



CITY OF HAMILTON

**PUBLIC WORKS DEPARTMENT
Hamilton Water Division**

TO: Chair and Members Public Works Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: August 15, 2013	
SUBJECT/REPORT NO: Wastewater Abatement Program Changes and Sanitary Surcharge and Wastewater Abatement Bylaw No. 03-272 Amendments (PW13006a) - (City Wide)	
SUBMITTED BY: Gerry Davis, CMA General Manager Public Works Department	PREPARED BY: Dan McKinnon (905) 546-2424, Extension 5941
SIGNATURE:	

RECOMMENDATION

- (a) That the technical and housekeeping changes to the Sanitary Surcharge and Wastewater Abatement Program, detailed in Report PW13006a be approved;
- (b) That the By-law to amend The Sanitary Surcharge and Wastewater Abatement By-law, in substantially the form attached as Appendix "A" to Report PW13006a, and satisfactory to the City Solicitor, be enacted;
- (c) That the Director of Hamilton Water and the General Manager of Finance and Corporate Services be authorized and directed to continue receiving new applications for an Abatement under the Sanitary Surcharge and Wastewater Abatement By-law once the By-law is amended in accordance with (b).

EXECUTIVE SUMMARY

The purpose of this Report is to seek approval to amend the Wastewater Abatement Program (WWAP) and specifically the Sanitary Surcharge and Wastewater Abatement By-law 03-272 (By-law) which is administered and enforced by the Hamilton Water Division of the Public Works Department.

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Throughout the City there are a number of commercial and industrial customers who are eligible to apply for an assessment of the flow differential between purchased potable water and sewage discharged to the City's sewers when water is consumed in the customers' product or process. Upon qualifying, an abatement factor is applied to their water bill that allows for a credit on the sewer surcharge portion of their water bill to more accurately reflect their use of the City's sewer systems. The WWAP was established in 2003 and since has abated a total of approximately \$4 million to various qualified commercial and industrial recipients. A summary of the program costs can be found as Appendix "B" attached to this Report.

On February 13, 2013 Council approved of Item 2 of Public Works Committee Report 13-002, being staff report PW13006, and directed staff to amend the City of Hamilton Wastewater Abatement Program and relevant By-law to reflect that the calculation used for determining eligibility for the program shall include water provided from the municipal water supply only. This issue has been addressed in the proposed amending By-law attached as Appendix "A" to this Report.

It has since been identified that there were other technical and housekeeping issues within the Wastewater Abatement Program portion of the By-law that needed to be addressed in this Report and are also included in the proposed amending By-law attached as Appendix "A" to this Report. The details of those technical and housekeeping issues are set out in the "Analysis/Rationale for Recommendation" section of this Report. One of the key issues requiring clarification in the existing By-law relates to the City's practice of excluding water used for outdoor or recreational purposes from eligibility in the program. These uses include irrigation, ground maintenance, filling pools and hot tubs. The practice of excluding these uses supports the City's position on water conservation and environmental protection and the proposed language makes clear that these uses will not be eligible when considering an application for abatement.

The amendments are being proposed at this time as part of continuous improvement efforts by Hamilton Water staff and will enable more effective administration of the By-law and better reflect current standards and practices. The proposed amendments will also provide overall program clarity for future applicants and current abatement recipients.

This Report recommends the amendments identified in the body of this Report be approved and that the amending By-law attached as Appendix "A" be enacted.

Alternatives for Consideration - See Page 6

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: The proposed amendments to the WWAP and the related By-law will eliminate the potential of significant negative impacts to the City's Rate revenues and represent a fair and reasonable approach to the identified issues.

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Staffing: N/A

Legal: The recommendations in this Report will result in amendments to the By-law which will better reflect the intended purpose of the Wastewater Abatement Program.

