CITY OF HAMILTON

PUBLIC WORKS DEPARTMENT
Environment & Sustainable Infrastructure Division

TO: Mayor and Members
General Issues Committee

WARD(S) AFFECTED: CITY WIDE

COMMITTEE DATE: July 4, 2011

SUBJECT/REPORT NO:
Housekeeping and Technical Amendments to Sewer Use By-law
(PW11055) - (City Wide)

SUBMITTED BY:
Gerry Davis, CMA
General Manager
Public Works Department

PREPARED BY:
Rosa Gonzalez
(905) 546-2424, Extension 5833

SIGNATURE:

RECOMMENDATION
(a) That the technical and housekeeping changes to Sewer Use By-law No. 04-150, detailed in the proposed amending by-law attached as Appendix “A” to Report PW11055 be approved;

(b) That the amending by-law attached as Appendix “A” to Report PW11055, which has been prepared in a form satisfactory to the City Solicitor, be enacted.

EXECUTIVE SUMMARY
The City of Hamilton’s existing Sewer Use By-law was initially a Regional Municipality of Hamilton-Wentworth by-law which was written based on a Ministry of the Environment 1988 model by-law. A consolidated City of Hamilton By-law was enacted in 2004 and has since been amended several times to reflect current standards, practices and requirements, most recently in 2009 to provide City staff with powers to allow for more effective enforcement of the by-law.

A comprehensive review of the Sewer Use By-law is underway and a separate report on that review will be presented to Committee and Council for their consideration. However, in the meantime, some further technical and housekeeping amendments have been identified by City staff and are being proposed at this time to correct minor errors as part of continuous improvement efforts for the most efficient and effective By-law and to enable staff to meet their current needs until a new Sewer Use By-law is passed.
This Report recommends that amendments identified in the body of this Report and in the attached Appendix “A” be approved and enacted.

Alternatives for Consideration - Not Applicable

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: There are no additional costs to the City.

Staffing: There are no staffing implications.

Legal: The proposed changes identified in this Report are reflected in the amending by-law attached to this Report, which amending by-law has been prepared in a form acceptable to the City Solicitor.

HISTORICAL BACKGROUND

The City of Hamilton regulates the use of the City’s sanitary, combined, and storm sewers through the Sewer Use By-law. A consolidated City of Hamilton Sewer Use By-law was enacted on June 30, 2004. In addition to continuous improvement efforts, the Sewer Use By-law requires changes over time to align with improved processes and to correct or clarify language.

POLICY IMPLICATIONS

Regularly reviewing and amending the Sewer Use By-law allows fair, equitable and consistent enforcement and ensures that it is current and relevant to emerging technologies and environmental standards. This aligns with the Public Works Strategic Plan “Innovate Now”; to be a leader in the greening and stewardship of the City with the protection of public safety, sewer infrastructure and improving the quality of our receiving waters.

RELEVANT CONSULTATION

City Manager’s Office - Legal Services Division

ANALYSIS / RATIONALE FOR RECOMMENDATION

The recommended by-law amendments facilitate interpretation, administration and enforcement of the Sewer Use By-law. The changes are minor in nature and do not in any way circumvent the By-law intent as originally approved and enacted by Council.

The following list identifies the three sets of changes in the proposed amending by-law:

1. Definitions. Adding a definition for “recreational vehicles” to address interpretation issues that have arisen in the administration of the By-law. Amending the definition of “Total PAHs” to contain only a list of substances rather than listing both the
2. Rewording of a provision under Section 13 – Offences. The potential fine amounts in the provision are unchanged.

3. Amendments to Compliance Agreements. Removing the description of compliance program activities in Section 6 of the Agreement to allow for the insertion of more accurate description of the activities involved in a particular compliance program. Scheduled commencement dates and completion dates will remain in the Agreement. Amending the Release and Indemnification Form that each company entering into a compliance program is required to sign which makes it even more clear that the company will indemnify the City for any costs or damages the City incurs, in addition to any costs or damages the City is liable for to a third party, with respect to the discharge of sewage permitted under the compliance program.

