



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning, Administration and Policy Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	March 26, 2018
SUBJECT/REPORT NO:	Water and Wastewater / Storm Third Party Billing Arrangements (FCS18025) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	John Savoia (905) 546-2424 Ext. 7298
SUBMITTED BY:	Brian McMullen Director, Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	

RECOMMENDATIONS

- (a) That the practice of permitting property owners to redirect a property's water and wastewater / storm invoice to a residential tenant be discontinued effective June 1, 2018;
- (b) That water and wastewater / storm accounts redirected to residential tenants as of May 31, 2018, be grandfathered such that the invoices will continue to be issued to the tenant(s) until such time as the existing tenant(s) vacate the property;
- (c) That staff, in conjunction with Hamilton Water's Community Outreach Section and Alectra Utilities Corporation, develop and implement a communication strategy to advise property owners of the changes to third-party utility billing.

EXECUTIVE SUMMARY

The *Municipal Act, 2001* (the Act) recognizes that the primary parties to the water, wastewater and storm services supply transaction are the City, as supplier, and the property benefited by the utility service availability. Consistent with the concept is that it is the property that receives the benefit of the utility service (not simply the user).

The Act allows unpaid fees and charges for public utilities, which include water and wastewater / storm arrears, to be placed on the tax roll for the property to which the public utility was supplied regardless of who the consumer is. In such circumstances, the fee and charges added to the tax roll will have priority lien status as described under the Act.

As a customer service, the City has provided the opportunity for water and wastewater / storm invoices to be mailed to someone other than the property owner, such as a tenant or property manager. To do so, the non-owner would contact the City's billing agent, Alectra Utilities Corporation (AUC) who would accommodate a request to open the account in the name of that non-owner.

The vast majority of residential tenants do not currently pay for their own water and wastewater / storm services. This is primarily due to multi-residential properties predominantly being bulk / master metered where typically one water meter services the entire multi-unit building or complex preventing water consumption measurement for each individual unit. Individually metered buildings, such as single family dwellings, have their own water meter allowing for a separate invoice for each unit. Of the approximately 151,000 active water accounts in the City, less than 10 per cent of accounts have been redirected to a residential tenant.

The City / AUC expends significant resources to reduce the risk of unpaid water bills being added to property taxes. The City's Water and Wastewater / Storm Arrears Policy administered by AUC, contains provisions whereby AUC endeavours to notify property owners (landlords) of tenant's water and / or wastewater arrears. AUC issues Arrears Letters shortly after 30 calendar days have elapsed without full payment of the outstanding / previous bill. In 2017, AUC issued approximately 56,000 Arrears Letters including nearly 17,000 to owners (landlords) advising of tenant arrears.

A number of issues have been identified with residential tenant-held accounts as follows (refer to the Historical Background section of this Report for a fuller elaboration of the issues listed below):

- Significant tenant arrears are transferred to the property tax roll – almost one in three tenant water bills remain unpaid
- Landlords claim they are unaware of tenant arrears and / or the tenant account is being billed on consecutively estimated billings
- Residential tenants pay for water loss related to plumbing issues that are the responsibility of their landlord
- Tenant billing involves increased City / AUC staff resources in obtaining access to the property's water meter reading equipment

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- Frequently changing a name(s) referenced on the water and wastewater account associated with rental properties

In contrast, accounts directed to non-residential tenants or property managers have not resulted in the volume and / or frequency of difficulties as experienced with residential tenants.

Report FCS18025 seeks approval to change tenant billing practices whereby all residential water accounts established on or after June 1, 2018 will be set up under and sent to the registered owner(s) of the property. The residential tenant-held accounts redirected as of May 31, 2018 will be grandfathered resulting in no change to those billings until such time as the tenants vacate the property. As the grandfathered tenants move out, the accounts will be changed to the owner / landlord's name and future invoices will be billed to the owners. Although payments from tenants / other non-owners will continue to be accepted, the invoices will only be issued to the property owners and it will remain their responsibility to ensure bills are paid on time.

Staff, in conjunction with AUC, will develop and implement a communication strategy to advise property owners of the changes to residential tenant billing.

The gradual elimination of residential tenant billing is expected to yield the following benefits:

- Avoid the residential tenant payment delinquency issue by having the property owner / landlord pay the water bill and collect the water and wastewater storm costs from their tenant as a condition of the lease agreement.
- The landlord will have the opportunity to save accrued interest charges and administrative costs related to tenant arrears transfers to the tax roll. AUC charges interest at a rate of 1.5 percent per month (19.56 percent per year) starting six calendar days after the due date, compounded daily, up to the point unpaid arrears are transferred to the tax roll occurring at 60 calendar days after the monthly bill due date. An administrative fee is also charged for each tax roll transfer occurrence with the current fee at \$33.60 per tax roll transfer. The City applies interest on outstanding amounts transferred to the tax roll at a rate of 1.25 percent per month (15 percent per year).
- A consistent practice will result whereby all residential water / wastewater and storm service invoices will be sent to the owners.
- With the water bill in the owner's name, potential water leakage will more readily be identified. Leaks result in unexpectedly large water bills which are often unpaid by tenants.

