
Subject: Sewer Use By-law Update and Revocation of Supporting Public Works Policies

Report to: Public Works Committee

Report date: Tuesday, August 13, 2024

Recommendations

1. That By-law No. 27-2014, A By-law to Regulate Discharges to the Sanitary and Storm Sewer Systems of The Regional Municipality of Niagara, (short title being the “Sewer Use By-law”), **BE REPEALED AND REPLACED** with the updated draft Sewer Use By-law provided as Appendix 1;
2. That the proposed Short Form Offences and Set Fines Schedule for the updated Sewer Use By-law, attached as Appendix 2, **BE FORWARDED** for the approval of the Chief Justice of the Ontario Court of Justice (Provincial Division), as required under Section 91.1(1) of the Provincial Offences Act in order to allow for enforcement of the updated By-law by the issuance of tickets;
3. That the Public Works Hauled Sewage Program policy PW4.H01.1a **BE REPEALED** and **REMOVED** from the Public Works Policy Manual; and
4. That the Public Works Sewer Use By-law, Enforcement Of policy PW4.S04 **BE REPEALED** and **REMOVED** from the Public Works Policy Manual.

Key Facts

- This report seeks Council’s approval to repeal the existing Sewer Use By-law and Hauled Sewage and Sewer Use By-law Enforcement policies as described in the report recommendations and replace them with the proposed updated by-law (Appendix 1).
- The Region has had a Sewer-Use By-law in place since 1972 and it was last updated in 2014.
- The proposed draft by-law provides improvements to administration, sampling and analysis, storm sewer requirements, hauled sewage, construction dewatering permitting, and provisions to address non-compliance and includes general updates to bring it in-line with current best practices based on a comprehensive jurisdictional scan.
- The proposed by-law was posted publicly on the Region’s website for a 30-day consultation period and communicated to interested parties for review.

- Feedback from internal and external parties was reviewed and used to inform the recommended by-law.

Financial Considerations

Fees collected from permits and agreements issued under the Sewer Use By-law are applied to directly offset costs related to the administration of this by-law. Such fees are included in the Fees and Charges By-law that is approved by Council each year.

Revenue generated from fines issued under this by-law (issued under the Provincial Offences Act) is expected to be minimal based on past records of violations and is subject to the Niagara Region Courts Intermunicipal Agreement. The focus of enforcement will be to achieve compliance as opposed to the imposition of fines. Voluntary compliance is the preferred method to resolve issues of non-compliance with the by-law.

Analysis

Background

Niagara Region provides collection and treatment of wastewater to eleven local area municipalities. The Niagara Region wastewater systems consist of trunk gravity sewers, sewage pumping stations, forcemains and wastewater treatment plants. In addition to this service, hauled sewage from rural areas of Niagara Region accepts hauled sewage from approved sewage haulers at seven (7) wastewater treatment plants. As a service to RV owners, sewage is accepted from recreational vehicles (RVs) at three (3) plants.

A Sewer Use By-law ensures that discharges to the sewer and treatment plant do not negatively impact the treatment process and that discharges do not interfere with the ability for a wastewater treatment plant to meet compliance with Provincial and Federal legislation. It also serves to protect the health and safety of the public and Niagara Region staff. The Sewer Use By-law also includes conditions for the acceptance of Hauled Sewage. Niagara Region has had a Sewer Use By-law in place since 1972. The current Sewer Use By-law 27-2014 was last updated and approved by Council in February 2014.

The recommended by-law updates were developed following a review of industry best practices and emerging issues, evaluation of the Region's current by-law in comparison to other municipalities' by-laws as well as comparable Regional by-laws, and identification of gaps, areas of opportunity and new pressures. Staff also reviewed the

associated Hauled Sewage Program Policy (PW4.H01.1a) and the Enforcement of the Sewer Use By-law policy (PW4.S04) and compared them with other municipal hauled sewage policies, procedures and by-laws to identify opportunities for improvement. The draft by-law was also posted on the Region's website for a 30-day public review period. Comments received from various internal and external parties were reviewed and used to inform the proposed by-law.

