POLICY TITLE: City of Hamilton Water and Wastewater/Storm Arrears Policy

POSITION RESPONSIBLE FOR TASK: Senior Policy Advisor, Financial Planning, Administration and Policy Division

POLICY NO: PP-0004 LAST REVISION DATE: November 1, 2017

EFFECTIVE DATE: March 1, 2020 MANAGER REVIEWED: Tom Hewitson

TO BE REVIEWED: January 2025

MAINTENANCE RESPONSIBILITY: Financial Planning Administration and Policy Division

I GENERAL

The Water and Wastewater / Storm Arrears Policy details the account collections protocol including the timing of certain collection activities when accounts for water and / or wastewater / storm services provided by the City are unpaid and past due.

II BACKGROUND

The City has a service agreement with Alectra Utilities Corporation (Alectra) for the provision of water and wastewater / storm billing, account collection and meter reading services. The Water and Wastewater / Storm Arrears Policy is administered by Alectra pursuant to that agreement.

III POLICY

Water and Wastewater / Storm Account Collection Process

1. Invoices are issued with a due date of 24 calendar days from the invoice creation date.

2. Payments by mail will be processed as of the date the payment is received. The customer is responsible to ensure that payments are received by Alectra on or before payment deadlines.

3. Partial payment received on an account that is in arrears will be applied to penalties and interest first and then to applicable water and wastewater / storm charges. For a converged invoice (electricity service plus water and wastewater / storm services), partial payments received will be applied to electrical service payment first and then water and wastewater/storm charges.

4. A service charge shall be applied by Alectra if a payment is dishonoured by the bank for any reason.

5. All unpaid fees and charges will be charged interest at a rate of 1.5% per month starting six (6) calendar days after the due date compounded daily from the due date. This interest rate is applicable up to the point of unpaid arrears being transferred to the property tax account as outlined in Step 4 of Table 1 below.

6. If the fees and charges for the supply of water and wastewater / storm services are not paid when they become due, the City may transfer the unpaid fees and charges to the property tax account in accordance with the provisions of the *Municipal Act*, *2001*. The transferred outstanding balance will be subject to interest being applied at a rate as specified by the Late Payment Charges for the Non-Payment of Taxes Bylaw 13-136, as amended.

7. Accounts that fall into arrears follow the collection protocol below. The collection protocol applies to residential, institutional, commercial and industrial water accounts and provides:

    a. Initial invoice is issued to account holders setting out the amount due for the fees and charges for the supply of water and wastewater / storm services;
    b. Reminders are sent to account holders and property owners of their obligation to pay fees and charges for the supply of water and wastewater / storm services;
    c. Opportunity is provided for payment in accordance with this Policy; and
    d. Enforcement steps are taken in accordance with this Policy when the invoice / account remains unpaid.

Table 1

Steps	Circumstance	Response	Result
1	Account outstanding 10 calendar days beyond due date	"Past Due Reminder Notice" mailed to account holder on the 10th day	Payment of amount due or account remains outstanding
2	Account outstanding 17 calendar days beyond due date	"Final Notice" is mailed to account holder on the 19th day (where arrears exceed notice threshold amount)	Payment of amount due or account remains outstanding
3	Account outstanding 30 or more calendar days beyond due date	"Arrears Letter" is mailed to account holder and the property owner (if different from the account holder) following the 30th day advising of pending action if payment not received within 15 days.	Payment of amount due or account remains outstanding
4	Account outstanding 60 or more calendar days beyond due date	Outstanding amount transferred to property tax account roll. "Water Arrears Transfer to Tax Letter" is mailed to the property owner. Applicable tax account transfer fee added to each property tax account.	City water and wastewater / storm revenue secured

Customer Notifications

Reasonable efforts are undertaken by the City and Alectra to provide the following notifications:

Past Due Reminder Notice – mailed by Alectra to account holder of accounts 10 calendar days after the due date. This notice provides a reminder to the account holder of the overdue status and requests payment within 10 calendar days.

Final Notice – mailed by Alectra to account holder 19 calendar days after the due date. This notice provides notice of account overdue status and requests immediate payment.

Arrears Letter – mailed by Alectra to account holder and property owner (if different from the account holder) 30 or more calendar days after the due date. This notification advises of the past due water and/or wastewater / storm arrears and advises of a two-week period for the payment to be made. It further notifies that the outstanding amount plus an applicable administrative fee will be added to the property tax account if the arrears are unpaid.

