

Authority: Item X, Public Works Committee
Report (Staff report number)
CM: Date

Bill No. X

CITY OF HAMILTON

BY-LAW NO. 23-XXX

To Regulate the Management, Distribution and Maintenance of the Water Works Systems

WHEREAS sections 8, 9 and 10 of the *Municipal Act, 2001* authorize the City of Hamilton to pass by-laws necessary or desirable for municipal purposes, and in particular, paragraphs 4, 5, 6, 7 and 8 of subsection 10(2) authorize by-laws respecting public assets of the municipality, the economic, social and environmental well-being of City, the safety and well-being of Persons, services that it is authorized to provide, and the protection of Persons and Property;

AND WHEREAS sections 78 to 81 of the *Municipal Act, 2001* authorize the City of Hamilton, amongst other things, to enter onto land to install, construct, connect, maintain, inspect, repair, alter or disconnect pipes and other works for the distribution of water, and to shut off or reduce supply in certain circumstances;

AND WHEREAS the *Municipal Act, 2001* authorizes the City of Hamilton, amongst other things, to delegate its authority, to provide for inspections and inspection orders, and to make orders to discontinue activity or to do work;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

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PART 1 – DEFINITIONS

1.1 In addition to and as an alternative to referencing this By-law by its formal numbering, this By-law may also be referred to as the “Water Works By-law” for all purposes.

1.2 In this By-law:

“**Adapter**” means an Adapter owned by the City and rented to a water user in accordance with section 4.15 and 4.16 which is used to make a temporary connection to the Water Distribution System and includes a hydrant adapter which provides a link to a fire hydrant and a road adapter which provides a link to the Watermain;

“**Adapter Rental Agreement**” means the rental agreement prescribed by the General Manager from time to time as the agreement that must be signed by any Person who rents an Adapter from the City, which agreement shall contain terms and conditions specified by the General Manager;

“**Applicable Law**” means any statute, law, treaty, rule, code, ordinance, by-law, regulation, Permit, interpretation, certificate or order, whether now or hereafter existing, of any governmental authority, including, without limitation, the City or any judgment, decision, decree, injunction, writ, order or like action of any court, arbitrator or other governmental authority, including, without limitation, the City whether now or hereafter existing. Without limiting the generality of the foregoing, Applicable Law shall include the following non-comprehensive examples of Applicable Law:

- (1) O. Reg. 170/03;
- (2) The Watermain Disinfection Procedure;
- (3) The Water Works By-law Resource Manual;
- (4) O. Reg. 388/97;
- (5) the National Fire Protection Association Standards
- (6) the Building Code Act and O. Reg. 332/12; and,
- (7) AWWA Standards.

"Arrears Policy" means the City of Hamilton Water and Wastewater/Storm Arrears Policy No. PP-0004 approved by Council from time to time;

"Auxiliary Water Supply" means any well, cistern, tank, or supply of water that is not part of the Water Distribution System.

"Average Daily Water Consumption" means the mean daily water consumption amount calculated on the basis of a representative billing period for the Premises;

"AWWA Standards" means the standards adopted by the American Waterworks Association, as they may be amended from time to time;

"Backflow Prevention By-law" means the City's By-law 10-103;

"Billing Agent" means any party engaged by the City that provides one or more services to support all functions related to customer information and billing operations for all the City's water and wastewater/storm customers. If the City has not engaged a party to provide the said services, reference to the Billing Agent shall be deemed to be references to the City itself;

"By-Pass Valve Assembly" means an arrangement of shut off valves and water piping that redirect the flow of water around the Water Meter during testing, repair or meter replacement so that work can progress without interrupting the flow of water to premises;

"City" means the municipality of the City of Hamilton or the geographic area of the City of Hamilton, as the context requires;

"Council" means the municipal council for the City of Hamilton;

"Emergency" means a situation or an impending situation that constitutes a danger that could result in harm or damage to Persons, Property, or the environment including the loss of an essential service or damage to other infrastructure/equipment.

"Emergency Work" means work that is required to reduce or eliminate an Emergency;

"Fees and Charges" means the fees and charges prescribed by the Water and Wastewater/Storm Fees and Charges By-law for the City;

"General Manager" means the General Manager of Public Works, the General Manager of Planning and Economic Development, or the Chief Building Official, as the context requires, and includes their designates or successors. All Hamilton Building Department, Planning and Economic Development staff, and Water

Department staff shall be deemed to be acting as the General Manager's designate in carrying out their duties under this by-law;

"**MECP**" means the Ontario Ministry of Environment, Conservation and Parks or any successor Ministry substantially fulfilling the same role.

"**Occupier**" means any Person who has use, possession or control of any Property or Premises or their authorized agent, servant or employee of such occupier;

"**Municipal Law Enforcement Officer**" means any Person appointed by the City's Council or by the General Manager to administer or enforce this By-law and includes a Person employed by the City whose duties are to enforce this By-law, and also includes, for the purposes of exercising any power of entry under this By-law, a police officer;

"**Owner**" means the registered owner or owners of a Property or their authorized agent(s), but does not include a mortgagee unless the mortgagee is in possession of the Property;

"**Permit**" is a noun that means any one or more of the following Permits issued under this By-law:

- (1) a Water Service Permit;
- (2) a Water Service Line Repair Permit;
- (3) a Disconnection of Services Permit; and,
- (4) a Relocation of a Private Hydrant Permit.

"**permit**" is a verb that means, in connection with a Person who has care and maintenance of a Property or otherwise is legally capable of preventing or terminating the occurrence of an event, allowing that event to occur or failing to terminate its continuation;

"**Permit Holder**" means a Person to whom a Permit has been issued, and includes another Person performing work on behalf of such Person;

"**Person**" includes an individual, association, partnership, corporation, municipality, regional municipality, provincial or federal agency, or an agent or employee of any of those entities;

"**Premises**" means a building or structure or either of them located on a Property;

"**Private Fire Hydrant**" means an above grade accessible valve assembly and hydrant secondary valve that is connected to an underground privately owned Watermain for the purposes of fire suppression;

"Private Fire Protection System" means any private booster pumps, sprinkler systems, Private Fire Hydrants or other private system supplementing or in addition to, but excluding, the public fire protection system (Public Fire Hydrants and supporting infrastructure), with the designated purpose of such private fire protection system being fire protection and fire suppression;

"Private Service Line" means a privately-owned Service Line connected to the Service Connection at the Property line or the limit of the City easement to the Premises or Property and includes Water Meter Chambers;

"Public Fire Hydrant" means an above grade valve assembly, including any secondary valve, that is connected to an underground municipal Watermain for the purposes of fire suppression and Watermain flushing;

"Public Service Line" means a publicly owned Service Line connected to the Watermain, designed to carry water from the Water Distribution System to the Service Connection at the Property line or easement limit;

"Property" means a parcel of land described in a deed or other document legally capable of conveying title to or a fee simple interest in land; and,

(1) **"Mixed-use Property"** means a Property containing both Residential and Non-Residential Uses;

(2) **"Multi-Residential Property"** means a Residential Property on which there are multiple residential units;

(3) **"Non-Residential Property"** means a Property that is neither a Residential Property nor a Mixed-use Property; and,

(4) **"Residential Property"** means a Property on which the primary land uses are residential.