HISTORICAL BACKGROUND

The WWAP was approved by Council in 2003 (refer to report FCS02125/TOE02201) and was phased in over a three year period. This program currently recognizes that there may be a significant difference between water consumption and sewage discharged, sustained throughout the year, for a number of businesses in the commercial/industrial sector. If the customer can prove they meet the minimum requirements, upon approval, they will receive an abatement on the sewer surcharge portion of their water bill. This type of program is commonly available in other municipalities and although not legislated or mandatory, it contributes to Hamilton's initiative to attract and maintain sustainable businesses.

To qualify for the WWAP a commercial/industrial customer is required to demonstrate a minimum threshold of 25% diversion from sewer and may only be eligible for a 75% maximum abatement. Additionally, and in order to receive an abatement, the customer's discharge must be in compliance with the Sewer Use By-law 04-150 and they cannot be in arrears of their water and sewer payments or municipal property taxes to the City. Residential dwellings are not currently and have never been eligible for the WWAP. Since the WWAP was approved in 2003, a total of nine industrial firms have applied and qualified for an abatement ranging from 7.43% to 66.75% of their sewer surcharge totalling approximately \$4 million to date. It is important to note that one business out of nine has received 88% of the \$4 million in rebates provided to date, as outlined in Appendix "B" attached to this report.

On September 16, 2009 Council directed staff to extend the program eligibility to commercial food growers. To date, no commercial food growers have applied for the program.

In February, 2013, Council approved Item 2 of Public Works Committee Report 13-002, being staff report PW13006, and directed staff to amend the City of Hamilton Wastewater Abatement Program and relevant By-law to reflect that the calculation used for determining eligibility for the program shall include water provided from the municipal water supply only. This was to address the situation where some commercial/industrial users draw water from other sources for cooling and other purposes. Much of this water is returned to its source and does not enter the City sewer system and as such, should not form part of the calculation.

While the WWAP is under review due to the above noted issue, Hamilton Water City staff seek to clarify the practice of excluding certain other water uses from eligibility in the program. From time to time staff receive requests for abatement from customers who use large quantities of City water for irrigation, ground maintenance, filling pools

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and hot tubs. Since the WWAP's inception and based on staff understanding of the spirit of the program water used for these purposes has been excluded from eligibility into the program. This Report and proposed amending By-law attached as Appendix "A" serves to clarify and solidify the City's position on this - see Analysis/Rationale below subtitled "Eligibility Requirements".

Staff have also identified other housekeeping and administration issues within the Wastewater Abatement Program portion of the By-law that also need to be addressed and the necessary amendments are being proposed in this Report. The details of those housekeeping and administration issues are set out in the "Analysis/Rationale for Recommendation" section of this Report.

POLICY IMPLICATIONS/LEGISLATED REQUIREMENTS

N/A

RELEVANT CONSULTATION

City Manager's Office - Legal Services Division has been consulted and their comments have been reflected in this Report.

Corporate Services - Financial Planning and Policy Division has been consulted and their comments have been reflected in this Report.

Hamilton Water - Customer Service and Community Outreach has been consulted regarding the City's Wise Water Use Program and they support the recommendations outlined in this Report.

ANALYSIS / RATIONALE FOR RECOMMENDATION

The recommendations in this report facilitate clarity, interpretation and administration of the By-law and are divided below into subcategories. The "Housekeeping and Administration" amendments are minor in nature and do not in any way change the By-law intent as originally intended and enacted by Council. The "Rebate on Non-Municipal Water" provisions are intended to reflect the February 13, 2013 Council resolution and add language to eliminate the risk of revenue loss resulting from the inclusion of non-municipally supplied water in future abatement requests. The "Eligibility Requirements" provisions are being added to provide clarity to a long standing City practice and therefore do not change the intent of the program as it was developed and has been administered since inception.

The following subsections provide analysis of the three main categories of changes in the amending By-law:

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Housekeeping and Administration

1. Definitions - Adding definitions for “potable water”, “potable water supply” and “stormwater” to address interpretation issues that have arisen in the administration of the By-law, as well as updating the definitions of the City staff in the By-law to reflect the current organizational structure.
2. Rewording of Sections 13 and 14 - proposed wording of this section will clarify the minimum requirements that must be met in order to be eligible for the WWAP.