Alectra will ensure that arrears notices, where there is an absence of an assigned tax roll number for the new property:

1) are sent to the purchaser (account holder);
2) advise the purchaser that arrears will remain on the Alectra water account;
3) advise the purchaser that the balance continues to accrue interest at a rate of 1.5% per month; and
4) advise the purchaser that balances that remain outstanding 60 or more days, plus accrued interest and an applicable administrative fee, will be immediately transferred to the property tax roll once a tax roll number has been assigned and communicated to Alectra.

Water Arrears Transfer to Tax Letter – mailed to property owner by the City’s Taxation Section advising that water and / or wastewater / storm arrears, plus any accrued interest and an applicable administrative fee has been added to the tax account.

Alectra’s property owner database is updated on a monthly basis with the City’s Corporate Services Department’s (Taxation Section) records.

Rental Properties

Where a landlord-tenant relationship exists, the protocol outlined in Table 1 is followed. Where the tenant is named as the account holder, the Past Due Reminder Notice and the Final Notice will be received by the tenant. The Arrears Letter advising of the potential transfer of arrears to the property tax roll is sent to both the account holder and the property owner.

Where a tax account transfer has occurred and if a person other than the property owner has been designated as the utility bill recipient, further utility bills may be sent to the property owner.

Condominium Water Arrears

Condominium properties are comprised of many individually assessed units, each with an assessed owner. In many cases, water supplied to a condominium property is measured and accounted for by a single bulk water meter that records water consumption for the entire property.

The water fees of a condominium corporation that remain outstanding 60 days after their due date may be transferred to the tax accounts of that corporation’s individual condominium units on a pro-rata basis equal to the proportions, expressed in percentages, allocated to the units, in which the owners are to contribute to the common expenses as set out in the declaration of the condominium corporation. Additionally, the General Manager, Finance and Corporate Services, may exempt units, in whole or in part, from their proportionate share of water arrears where such units are directly supplied with metered water.

Newly Built Properties Water Arrears

To accommodate the water and wastewater / storm billing for purchasers who have taken possession of newly built properties, the City will update the water account to the purchaser’s name(s) and will bill accordingly.

All newly developed properties are assessed by the Municipal Property Assessment Corporation (MPAC) which assigns an assessment roll number which the City uses for taxation purposes as the property’s tax roll number. However, the assignment of a roll number may not occur until long after the transfer of title to the purchaser’s name(s) has occurred.

During this period where the purchaser is receiving the water bill and a tax roll number has not yet been assigned, any unpaid water and wastewater / storm balances that remain outstanding 60 or more calendar days beyond the invoice due date will be retained by Alectra.

Alectra will ensure that arrears notices, where there is an absence of an assigned tax roll number for the new property:

1) are sent to the purchaser (account holder);
2) advise the purchaser that arrears will remain on the Alectra water account;
3) advise the purchaser that the balance continues to accrue interest at a rate of 1.5% per month; and
4) advise the purchaser that balances that remain outstanding 60 or more days, plus accrued interest and an applicable administrative fee, will be immediately transferred to the property tax roll once a tax roll number has been assigned and communicated to Alectra.

Tax Exempt Property Water Arrears

Accounts such as government, hospitals, education and not-for-profit properties may be exempt from taxes. Overdue amounts for water and wastewater / storm services owed by any exempt entities may be transferred to the tax account for the property, and / or disconnection of service for non-payment may occur. If disconnection of service for non-payment occurs, the account will be charged the applicable fee for turning the water service off / on.

Authority to Transfer Arrears to Tax Roll

Pursuant to section 398(2) of the *Municipal Act, 2001,* the municipality may add unpaid public utility fees and charges, which include water and / or wastewater / storm arrears, to the tax roll for the property to which the public utility was supplied.

Ontario Regulation No. 581/06 additionally identifies such fees or charges associated with the supply of water and sewage services as having ‘priority lien status’ as described in Section 1 of the *Municipal Act, 2001*, such that, when added to a property tax account because of payment default, these fees and charges:

(a) may be collected in the same manner as taxes on the property;

(b) may be recovered with costs as a debt due to the municipality from the assessed owner of the property at the time the fee was added to the tax account and from any subsequent owner of the property or any part of it;

(c) are a special lien on the property in the same manner as taxes under subsection 349(3) *Act*; and

(d) may be included in the cancellation price under Part XI of the *Act,* in the same manner as are taxes on the property, in the event that a Tax Arrears Certificate is registered on title of the property.

The City’s Waterworks By-Law R84-026, as amended, also permits the collection of water and wastewater / storm arrears in the same manner as property taxes by transferring arrears amounts to the tax roll.