"Property Line" means the real or imaginary line that represents the legal division between a Property and the abutting Road;

"Remote Reading Unit" means a device or mechanism which is owned by the City that is used to record or transmit, or both, the water consumption reading of a Water Meter and may be installed at a separate location from the Water Meter. A remote reading unit is of one of two types:

(1) a remote touchpad that is wired directly to the meter and is read manually; or,

(2) advanced metering infrastructure that transmits a signal to a remote receiver.

"Road" means a public highway pursuant to the *Municipal Act, 2001*;

"Service Connection" means the connection that joins a Service Line to the Watermain;

"Service Line" means the line connecting a Watermain to a Premises or Property consisting of a Private Service Line and Public Service Line;

"Substandard" is an adjective that refers to a situation, matter, or thing that does not comply with Applicable Law;

"Substandard Service" means a water service line that does not meet the requirements of Applicable Law

"Tamper" means to break, damage, destroy, deface, add to or remove from a thing;

"Vacant Premise" means a dwelling, building, or property that is unattended.

"Water Meter" means a device or mechanism which is owned by the City and used for the purpose of measuring the flow or quantity, or both, of water for billing revenue and, in circumstances where multiple units' locations or units on a Property are serviced from a single Service Line; and,

(1) **"Primary Meter"** means the Water Meter that measures the total consumption on a Service Line; and,

(2) **"Submeter"** means any Water Meter that is subsidiary to the Primary Meter, but does not mean a private water quantity measuring device pursuant to subsection 5.6;

"Water Meter Chamber" means a below grade vault constructed to house a Water Meter;

"Water Meter Plumbing Assembly" means that part of a private plumbing system consisting of the valves, pipes, connections, by-passes, and other appurtenances used to install, test and/or maintain a water meter;

"Watermain" means a pipe for the conveyance of potable water to water storage facilities and serviced properties;

"Watermain Disinfection Procedure" means the Watermain Disinfection Procedure issued by the MECF. As of the date of the passage of this By-law, the Watermain

Disinfection Procedure also applies to a Service Line that has a diameter equal to or greater than four inches;

"Water Distribution System" means facilities of the City, including buildings, structures, plant, machinery, equipment, Water Meters, Public Fire Hydrants, appurtenances, devices, conduits, intakes, outlets, Watermains, and other works designed for the collection, production, treatment, transmission, storage, supply or distribution of water, or any part of the foregoing , and includes lands occupied for such purposes and uses;

"Water Works By-law Resource Manual" means the Water Works By-law Resource Manual approved by the General Manager from time to time;

PART 2 – INTERPRETATION AND APPLICATION

2.1 This Part contains provisions related to the interpretation and application of the By-law and is intended to be of general application to this entire By-law.

2.2 This By-law applies within the geographic limits of the City of Hamilton and regulates the provision and consumption of water as a public utility within the entirety of that geographic area.

2.3 Despite section 2.2, the General Manager may waive the application of all or part of this By-law if the General Manager is satisfied that the matter is adequately regulated through another By-law, statute, or planning approval that meets or exceeds the requirements of this By-law.

2.4 (1) Any person who performs any action under the authority of this By-law, including any Permit, exception, right or privilege granted, issued or exercised pursuant to this By-law, shall do so in accordance with all Applicable Law. In the event that there is a conflict or inconsistency between this By-law and any such Applicable law, such conflict shall be resolved in accordance with the normal principles of statutory interpretation but with the intent, to the extent possible, to resolve all such conflicts in favour of the most stringent and restrictive provisions that will best protect the health and safety of the citizens of Hamilton.

(2) Subject to subsection (1), in the event of any conflict or inconsistency between any of the provisions of this By-Law and the Water Works By-law Resource Manual, the provisions of this By-law shall take precedence over the Water Works By-law Resource Manual to the extent necessary to resolve such conflict or inconsistency.

2.5 The necessary grammatical changes required to make the provisions of this By-law applicable to corporations, partnerships, trusts and individuals, male or female, and

to include the singular or plural meaning where the context so requires, shall in all cases be assumed as though fully expressed.

2.6 The insertion of headings and the division of this By-law into sections and subsections are for convenience of reference only and shall not affect the interpretation thereof.

2.7 Any reference in this By-law to any statutes, regulations, manuals, procedures, or By-laws shall be deemed to be a reference:

(1) in the event of the amendment or restatement of any such statute, regulation, manual, procedure, or By-law, to such amended or restated statute, regulation, manual, procedure or By-law; and,

(2) in the event of the repeal and replacement of any such statute, regulation, manual, procedure, or By-law, to such replacement statute, regulation, manual, procedure, or By-law.

2.8 Where a court of competent jurisdiction declares any section or part of a section of this By-law invalid, the remainder of this By-law shall continue in force unless the court makes an order to the contrary.

2.9 Nothing in this By-law constitutes a guarantee or assurance that there shall be an uninterrupted supply of water at any location within the City or that any standard of water pressure will be met or maintained at any given time in any location within the City.

2.10 Any reference in this By-law to a prescribed form is a reference to the applicable form under Applicable Law.

2.11 Where any Person requests or claims to be entitled to any approval, exception, relief, or any special consideration or benefit capable of being issued by the General Manager under this By-law, application shall be made to the General Manager in accordance with the forms, processes, and other procedural and substantive requirements of the Water Works By-law Resource Manual, Applicable Law, and the payment of all applicable Fees and Charges.

PART 3 – GENERAL PROHIBITIONS

3.1 This Part sets forth a number of General Prohibitions applicable to this By-law that are of general application to the connection to the Water Distribution System and the use of water within the City of Hamilton.

3.2 No Person shall connect, permit to be connected, or allow to remain connected to the Water Distribution System, any pipe, fixture, fitting, container, appliance, vehicle,

machine or similar contrivance which may under any circumstances allow for water to be drawn from or into the Water Distribution System, except in compliance with this By-law.

3.3 No Person shall use water that has been drawn from the Water Distribution System otherwise than in compliance with this By-law.

3.4 (1) No Person, other than the City, through its own forces or contractors hired by it, shall perform any work on the Water Distribution System.

(2) Subsection (1) does not apply if this By-law or an exception provided by the General Manager provides otherwise.

3.5 No Person shall hinder or obstruct or attempt to hinder or obstruct any Person who is exercising a power or performing a duty under this By-law.

3.6 No Person shall provide false or inaccurate information in any application submitted under this By-law, or in any other document or thing required to be submitted by this By-law or the Water Works By-law Resource Manual.

3.7 No Person shall Tamper with or permit Tampering with:

(1) any part of the Water Distribution System; or,

(2) any permanent or temporary device installed as part of a Service Line, including the Water Meter, seals, or related appurtenances for the purpose of measuring, sampling, testing or by-passing of water.