**ALTERNATIVES FOR CONSIDERATION**

Not applicable.

**CORPORATE STRATEGIC PLAN**


*Environmental Stewardship*

- The proposed recommendations enhance the City’s ability to monitor and control discharges to the wastewater treatment plant to help protect the receiving environment.

*Healthy Community*

- Higher quality wastewater discharges protect receiving waters for consumption and recreational purposes.

*Financial Stability*

- An effective sewer use by-law will help ensure discharges to the City of Hamilton’s sewer system do not cause costly plant upsets and reserve the City’s treatment facilities for use by the City’s own industrial and residential base.

**APPENDICES / SCHEDULES**

Appendix “A” - Amending By-law
CITY OF HAMILTON

BY-LAW NO. 11-XXX

To Amend By-law No. 04-150, a By-Law to Regulate the Discharge of any Matter into the Sanitary, Combined and Storm Sewer Systems of the City of Hamilton

WHEREAS the Council of the City of Hamilton passed and enacted By-law No. 04-150, known and referred to as the “Sewer Use By-law”, which came into force on June 30, 2004;

AND WHEREAS at its meeting of July 7, 2011, the Council of the City of Hamilton did approve of Item X of the General Issues Committee Report 11-XXX and did thereby authorize the amendments to the Sewer Use By-law contained in this By-law;

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

1. Section 1 of By-law No. 04-150 is amended by adding the following definition:

   “recreational vehicle” means a vehicle, including a trailer, designed as a living space and which contains a holding tank that stores domestic sewage;

2. Section 1 of By-law No. 04-150 is amended by deleting the definition of “Total PAHs” and replacing it with the following:

   “Total PAHs” means the total of all the following polycyclic aromatic hydrocarbons: anthracene, benzo(a)pyrene, benzo(a)anthracene, benzo(e)pyrene, benzo(b)fluoranthene, benzo(j)fluoranthene, benzo(k)fluoranthene, benzo(g,h,i)perylene, chrysene, dibenzo(a,h)anthracene, dibenzo(a,i)pyrene, dibenzo(a,j)acridine, 7H-dibenzo(c,g)carbazole, dinitropyrene, fluoranthene, indeno(1,2,3-c,d)pyrene, perylene, phenanthrene and pyrene, as determined by Standard Methods;
3. Subsection 13(1) of By-law No. 04-150 is deleted and replaced with the following:

13(1) Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable:

1. on a first conviction, for each day or part of a day on which the offence occurs or continues, to a fine or not more than $10,000; and

2. on any subsequent conviction, for each day or part of a day on which the offence occurs or continues, to a fine or not more than $25,000.

4. Schedule J – Letter of Agreement for Compliance Program to By-law No. 04-150 is amended by deleting items a to h under the first column entitled “Compliance Program Activities” and by replacing those items with the following instruction: “List each proposed compliance program activity”.

5. The second paragraph of Schedule J-1 – Release and Indemnification Form to By-law No. 04-150 is deleted and replaced with the following new paragraph:

AND further (insert XXX) hereby agrees to indemnify, defend and hold harmless the City, its officers, officials, employees, servants and agents, from and against any and all claims, demands, actions, causes of action, interest, costs, damages, expenses, fines, penalties, loss, suits or other proceedings for loss, damage, injury or death which the City suffers or incurs or is liable for by reason of the discharge of such sewage pursuant to the Letter of Agreement, no matter how caused, except to the extent the loss, damage, injury or death is attributable to or caused by the negligence of the City, its officers, officials, employees, servants or agents, or any of them.

6. This by-law shall come into force on the day that it is passed.

PASSED this 7th day of July, 2011.

__________________________________________  ____________________________
R. Bratina                                    R. Caterini
Mayor                                         City Clerk