The Committee ultimately favoured recommending a new replacement policy (Appendix B) which would eliminate the warranty period and have the City replace the full length of "black pipe" at no cost to the property owner. This decision was developed based on the following facts and/or comments:

- a. Currently, all sewer replacements are "black pipe". Generally only spot repairs are required for vitrified clay and asbestos cement pipe to eliminate sags or isolated breaks.
- b. To date very few "black pipe" have been paid for by property owners. It has been reasoned that the pipe used in the 1960's (trade name "Bermico") was not of the same quality as that used previously. Throughout the 1950's a 5 inch diameter product called No-Co-Rode was installed and more than two thousand of the connections have passed the current warranty period and are serving well.
- c. The Committee Members also felt that the City has a moral responsibility with respect to the "black pipe" problem. It is evident that Waterloo promoted its use as an acceptable product for longer than most cities (about seventeen years in total) and installed or supplied the material for installation to about five thousand lots during that time frame.

- d. By assuming responsibility, the City will be able to control replacements in that we can set the number of times blocked before replacement. If the present warranty is retained, it was felt that many residents will want their connections replaced before the twenty-five (25) year limitation is exceeded.
- e. Public relations was thought to be a major factor also. It was the Committee's opinion that the \$3 000.00 cost for replacement is significant for any individual, especially retirees or new home owners who have just acquired "black pipe" properties. It was felt that the new policy would eliminate most disputes and thus reverse the negative profile portrayed by the news media.
- f. Finally this approach would make the City of Waterloo consistent with other municipalities.

The cost of implementing this proposal has to be given serious consideration. Sewer replacements have averaged 56 annually over the previous 5 years. Higher unit costs (\$1 600./connection repair in 1982; \$3 450./connection repair in 1986) have driven the total annual cost from \$74 000. to \$190 000. over that same period.

Nevertheless, it is difficult to predict a trend for the future. Unit cost for replacements must be expected to increase annually, yet the number of repairs made in 1985 and 1986 were slightly lower than the five year average. This may be attributed to the fact that there are definite concentrations of replacements, especially in heavy clay type soils. These pockets with high failure rates have subsequently had most of the connections replaced.

Although the Committee's feeling was that the City will not be faced with an unusual increase, it was recognized as only an opinion and was to be reviewed with senior staff.

The other key matter concentrated on was that of sewer blockages and the City's handling of that problem. The telephone survey of other municipalities had revealed that Waterloo's policy of not charging for clearing blockages during normal working hours was also novel. Over half of those municipalities contacted charge at some time (either after the first blockage or if the problem rests on private property). Waterloo has found that most owners are willing to live with a minor nuisance overnight if they are made aware that it will be cleared free of charge the following day. Call-outs on an overtime basis are currently shared with the owner and can reach \$200. - during the day they average \$55.00. It was the opinion of the Committee, especially those members dealing with the situation on a continuing basis, that Waterloo's present policy was working well and that, with minor rewording and tightening-up, it could be retained (see Appendix C).

Our research also furnished the Committee with information on new technology that could be employed in sewer blockage investigations. A mini-camera capable of providing a video inspection of a sewer lateral was demonstrated at a blockage site.

It allowed the service crew to make a quick and accurate determination of the failure and also gave them an immediate answer as to who - the City or the Property Owner - was responsible/liable to make the repair. This piece of equipment would also be of value in ascertaining the condition of connections throughout the "black pipe" areas of the City. A conventional handheld video camera was also deemed to be a worthy acquisition in that it could supply visual evidence of the condition of private property before it was entered upon by City forces, thus protecting both the City and the owner.

#### INTERVIEWS WITH CITY STAFF AND RETAINED PARTIES

Once draft policies had been formulated by the Committee, interviews were held with the City Treasurer and Engineer. Both individuals supported the proposals and also provided guidance and suggestions.

It was noted that the impact of sewer replacement costs on the sewage surcharge - user fee was not inordinate at this time but should be reviewed in future. Both agreed that the owner clearly understand how much he must pay if he is unwilling to wait until normal hours. The Treasurer also suggested that outstanding invoices be written-off and that the City not refund payments made in the past for new sewer connections.

The Committee next met with the City Solicitor to obtain his opinion on a number of possible liability issues. The topics discussed and his responses are documented in Appendix D. Although there is always a chance that legal action might be taken against the City, he indicated that the proposed policies are reasonable and that the City should proceed with their implementation notwithstanding that there is some risk.