The proposed by-law can be found at Appendix 1 of this report.

Summary of Significant Changes

The draft by-law proposes the following changes:

1. Administration and Enforcement

The administration and enforcement section has been updated to delegate tasks required to administer this by-law to the Commissioner (such as the imposition of forms and processes, permits and agreements).

A section has been included to allow the issuance of Orders where necessary to address a contravention of the by-law.

2. Use of Sanitary and Combined Sewers

Discharge limits to a sanitary or combined sewer have been added for four (4) additional parameters:

- Total xylene
- Bis (2-ethylhexyl phthalate) or BEHP
- Chemical oxygen demand or COD
- Poly chlorinated biphenyl's or PCBs

These additions will further protect the wastewater treatment plant process and the continued beneficial re-use of biosolids.

3. Sampling and Analytical Requirements

All testing required under this by-law is now to be completed by an accredited laboratory. Requiring testing to be completed by an accredited laboratory increases

confidence in the accuracy of sample results being used by staff to make decisions under the by-law.

The laboratory testing methods have been updated to reference Ministry of Environment, Conservation and Parks (MECP) sampling and testing protocol, consistent with testing methods used by Niagara Region wastewater treatment facilities.

4. Storm Sewer Requirements

The current by-law limits the use of storm sewers to normal urban run-off and surface water drainage. Several changes to this section are proposed that prohibit the discharge of specific contaminants to the storm sewer as opposed to the generic prohibition wording used in the current By-law. This keeps pace with industry best practices which will help the Region maintain compliance with the new consolidated linear infrastructure environmental compliance approvals for storm systems issued by the MECP to Niagara Region in 2023.

5. Connections – Construction Dewatering Permits

Based on a growing need to receive wastewater from dewatering at construction sites, additional wording has been proposed to allow for permitting of permanent and temporary connections to Regional sewers, such as construction related dewatering activities.

6. Hauled Sewage

The review identified an opportunity to consolidate all hauled sewage requirements from the existing Public Works policy within the Sewer Use By-law to improve clarity and simplicity. The existing Public Works Hauled Sewage Program Policy (PW4.H01.1a) will no longer be required, pending Council's approval of an updated Sewer Use By-law.

This will be accomplished through expansion of Section 11 - Hauled Sewage. Highlights of the proposed changes are as follows:

- Annual expiration and renewal requirements for Sewage Hauler Permits to ensure Sewage Hauler information is kept current and the appropriate insurance and regulatory approvals are maintained
- Specific insurance requirements for sewage haulers including the type and amount of insurance required
- On site requirements for using Niagara Region disposal sites

- A requirement for Sewage Haulers to wear personal protective equipment (PPE) while on site at a Niagara Region facility
- Provisions to address non-compliance with the hauled sewage program and hauler permits given the material risk to municipal infrastructure, legislated compliance requirements, and health and safety considerations.
- Authorities for enforcement together with an appropriate appeal mechanism

7. General Clarity and Accuracy

Improvements were made to ensure clarity and ease of understanding, while making a stronger, more comprehensive by-law for continued protection of Niagara Region's sewer systems.

Jurisdictional Scan

Staff reviewed by-laws from the City of Hamilton, Halton Region, Peel Region, City of Toronto, York Region, Durham Region, Region of Waterloo, City of Ottawa and City of Calgary (as summarized in Appendix 3) as these municipalities provide similar services and/or had recently amended or modernized their by-laws. No single by-law provided a "best fit" for Niagara Region. Staff adapted best practices from each by-law to the draft by-law for Niagara Region. Most of the updates included in the draft by-law are similar in nature to comparator municipalities apart from:

1. Inclusion of Chemical Oxygen Demand (COD) discharge limits and addition of this parameter as a parameter eligible for surcharge

COD can be used as a surrogate for the commonly used Biochemical Oxygen Demand (BOD) test. COD testing is easier and faster than BOD testing and can provide more accurate results where the discharge contains parameters that can influence the traditional BOD test. By including COD, the option to use this test in place of BOD provides flexibility. Inclusion of COD was only observed in the City of Calgary By-law making Niagara a leader in Ontario in this regard.