3.8 No Person, other than the City, shall:

(1) interfere, in any way, with any part of the Water Distribution System;

(2) place or cause to be placed any structure, building material, or other material including earth, snow, trees, shrubs, plants, fences, berms, or other obstruction of any kind whatsoever at a distance of less than one metre from any part of the Water Distribution System;

(3) who is an Owner or Occupier allow on their Property or any Road adjacent to their Property, any obstruction, including the accumulation of snow or ice, of any kind whatsoever at a distance of less than one metre from any part of the Water Distribution System;

(4) conceal any part of the Water Distribution System with any type of structure, plant or object; or,

(5) deface, paint, or decorate any part of the Water Distribution System.

PART 4 – CONNECTION TO THE WATER DISTRIBUTION SYSTEM

4.1 This Part contains provisions that apply to a number of different aspects of connection of Properties and Premises to the Water Distribution System.

Water Service Connections

4.2 No Person shall make connection between the Water Distribution System and any Property located outside the geographic limits of the City of Hamilton unless a written agreement authorizing such connection has been executed by the City and the other municipality in which such Property is situate.

4.3 No Person shall make connection to the Water Distribution System unless a Water Service Permit has been issued authorizing such connection.

4.4 Not more than one Service Connection may be made for any Property, and not more than one Property may be serviced through a single Service Connection.

4.5 All Service Connection installations shall be in accordance with specifications set out in the Water Service Permit, the Water Works By-law Resource Manual, and shall be inspected and approved by the General Manager.

Exceptions to Section 4.4

4.6 Despite section 4.4:

(1) more than one but not more than three Properties may remain connected to one Service Connection if the Service Connection legally existed prior to the enactment of this By-law and the Service Connection continues in use and is not upgraded or modified. For purposes of this section:

(a) a Service Connection is only deemed to have legally existed prior to the enactment of this By-law if the City issued a Water Service Permit for the Service Connection when it was established; and,

(b) a Service Connection is not deemed to have legally existed prior to the enactment of this By-law if any subsequent non-compliance with section 4.4 has occurred as a result of a transfer pursuant to a consent issued pursuant to the subdivision control provisions of the Planning Act; and,

(2) the General Manager may approve additional Service Connections to a Property, as set forth below

(a) The General Manager may approve any number of Service Connections for a Non-Residential Property where such Service Connections are required in connection with any land uses on the Non-Residential Property;

(b) The General Manager may approve an additional Service Connection for each separate building containing residential uses on a Residential Property;

(c) The General Manager may approve one or more additional Service Connections on any Property:

(i) If a plan of subdivision in respect of the Property has received draft plan approval pursuant to the Planning Act, and any additional Service Connections that are requested are in compliance with the terms of the applicable draft plan approval; or,

(ii) In advance of the formal transfer of a portion of a Property by deed or transfer in circumstances where:

A. A Consent has been issued pursuant to the Planning Act;

B. Any additional Service Connections requested are in compliance with the terms and conditions of the Consent;

C. All rights of appeal in respect of the Consent have either terminated or any appeals have been finally resolved; and,

D. All conditions relating to the Consent have been fully and completely satisfied.

(d) The General Manager may approve one (1) additional Service Connection for each separate building containing residential uses on a Multi-Residential Property where the Residential Units are arranged vertically within a building or buildings and each building for which the additional Service Connection is sought has a height in excess of eighty-four (84) metres.

(e) The General Manager may approve further Service Connections to a total not greater than the number of Residential Units on a Multi-Residential Property where the Residential Units are arranged horizontally within one or more buildings on the Property; and,

(f) The General Manager may approve further Service Connections for a Mixed-use Property by applying rules (a) through (d) with necessary

modifications to the portions of the Mixed-use Property containing Residential Uses and Non-Residential Uses respectively.

Installation of Service Lines

- 4.7 (1) All Service Line installations shall be done in compliance with Applicable Law.
- (2) No Property connected to the Water Distribution System shall be serviced by an Auxiliary Water Supply.
- (3) If a Property is connected to the Water Distribution System, no Person shall either connect an Auxiliary Water Supply to any part of the Property or permit any existing connection to an Auxiliary Water Supply to any part of the Property to continue.
- (4) Provided that there is no possible physical interconnection between the Auxiliary Water Supply and a plumbing system on a Property that is connected to the Water Distribution System, nothing in this Section shall prohibit the Owner of the Property from using an Auxiliary Water Supply, if:
- (a) The provisions of the Backflow Prevention By-law apply to the Property; and,
 - (b) The Property is in compliance with the Backflow Prevention By-law.
- (5) For purposes of subsection (4), a system in which the Auxiliary Water Supply is separated by one or more valves shall be deemed to be a physical interconnection.

Maintenance, Repair, Replacement, and Inspection of Service Lines

- 4.8 (1) No Person shall repair an existing Service Line or associated fittings and appurtenances unless a Water Service Line Repair Permit authorizing such repair has been issued under this By-law.
- (2) No Person shall replace an existing Service Line unless a Water Service Permit authorizing such replacement has been issued under this By-law.
- (3) All Service Line repairs and replacement shall be done in compliance with Applicable Law.
- (4) All Private Service Lines shall be maintained, repaired, replaced, and inspected as required by Applicable Law, and at the expense of the Owner.

(5) No Owner or Occupier shall permit leaking of a Private Service Line located within their Property.

(6) Unless otherwise specified by the General Manager, if a replacement Service Line is installed by a Permit holder, the Permit holder shall install the replacement Service Line in the same location as a Service Line being replaced. If the General Manager authorizes a different location for the replacement Service Line, and additional excavation or pavement restoration is required, the Owner shall pay all additional excavation and restoration costs.

Abandonment of Service Lines

4.9 No Person shall abandon an existing Service Line unless a Disconnection Permit authorizing such abandonment has been issued under this By-law.

4.10 (1) Every Person acting under a Disconnection Permit shall ensure that:

- (a) the existing Service Line is disconnected at the Watermain;
- (b) the Service Connection is disconnected and removed in accordance with the Water Works By-law Resource Manual; and,
- (c) if required by the General Manager, the Service Line is removed.

(2) The Owner of the Property or Premise shall pay all costs associated with the disconnection and removal of any Service Line.

(3) Every person who demolishes any building shall disconnect the existing water Service Line associated with such building pursuant to a Disconnection Permit issued under this By-law, provided that the General Manager may authorize the continued usage of the existing Service Line to service a replacement building if:

- (a) A building permit has been issued for such replacement building; and,
- (b) The General Manager is satisfied that the Service Line meets all requirements of Applicable Law, is in good condition, and is otherwise suitable to service the replacement building.

Substandard Service Replacement

4.11 If an Owner has:

- (1) Replaced an existing Substandard Private Service Line under a Water Service Permit with a Private Service Line that meets Applicable Law; and,
- (2) Notified the General Manager in writing that the Owner's Property or Premises is serviced by a Substandard Public Service Line, and the Owner's submission is determined by the General Manager to be accurate,

the General Manager shall replace the existing Substandard Public Service Line with a Public Service Line that meets Applicable Law.

Upgrading a Service Line

4.12 If the Owner of a Property delivers a written request to the General Manager requesting the installation of a Public Service Line that is greater than 25 mm diameter, the General Manager may approve the Owner's request, but the Owner shall be responsible for the installation of the Public Service Line and the Private Service Line and any required Permits at its sole cost.