The insurance adjuster for the City of Waterloo was also asked for his comments on the proposed policies following a briefing by the Committee. His written remarks are attached to this report (see Appendix E). He suggested that the City modify the current Replacement Policy, i.e. establish a reasonable life for a sewer connection and then share the cost of replacement with the Property Owner on a pro-rata basis. He felt that this approach would serve to defray some of the expense that the City would incur.

#### REVIEW OF COMMENTS FROM CITY STAFF AND RETAINED PARTIES

The Committee members reassembled to deliberate over the input received from senior staff members and the Solicitor and Adjuster. All concurred with the suggestions of the Engineer, Treasurer and Solicitor. The Adjuster's proposal of pro-rata cost sharing was rejected. The Committee argued that we are already experiencing problems using the twenty-five (25) year cut-off and that it would be very difficult to determine a reasonable life for a sewer connection. The members' opinion was that a properly installed connection will last indefinitely. The survey of other municipalities supported this position in that none of the cities polled charge for the repair of the connection (within the road allowance). To endeavour to establish a cost sharing on the section on private property would be complex and only serve to render a new policy unwieldy.

Page 6

ER 3355

87 06 30

RE: Review of Current City Policies on Sewer Blockages and Replacements

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**RECOMMENDATIONS**

That the Council of the City of Waterloo approve:

1. The Policy for Sewer Lateral Repair/Replacement dated 87 07 27.
2. The Policy for Clearing Sewer Lateral Blockages dated 87 07 27.
3. That current outstanding invoices for the replacement of sewer connections be written off.
4. That no refunds be made for previous payments for "black pipe" sewer replacements.
5. That a flat rate fee for after hours call-out for blockage clearing be set at \$100.00 and that the User Fee Task Force review and report on this practice.
6. That the Director of Purchasing be authorized to obtain quotes immediately for a sewer inspection mini-camera (estimated cost \$17 500.00) to be funded from the Public Works Equipment Reserve.
7. That the Operations Division of the Public Works Department budget for the acquisition of a video camera, player and monitor for 1988.
8. That the new policies be published on the City of Waterloo community information page in the two local newspapers.

PREPARED & SUBMITTED BY:

John Innes, Chairman

John Innes

Murray Kieswetter

Murray Kieswetter

Darrah Kuehl

Darrah Kuehl

Lorne Musselman

Lorne Musselman

Heather Welch

Heather Welch



A P P E N D I X   A

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APPENDIX "A"

POLICY AND PROCEDURES MANUAL

83 | 05 | 16

DEPARTMENT: WORKS	DIVISION: WORKS
SECTION: SANITARY SEWERS	SECTION NO. 9.3
SUBJECT: SEWER LATERAL REPLACEMENT	SUBJECT NO. 5
	PAGE 1 OF 2

1. If lateral is less than 25 years old from date of installation repair/replacement is at city cost. (Refer to subject #3, "25 year Warranty on Connection".)
2. After 25 year period, all repairs, replacement or relaying are at the property owners expense.
3. Who Does the Repair?
  - a) On Public Road Allowance- City forces only, unless specifically approved by Superintendent after receiving proof of adequate P.L. and P.D. Insurance.
  - b) On Private Property - City forces generally; owner has option to use license drainlayer or plumber.
4. Spot Repair, Replace or Relay?
  - a) Sewer Foreman and/or Works Superintendent shall determine the extent of work. Generally: if more than 50% of the part on the road allowance needs repair the whole section on the road shall be relaid. The private property owner should be encouraged similarly, but has the option as it is his problem.  
Exception: 4 inch diameter (100 mm) "blackpipe" connections shall be relaid completely, rather than spot repair, if less than 25 years old. If older than 25 years and collapse is on road allowance, the whole section on the road shall be relaid.
5. What Do We Charge?

All costs incurred in repairing, replacing or relaying all or any part of the sewer lateral including all restoration of curbs, walks, pavement, and landscaping shall be charged to the owner or city maintenance account as applicable (see #1 and #2 above). Damage to other services resulting from city work is not charged to the private owner unless the owner has been warned in writing of some special circumstance and has accepted the liability (e.g. gas or electric service buried above sewer lateral).
6. If Structural Damage to Private Property

Such as carports, porches and other shallow foundation structures is likely to occur on private property where the owner has requested a repair or relay, the work shall not proceed until the owner is advised in writing that the City does not assume any liability for settlement or related structural damage as a result of the sewer lateral repair.



