

CITY OF NANAIMO

BYLAW NO. 7351

STORM SEWER REGULATION AND FEE BYLAW
A BYLAW TO REGULATE THE STORM SEWER SYSTEM

WHEREAS, pursuant to the *Community Charter*, the City is authorized to operate a storm sewer system as a municipal service deemed to be necessary or desirable for all or part of the City;

AND WHEREAS, pursuant to the *Community Charter*, the City is authorized to regulate, prohibit and impose requirements in relation to its storm sewer system service;

AND WHEREAS, pursuant to the *Community Charter*, the City is authorized to impose and collect fees in connection with its Storm Sewer System service;

AND WHEREAS, the City has constructed and is operating and maintaining a storm sewer system for the benefit of the citizens of the City;

AND WHEREAS, it is expedient that all real property within the City which requires the service and is capable of being served, should be so served and connected to the storm sewer system and that the cost of connecting such properties should be paid for in whole or in part by the owners of the property requiring connection to or which wholly fronts or abuts the storm sewer system;

AND WHEREAS, Council has authority to discontinue a service;

AND WHEREAS, Council deems it in the best interests of the City to protect the storm sewer system from the effects of erosion, sediment; dangerous materials and contaminants;

AND WHEREAS, it is deemed that the cost of operating, maintaining and upgrading the storm sewer system should be paid for by those who directly or indirectly benefit from the system; and

THEREFORE BE IT RESOLVED that the Council of the City of Nanaimo, in open meeting assembled, hereby enacts as follows:

1. Title

This Bylaw may be known and cited as City of Nanaimo "STORM SEWER REGULATION AND FEE BYLAW 2022, NO. 7351".

2. Interpretation

In this Bylaw, unless the context otherwise requires:

“Actual Cost” or “At Cost” means all costs associated with work undertaken by the City pursuant to this Bylaw and includes, without limiting the generality of the foregoing, the design, installation and inspection costs of the work being the actual amount

expended by the City or City contractor or Agent for gross wages and salaries, employee benefits, materials, equipment or equipment rentals at rates paid by the City or set by the City for its own equipment.

- “Agent” means any Person, Persons, company, corporation, or entity contracted by the City to act on its behalf.
- “Applicant” means a Property Owner or Property Owner’s Agent making application for storm sewer or Drainage Works services or for submission of an Erosion and Sediment Control Plan.
- “Building Drain” means pipes, conduits, manholes and other equipment laid on Property intended or necessary to carry Storm Water, groundwater, or surface water from a dwelling, building or structure on the Property to the Service Connection.
- “Capable of Connection” means a Building Drain with adequate capacity that is compatible for the purposes of connection with and which will Drain by gravity towards the Storm Sewer System.
- “City” means the City of Nanaimo.
- “Construction” for the purpose of this bylaw, means clearing, grubbing, excavating, grading, and any activity which might cause Sediment or Sediment laden water to Discharge into the Storm Sewer System, including but not limited to, soil deposit or removal, demolition, agriculture, land development, Construction or repair of any services or utilities, and anything constructed, altered, repaired in or on land.
- “Construction Site” means any Property where Construction is taking place.
- “Council” means the Council of the City of Nanaimo.
- “Development” means conversion of raw land into a Construction ready site and includes any disruption, alterations, clearing, grubbing, excavating, grading, removals or deposits of soils or Substances or any other land, Development or Construction preparation activities in or on land.
- “Discharge” means to directly or indirectly release, free, eject, send away, liberate, or introduce a Substance by spilling, disposing of, abandoning, depositing, leaking, seeping, pouring, Draining, emptying, or by any other means.
- “Drain” means a ditch, channel, or pipe, covered wholly or in part, for the purpose of conveying and discharging Storm Water.