Restoration

4.13 If excavation in the Road allowance is required for the purpose of installation, replacement or abandonment of a Service Connection or a Service Line, the cost of all restoration carried out by the City of Hamilton shall be paid by the Permit holder, except where the repair is being carried out in conjunction with the replacement done pursuant to subsection 4.12, in which case the cost shall be paid by the City in accordance with the Road Excavation Permit.

Connection Where Land Not Directly Serviced

4.14 (1) Where a Property abuts a Road in which there is no public Watermain to which such Property may be readily connected, but there is another public Watermain to which the Property may be readily connected, and for the cost of which such Property has not been specially assessed, such Property Owner may make a request to the General Manager – Planning & Economic Development to be connected to such other public Watermain.

(2) If the General Manager – Planning & Economic Development approves the request for a connection under subsection 4.14 (1), it shall be a condition of such approval that:

- (a) a Water Meter is installed and maintained in accordance with the specifications set out in the Water Works By-law Resource Manual, by and at the expense of the Owner;

- (b) the Private Service Lines are connected to each other on the private side of the Water Meter;
- (c) the distribution of the water to the separate Properties is supported by a legally enforceable reciprocal easement registered against every Property so connected, which reciprocal easement shall also, either expressly or through reference to another registered document, impose reciprocal maintenance obligations between each Property owner satisfactory to the City and which shall include the City as a party for the purpose of:
 - (i) recording the consent of the City to the form and content of the reciprocal maintenance obligations;
 - (ii) prohibiting the discharge or amendment of the reciprocal easement without the express consent and approval of the City; and,
- (d) the Property Owner obtains a Water Service Line Permit.

Temporary Connection through Adapter Rental

4.15 No Person shall use an Adapter to make a connection to the Water Distribution System otherwise than in accordance with the terms and conditions of the Adapter Rental Agreement.

4.16 The Adapter Rental Agreement may only be issued for municipal projects and Watermain commissioning, or in other circumstances with the consent of the Water Distribution Overall Responsible Operator or the General Manager.

PART 5 - WATER METERS

5.1 This Part is intended to contain the rules related to Water Meters that are used and installed pursuant to this By-law.

5.2 Unless otherwise permitted under this By-law:

- (1) one (1) Water Meter shall be installed on every Service Line; and,
- (2) no alteration shall be made to by-pass a Water Meter to allow for non-metered water to be drawn from the Water Distribution System.

5.3 (1) Every Owner and Occupier shall permit the installation of a Water Meter on any Service Line connected to the Water Distribution System, and in the event that any Owner or Occupier refuses or neglects to permit the installation of a Water Meter

at any Property so connected, the General Manager may, in addition to any other penalty under this By-law, disconnect the Property from the Water Distribution System until a Water Meter is installed.

(2) Every Owner and Occupier shall allow the installation of a Remote Reading Unit used for remotely collecting consumption data from a Water Meter for base billing, trouble shooting, and analysis.

(3) If advanced metering infrastructure is available at any Property, any remote reading unit installed at that property shall be of that type. In the event that the Owner requests a touchpad Remote Reading Unit, a touchpad Remote Reading Unit shall be installed, and the Owner pay all applicable Fees and Charges.

5.4 No Person other than the City, or its designated contractors, shall install, seal, replace, maintain, repair, inspect, or remove Water Meters and Remote Reading Units. All such work shall be done in compliance with the Water Works By-law Resource Manual and all other Applicable Laws

5.5 Every Owner shall maintain the Water Meter Plumbing Assembly in a condition that meets the requirements of all Applicable Law.

5.6 An Owner or Occupier may install its own private water quantity measuring device if it is connected on the outlet side of a Water Meter. Any such private water quantity measuring device is deemed for all purposes to be privately-owned plumbing and not part of the Water Distribution System and shall neither be the responsibility of the City nor shall it form the basis for any billing for water consumption.

Physical Location of the Water Meter

5.7 (1) Every Water Meter shall be physically located as follows:

(a) for Service Lines under 38 mm in diameter,

(i) If the point where the Service Line enters the Premises is less than 60 metres from the Property Line, the water meter shall be located at the point where the Service Line enters the Premises; or,

(ii) If the point where the Service Line enters the Premises is more than 60 metres from the Property Line, the water meter shall be located in a Water Meter Chamber constructed and maintained in accordance with the specifications set out in the Water Works By-law Resource Manual by and at the expense of the Owner.

(b) for Service Lines 38 mm in diameter or larger,

(i) If the point where the Service Line enters the Premises is less than 10m from the Property Line, the water meter shall be located at the point where the Service Line enters the Premises; or,

(ii) If the point where the Service Line enters the Premises is greater than 10m from the Property Line, the water meter shall be located in a chamber at Property Line constructed and maintained in accordance with the specifications set out in the Water Works By-law Resource Manual by and at the expense of the Owner.

(2) If, in the opinion of the General Manager, unacceptable environmental or unsafe conditions exist or would result from locating the Water Meter in accordance with section 5.7(1), the Water Meter shall be located in an alternate location satisfactory to the General Manager, and in a Water Meter Chamber, where required, constructed and maintained in accordance with the specifications set out in the Water Works By-law Resource Manual by and at the expense of the Owner.

5.8 No Person shall re-locate a Water Meter from the location in which it is installed, except as may be approved by the General Manager.

5.9 An Owner who wishes to relocate a Water Meter the Owner may make an application therefor to the General Manager:

Size of the Water Meter

5.10 Water Meters shall be sized in accordance with the Water Works By-law Resource Manual.

5.11 (1) If an Owner wishes or is required by reason of an increase in the diameter of the Service Line to the Property, to change the size of a Water Meter the Owner may make an application to the General Manager.

Water Meter By-Pass Valve Assembly

5.12 On every metered water service the Owner shall install at its expense a By-Pass Valve Assembly in accordance with the specifications set out in the Water Works By-law Resource Manual, except where:

- (1) the service supplies only a single residential property;
- (2) the Service Line is under 50mm diameter; or,
- (3) in the opinion of the General Manager, a By-Pass Valve Assembly is not required,

and no person shall install a By-Pass Valve Assembly where (1), (2), or (3) apply.

5.13 The Water Meter by-pass valve required as part of the By-Pass Valve Assembly pursuant to section 5.12 shall be sealed and tagged in the closed position at the time it is installed and may only be opened with the consent of the General Manager.

5.14 When a By-Pass Valve Assembly is required in accordance with section 5.12, the Owner shall supply, install, and maintain at its expense the inlet valve, the outlet valve and by-pass valves to the Water Meter in accordance with the specifications set out in the Water Works By-law Resource Manual.

5.15 When a By-Pass Valve Assembly is required in accordance with section 5.12, and the General Manager determines that the seal on the by-pass valve is broken or the by-pass valve has been opened without the consent of the General Manager, the Owner shall,

(1) pay the Average Daily Water Consumption for the Premises during the time period when the seal was broken or the by-pass valve opened, as determined by the General Manager of Finance and Corporate Services;

(2) do anything necessary to restore the by-pass valve to the closed and sealed position, at the Owner's expense;

(3) pay all applicable Fees and Charges, associated with the restoration of the by-pass valve to the closed a sealed position; and

(4) if requested by the General Manager, permit the installation of a Water Meter on the by-pass within 60 days of the request at the Owner's expense.

