**RECOMMENDATION**

That the Amended Water and Wastewater/Storm Arrears Policy as outlined in Appendix “A” to Report FCS14007 be approved.

**EXECUTIVE SUMMARY**

The Water and Wastewater/Storm Arrears Policy (“Policy”) was last modified in 2007 (refer to report FCS07053(a) for details). The Policy recognizes the authority provided by the *Municipal Act, 2001* (the “Act”) to allow unpaid fees and charges for public utilities, which includes water and wastewater/storm arrears, to be placed on the tax roll for the property to which the service was supplied regardless of who is the consumer. The intent of the policy is to provide account holders and property owners notice of and sufficient time to pay unpaid fees in order to avoid the arrears being placed on the tax roll.

The City’s billing agent, Horizon Utilities Corporation (“HUC”), currently issues water and/or wastewater/storm bills to property owners. As a customer service, HUC can issue bills directly to non-owner consumers, such as tenants or property managers, upon their request. For convenience, non-owner consumers are being referred to throughout this report as “tenants”.

By directly issuing bills to tenants, the Policy does not intend to relieve or diminish property owners’ statutory financial responsibility for any utility arrears. The Policy
merely provides a customer service to create efficiencies for both tenants and property owners. Consequently, the Policy continues to indicate that the City, through its billing agent, will advise property owners of their financial responsibility for utility arrears as per the Municipal Act, 2001.

Within HUC's current water and wastewater/storm account collection process, four notifications are issued prior to arrears being placed on the tax roll: (1) Reminder Notices and (2) Final Notices, which are issued to the account holder only, and (3) Arrears Letter and (4) Final Arrears Letter, which are issued to the account holder and the property owner where the account holder is a tenant or property manager shortly after 30 and 60 calendar days have elapsed without full payment of the outstanding/previous bill. If payment is processed and subsequently rejected by a Financial Institution, the 30/60 day process recommences as of the date the rejection is entered into HUC's billing system. The Arrears Letters remind the property owner that any outstanding arrears will be transferred to their property tax account if payment is not received. In the case where the bill has been directed to a tenant, the Arrears Letters provide notice of a tenant's arrears to the property owner.

The Arrears Letters are mailed to property owners at the mailing address provided to HUC. However, on limited occasions, there have been issues with identifying the correct owner information that have resulted in delays in issuing Arrears Letters, or their being issued at all. Consequently, some property owners have contended that they were entitled to rely on the City acting in accordance with its Policy. In those cases where an arrears notice was not issued in accordance with the Policy, property owners have claimed to either not be aware of their legal responsibility for any water and/or wastewater/storm bills that their tenant(s) fail to pay, or that non-compliance with the Policy provided them with insufficient opportunity to remedy the issue before the amounts accrued and were placed on the tax roll.

The intent of the Policy has been to maintain the financial responsibilities of property owners even where water and/or wastewater/storm billings are issued to another party (tenant/property manager). Consequently this report seeks to amend the Policy to clarify that the provision of Arrears Letter to property owners is undertaken on a "best-efforts" basis and that should Arrears Letters be delayed or in rare circumstances not occur at all, that the property owner is, in all circumstances, financially responsible for unpaid water and wastewater/storm fees by their tenants.

Additionally, HUC's account collection practices have evolved since the Policy's last revision in 2007 requiring some adjustments as reflected in Appendix "A" to Report FCS14007 with respect to the timelines at which reminders are issued to account holders of their financial obligations.

The adoption of the recommended amended Water and Wastewater/Storm Arrears Policy continues to support property owner knowledge of water and/or wastewater/storm legal responsibilities, as well as, property owner (landlord) notification.
of a tenant’s water and/or wastewater arrears, while continuing to provide a valuable customer service that improves business efficiencies.

**Alternatives for Consideration – Not Applicable**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS (for recommendation(s) only)**

Financial: None identified.

Staffing: None identified.

Legal: The City's authority under the *Municipal Act, 2001* to place unpaid water and wastewater amounts on the tax roll for a property, regardless of the consumer, is not affected by the recommendations contained in this report.

**HISTORICAL BACKGROUND**

The *Municipal Act, 2001* allows unpaid fees and charges for public utilities to be placed on the tax roll for the property to which the public utility was supplied. Therefore, if there are any water and/or wastewater/storm bills that are not paid on time (regardless of whom the consumer is), the City reserves the right to transfer unpaid balances to the property's tax roll for collection.

As a customer service, the City has provided the opportunity for water and wastewater bills to be mailed to someone other than the property owner, such as a tenant or property manager. To do so, the non-owner would contact HUC who would accommodate a request to open the account in the name of that non-owner.

The Policy indicates that the City, through its billing agent, will advise property owners of their financial responsibilities under the *Municipal Act, 2001*. Within HUC’s current water and wastewater/storm account collection process, Arrears Letters are issued at two post-due milestones: shortly after 30 and 60 calendar days have elapsed without full payment of the outstanding/previous bill. If payment is processed and subsequently rejected by a Financial Institution, the 30/60 day process recommences as of the date the rejection is entered into HUC’s billing system. The Arrears Letters that are mailed to the property owner advise that any outstanding arrears will be transferred to their property tax account if payment is not received. In the case where the bill has been directed to a person who does not own the property (e.g. a tenant or property manager), the Arrears Letters represent notification of a tenant’s arrears to the property owner, as only the tenant would have received the initial bill and any Reminder and Final notices requesting overdue payment.

The recommended amendments to the Policy clarify that property owners remain financially responsible for outstanding tenant arrears, even in cases where there is not
strict compliance with the Policy due to misinformation or other anomalous circumstances.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Not Applicable

**RELEVANT CONSULTATION**

City Manager’s Office – Legal Services Division has been consulted for this report.