Rebate on Non-Municipal Water

3. The addition of subsections 11 (a) through (d); the addition of language in Section 15; as well as a modification to the language that explains the abatement calculation in Schedule B will ensure water that was not originally purchased from the City is not eligible for abatement.

Eligibility Requirements

4. The addition of a revised Section 15 - clarifies the City’s policy and original intent of deeming ineligible a sewer surcharge abatement for water used for irrigation or ground maintenance; recreational uses such as filling swimming pools, hot tubs or fountains; and water used off-site for cleaning or consumption - example: a water truck filled at a business and driven off-site to be consumed elsewhere.

Water used for purposes of irrigation or ground maintenance, recreation or off-site purposes has never been deemed eligible, and historically costumers applying for a sewer surcharge abatement on water used for these purposes have been denied. Recently, it was revealed that the By-law language did not reflect this intent.

Staff considered this example and consulted with other Divisions and Departments and feel that it is counterproductive to the long standing message of the City’s Wise Water Use to provide a rebate on potable water used for recreational irrigation. Hamilton Water’s Customer Service and Community Outreach Section has campaigned for many years to encourage citizens and businesses to engage in water conservation methods.

It is also important to note that the City’s Waterworks By-law (R84-026), Section 17 (2), restricts lawn and garden watering to every other day. Allowing commercial/industrial customers to receive a sewer surcharge abatement for irrigation water would contradict the integrity of this provision in the Waterworks By-law.

In 2007, the City demonstrated leadership in water management and usage reduction by investing over \$700,000 in surface water storage ponds and distribution equipment for the City owned King’s Forest Golf Course. A survey conducted by Public Works staff noted that several of the City’s private golf courses have also invested in water irrigation systems utilizing well, stream and storm water rather than purchased potable water.

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Water conservation programs have become more prevalent throughout municipalities as a result of heightened concern for the protection and preservation of water resources. Owners of municipal water systems such as the City of Hamilton have committed to create water conservation plans through Provincial legislation including the Ontario Water Resources Act and the Water Opportunities Act.

ALTERNATIVES FOR CONSIDERATION

In the event that Council elects not to approve the recommendations in this report, there remain two possible options to be considered.

Option 1 - Allow Irrigation Water to be Eligible for Abatement

One alternative that applies to the proposed Eligibility Requirements, would allow water used for irrigation or ground maintenance to be eligible for abatement, provided the minimum requirements of the program are met.

This alternative could potentially cost a minimum of approximately \$40,000 per year, since all golf courses in the City whom currently use purchased potable water for irrigation of grounds would likely become eligible. As well, any other large commercial/industrial customer who may have extensive landscaping or grounds to irrigate could become eligible, the cost for which cannot be estimated.

This alternative is not recommended as in staff's view, it is inconsistent with the City's Wise Water Use Program and the Lawn Watering provisions of the Waterworks By-law.

Option 2 - Terminating the WWAP

The other alternative to consider is terminating the WWAP in its entirety. A review of the historical data attached to this report as Appendix "B" shows that there has not been a tremendous uptake of this program and that one industry in particular has been the principal beneficiary.

Terminating this program would result in a cost savings of approximately \$500,000 per year, however Hamilton may risk losing a competitive edge for attracting large water users to the City, despite Hamilton's water rates being lower than some neighbouring municipalities. Due to the City's initiatives to attract and maintain industries that will enhance its economic development and growth, staff do not support this option.

ALIGNMENT TO THE 2012 - 2015 STRATEGIC PLAN

Strategic Priority #2

Valued & Sustainable Services

WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.

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Strategic Objective

2.1 Implement processes to improve services, leverage technology and validate cost effectiveness and efficiencies across the Corporation.