- Water conservation and preservation is enhanced as owners directly receiving the water bill are more apt to ensure the property is properly maintained including repairing / updating fixtures and plumbing.
- Access for maintenance of water meter reading equipment is greatly improved when the property owner / landlord is the property account holder.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: While difficult to determine the net financial impact with the recommended change to residential tenant billing, there would be tangible cost savings as separate tenant Arrears Notices would not be required. Combined with possible reduced adjustments under the City's Water Leak Adjustment Policy, the resultant cost savings would likely be offset to some extent by increased water conservation and reduced leakage reducing rate revenues.

Staffing: No impact to City staffing levels is expected with the recommended change to residential tenant billing. However, the strain on Taxation's resources with the current high level of arrears tax roll transfers is expected to lessen over time.

Legal: The City's authority under the *Municipal Act, 2001* to place unpaid water and wastewater / storm amounts on the tax roll for the property is not affected by recommendations contained in this Report.

HISTORICAL BACKGROUND

The *Municipal Act, 2001* (the Act), authorizes the City to place unpaid water and wastewater / storm fees and charges on the tax roll for the property to which the services were provided regardless of who was in receipt of the said service. As a customer service, the City has provided the opportunity for water and wastewater / storm bills to be sent to a person other than the property owner, such as a tenant or property manager and to be paid for by that person. The City has continually advised property owners to be aware that although billing and payment notifications may be sent to a person other than the property owner, Subsection 398 (2) of the Act authorizes the City to add unpaid water and wastewater / storm fees and charges to the tax roll of the property to which the public utility was supplied. In such circumstances, the fees and charges added to the tax roll have priority lien status as described under Section 1 of the Act.

In order to assist property owners who direct water and wastewater billings to a tenant, AUC endeavours to notify property owners of tenant / account holder arrears at 30 calendar days beyond the due date. If the account remains unpaid, the water and wastewater / storm arrears will be added to the property's tax roll when the account is 60 calendar days beyond the due date.

The vast majority of residential tenants do not currently pay for their own water and wastewater / storm services. This is primarily due to multi-residential properties predominantly being bulk / master metered where typically one water meter services the entire multi-unit building or complex preventing water consumption measurement for each individual unit. Individually metered buildings, such as single family dwellings, have their own water meter allowing for a separate invoice for each unit. Of the approximately 151,000 active water accounts in the City, less than 10 per cent of accounts have been redirected to a residential tenant.

A number of issues have been identified with residential tenant held accounts:

- **Significant tenant arrears are transferred to the property tax roll.** An analysis of water and wastewater / storm arrears tax roll transfers revealed that tenant-held accounts are responsible for almost 30 per cent of transfers yet represent less than 10 per cent of total accounts. In 2017, residential tenant tax roll arrears amounted to \$500 K versus \$70 K for commercial / industrial tenant arrears transfers. Included within the over 3,400 tenant account transfers were 30 CityHousing Hamilton (CHH) tenant account transfers. It should be noted, for each tax roll transfer occurrence in 2017, an administration fee of \$32.95 was applied to the tax roll.
- **Landlords claim they are unaware of tenant arrears and / or the tenant account is being billed on an ongoing estimated basis.** Both Arrears and Estimates notification letters issued by AUC to landlords are sent to the mailing address as listed on the property tax roll. However, that is often the property's service address hence, the likelihood of the owner (landlord) receiving such notification is diminished. It is solely the property owner's responsibility to update the mailing address on the property tax roll records by advising the City's Taxation office, in writing.
- **Residential tenants pay for water loss related to plumbing that is the landlord's responsibility.** The City's Water Leak Adjustment Policy provides residential, not-for-profits and institutional customers one-time financial assistance for customers to request adjustments to water / wastewater / storm charges related to abnormal water consumption where the repair(s) of water leaks within private property occurs.

Reviewing the 2017 claims under this Policy indicated that nearly 30 per cent of claims (44 total claims) were for tenant-held accounts. The financial impact on a tenant may be significant. For example, one claim was for a CHH tenant who was still faced with nearly \$1 K to pay even after a leak adjustment was granted. Additionally, 12 claims were related to two multi-residential rental properties (with individual unit metering) that had the same property owner.

This supports observations that, generally speaking, the plumbing of owner-occupied homes are often better maintained and updated with rentals typically having older plumbing and fixtures that are more prone to fail. This creates situations where tenants while eligible for a leak adjustment, are still faced with paying for water loss related to plumbing their landlord (property owner) is responsible for.