# POLICY AND PROCEDURES MANUAL

83 | 05 | 16



DEPARTMENT: WORKS

DIVISION: WORKS

SECTION: SANITARY SEWERS

SECTION NO. 9.3

SUBJECT NO. 5

SUBJECT: SEWER LATERAL REPLACEMENT

PAGE 2 OF 2

## 7. Deposit?

Where time permits, and the private owner will be charged, he should be required to come to the Engineering Division office in City Hall and complete a Miscellaneous Construction Application Form and make the normal deposit. Under weekend or emergency conditions this is waived.

## 8. Notice to Owner

Where notice to the owner (see #5 and #6 above) is required it should be in writing and accepted by the owner in writing. In emergency conditions, a "speedy memo" form may be used; if only verbal notice as warning is given, the supervisor giving it must have a witness present who will also certify to the owner's answer. The appropriate dates should be entered in a daily journal and signed by the witness.

## Distribution

Commissioner  
Works Master  
Works Counter  
Engineering Counter

J.B. Willis

# POLICY AND PROCEDURES MANUAL

MENT: WORKS

DIVISION: WORKS



SECTION: SANITARY SEWERS

SECTION NO. 9.3

SUBJECT NO. 6

SUBJECT: SEWER LATERAL BLOCKAGES

PAGE 1 OF 2

## 1. Who "Owns" the Lateral?

The lateral is the property owners from the building to the city sewer. While the City controls the construction of the section on the road allowance it is legally an "appurtenance" to the private property as no one else can use it. As such all maintenance responsibility is the owner's. The City has modified this somewhat though (see following and also Sewer Lateral Replacement Policy).

## 2. Service

The City provides a sewer lateral blockage clearing service. An owner may use a plumber to clear his own lateral but the City assumes no financial responsibility for such privately incurred costs.

## 3. Costs for Blockage Clearing - vary with time of day.

a) During normal working hours Monday to Friday - No charge.

b) When employees are on overtime: equipment is charged at normal rates, and 50% of labour is charged with a minimum of 1 hour charged at the applicable rate.

## 4. By-law 81-118

7. 1) Subject to Section 7(2), the Owner of a building shall keep in good repair and be responsible for the maintenance and repair of the sanitary sewer connection or storm sewer connection between the building line and the main sewer on the street, easement or City property. The Owner shall be responsible for blockages caused by objects and any other matter or liquid placed in the sewer connection by occupants or users of the sewer connection.

2) Where the sanitary sewer connection or storm sewer connection blockage is caused by tree roots, and the tree is located on City property, then the City is liable for any costs involved in clearing such blockage. Where a tree is located on private property and causes the blockage of a sanitary sewer connection or storm sewer connection, then the Owner is liable for any costs involved in clearing such blockage. The City shall be the sole judge of the location and cause of the blockage.

3) Upon failure of the Owner to repair and/or unclog the sanitary sewer connection or storm sewer connection as required by this by-law, the sanitary sewer connection or storm sewer connection may be repaired or unclogged by the City at the Owner's expense and the cost may be recovered in a like manner as municipal taxes.



## POLICY AND PROCEDURES MANUAL

83 | 05 | 16



DEPARTMENT: WORKS

DIVISION: WORKS

SECTION: SANITARY SEWERS

SECTION NO. 9.3

SUBJECT: SEWER LATERAL BLOCKAGES

SUBJECT NO. 6

PAGE 2 OF 2

4. By-law 81-118 (continued)

8. Any person who contravenes any of the provisions of this by-law is guilty of an offence and is liable, on summary conviction, to a fine of not more than One Thousand (\$1 000.00) Dollars (exclusive of costs) recoverable under The Provincial Offences Act, 1979.

Distribution:

Commissioner✓  
Works Counter  
Works Master  
Engineering Counter



83 08 15

Approved

Date

DEPARTMENT: WORKS

DIVISION: Works

SECTION: Sanitary Sewers

SECTION NO. 9.3

SUBJECT NO. 3

SUBJECT: Sanitary Sewer Warranty

PAGE 1 OF 1

Free repair of sanitary sewer house connections which were installed by the City is limited to a 25 year period commencing with the date of installation.