5.16 (1) When the General Manager determines that a by-pass has been installed contrary to section 5.12, to allow for non-metered water to be drawn from the Water Distribution System without the consent of the General Manager, the Owner shall,

(a) pay the Average Daily Water Consumption for the Premises during the time period when the by-pass was installed, as determined by the General Manager Finance and Corporate Services;

(b) within 60 days of a request by the General Manager, remove the by-pass and take such action as is required to restore the Water Meter to the specifications set out in the Water Works By-law Resource Manual;

(c) pay all applicable Fees and Charges associated with the removal of the by-pass and restoration of the Water Meter;

- (2) Where the Owner fails to remove the by-pass or take such action as is required to restore the Water Meter in accordance with the specifications set out in the Water Works By-law Resource Manual, the Premise shall be billed pursuant to the Consecutive Estimate Policy until such time as the Owner completes the removal and restoration to the satisfaction of the General Manager.

Access

5.17 Upon request of the General Manager, the Owner and Occupier of the Premises or Property on which the Water Meter is located shall provide free and clear access to:

- (1) the Water Meter, meter reading equipment, or other appurtenances, for the purposes of meter reading, inspection, repair, installation, maintenance, or removal; and,
- (2) the By-Pass Valve Assembly for the purposes of inspection, repair, installation, maintenance, or removal.

Responsibilities of the Owner and Occupier

5.18 The Owner and Occupier of the Premises or Property on which the Water Meter is located shall:

- (1) take all precautions necessary to prevent:
 - (a) damage to the Water Meter from any cause including frost, fire, hot water or vandalism; and
 - (b) the loss of the Water Meter, where it is removed from the Premises or Property without the consent of the General Manager, whether by theft or otherwise;
- (2) immediately notify the City of any leaks or problems with the Water Meter which may require repair or replacement;
- (3) immediately notify the City's Billing Agent of any abnormally high-water billing resulting from unexplained, extraordinary or unusual circumstances;
- (4) pay all applicable Fees and Charges for the repair or replacement of a lost, damaged or stolen Water Meter; and,
- (5) if the Property has a Water Meter Chamber, maintain the Water Meter Chamber in good condition, free of water, dirt, and debris.

Accuracy and Testing of Water Meters

5.19 (1) The accuracy of a Water Meter shall be measured in accordance with the Water Works By-law Resource Manual.

(2) In circumstances where water consumption is measured by a Primary Meter and one or more Submeters, any conflict between the measurements recorded by the Primary Meter and any Submeters shall be resolved in favour of the higher measurement.

5.20 Except as otherwise provided in section 7, where a Water Meter fails to record water consumption accurately, the Owner and Occupier shall pay the Average Daily Water Consumption for the Premises or Property until such time as the Water Meter is repaired or replaced to the satisfaction of the General Manager.

5.21 An Owner or Occupier may apply to have a Water Meter tested for accuracy by submitting a written request to the City's Billing Agent on the prescribed form as set out in the Water Works By-law Resource Manual.

5.22 Water Meter testing carried out by the General Manager pursuant to an application made under section 5.19 may be carried out at the Premises or off-site.

5.23 (1) Where a Water Meter tested for accuracy under section 5.19:

(a) is found to under-register or be within 2% of the upper accuracy limit set out in the AWWA Standards for all three flow rates, no adjustments will be made to the account for metered water rates; or

(b) is found to exceed 2% of the upper accuracy limit set out in the AWWA Standards at one or more of the tested flow rates, the Water Meter will be calibrated or removed from service, the account for metered water rates will be adjusted, and the prescribed Water Meter testing fee will be credited to the account.

(2) The metered water rate account adjustment under subsection 5.23(1)(b) will:

(a) be for a rate equal to the difference between the upper accuracy limit set out in the AWWA Standards and the accuracy percentage registered by the meter test, and

(b) not exceed a period of 120 days prior to the date on which the Water Meter was calibrated or removed from service.

Exceptions to section 5.2(1)

5.24 Despite section 5.2(1):

(1) The General Manager may approve the installation of additional Water Meters, in addition to the Primary Meter, as set forth below:

(a) The General Manager may approve any number of Submeters if such Submeters are required in connection with any land uses on a Non-Residential or Mixed-use Property; and

(b) The General Manager may approve further Submeters in connection with a Multi-Residential Property if each residential unit on the Multi-Residential Property will have a Submeter.

(2) A Service Line that only provides water to a Private Fire Protection System does not require a Water Meter.

PART 6 – FIRE PROTECTION SYSTEMS

6.1 This Part contains rules that apply to public fire hydrants and private fire protection systems.

Public Fire Hydrants

6.2 No person shall open or operate a Public Fire Hydrant unless the person opening or operating the Public Fire Hydrant is a member of any one or more of the following groups:

(1) A City staff member acting in the course of their duties;

(2) A member of a municipal Fire Department acting in the course of their duties; or,

(3) Another person authorized by the General Manager

6.3 No Person shall relocate an existing Public Fire Hydrant unless approved by the General Manager and such relocation, including the design of the Public Fire Hydrant so relocated, is in compliance with Applicable Law. If approved, the applicant shall pay all costs and expenses associated with the relocation of an existing Public Fire Hydrant, and the installation of a new Public Fire Hydrant, if required.

Private Fire Protection Systems

6.4 No Person shall install or maintain any part of a Private Fire Protection System other than in compliance with Applicable Law.

6.5 No Person shall use any water from any Private Fire Protection System which is connected to the Water Distribution System, for any purpose other than fire fighting or maintenance of the Private Fire Protection System except on written authority from the General Manager of Public Works.

6.6 (1) No Person shall relocate an existing Private Fire Hydrant without a Permit issued under this By-law and such relocation, including the design of the Private Fire Hydrant, is in compliance with Applicable Law.

(2) The applicant shall pay all costs and expenses associated with the relocation of an existing Private Fire Hydrant, and the installation of a new Private Fire Hydrant, if required.

PART 7 - PROTECTION OF WATER USERS AND THE WATER DISTRIBUTION SYSTEM

7.1 This Part contains rules that are designed to protect the integrity of the Water Distribution System and the health and safety of its users.

To Prevent Damage to Private Equipment

7.2 (1) No direct connection shall be made, maintained or used between a Service Line and Watermain and any steam boiler, condenser, air conditioning unit, or other plant or equipment liable to damage as a result of the shutting off of the water, or as a result of fluctuations in water pressure in the Watermain, but in all such cases, either the water for such equipment is to be drawn from a tank into which the water has first been discharged from the Service Line, or some other suitable arrangement, acceptable to the General Manager, is to be made.