“Drainage System”	means all Drainage Works and Drains located in the City on private or public Property, by which Storm Water or any other rain Discharge are conveyed and includes rivers, streams, creeks, waterways, watercourses, wetlands, ponds, ditches, channels, all storm appurtenances, such as, but not limited to, catch basins, manholes, storm service cleanouts.
“Drainage Works”	means all Drainage ditches, channels, overland flowpaths, pipes or apparatuses, covered wholly or in part, for the purpose of conveying and discharging Storm Water.
“Enclosed”	means any portion of the Storm Sewer System consisting of covered pipes, catch basins, manholes and other appurtenances approved by the City.
“Erosion”	means the destabilizing, undermining or weakening of earth, rock, sand, gravel, silt, clay, cement, concrete, or similar surfaces.
“Erosion and Sediment Control Plan”	means a plan as required, reviewed and accepted by the General Manager for the control of Erosion and Sediment from Development or Construction.
“Fee”	means a Fee pursuant to Section 194 of the <i>Community Charter</i> and as indicated in this Bylaw
“General Manager”	means the General Manager of Engineering and Public Works and includes the Director of Engineering, Director of Public Works and any Person appointed or authorized by the General Manager to act on the General Manager’s behalf.
“Highway”	includes every Highway within the meaning of the <i>Highway Act</i> and every road, street, lane, sidewalk, boulevard, right-of-way, easement or City owned Property designed or intended to be used by the City for storm sewer purposes.
“Nuisance”	means any irritant, annoyance, trouble, bothersome disturbance, disruption, problematic or harmful incident.
“Permit”	means a Permit issued pursuant to this Bylaw.
“Person”	means an individual, Person, owner, association, corporation, firm, political body, co-partnership or similar organization and their heirs, executors, successors and assigns or other legal representative, whether acting alone or by servant, Agent or employee.
“Property”	means land, with or without improvements so affixed to the land as to make them in fact or in law a part of it.

“Property Owner”	means a Person registered in the records of the Land Title Office as the Fee simple owner of a Property including: (a) the registered owner of an estate in fee simple; (b) the tenant for life under a registered life estate; (c) the last registered holder of the last registered agreement for sale; and (e) an authorized Agent for the owner.
“Sediment”	means any Sediment, rock, gravel, sand, soil, silt, clay, earth, Construction or excavation wastes, or other Substances whether or not suspended in water.
“Service Connection”	means a Drain, which may include an inspection chamber and/or cleanout, extending from a Storm Sewer System to a Property or easement line, providing the capability of Draining Storm Water from a building or real Property or portion thereof and includes valves, meters and all other appurtenances.
“Storm Sewer Extension”	means any installation requiring the Construction of a piped Drain, on a Highway, municipal right-of-way or easement, from the most convenient existing storm sewer Drain, but does not include a Service Connection or a Building Drain pipe.
“Storm Sewer System”	means the system of storm sewer and Drainage Works for the impounding, conveying and discharging of surface and other waters established by this Bylaw and to which sanitary sewage or industrial waste is not admitted, including a Drain owned and operated by the City, the appurtenant Drainage and other works and overland floodways or flow paths designated by the City for this purpose.
“Storm Water”	means water including groundwater resulting from natural precipitation from the atmosphere.
“Substance”	means any solid, liquid or gas.
“Urgent Situation”	means, but is not limited to, a situation posing an immediate risk or potential immediate risk of pollution, harm or hazard to the Drainage System, to Property or to infrastructure.

3. Continuation of Sewer Utility System

- (1) The Storm Sewer System is continued as a service under the statutory powers of the City.

4. Prohibition with respect to Storm Water

- (1) No Person shall connect any roof Drains, tile or conduit collecting surface Drainage or rainwater runoff in any way to the public sewer system as defined in the City's Sewer Regulation and Charge Bylaw.

- (2) No Person shall Discharge Storm Water into any facility other than into a Storm Sewer System, unless authorized by the General Manager.

5. Connection

- (1) No Person shall:

- (a) connect;
- (b) attempt to connect;
- (c) allow or Permit to be connected; or
- (d) allow or Permit a connection to remain connected

to any Property to the Storm Sewer System without a Permit or otherwise in contravention of the provisions of this Bylaw.

- (2) No Building Drain shall be connected to the Storm Sewer System until it has been inspected and approved by the General Manger.

- (3) In addition to any connections required to be made to the Storm Sewer System pursuant to any other Bylaw, where a Building Drain is Capable of Connection the Property Owner shall make application to the City to connect the Property to the Storm Sewer System within 30 days if the Property is:

- (a) located along a street or adjacent to a location where part of the Storm Sewer System is being Enclosed;
- (b) identified by the General Manager as a source of Storm Water which causes or contributes to recurrent water accumulation on another Property or properties;
- (c) located in an area identified by the General Manager as an area experiencing recurrent water accumulation as a result of poor Drainage;
- (d) located in a specific area created for the purpose of installing Drainage Works for the benefit of that specific area; or
- (e) creating a hazard on or the Erosion of City or private Property.