Repairs required after expiry of the 25 year term will be at the expense of the owner.

Note: If City forces installed the entire connection, the warranty applies to the whole distance from main to 1 m outside building. If City forces installed only the section from main to street line, then only that part of the connection is warranted.

Reference: AR 648 dated 1975 07 09

--"installed by City" is deemed to include  
by contractor <sup>new</sup> & controlled by city (i.e. subdivision)

Distribution: Master Manual  
Counter Manual  
Works Master and Counter  
V. Hiebert

"City Council"  
Approved

Date: 75 07 21

## APPENDIX B

Proposed by the City Council, the following is a copy of the proposed by-laws.

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## APPENDIX "B"

## POLICIES AND PROCEDURES

POLICY TYPE
POLICY NUMBER : PW 9.3-5
DEPARTMENT : Public Works
DIVISION : Operations
SUB-DIVISION : Sewers
KEY WORD : Replacement
ORIGINAL APPROVAL DATE : 83 05 16
REVISION APPROVAL DATE : 87 07 27
REFERENCE:
PAGE 1 of 2

POLICY TITLE
SEWER LATERAL REPAIR/REPLACEMENT

1. Responsibility of the Property Owner

The following is an excerpt from the City's By-law 81-118 which regulates the connection to the sanitary sewer main and the maintenance of the connection.

7. 1) Subject to Section 7(2), the Owner of a building shall keep in good repair and be responsible for the maintenance and repair of the sanitary sewer connection or storm sewer connection between the building line and the main sewer on the street, easement or City property. The Owner shall be responsible for blockages caused by objects and any other matter or liquid placed in the sewer connection by occupants or users of the sewer connection.
- 2) Where the sanitary sewer connection or storm sewer connection blockage is caused by tree roots, and the tree is located on City property, then the City is liable for any costs involved in clearing such blockage. Where a tree is located on private property and causes the blockage of a sanitary sewer connection or storm sewer connection, then the Owner is liable for any costs involved in clearing such blockage. The City shall be the sole judge of the location and cause of the blockage.
- 3) Upon failure of the Owner to repair and/or unclog the sanitary sewer connection or storm sewer connection as required by this By-law, the sanitary sewer connection or storm sewer connection may be repaired or unclogged by the City at the Owner's expense and the cost may be recovered in a like manner as municipal taxes.

8. Any person who contravenes any of the provisions of this By-law is guilty of an offence and is liable, on summary conviction, to a fine of not more than One Thousand (\$1 000.00) Dollars (exclusive of costs) recoverable under The Provincial Offenses Act, 1979.

...../continued

Page 2

Policy Type: PW 9.3-5  
Policy Number: PW 9.3-5  
Department: Public Works  
Division: Operations  
Sub-division: Sewers  
Key Work: Replacements  
Original Approval Date: 83 05 16  
Revision Approval Date: 87 07 27  
Page: 2 of 2  
Reference:  
Policy Title: SEWER LATERAL REPAIR REPLACEMENT

City Council, through this policy, has made concessions and modifications as outlined in the following Sections 2, 3 & 4:

2. Costs for the Repair or Replacement

All costs shall be borne by the City for that section of the connection from the main to the street line unless the cause of the failure is deemed to have been caused by the Property Owner through carelessness or neglect.

The Property Owner is responsible for the section from the street line to the building and shall undertake and pay all costs for repairs or replacement except as outlined in Section 4 below.

3. Decision to Repair or Replace

The City Engineer or designate shall determine if the connection is to be repaired or replaced. Generally if a blockage occurs more than once in a 12 month period on the City's section, the lateral will be replaced from the main to the street line at no cost to the Owner. The City Engineer may choose to delay replacement if in his opinion circumstances warrant.

4. Exceptions for Bituminous Fibre Pipe

In some areas of the City, Bituminous Fibre Pipe was installed by the City from the main to the street line, the street line to the building or the entire length from the main to the building. Where failures to this City installed pipe occur, the entire cost of replacement will be borne by the City. Reinstatement of existing lawns, driveways, and walks will be undertaken by the City to the condition before the replacement. Trees or shrubs lost during reconstruction will be replaced to a standard deemed appropriate by the City.