2. Appeal mechanism for decisions to revoke, renew, issue or impose conditions on a Sewage Hauler Permit

During consultation, one submission noted a desire for an appeal mechanism regarding decisions on sewage hauler permit revocation, renewal, refusal or imposition of conditions. Currently, only the City of Calgary by-law allows for

appeals of decisions on this type of permit. The draft By-law presented for approval has included a provision for an appeal process.

Consultation and Feedback

A [project page](#) communicating an update to the Sewer Use By-law was created and available on the Niagara Region website as of March 28, 2024. The draft Sewer Use By-law was posted on the project page for a 30-day consultation period starting May 31, 2024 and closing July 1, 2024. Interested parties were invited to provide feedback regarding the draft by-law using a link on the project page.

The consultation period was communicated using the following methods:

- Email communication to 152 interested parties including local area municipalities, industrial, commercial and institutional properties, Sewage Haulers with active permits, high volume Generators of Hauled Sewage, Ministry of Environment, Conservation and Parks (local office) and local environmental laboratories.
- Posted under the [Public Notice](#) page on the Niagara Region website (<https://www.niagararegion.ca/news/notices/default.aspx>)
- Shared through Niagara Region social media.
- Notice of the consultation period was posted at each hauled sewage disposal location.

Plan Moving Forward

If Council approves the updated By-law, Staff will communicate the finalized Sewer Use By-law to interested parties. Supporting information will be created or updated to assist with the administration of the updated By-law.

Staff will also seek approval for the proposed set fines as outlined in Appendix 2 in accordance with Section 91.1 of the Provincial Offences Act to allow for potential enforcement of the by-law by the issuances of tickets as needed.

Alternatives Reviewed

Do nothing; continue to use the current Sewer Use By-law 27-2014 and the Hauled Sewage Program Policy (PW4.H01.1a) – Not recommended

If the existing 2014 Sewer Use By-law and 2006 Hauled Sewage Program policy remain in effect, requirements related to use of the Region's sewer system will not adequately

protect the Region's infrastructure, compliance obligations or health and safety obligations. Furthermore, the Region would miss an opportunity to improve the current policy framework and respond to evolving best practices, such as the updated stormwater discharge requirements, construction dewatering permitting and issuance of orders.

Relationship to Council Strategic Priorities

By updating the Sewer Use By-law and revoking the Hauled Sewage Program Policy, we are supporting an 'Effective Region' by continuously improving and modernizing processes to ensure effective service delivery of Regional services and programs.

Public consultation of the draft Sewer Use By-law and communication with external interested parties also promotes an 'Equitable Region' allowing an opportunity to listen and respond to community needs.

Other Pertinent Reports

[PW 13-2024 Sewer Use By-law and Hauled Sewage Program Policy Update](https://niagararegion.escibemeetings.com/Public%20Works%20Committee_May07_2024/Pages/VisitorView.aspx?itemID=14)

(https://niagararegion.escibemeetings.com/Public%20Works%20Committee_May07_2024/Pages/VisitorView.aspx?itemID=14)

[PW 3-2023 Updates to the Hauled Sewage Program Policy](https://niagararegion.escibemeetings.com/Public%20Works%20Committee_Feb14_2023/Pages/VisitorView.aspx?itemID=12)

(https://niagararegion.escibemeetings.com/Public%20Works%20Committee_Feb14_2023/Pages/VisitorView.aspx?itemID=12)

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Appendices

Appendix 1	Proposed updated draft Sewer Use By-Law
Appendix 2	Proposed Short Form Offences and Set Fines Schedule
Appendix 3	Municipal Comparison Table