To Prevent Damage to Products

(2) No direct connection shall be made, maintained or used, between a Service Line from the Watermain and any food vat or other plant or equipment in which the quality of any product might be adversely affected by fluctuations in the quantity or quality of any water supplied, but in all such cases, either the water for such purpose is to be drawn from a tank into which the water has first been discharged from the Service Line, or some other suitable arrangement, acceptable to the General Manager, is to be made.

(3) A tank or other arrangement made pursuant to subsections (1) and (2) shall not be considered an Auxiliary Water Supply.

To Protect Potability

- (4) No Person shall install, maintain or use any connection with any part of a water supply system which is or may be connected to a Watermain whereby foreign matter, or non-potable water may enter the Water Distribution System.

Prohibited Equipment

- 7.3 (1) No Person shall install, maintain or connect to the Water Distribution System any sump pump or other device deriving power from the Water Distribution System or any other water-using equipment not normally found in a plumbing system.

WASTING OF WATER **Lawn-Watering Restrictions**

7.4 No person using water supplied from the Water Distribution System shall water or permit to be watered any lawn, garden, or any sidewalk or Road, except during the days specified below.

- (1) In areas having municipal street addresses:
- (a) on that side of the street where the municipal numbers are odd, lawns, gardens, or Roads may be watered on odd-numbered days of the calendar month;
 - (b) on that side of the street where the municipal numbers are even, lawns, gardens, or Roads may be watered on even numbered days of the calendar month.
- (2) In areas having no municipal street address:
- (a) on the west or north side of the street, lawns, gardens, or Road may be watered on odd-numbered days of the calendar month;
 - (b) on the east or south side of the street, lawns, gardens, or Road may be watered on even-numbered days of the calendar month.

Shortage of Water

7.5 In the event of a water shortage resulting from any cause (including but not limited to an emergency), the General Manager may declare that there is a shortage of water and may prescribe further restrictions (including but not limited to the extension of lawn watering restriction) on the use of water as may seem necessary in the public interest.

Check Valves Required Where Two or More Services

- 7.6 (1) Wherever there are two or more residential Service Lines connected into one plumbing system or in to one Premises where there is an interconnection, each Service Line is to be provided with a City approved check valve so located as to prevent re-entry of water to the Watermain, installed and maintained at the expense of the Owner.
- (2) Where a residential water Service Line is a looped service, a check valve and a thermal expansion device must be installed and maintained at the expense of the Owner in the plumbing system as may be further detailed in the Water Works By-law Resource Manual.

Protection from Frost

- 7.7 No Person shall install, maintain or use any plumbing which is not properly protected to prevent freezing.

Vacant Premises

- 7.8 (1) Whenever any Premises having a water service becomes a Vacant Premise, the Owner of the Vacant Premise shall, within 60 days of the vacancy notify the General Manager, in writing, to shut off the water and shall pay the applicable Fees and Charges:
- (a) the applicable Fees and Charges for turning the water off and when the Premises is no longer a Vacant Premise, the applicable Fees and Charges shall be paid by the Owner for turning the water on again; and,
 - (b) the applicable Fees and Charges associated with the daily water fixed charge portion of the metered water rates during the time period that the water is shut off.
- (2) Where the Owner of a Vacant Premise fails to notify the General Manager of Public Works as set out in subsection (1), the City of Hamilton may, once aware of the Vacant Premise and upon at least 60 days of notification to the Owner, shut off the water.
- (3) Subsections (1) and (2) do not apply to a Water Service that provides water to a Private Fire Protection System.

PART 8 – PERMITS

- 8.1 This Part contains general rules applicable to all Permits issued under this By-law.

8.2 Permits under this By-law shall only be issued after the payment of the prescribed fee therefor.

8.3 If work requiring a Permit is carried out on private property, the Owner and Occupier shall provide free and clear access to the City for the purpose of inspecting and approving work. Water to any Premises or Property shall not be connected until the work is approved pursuant to an inspection carried out.

8.4 (1) No Person shall perform or permit others to perform work for which a Permit is required under this By-law without first obtaining a Permit in accordance with this By-law.

(2) Despite anything in this By-law requiring otherwise, Emergency Work may be performed without first obtaining a Permit if the General Manager is notified immediately upon discovery of the Emergency and a Permit is applied for the next business day after the General Manager is notified.

8.5 It is a condition of every Permit that all work shall be performed in accordance with Applicable Law.

8.6 It is a condition of every Permit that all work performed under a Permit shall be inspected by the City before it is put into service.

8.7 The Owner or its authorized representative shall apply for a Permit by submitting a complete application on the prescribed form that includes any materials, documents, or other things required by Applicable Law.

8.8 Every Permit issued under this By-law is the Property of the City and is not transferable.

8.9 The General Manager may refuse to issue any Permit if the applicant or the Person responsible for carrying out the work is not in compliance with this By-law or the Water Works By-law Resource Manual in respect of the Premises for which the Permit is sought.

8.10 The General Manager may refuse to issue a Water Service Permit if the Premises or Property does not lie along a Watermain, there is insufficient supply of water for the Premises or Property, or if the work for which the permit is sought would contravene Applicable Law.

8.11 The General Manager may refuse to issue a Private fire hydrant Relocation Permit if the proposed location is not sufficiently accessible to the Fire Department.

8.12 The General Manager may issue a Permit after receipt of a completed application including any revised or additional information required by the General Manager and the prescribed application fees. In addition to the requirements of this by-law, in making the

decision to issue or refuse a Permit, the General Manager shall have regard for the Water Works By-law Resource Manual.

8.13 Any permit issued by the General Manager under this by-law may be subject to such conditions as they may specify. Such conditions may include but are not limited to:

- (1) providing notice of commencement and completion of work;
- (2) identifying the Contractor or person carrying out any work;
- (3) specifying any qualifications or other requirements for any Contractor or person carrying out any work.
- (4) obtaining locates for utilities and making all necessary arrangements with respect to any utilities that will be impacted;
- (5) carrying out all the work at the Permit Holders expense;
- (6) in the event that the Contractor or person carrying out the work pursuant to (2) above is unsatisfactory to the General Manager, substituting an alternative which is satisfactory to the General Manager;
- (7) Performing any necessary restoration; and
- (8) providing performance security, including but not limited to a letter of credit.

8.14 (1) A Permit Holder shall immediately inform the General Manager of any change to:

- (a) the information contained in an application for a Permit;
- (b) the information contained in a Permit that has been issued;
- (c) the characteristics of the work for which the Permit has been issued;
- (d) cancellation of the work; or
- (e) any matter in relation to the satisfaction of any conditions imposed within a permit.

(2) The General Manager may require any one or more of revised or additional information, additional prescribed fees, or a fresh application with respect to a change under subsection 8.14(1).

8.15 The General Manager may:

- (1) alter or revoke the terms and conditions of any Permit after it has been issued; and,
- (2) add new conditions to any Permit.

8.16 A Permit expires on the earlier of:

- (1) if the Permit contains an expiry date, such date;
- (2) if the Permit does not contain an expiry date, 365 days after the Permit was issued;
- (3) on the date that the work is completed; or
- (4) on the date that the Permit is revoked.

8.17 (1) If the work will not be completed before the Permit expires under section 8.16, the Permit Holder may apply for an extension not less than seven days prior to the expiry date.