A P P E N D I X   C

**POLICIES AND PROCEDURES**

REFERENCE:

POLICY TYPE :
POLICY NUMBER : PW 9.3-6
DEPARTMENT : Public Works
DIVISION : Operations
SUB-DIVISION : Sewers
KEY WORD : Blockage
ORIGINAL APPROVAL DATE : 83 05 16
REVISION APPROVAL DATE : 87 07 27

PAGE 1 of 2

POLICY

TITLE

CLEARING SEWER LATERAL BLOCKAGES

1. Responsibility of the Property Owner

The following is an excerpt from the City's By-law 81-118 which regulates the connection to the sanitary sewer main and the maintenance of the connection.

7. 1) Subject to Section 7(2), the Owner of a building shall keep in good repair and be responsible for the maintenance and repair of the sanitary sewer connection or storm sewer connection between the building line and the main sewer on the street, easement or City property. The Owner shall be responsible for blockages caused by objects and any other matter or liquid placed in the sewer connection by occupants or users of the sewer connection.
- 2) Where the sanitary sewer connection or storm sewer connection blockage is caused by tree roots, and the tree is located on City property, then the City is liable for any costs involved in clearing such blockage. Where a tree is located on private property and causes the blockage of a sanitary sewer connection or storm sewer connection, then the Owner is liable for any costs involved in clearing such blockage. The City shall be the sole judge of the location and cause of the blockage.
- 3) Upon failure of the Owner to repair and/or unclog the sanitary sewer connection or storm sewer connection as required by this By-law, the sanitary sewer connection or storm sewer connection may be repaired or unclogged by the City at the Owner's expense and the cost may be recovered in a like manner as municipal taxes.
8. Any person who contravenes any of the provisions of this By-law is guilty of an offence and is liable, on summary conviction, to a fine of not more than One Thousand (\$1 000.00) Dollars (exclusive of costs) recoverable under The Provincial Offenses Act, 1979.

Policy Type: PW 9.3-6  
Policy Number: PW 9.3-6  
Department: Public Works  
Division: Operations  
Sub-division: Sewers  
Key Work: Blockage  
Original Approval Date: 83 05 16  
Revision Approval Date: 87 07 27  
Page: 2 of 2  
Reference:  
Policy Title: CLEARING SEWER LATERAL BLOCKAGES

City Council, through this policy, has made concessions and modifications as outlined in the following sections.

2. Services Provided by the City

The City will attempt to clear a blockage during normal working hours at no cost to the Property Owner. At all other times, the Owner is charged a flat rate or fixed amount. An Owner may use a plumber to clear the lateral, however, the City assumes no financial responsibility for any costs incurred. If it is determined that a chronic problem exists on the Owner's section of the line, the City will direct the Owner to correct it. Until repaired, further calls to that property will be at full cost to the Owner.

3. Responsibility of the City

The City will endeavour to free all sewer blockages as soon as possible during normal working hours and at all other times if called out, but does not guarantee a solution. The City assumes no responsibility for damages that occur from such blockages.

## APPENDIX D



APPENDIX "D"

INTER-OFFICE MEMORANDUM

To: W. H. White,

Date: June 5, 1987,

From: H. Welch

Our File:

QUESTIONS RE: SEWER POLICY REVIEW COMMITTEE

Per your request, this is a list of questions regarding the City of Waterloo reported dated June 2, 1987.

Review of current City policies on sewer blockages/replacement.

1. The proposed policy calls for refund to homeowners who have outstanding invoices for "black pipe" repairs. No retroactive refund is proposed. Do you see any problems with someone trying to sue the City to recoup these costs?
2. Regarding our policy on clearing sewer blockages (reference Policies and Procedures Clearing Sewer Lateral Blockages pg. 2) the City assumes no responsibility for damages occurring from such blockages. Do you know of any examples where the City could be liable for damages? If any examples can be given, what steps could the City take to avoid this liability?
3. Regarding our policy on sewer lateral repair/replacement (reference Policies and Procedures Sewer Lateral Repair/Replacement pg. 2) the City Engineering shall determine if the connection is to be repaired or replaced. If there is a delay in replacement and damage occurs, is there a possibility that the City could be liable for damages?
4. Please reference the same policy page as in question 3. The policy proposes to assume all costs associated with repairs/replacement of "black pipe". Trees or shrubs lost during reconstruction will be replaced by a standard deemed appropriate by the City. If a form to this effect is signed, would this absolve the City of any liability that could occur? Our proposal also calls for a video scan of the area to provide back-up for our claim as to the condition of the property before construction.