APPENDICES / SCHEDULES

Appendix "A" - By-law to amend The Sanitary Surcharge and Wastewater Abatement Bylaw No. 03-272

Appendix "B" - Wastewater Abatement Program Summary

Authority: Item XXX, Public Works Committee
Report 13-XXX
CM: August 16, 2013

Bill No.

CITY OF HAMILTON

BY-LAW NO.

**To Amend The Sanitary Surcharge and Wastewater
Abatement By-law No. 03-272**

WHEREAS on September 24, 2003, the Council of the City of Hamilton passed and enacted By-law No. 03-272, known and referred to as "The Sanitary Surcharge and Wastewater Abatement By-law";

AND WHEREAS on the 13th day of February, 2013 the Council of the City of Hamilton did approve of Item 2 of Public Works Committee Report 13-002 and did direct that The Sanitary Surcharge and Wastewater Abatement By-law be amended to reflect that the calculation used for determining potential eligibility for the wastewater abatement program only include water provided from the municipal water supply;

AND WHEREAS on the 16th day of August, 2013, the Council of the City of Hamilton did approve of Item X of Public Works Committee Report 13-XXX and did direct that The Sanitary Surcharge and Wastewater Abatement By-law be amended to reflect some additional technical and housekeeping amendments as set out in this by-law;

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

1. Section 1 of By-law No. 03-272 is deleted and replaced with the new Section 1 as follows:

Definitions

1. In this By-law,

“Abatement” means a credit on the Sanitary Surcharge amount paid by the Consumer, as approved by the City under the wastewater abatement program described in this By-law;

“Annual Administration Fee” has the meaning assigned in sub-section 22(b) of this By-law;

“Application” has the meaning assigned in section 10 of this By-law;

“City” means the City of Hamilton;

“City of Hamilton Water and Wastewater Arrears Policy” means the policy approved by the Council of the City of Hamilton at its meeting of October 24, 2007 as Item 9(a) of Audit and Administration Committee Report 07-012, as amended or re-enacted from time to time, and any successor to such policy. This policy may be found at the Office of the City Clerk for the City of Hamilton;

“City of Hamilton Water Leak Adjustment Policy” means the policy approved by the Council of the City of Hamilton at its meeting of December 12, 2007 as Item 11(a) of Audit and Administration committee Report 07-015, as amended or re-enacted from time to time, and any successor to such policy. This policy may be found at the Office of the City Clerk for the City of Hamilton;

“City of Hamilton Water and Wastewater Consecutive Estimated Accounts Policy” means the policy approved by the Council of the City of Hamilton at its meeting of May 13, 2009 as Item 9 of the Audit and Administration Committee Report 09-008, as amended or re-enacted from time to time, and any successor to such policy. This policy may be found at the Office of the City Clerk for the City of Hamilton;

“combined sewer” means a sewer intended to function simultaneously as a storm sewer and a sanitary sewer;

“Commercial” means of or pertaining to retail and wholesale sales of food grown on a farm, manufactured goods and/or services;

“Consumer” means either a Commercial or Industrial ratepayer who is responsible under the Waterworks By-law and this By-law for paying fees and charges respecting water supplied by the City of Hamilton and wastewater services provided by the City of Hamilton;

“Director” shall mean the Director of Hamilton Water, Public Works Department, for the City of Hamilton, the person duly authorized to act in his or her stead, or his or her successor;

“General Manager of Finance and Corporate Services” means the General Manager of Finance and Corporate Services for the City or the persons the General Manager may designate from time to time to act in his or her stead for purposes of this By-law, or successor;

“General Manager of Public Works” means the General Manager of the Public Works Department for the City or the persons the General Manager may designate from time to time to act in his or her stead for purposes of this By-law, or successor;

“Industrial” means of or pertaining to the manufacturing, producing or processing of anything, or the research or development in connection with the manufacturing, producing or processing of anything;

“Initial Application Processing Fee” has the meaning assigned in section 10 of this By-law;