(2) The General Manager may approve an application for an extension having regard for:

- (a) work to be completed during the extension;
- (b) the progress of work up until the date of the application;
- (c) the performance of the Permit Holder up until the date of the application;
- (d) any potential conflict that may result from the extension with other planned or ongoing activity on, in or under the Road; and,
- (e) the safety and convenience of the public.

(3) A Permit Holder cannot apply for more than one extension and shall make a fresh application under subsection 4.2 for any other continuation or resumption of work commenced under an expired Permit.

8.18 The General Manager may revoke a Permit if, in the General Manager's opinion:

- (1) the Permit holder fails to comply with the conditions of a Permit, this By-law or the Water Works By-law Resource Manual;
- (2) the Permit holder substantially discontinues the work for a period of more than 180 days;

- (3) the Permit holder provides false or inaccurate information to the City in connection with the Permit;
- (4) the Permit holder or any Person doing work on behalf of the Permit Holder has failed to comply with any applicable statutes, regulations, standards, codes, by-laws, rules or similar requirements; and,
- (5) suspension or revocation is necessary as a result of an Emergency.

8.19 Notice of the suspension or revocation of a Permit may be given by contacting a Permit Holder in writing, by telephone or by email in accordance with the information provided on the Permit application.

PART 9 – ADMINISTRATION AND ENFORCEMENT

9.1 This Part contains those provisions necessary for the administration and enforcement of this By-law.

9.2 The General Manager is authorized to take such actions that are necessary to administer and enforce this By-law. Such actions include but are not limited to:

- (1) arranging for:
 - (a) the assistance or work of City staff, City agents or the assistance of police Officers;
 - (b) the making of orders or other requirements and the imposition of conditions as authorized under this By-law;
 - (c) the obtaining of court orders or warrants as may be required;
 - (d) the commencement of such actions on behalf of the City to recover costs or restrain contravention of this By-law as deemed necessary; and,
- (2) prescribing the format and content of any forms or other documents including the Water Works By-law Resource Manual under this By-law.

9.3 The General Manager, Director, Managers and all City employees in the Hamilton Water Division of the Public Works Department of the City of Hamilton are appointed as Municipal Law Enforcement Officers for the purposes of the administration and enforcement of this By-law and the applicable sections of the *Municipal Act, 2001*.

9.4 The General Manager may assign Municipal Law Enforcement Officers appointed under section 9.3 to enforce this By-law and Municipal Law Enforcement Officers so assigned or appointed by Council to enforce this By-law shall have the authority to:

- (1) carry out inspections;
- (2) make orders, commence prosecutions, or fulfill other requirements as authorized under this By-law and the Water Works By-law Resource Manual;
- (3) issue Permits; and,
- (4) give immediate effect to any orders or other requirements made under this By-law.

9.5 The General Manager may assign duties or delegate tasks under this By-law to be carried out in the General Manager's absence or otherwise.

Entry and Inspections

9.6 A Municipal Law Enforcement Officer may enter on land at any reasonable time and in accordance with the conditions set out in sections 435 and 437 of the *Municipal Act, 2001* for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- (1) an order or other requirement made under this By-law;
- (2) a condition of a Permit issued under this By-law; or,
- (3) an order made under section 431 of the *Municipal Act, 2001*.

9.7 A Municipal Law Enforcement Officer, for the purposes of the inspection under section 9.6 and in accordance with the conditions set out in section 436 of the *Municipal Act, 2001*, may:

- (1) require the production for inspection of documents or things relevant to the inspection;
- (2) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (3) require information in writing or otherwise as required by a Municipal Law Enforcement Officer from any Person concerning a matter related to the inspection;

(4) alone or in conjunction with a Person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

9.8 A Municipal Law Enforcement Officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the *Municipal Act, 2001*, in accordance with the conditions set out in that section, where the General Manager has been prevented or is likely to be prevented from carrying out an inspection under section 9.6.

Orders and Remedial Actions

9.9 If a Municipal Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Municipal Law Enforcement Officer may make an order pursuant to Section 444 of the *Municipal Act, 2001* requiring the Person who contravened the By-law or who caused or permitted the contravention or the Owner or Occupier of the Property or Premises on which the contravention occurred to discontinue the contravening activity.

9.10 An order under section 9.9 shall set out:

- (1) reasonable particulars of the contravention adequate to identify the contravention and the location of the Property or Premises on which the contravention occurred; and,
- (2) the date or dates by which there must be compliance with the order, which may be of immediate effect should the Municipal Law Enforcement Officer determine that the circumstances warrant.

9.11 If an Municipal Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Municipal Law Enforcement Officer may make an order pursuant to Section 445 of the *Municipal Act, 2001* requiring the Person who has contravened this By-law or who caused or permitted the contravention or the Owner or Occupier of a Property or Premises on which the contravention occurred to do work to correct the contravention.

9.12 An order under section 9.11 shall set out:

- (1) reasonable particulars of the contravention adequate to identify the contravention and the location of the Property or Premises on which the contravention occurred;
- (2) the work to be completed which may include but is not limited to requiring that prior to performing any work, all necessary Permits or other approvals be applied for and obtained;

- (3) the date or dates by which the work must be completed; and,
- (4) notice that if the order is not complied with, then the work may be done at the expense of the Person ordered to do the work.

9.13 An order under section 9.9 and 9.11 may be given by contacting a Permit Holder in writing or by email in accordance with the information provided on the Permit application or, if there is no Permit application, by contacting the Person the General Manager determines to be responsible for the work Personally or by registered mail at their last known address.

9.14 Where a time frame is set out in an order or other document for carrying out any action, a Municipal Law Enforcement Officer may extend the time for compliance beyond the established time frame provided such extension is required and is acceptable to the Municipal Law Enforcement Officer.

City Carrying Out Work

9.15 Where a Person does not comply with a direction or a requirement, including an order or a condition of a Permit under this By-law or the Municipal Act 2001 to do a matter or thing, the General Manager, with such assistance by others as may be required, may carry out such direction, requirement or order at the Person's expense.

9.16 Where the costs of doing a matter or thing under section 9.15 are estimated to be within the delegated Approval Authority as set out in the City's Procurement Policy By-law:

- (1) the General Manager may proceed without further approval in accordance with the delegated Approval Authority as set out in the City's Procurement Policy By-law; or,
- (2) the General Manager may proceed with approval of an authorized Person or of Council in accordance with delegated Approval Authority as set out in the City's Procurement Policy By-law.

9.17 The City may recover the costs of doing a matter or thing under section 9.15 and 9.16 by means of any one or more of:

- (1) bringing an action;
- (2) charging the applicable Fees and Charges.

9.18 The City reserves the right to call on or redeem any performance security or performance bonding in connection with work performed under section 9.15.