Please contact me if clarification is needed.

HW/dg

H. Welch

Date: June 12, 1987

M E M O R A N D U M

ANSWERS TO QUESTIONS RE: SEWER POLICY REVIEW COMMITTEE

1. There certainly is a risk that someone might sue the City to recoup "black pipe" repair costs. Any claim at law would be based on negligence - that the City was negligent in installing defective pipe - that the City's practice of refunding "black pipe" repair costs to others is an admission of the City's negligence, etc. The City would have to attempt to argue that it was not negligent - that it didn't know that the pipe was defective - that no pipe would be guaranteed beyond 25 years, etc. It should be mentioned that the City's arbitrary 25 year period in respect to the "black pipe" warranty has no legal basis.
2. If I had the opportunity to attend the meetings of the Sewer Policy Review Committee I could probably give you examples from the discussions at your meetings. Again I comment that the City's liability for damages would be based on the law of negligence. For example, the City's sewer design could be faulty and thereby cause a problem on private property. Another example would be whether the City installed the pipe on private property and the pipe was defective. Another example might be whether roots of trees on City property have grown into private property and caused sewer damage.
3. The City could be liable for damages where there is a delay in replacing the damaged pipe. Again damages would be based on the law of negligence. A Court could determine that the City Engineer's decision to delay the replacement of pipe was a negligent action and that a reasonable person would have acted more expeditiously in that particular circumstance. Whether or not the City Engineer was negligent would depend on the particular facts.

4. The execution of an agreement would be the best that the City could do under the circumstances. However, the property owners signing such a document could claim that the City exercised undue influence in requiring the execution of the agreement. I am presuming a circumstance where there is a sewer stoppage and may be even a backup into the basement of the house and a City representative is informing the property owner on a Sunday morning that the City won't do anything to rectify the problem until the form is signed. Under these circumstances most people would sign the agreement under pressure because they know a plumber or other source of repair would not be available. In other words, this form is presented for execution by the City without the property owner having any choice other than to sign or not have the repairs carried out. It is appreciated that you will argue that there are other choices such as the snake. I am merely pointing out that the agreement is not ironclad and that there is some risk in relying upon it. Notwithstanding the foregoing I suggest that it would be reasonable under these circumstances to replace full-grown trees or shrubs with smaller similar species but I am saying that a Judge could, in a case where the City was held to be negligent, hold that the City must replace the landscaping to the same standard that it was before the sewer repairs or replacement.

I presume you will appreciate the difficulty of trying to give specific answers to general questions without having attended the Sewer Policy Review Committee meetings. To some extent answers to specific problems will depend on the particular facts. Perhaps the City should attempt to formulate a reasonable policy notwithstanding that there is some risk.

W.H. WHITE, Q.C.

## APPENDIX E

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## APPENDIX "E"

We have reviewed your documents and refer to By-Law 81-119 which we understand was put in place in 1983 revamping the 1975 policy approved by City Council, entitled Sanitary Sewer Warranty.

We should first point out that in the final analysis the By-Law has little or no legal significance.

From a legal liability point of view we feel it would be the liability insurers position that any blockages occurring in the lateral lines caused by the house are not your responsibility. Responsibility for these events would be denied.

From a legal liability point of view any blockages occurring because of the 'black pipe' situation leave us on very tenuous ground. We would respectfully suggest that on the strength of information provided to us during our June 3, 1987 meeting, that a plaintiff lawyer would have no difficulty at all presenting a claim for damages successfully. The resulting property damage would then be presented to the insurer for payment consideration. That would leave the question of who absorbs the cost of replacing the black pipe itself. That is not covered by the insurance policy and it is therefore up to the City and the homeowner to resolve.

As suggested in our last meeting we believe a fair approach is to establish what the homeowner should expect in regard to the normal or average life expectancy of a typical lateral line and use that as a means to pro-rate the cost of a new lateral line. This statement is made on the assumption that the City of Waterloo exercised poor judgement in picking 'black pipe', recognizing that it was not acceptable for its intended use and that its use continued despite that knowledge.

This policy would be somewhat of a departure from the current sanitary sewer warranty and would also serve to defray cost to the City for the replacement of the lateral lines.