- **Tenant billing involves increased City /AUC staff resources** in obtaining access to the property's water meter reading equipment. A great deal of staff time is currently devoted to obtain access from tenants to facilitate water meter reading. For ongoing estimated tenant billed accounts, account billings are often temporarily reverted back to the property owner in order to achieve access to address ongoing estimated billing issues.
- **Frequently changing a name(s) referenced on the water and wastewater account associated with rental properties.** Alectra has to manage a high volume of tenant account changeovers that puts a strain on resources. Note that a tenant account is not charged a unique account opening fee by Alectra.

Accounts directed to non-residential tenants or property managers have not resulted in the volume and / or frequency of difficulties as experienced with residential tenants. In contrast, the issues surrounding residential held accounts have become more severe particularly, with respect to account payment delinquency and the lack of financial incentive for the property owner / landlord to actively maintain plumbing and fixtures where the tenant pays the water bill.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

None identified.

RELEVANT CONSULTATION

Corporate Services – Legal Services Division has been consulted in the preparation of this Report.

Alectra Utilities Corporation has been consulted and advised of implementation requirements that arise from the adoption of this Report's recommendations and have indicated they can support the City with these initiatives.

Public Works – Hamilton Water Division has been consulted and has indicated it can support with the community outreach initiative to advise property owners of the changes to third-party utility billing.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Ontario legislation does not dictate that the water bill is to be issued to a specific party such as the property owner. Staff has conducted an online literature review of other Ontario municipal water and wastewater / storm billing practices. Many jurisdictions maintain a single billing option system whereby water bills are issued solely to the property owner. Others, like Hamilton, have permitted water bills to be sent to a person other than the property owner, such as a tenant or property manager maintaining payment responsibility with the property owner by transferring unpaid fees and charges to the property tax roll. There are very few examples (for instance the Town of Midland) where at the property owner's request an additional copy of the bill to be sent to a tenant but payment responsibility resides with the property owner.

Over the past few years, in light of the issues around tenant billing, a number of municipalities have been discontinuing allowing water bills to be in the name of a tenant. For instance, in 2015, both Cambridge and Grimsby joined a growing number of municipalities to discontinue the practice of tenant-held accounts.

In Hamilton, many water accounts have been redirected to property managers particularly by condominium associations and these accounts have not created billing issues for the City or AUC. Non-residential tenant-held accounts similarly have not been especially problematic unlike residential tenant accounts. Consequently, staff has considered a unique billing option whereby all residential accounts would only be permitted in the property owner's name and billings to property managers or non-residential tenants would continue to be allowed. Residential accounts are defined as pertaining to a property that is used or designed for use as a domestic establishment (dwelling) in which one or more persons usually sleep and prepare / serve meals and include any lands or buildings that are associated with the dwelling or its yard.

The gradual elimination of residential tenant billing is expected to yield the following benefits:

- Avoid the residential tenant payment delinquency issue by having the property owner / landlord pay the water bill and collect the water and wastewater storm costs from their tenant as a condition of the lease agreement.

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- The landlord will have the opportunity to save accrued interest charges and administrative costs related to tenant arrears transfers. AUC charges interest at a rate of 1.5 percent per month (19.56 percent per year) starting six calendar days after the due date, compounded daily, up to the point of unpaid arrears are transferred to the tax roll occurring at 60 calendar days after the monthly bill due date. An administrative fee is also charged for each tax roll transfer occurrence with the current fee at \$33.60 per tax roll transfer that, for 2017, equated to over \$110 K in fees added to the tax roll. Furthermore, the City applies interest on outstanding amounts transferred to the tax roll at a rate of 1.25 percent per month (15 percent per year).
- A consistent practice will result whereby all residential tenants will not pay directly for their own water and wastewater / storm services.
- With the water bill in the owner's name, potential water leakage is more readily identified. Leaks result in unexpectedly large water bills which are often unpaid by tenants.
- Water conservation and preservation is enhanced as landlords directly receiving the water bill are more apt to ensure the property is properly maintained including repairing/updating fixtures and plumbing.
- Access for maintenance of water meter reading equipment is greatly improved when the property owner/landlord is the property account holder.

Report FCS18025 seeks approval to change tenant billing practices whereby all residential water accounts established on or after June 1, 2018 will be set up under the registered owner(s) of the property. The residential tenant-held accounts that have been redirected as of May 31, 2018 will be grandfathered with no change to the existing billing practice until such time as the existing tenant(s) move out. As the grandfathered tenants move out, the accounts will be set up in the owner's (landlord's) name. Payments from tenants/other non-owners will continue to be accepted, however, it will be the property owner's responsibility to ensure bills are paid on time.

Staff in conjunction with AUC will develop and implement a communication strategy to advise property owners of the changes to residential tenant billing in order for affected landlords to redefine in their lease arrangements for their future residential tenants the payment of water and wastewater/storm fees and charges.

ALTERNATIVES FOR CONSIDERATION

N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Healthy and Safe Communities

Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

N/A

JS/dt