Water Shut-off

- 9.19 (1) In addition to other remedies available to the City, the City may shut off or restrict the supply of water where,
- (a) work performed on a Private Service Line or the Water Distribution System, in the opinion of the General Manager, poses a risk of contamination;
 - (b) the fees or charges payable under this By-law remain unpaid; access to the Water Meter is not provided in accordance with Applicable Law, including this By-law;
 - (c) any work requiring a Permit is performed without a Permit;
 - (d) work has been performed pursuant to a Permit, but all conditions of the Permit have not been satisfied;
 - (e) any contravention of this By-law.
- (2) The Owner and Occupier shall pay all prescribed fees associated with the shut off.
- (3) The General Manager may shut off water:
- (a) upon giving reasonable notice in accordance with Section 81(3) of the *Municipal Act 2001* of the shut off; or,
 - (b) in case of Emergency, without notice; or,
 - (c) at any time to complete maintenance or repairs to the Water Distribution System.

PART 10 – PENALTIES

10.1 This Part contains essential provisions in relation to the creation and application of penalties for the contravention of this By-law.

10.2 Every Person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, as amended.

Fine- for Contravention

10.3 Every person who contravenes a provision of this By-law and every director or officer of a corporation who knowingly concurs in a contravention by the corporation of a provision of this By-law, upon conviction, shall be liable to a fine of not less than \$50 and

not more than \$50,000 for a first offence and to a fine of not less than \$100 and not more than \$75,000 for any subsequent offence.

Fine- for Contravention- Corporation

10.4 Despite Section 10.3, if a corporation is convicted of an offence under this By-law, it shall be liable to a fine of not less than \$495 and not more than \$100,000 for a first offence and to a fine of not less than \$1,000 and not more than \$100,000 for any subsequent offence.

Fine- for Contravention- Continuing Offence

10.5 Despite Section 10.3 and 10.4, in the case of a continuing offence, every person who contravenes any of the sections set out in this By-law and every director or officer of a corporation who knowingly concurs in a contravention by the corporation of any of this By-law, upon conviction, shall be liable to a fine of not less than \$100 and not more than \$10,000 for each day or part day that the offence continues and the total of all of the daily fines for the offence shall not be limited to \$100,000.

Fine- for Contravention- Continuing Office- Corporation

10.6 Despite Section 10.3, 10.4 and 10.5, in the case of a continuing offence, if a corporation is convicted of an offence for any of the sections set out in this By-law, it shall be liable to a fine of not less than \$495 and not more than \$10,000 for each day or part day that the offence continues and the total of all of the daily fines for the offence shall not be limited to \$100,000.

Special Fines

10.7 In addition to any other fine under Sections 10.3, 10.4, 10.5 or 10.6 or a combination of the foregoing, every person who gains an economic advantage or economic gain from contravening this By-law shall be liable to a special fine in an amount equal to the fair market value of the economic advantage or economic gain so obtained from the contravention.

PART 11 - FEES AND CHARGES

11.1 The provisions of this Part are intended to become and are hereby included within and incorporated by reference into the Water and Wastewater/Storm Fees and Charges By-law.

Liability for Water Rates

11.2 The Owner and Occupier of a Premise or Property supplied with water from the Water Distribution System shall be jointly and severally liable to pay the prescribed water rates as set out in The Water and Wastewater/Storm User Fees and Charges By-law.

11.3 Unpaid and overdue accounts for fees and charges related to the consumption of water are subject to the Arrears Policy.

11.4 The Owner and Occupier shall be jointly and severally liable to pay the daily water fixed charge portion of the metered water rates whether the Water Meter is removed, or the water service is shut off at the Property line, until such time as the Service Line is permanently disconnected at the Watermain.

Rates Where Failure to Comply

11.5 In addition to any other remedy available under this By-law, where the Owner or Occupier fails or refuses to allow the installation of a Water Meter in accordance with section 5.3, the Owner and Occupier shall be jointly and severally liable to pay the Average Daily Water Consumption for the Premises until such time as the Water Meter is installed to the satisfaction of the General Manager.

11.6 (1) In addition to any other remedy available under this By-law, where access to the Water Meter is not provided in accordance with section 5.17, and where no representative or insufficient historical consumption exists for the account, the Owner and Occupier shall be jointly and severally liable to pay an estimated amount calculated in accordance with the Water and Wastewater Consecutive Estimated Accounts Policy PP-0009 approved by Council from time to time; until such time as access is provided.

(2) If the General Manager receives the consumption data for water actually supplied to the Premises or Property, and where such actual amount is greater than the estimated amounts invoiced under subsection 7.6(1), the Owner and Occupier shall be jointly and severally liable to pay for the greater amount.

Agreements for Water Supply

11.7 Where the City enters into an agreement for the supply of water with a municipality or the Owner or Occupier of any Property outside of the City, the rates payable shall be as set out in those agreements. Where the City enters into an agreement for the supply of non-potable water with the Owner or Occupier, the rates payable shall be as set out in those agreements. Except as explicitly provided in such agreements, or where there is an explicit conflict with such agreements, this By-law is in full force and effect.

Interpretation

11.8 If Fees and Charges are applicable to the receipt of any Permit, or to the granting of any exception or any other rights or privileges hereunder, the full payment of such Fees and Charges shall be a necessary prerequisite to the lawful exercise of any such Permits, exceptions, rights or privileges.

11.9 Inspection fees are in addition to and are not included within Permit fees.

PART 12 – REPEAL, TRANSITION AND ENACTMENT

12.1 This Part contains essential provisions respecting the repeal of the existing By-law, the enactment of this By-law, and other amendments and transitional provisions needed to support the coming into force of this By-law.

12.2 The Regional By-law No. R84-026 of The Regional Municipality of Hamilton-Wentworth is hereby repealed.

12.3 Every reference to the Regional By-law No. R84-026 predating the enactment of this By-law shall:

(1) Where the reference is in a City By-law or other legislative enactment of the City other than the Water and Wastewater/Storm Fees and Charges By-law (for which specific provision is made in section 12.5 below), such reference is hereby amended to be a reference to this By-law with the words "Hamilton Water Works By-law" substituted for the applicable reference to Regional By-law No. R84-026; and,

(2) Where the reference is in a document other than a City By-law or other legislative enactment of the City, such reference is hereby deemed to be a reference to this By-law.

12.4 Despite the repeal of By-law R84-026 under section 12.2:

(1) That by-law shall continue to apply to proceedings in respect of offences that occurred before its repeal; and,

(2) All approvals issued under that by-law that are in effect at the time of the repeal shall be deemed to be approvals issued under this By-law with all necessary modifications, and all the rules, requirements and regulations of this By-law shall apply.

12.5 Despite section 12.3(1), the Water and Wastewater/Storm Fees and Charges By-law is amended by deleting section 11 and substituting the following therefor:

(1) This By-law shall be read and applied in accordance with the Hamilton Water Works By-law, including without limitation Part 11 thereof, and any matters or things contained in the Hamilton Water Works By-law shall:

(a) Prevail over the contents of this By-law in the event of any conflict or inconsistency; and,

(b) Incorporate any provisions or other requirements set forth therein in relation to Fees and Charges which are contained within the Hamilton Water Works By-law, but which are not in this By-law.

12.6 This By-law comes into force on the date of its passing.

PASSED this ____ day of _____, 2023

Andrea Horwath
Mayor

Janet Pilon
City Clerk