“potable water” means water that is fit for human consumption;

“potable water supply” means potable water supplied by the City;

“sanitary sewage system” means,

- (i) the buildings, structures, plant, machinery, equipment, appurtenances, devices, conduits, outlets, underground pipelines

and installations, and other works designated for the collection and treatment of sanitary sewage by the City, and

- (ii) includes lands appropriated for such purposes and uses;

“sanitary sewage works” means,

- (i) all sanitary sewers, sanitary sewer systems, pumping stations, sewage treatment plants, and
- (ii) includes combined sewers, sanitary private drains and other works for the collection, acceptance, transmission, treatment and disposal of sanitary sewage;

“Sewer Use By-law” means By-law R89-049 of the City of Hamilton, as amended or replaced from time to time;

“stormwater” means water from rainfall or other natural precipitation or from the melting of snow or ice or drainage from land or a watercourse;

“Supplementary Application Fee” has the meaning assigned in section 11 of this By-law;

“water rate” means the fees and charges established by the City of Hamilton under By-law R84-026; and

“Waterworks By-law” means By-law R84-026 of the City of Hamilton.

2. Section 11 of By-law No. 03-272 is amended by deleting subsections (a) to (i) inclusive and replacing them with the new subsections (a) to (m) as follows:

- (a) volume of incoming water to the property from all sources including but not limited to private wells and reservoirs, stormwater, and water from a watercourse such as a lake, harbour, stream, river, pond or spring;

- (b) volume of potable water purchased by the Consumer from the potable water supply;
 - (c) volume of water discharged to a sanitary sewage works that was purchased by the Consumer from the potable water supply;
 - (d) volume of water discharged to a sanitary sewage works that was not purchased by the Consumer from the potable water supply;
 - (e) water consuming processes/products;
 - (f) wastewater volumes diverted from the City's sanitary sewage works;
 - (g) a certification of the water balance for the Consumer's account, which shall cover a minimum period of five calendar days over a minimum of three separate occasions and shall include at least one balance showing seasonal variation, including activities such as shutdowns;
 - (h) sewer flow monitoring (if required by the Director);
 - (i) data on the quality of wastewater discharge to the City's sanitary sewage works, where available;
 - (j) water billings by the City;
 - (k) quantity of products produced by the Consumer;
 - (l) seasonal variations; and
 - (m) other related information as required by the Director.
3. Section 13 of By-law No. 03-272 is deleted and replaced by the following new Section 13:
13. To qualify for an Abatement, the volume of water that was sourced from the potable water supply and diverted from the City's sanitary sewage works in a calendar year must be at least 25% of the measured volume of water purchased by the Consumer from the potable water supply.

4. Section 14 of By-law No. 03-272 is deleted and replaced by the following new Section 14:
 14. For the purposes of calculating the volume of water that was sourced from the potable water supply and diverted from the City's sanitary sewage works by a Consumer, as set out in section 13, the amount of water or wastewater that is discharged to a storm sewer which is routed to a City wastewater treatment plant for treatment shall be deemed to not be diverted from the City's sanitary sewage works.

5. Section 15 of By-law No. 03-272 is deleted and replaced by the following new Section 15:
 15. No Consumer is entitled to an Abatement:
 - (a) solely because the Consumer's property is exempt under the *Assessment Act*, R.S.O. 1990, Chapter A.31;
 - (b) to the extent the water supplied to the Consumer's property is not purchased by the Consumer from the potable water supply;
or
 - (c) to the extent the water supplied to the Consumer's property is purchased by the Consumer from the potable water supply and that water is used for one or more of the following purposes:
 - (i) irrigation for ground maintenance on the Consumer's property,
 - (ii) recreational activities on the Consumer's property, including but not limited to the filling of a swimming pool, hot tub or fountain;
 - (iii) cleaning, consumption or other uses which do not occur on the Consumer's property.