- (4) Where any of the conditions set out in Section 5(3) are found to exist, the General Manager may order the Property Owner to have the Property connected to the Storm Sewer System within a time period established by the General Manager.

- (5) The order made pursuant to Section 5(4) will be sent by registered mail to the address of the Property Owner shown on a search of the title in the land title registry.

- (6) If the Property Owner fails to comply with the order made pursuant to Section 5(4), the General Manager may arrange for the Property to be connected to the Storm Sewer System without further notice and the Property Owner shall be responsible for the Actual Costs.

6. Storm Sewer Extension

- (1) No Person shall construct an extension to the Storm Sewer System without a Permit issued by the General Manager, and in full compliance with the Permit and this Bylaw.

7. Connection and disconnection of a Service Connection

- (1) The General Manager shall determine the location, including the depth, of any Service Connection.
- (2) Where a Building Drain is permitted to be installed through lands not owned by the Property Owner, the General Manager may require:
 - (a) an easement and covenant pursuant to section 219 of the *Land Title Act* to which the City is party be executed and registered in the land title registry before the connection is installed; or
 - (b) a statutory right of way pursuant to section 218 of the *Land Title Act* to benefit of the City be executed and registered in the land title registry before the connection is installed,
- (3) The City shall not be responsible to meet the elevation or to connect to an existing building storm sewer installed by the owner prior to installation of a Service Connection.
- (4) Building Drains shall be installed in accordance with the requirements of the British Columbia Plumbing Code.
- (5) Where the use of a Service Connection is discontinued the Property Owner shall:
 - (a) notify the General Manager of the discontinuation;
 - (b) provide a plan satisfactory to the General Manager with respect to capping the Service Connection at the Building Drain; and
 - (c) carry out the work as shown in the plan and as approved by the General Manager.
- (6) If the Property Owner fails to comply with section 7(5), the General Manager may arrange to have the work completed without further notice and the Property Owner shall be responsible for the Actual Costs.

8. Tampering with or damaging the Storm Sewer System

- (1) No Person shall carry out work on or modify the Storm Sewer System without first obtaining the required Permits or permission from the General Manager.
- (2) Subject to section 8(1), no Person shall, uncover, cover, damage, destroy or deface any part of the Storm Sewer System.
- (3) No Person shall:
 - (a) interfere, in any way, with the proper function, maintenance or repair of the Storm Sewer System.

9. Discharge to the Storm Sewer System

- (1) No Person shall Discharge, or deposit, or cause, allow or Permit to be Discharged or deposited, any Substance or material other than Storm Water into the Storm Sewer System.

- (2) No Person shall Discharge, or deposit, or cause, allow or Permit to be Discharged or deposited, into the Storm Sewer System any of the following:
 - (a) any Substance of any kind whatsoever that would tend to obstruct or injure the Storm Sewer System which either singly or by interaction with other wastes:
 - (i) creates or is capable of creating a Nuisance; or
 - (ii) presents a hazard to life;
 - (b) sanitary sewage as defined in the City's Sewer Regulation and Charge Bylaw;
 - (c) any water or waste containing a toxic or poisonous Substance that would constitute a hazard to humans, animals or fish, or create any hazard in the receiving waters or habitat, including local tidal or non-tidal tributaries;
 - (d) any gasoline, benzene, naphtha, alcohols, solvents, fuel oil or other flammable or explosive liquids, solids or gas;
 - (e) any solid or viscous Substance or beach balls capable of obstructing Storm Water flow or interfering with the proper operation of the Storm Sewer System;
 - (f) any waters containing dissolved suspended solids;
 - (g) sludge or deposit contained in septic tanks;
 - (h) any deleterious Substances or waters Discharged from a swimming pool, as well as any effluent from pool filter backwashing and skimmers;
 - (i) any waste Substances that are capable of discoloring the Storm sewer works whether or not damage is done to those works, whether or not the waste Substance is hazardous, noxious or malodorous;
 - (j) any Development or Construction Site waste or Sediment;
 - (k) any cement or concrete or any cement or concrete wastes, residue or laden waters.
- (3) In the event that a Person contravenes Section 9(1) or 9(2), that Person shall immediately notify:
 - (a) the General Manager; and
 - (b) Fisheries and Oceans Canada;
 - (c) Ministry of Environment;
 - (d) Nanaimo Port Authority (if applicable).
- (4) The notification in Section 9(3) will not relieve the owner or Person of liability for any consequential expense, loss or damage to the Storm Sewer System or for any fines and/or penalties imposed by the City or the Provincial and Federal governments which may result from an unlawful Discharge.
- (5) The Property Owner is responsible to take remedial action to correct any Nuisance, damage or hazardous condition which may result from a contravention of Sections 9(1) or 9(2).
- (6) The General Manager may, by written notice, require a Property Owner to take action to remedy a condition that appears to be a contravention of Section 9(1) or 9(2). If the Property Owner fails to take remedial action as required by the notice, the General Manager may arrange to have remedial action completed at the expense of the Property Owner, who shall be responsible for the Actual Costs of the remedial work.