Horizon Utilities Corporation – Horizon has the contractual responsibility to administer the City’s Water and Wastewater/Storm Arrears Policy and as such, has been consulted and provided input for this report.

**ANALYSIS AND RATIONAL FOR RECOMMENDATION**

Not Applicable

**ALTERNATIVES FOR CONSIDERATION**

Not Applicable

**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.*

**Strategic Objective**

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

**Strategic Priority #3**

Leadership & Governance

*WE work together to ensure we are a government that is respectful towards each other and that the community has confidence and trust in*

**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” to Report FCS14007 – City of Hamilton Water and Wastewater/Storm Arrears Policy

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**OUR Vision:** To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

**OUR Mission:** WE provide quality public service that contribute to a healthy, safe and prosperous community, in a sustainable manner.

**OUR Values:** Accountability, Cost Consciousness, Equity, Excellence, Honesty, Innovation, Leadership, Respect and Teamwork.
POLICY TITLE: City of Hamilton Water and Wastewater/Storm Arrears Policy

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

POLICY NO: PP-0004 LAST REVISION DATE: October 24, 2007

EFFECTIVE DATE: MANAGER REVIEWED: Tom Hewitson

TO BE REVIEWED: January 2019

MAINTENANCE RESPONSIBILITY: Financial Planning and Policy Division

I GENERAL

The Water and Wastewater/Storm Arrears Policy details the current account collections protocol including the timing of certain collection activities when accounts are unpaid and past due for water and/or wastewater/storm services provided by the City. Disconnection of water and/or wastewater service for delinquent accounts does not occur under this Water and Wastewater/Storm Arrears Policy.

II BACKGROUND

The City has a service agreement with Horizon Utilities Corporation (HUC) for the provision of water and wastewater/storm billing, account collection and meter reading services. As a result, the Water and Wastewater/Storm Arrears Policy is administered by HUC. The current term of this service agreement is up to December 31, 2014.

III POLICY

Water and Wastewater/Storm Account Collection Process

1. Accounts are issued with a due date of 21 calendar days from the mailing date. Interest begins to be charged 6 calendar days after the due date compounded daily from the due date (current rate is 19.56% per annum).

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

   a. reminders to account holders and property owners of their financial obligation;
   b. ample opportunity for payment; and
   c. the City with tools needed to safeguard its water and wastewater revenue.
### Table 1

<table>
<thead>
<tr>
<th>Progressive Steps</th>
<th>Circumstance</th>
<th>Response Outcome</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Account outstanding 10 calendar days beyond due date</td>
<td>“Reminder Notice” mailed to account holder on the 10ᵗʰ day</td>
<td>Payment of amount due or account remains outstanding</td>
</tr>
<tr>
<td>2</td>
<td>Account outstanding 17 calendar days beyond due date</td>
<td>“Final Notice” is mailed to account holder on the 17ᵗʰ day (where arrears exceed a minimum of $99.00)</td>
<td>Payment of amount due or account remains outstanding</td>
</tr>
<tr>
<td>3</td>
<td>Account outstanding 30 or more calendar days beyond due date</td>
<td>“Arrears Letter” is mailed to account holder and the property owner (if different from the account holder) on the Friday following the 30ᵗʰ day advising of arrears on account and request to pay</td>
<td>Payment of amount due or account remains outstanding</td>
</tr>
<tr>
<td>4</td>
<td>Account outstanding 60 or more calendar days beyond due date</td>
<td>“Final Arrears Letter” is mailed to account holder and the property owner (if different from the account holder) on the Friday following the 60ᵗʰ day advising of pending action if payment not received within 15 days.</td>
<td>Payment of amount due or account remains outstanding</td>
</tr>
<tr>
<td>5</td>
<td>Account outstanding 90 or more calendar days beyond due date</td>
<td>Outstanding amount transferred to property tax account roll. No further notice to the account holder or property owner.</td>
<td>City water and wastewater/storm revenue secured</td>
</tr>
</tbody>
</table>

### Customer Notifications

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

**Reminder Notice** – mailed to account holder of accounts 10 calendar days after the due date. This notice provides a reminder to the account holder of the overdue status and requests payment within 7 calendar days.

**Final Notice** – mailed to account holder 17 calendar days after the due date. This notice provides notice of account overdue status and requests immediate payment.

**Arrears Letter** – mailed to account holder and property owner (if different from the account holder) of all water and wastewater/storm accounts 30 or more calendar days after the due date. This notification advises of the past due water and/or
wastewater/storm arrears and requests payment of outstanding amounts.

**Final Arrears Letter** – mailed to account holder and property owner (if different from the account holder) of all water and wastewater/storm accounts 60 or more calendar days after the due date. This notification advises of the past due water and/or wastewater/storm arrears and advises of a two-week period for the payment to be made.

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

**Rental Properties**

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

**Authority to Transfer Arrears to Tax Roll**

The *Municipal Act, 2001* authorizes the municipality to place unpaid fees and charges for public utilities on the tax roll for the property to which the public utility was supplied, regardless of who is the consumer. Section 398(2) provides that a municipality may add unpaid public utility fees and charges, which include water and/or wastewater/storm arrears, to the respective property’s tax roll.

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

- (a) may be collected in the same manner as taxes on the property;
- (b) may be recovered with costs as a debt due to the municipality from the assessed owner of the property at the time the fee was added to the tax roll and from any subsequent owner of the property or any part of it;
- (c) are a special lien on the property in the same manner as taxes under subsection 349 (3) Act; and
- (d) may be included in the cancellation price under Part XI of the Act, in the same manner as are taxes on the property, in the event that a Tax Arrears Certificate is registered on title of the property.

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