

DATE OF MEETING DECEMBER 19, 2022

AUTHORED BY KAREN ROBERTSON, DEPUTY CITY CLERK

SUBJECT BYLAW NOTICE ENFORCEMENT AMENDMENT BYLAW – STORM SEWER REGULATION FINE SCHEDULE

OVERVIEW

Purpose of Report

To introduce an amendment to the Bylaw Notice Enforcement Bylaw in order to add fines for violations associated with the Storm Sewer Regulation and Fee Bylaw 2022 No. 7351.

Recommendation

That “Bylaw Notice Enforcement Bylaw 2022 No. 7159.18 (to assign fines for violations associated with the Storm Sewer Regulation and Fee Bylaw) pass first reading.

That “Bylaw Notice Enforcement Bylaw 2022 No. 7159.18 pass second reading.

That “Bylaw Notice Enforcement Bylaw 2022 No. 7159.18 pass third reading.

BACKGROUND

On 2022-DEC-05 Council gave first three readings to “Storm Sewer Regulation and Fee Bylaw No. 7351”. This bylaw repealed the outdated Storm Sewer Regulation Bylaw No. 3808 and gives better clarity as it relates to:

- regulating the discharge to natural watercourse and drainage works;
- controlling connection/extension to the storm sewer system; and
- imposing and collecting fees for the storm sewer system service.

Whenever a new regulatory bylaw is introduced or amended, staff must also bring forward an amendment to the Bylaw Notice Enforcement Bylaw, also known as the BON Bylaw (see Attachment 2). This Bylaw lists the various regulatory bylaws where fines can be issued, as well as a listing of the fines for the various infractions. It also governs the Dispute Adjudication Registry System (DARS), a cost-effective system the City, and its participating local government partners, use to administer disputes arising from tickets issued under each participating municipality’s BON Bylaw. Under this system, ticket disputes are overseen monthly by an independent adjudicator and the costs to pay for the adjudicator are shared amongst the local governments whose tickets are being disputed. For example, if eight tickets are being disputed in one hearing, and two of them are the City’s, 25% of the adjudicators’ fee would be charged to the City. The system itself is administered by City staff on behalf of the participating members and each member pays a yearly administration fee to cover the City’s administrative cost. This system, under the authority of the *Local Government Bylaw Enforcement Act*, can only be utilized for fines under \$500 (exclusive of late penalties) and it accounts for the majority of any fines issued by the City.

For more egregious infractions, where the fine would exceed \$500, such as discharging fireworks without a permit that may cause a significant fire, cutting down several trees without a permit, etc. the Long Form ticketing process would be used which is governed under the *Offence Act* and administered through the Provincial Courts with the assistance of a Municipal Prosecutor. The authority for issuing fines through this process is outlined in the Violation and Penalty section of every regulatory bylaw. Tickets under \$500 can also be issued through this process; however, given it is a much more costly system, it would only be used if the regulatory bylaw is not outlined in the BON Bylaw, thus making it cost prohibitive. For this reason, it is important to amend Schedule “A” to Bylaw 7159 to list the newly adopted Storm Sewer Regulation and Fee Bylaw No. 7351 and assign fines for infractions against the bylaw so that tickets could be issued under the Bylaw Notice Enforcement Bylaw should the need arise.

DISCUSSION

Should Council adopt Storm Sewer Regulation and Fee Bylaw No. 7351 on December 19, 2022, staff recommend that “Bylaw Notice Enforcement Bylaw 2022 No. 7159.18” (see Attachment 1) be given its first three readings.

The fines proposed were recommended by Bylaw Enforcement and Engineering staff based on what other municipalities charge and utilizing the median method. They were also based on the seriousness of the offence. Given that most of the infractions associated with the Storm Sewer Regulation Bylaw would have more serious implications to them compared to other bylaws, such as tampering or damaging the storm sewer system, discharging of waste, or failing to take out a permit, the fines proposed are either \$250 or \$500. As noted in the background section of the report, for very serious infractions, such as discharging substances that would require significant remediation and harmful to environment, the ability always exists to issue fines up to \$50,000 through the *Offence Act*, along with recovery of actual costs as a debt.

Council will note that the fines outlined in Attachment 2 associated with the Sewer Regulation Charge Bylaw No. 2496 and Waterworks Rate and Regulation Bylaw No. 7004 have similar infractions as it relates to discharging prohibited substances in the sewer system or unauthorized connections; however, those fines range between \$100 - \$200. The fines in these bylaws, along with others, have not been reviewed since 2012 and a review of all fines is overdue, particularly in this instance given that the scrutiny and stewardship of wastewater has increased over the past decade. Staff will be undertaking a comprehensive review of all fines in 2023 and will come back with recommendations based on the findings.

OPTIONS

Option 1:

That “Bylaw Notice Enforcement Bylaw 2022 No. 7159.18” (to assign fines for violations associated with the Storm Sewer Regulation and Fee Bylaw) pass first reading.

That “Bylaw Notice Enforcement Bylaw 2022 No. 7159.18” pass second reading.

That “Bylaw Notice Enforcement Bylaw 2022 No. 7159.18” pass third reading.

Implications:

Under this option, the proposed fines are reflective of the median of what is charged in other municipalities of similar size and would help in off-setting the administrative costs associated with bylaw enforcement and the ticketing process through the adjudication program. Fines also act as a deterrent and promote taking out proper permits prior to connecting to the Storm Sewer System.

Option 2:

That Council select alternate fine amounts for violations associated with the Storm Sewer Regulation and Fee Bylaw and then consider the following recommendation.

That “Bylaw Notice Enforcement Bylaw 2022 No. 7159.18” (to assign fines for violations associated with the Storm Sewer Regulation and Fee Bylaw) pass first reading.

That “Bylaw Notice Enforcement Bylaw 2022 No. 7159.18” pass second reading.

That “Bylaw Notice Enforcement Bylaw 2022 No. 7159.18” pass third reading.

Implications:

Should Council wish to select alternate fines for violations associated with the Storm Regulation and Fee Bylaw, staff would seek direction from Council on the amount. Once selected, staff recommend that the bylaw then be given its first three readings.

SUMMARY POINTS

- Whenever a new regulatory bylaw is introduced or amended, staff must bring forward an amendment to the Bylaw Notice Enforcement Bylaw so that fines can be assigned for bylaw infractions.
- Storm Sewer Regulation Fee Bylaw No. 7351, once adopted, will need to be added to the Bylaw Notice Enforcement Bylaw.
- Proposed fines are based what other municipalities charge utilizing the median method.

ATTACHMENTS:

Attachment 1 – B7159.18 – Storm Sewer Regulation Bylaw Fine Schedule

Attachment 2 – B7159 – Consolidated Bylaw

Submitted by:

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Concurrence by:

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