6. Section 22 of By-law No. 03-272 is amended as follows:
 - (a) the word "potable" is added before the word "water" in the sixth line of subsection 22(a); and
 - (b) the word "potable" is added before the word "water" in the fourth line of subsection 22(c).

7. Schedule "B" to By-law No. 03-272 is deleted and replaced with the new Schedule "B" attached to this by-law.
8. This by-law shall come into force on the date of its passing.

PASSED this day of , 2013.

R. Bratina
Mayor

R. Caterini
Clerk

SCHEDULE "B"Wastewater Abatement Program

1.
 - (a) Initial Application Processing Fee (Section 10) \$122.40 plus applicable taxes
 - (b) Supplementary Application Fee (Section 11) \$367.00 plus applicable taxes and full cost recovery for peer review
 - (c) Annual Administration Fee (where annual Abatement exceeds \$500.00 -sub-section 22(b)) \$489.40 plus applicable taxes

2. In determining whether a Consumer appears to qualify for an Abatement under section 10 of this By-law, the Abatement shall be calculated in accordance with the following formula, based on data from the calendar year prior to the year of application for the Abatement:

A = annual volume (m³) of water supplied to the property from the potable water supply

B = annual volume of water that was sourced from the potable water supply and diverted from the City's sanitary sewage works (if B is less than 25% of A, the Consumer is not eligible for the Abatement; if B is greater than 75% of A, insert a value equal to 75% of A)

C = annual wastewater discharged to the City's sanitary sewer and combined sewer system (C = A – B) or C=actual measured value using sewer flow monitoring if required by the Director

D = infiltration and inflow add back (D = C x 133%: add back adjustment of 33% to the volumetric charge so that all ratepayers continue to pay an equal portion of the treatment costs associated with inflow and infiltration)

E% = wastewater Abatement in percentage

Step 1: A – B = C; or C=actual measured value using sewer flow monitoring if required by the Director

Step 2: D = C x 133%

Step 3: E% = $\frac{A - D}{A} \times 100$

3. If an Abatement is authorized for a Consumer in accordance with this By-law, the Abatement will be applied quarterly each year in accordance with the following formula:

F = actual volume (m³) of potable water supplied to the property by the City during the previous quarter

G = volume (m³) of water eligible for the Abatement during the previous quarter

H = Sanitary Surcharge (for 2013 is \$1.223 per cubic meter of water)

\$I = dollar amount of Abatement for the billing period

Step 4: $F \times E\% = G$

Step 5: $G \times H = \$I$

Wastewater Abatement Program Summary

APPENDIX "B"
REPORT PW13006a

Company	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013 (Jan-Mar)	Total (\$)	Abatement Factor
AIM CFF Hamilton Inc (HAMTN.56180-512520 in the monthly reports)							7,197	7,970	9,179	14,947	1,679	40,972	66.75%
Air Liquide Canada Inc	103,428	284,454	385,103	254,427	434,065	454,613	289,040	435,541	337,682	404,700		3,383,053	66.75%
Bartek Ingredients Inc (421 Seaman St)					23,918	16,214	26,773	17,904	21,668	30,551	8,733	145,761	11.60%
Bartek Ingredients Inc (690 South Service Rd)					40,087	24,743	14,120	18,388	19,171			116,508	7.43%
Canada Bread Company Ltd					2,265	7,912	8,149	10,558	9,551			38,435	61.16%
Essroc Canada Inc								6,557	7,833	7,657	1,478	23,525	63.02%
Kraft Canada Inc. (Formerly Cadbury)		5,734	7,820	10,029	8,790	7,959	9,931	9,740	7,079			67,082	13.96%
Nikolaos Fine Foods							2,298	2,742	2,595	2,491	720	10,846	39.60%
VersaCold Logistics							7,195	7,966	7,465	9,346	958	32,930	59.20%
Total Wastewater Abatement (\$)	103,428	290,188	392,923	264,456	509,125	511,441	364,703	517,366	422,223	469,692	13,568	3,859,112	