SUBJECT: Sewer Use By-law 04-150, as amended - Housekeeping Amendments (PW09097) - (City Wide)

RECOMMENDATION:

(a) That Sewer Use By-law 04-150, as amended, be further amended as follows:
   (i) include the current Municipal Act, 2001 order, power of entry and enforcement powers;
   (ii) update the offences section;
   (iii) clarify legal jurisdiction of Ontario laws and Hamilton courts in agreements;
   (iv) change the terminology of “Hauled Wastewater Discharge Manifest” to “Hauled Wastewater Discharge Declaration”;
   (v) update all references in the By-law to reflect the City’s current organizational structure;

   commencing January 1, 2010, and as described in Report PW09097;

(b) That the City Solicitor be authorized and directed to prepare the appropriate amending By-law to Sewer Use By-law 04-150, as amended, to implement subsection (a) above to be passed and enacted.

John Mater, C.E.T.
Acting General Manager
Public Works Department
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 multiple times to meet the needs of more current standards, most recently, By-law 09-090 was amended regarding hauled sewage and hauled industrial wastes. The identified administrative amendments to Sewer Use By-law 04-150, will provide staff with a more effective enforcement of the By-law until a full review on this By-law is carried out against more recent standards/models.

The administrative amendments as recommended in this report have been identified as key updates to take effect in 2010 to better enable staff to meet current needs until a new Sewer Use By-law is passed.

BACKGROUND:

The recommendations contained within this Report have City wide implications.

The City of Hamilton regulates the use of the City’s sanitary, combined, and storm sewers through the Sewer Use By-law. Among other things, this By-law establishes limits for the concentration of various parameters in discharges to the City’s sewers, and provides for four types of agreements with sewer users whose discharges would not otherwise comply with various aspects of the By-law. The types of agreements include:

- Overstrength Discharge Agreements, which allow the City to recover the costs for treating the six overstrength parameters that are not in compliance with the By-law limits,
- Compliance Agreements, which establish a time frame for the discharger to undertake measures to bring the discharges into compliance with the By-law limits,
- Sanitary Sewer Surcharge Agreements, which allows the City to charge sewer users directly for treatment of sewage that results from water not supplied by the City’s water distribution system,
- Chlorides Discharge Agreements, which regulate the discharges of chlorides and allow the City to recover the costs for any likely reduction of the life span of any sewage works as a result of the discharge.

The By-law also regulates the discharge of hauled sewage into the City’s sewage system, establishing fees for the discharge of hauled sewage, and regulating where, when and who may use the City’s sewage collection system for this purpose.

ANALYSIS/RATIONALE:

The identified administrative amendments to Sewer Use By-law 04-150, will provide a more effective enforcement of the By-law until a full review on this By-law is carried out against more recent standards/models.

In particular:

1. Inclusion of the current Municipal Act, 2001 order, powers of entry and enforcement powers will provide City staff with the most current tools available to administer and enforce the By-law, including the ability to issue orders.
2. The updating of the offences provisions of the By-law will better fit with the inclusion of the Municipal Act, 2001 powers noted above. It is not proposed that the potential fines set out in the By-law be changed at this time.

3. Clarification of the legal jurisdiction of the Ontario laws and Hamilton courts in the agreement templates to the Sewer Use By-law will avoid any potential conflicts on these issues, particularly given the increasing global nature of the businesses in this community.

4. Changing the terminology of “Hauled Wastewater Discharge Manifest” to “Hauled Wastewater Discharge Declaration” in an attempt to cause less confusion to waste haulers, who seem to be confusing this City of Hamilton document with the Ministry of the Environment Waste Manifest form.

5. Ensuring that all references in the By-law reflect the most current City organizational structure.

**ALTERNATIVES FOR CONSIDERATION:**

Compliance and Regulations staff have identified two options available to the City of Hamilton for consideration. They are as follows:

Option 1: The “Do Nothing” Option. Leave the By-law as is until full review is done.

Option 2: This is the option recommended by staff. Administrative amendments to the existing By-law will provide staff with more effective tools for the administration and enforcement of the Sewer Use By-law.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial Implications:
There are no additional costs to the City.

Staffing Implications:
N/A

Legal Implications:
The proposed changes identified in this report would be reflected in an amending By-law in a form acceptable to the City Solicitor.

**POLICIES AFFECTING PROPOSAL:**

The Public Works Business Plan, Innovate Now

The recommendations in this Report will assist in meeting the Public Works key goal to be recognized as the centre of environmental and innovative excellence in Canada. In addition, implementing the recommendations will also assist Public Works in building on our Strategic Vision Drivers as follows:

- Communities (Services our communities connect with and trust),
- People (Skilled teams ready for any situation),
- Process (Smart processes to match our needs),
- Finances (Sound finance management for the long haul).
RELEVANT CONSULTATION:

Corporate Services - Legal Services

Recommendations for amendments were made jointly between Legal and Compliance and Regulations staff.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced.  ☑ Yes  ☐ No
Higher quality wastewater discharges protect receiving waters for consumption and recreational purposes.

Environmental Well-Being is enhanced.  ☑ Yes  ☐ No
The proposed recommendations enhance the City’s ability to monitor and control discharges to the wastewater treatment plant to help protect the receiving environment.

Economic Well-Being is enhanced.  ☑ Yes  ☐ No
The proposed recommendations 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.

Does the option you are recommending create value across all three bottom lines?  ☑ Yes  ☐ No
The option does create value across all three bottom lines as noted above.

Do the options you are recommending make Hamilton a City of choice for high performance public servants?  ☑ Yes  ☐ No
Staff have a sense of responsibility for industrial wastewater discharge and protection of the environment.