10. Access

- (1) No Person shall obstruct access to any part of the Storm Sewer System.
- (2) Without limiting the generality of section 10(1), no Person shall place any fence, landscaping or other structure, material or thing on any part of the Storm Sewer System including across ditches, Drainage courses or overland flowpaths.
- (3) Where there is a contravention of section 10(1), the General Manager may order the removal of anything obstructing access to or placed upon the Storm Sewer System:
 - (a) by the Person responsible; and
 - (b) within a time specified in the order.
- (4) The order made pursuant to Section 10(3) will be sent by registered mail to the last known address of the Person responsible for the contravention of Sections 10(1) and 10(2).
- (5) If the Person responsible for the contravention of 10(1) or 10(2) fails to comply with Section 10(3), the General Manager may arrange to have the work completed without further notice and the Property Owner or Person responsible shall be responsible for the Actual Costs.

11. Failure of Service Connection

- (1) The Building Drain shall be maintained by the Property Owner at the Property Owner's sole expense.
- (2) If a Building Drain becomes stopped or otherwise fails to function, the Property Owner shall take immediate steps to ensure any Discharge from the Building Drain is contained and does not impact the Service Connection or the Storm Sewer System.
- (3) A Person or Property Owner shall notify the General Manager immediately of any malfunction of or defect in the Building Drain that is likely to impact the Storm Sewer System at the Property line or downstream of the Property line.
- (4) Where any Service Connection becomes stopped or otherwise fails to function, the Property Owner shall:
 - (a) first determine that the blockage is not located in the Building Drain; and
 - (b) upon determining that the blockage is not located in the Building Drain, notify the General Manager.
- (5) The General Manager will, as soon as practical, arrange to have the Service Connection or Storm Sewer System unstopped or otherwise restored to a serviceable condition.
- (6) Where there is no inspection chamber installed on the Service Connection at the Property line, the Property Owner shall expose the Service Connection at the Property line for inspection by the General Manager.

- (7) Where notification is provided pursuant to paragraph 11(4)(b), and it is determined by the General Manager that the blockage is located in the Building Drain, the Property Owner shall be responsible for the Actual Costs associated with the General Manager's response.
- (8) The Property Owner shall be responsible for:
 - (a) work required to unstop or repair a Service Connection or the Storm Sewer System as a result of a stoppage or any failure of the Building Drain located on the Property Owner's Property, at the Property Owner's cost; and
 - (b) the Actual Cost to unstop or repair a Service Connection or the Storm Sewer System as a result of a stoppage or any failure of the Building Drain located on the City's Property.
- (9) If the Property Owner fails to take action as required by Section 8(a) within a time period established by the General Manager, the General Manager may complete the work without further notice to the Property Owner and the Property Owner shall be responsible for the Actual Costs.

12. Permits and Construction Standards

- (1) Any Person carrying out work on a Highway, municipal right-of-way or easement pursuant to this Bylaw shall:
 - (a) obtain such Permits as may be required for the type of work being completed; and
 - (b) carry out the work in accordance with the current Manual of Engineering Standards and Specifications.

13. Urgent Situations

- (1) Any Urgent Situation emanating from private Property requiring immediate action or intervention by the City may be dealt with by the City or its Agents without notice to any Person or Property Owner.
- (2) The Property Owner shall be responsible for the Actual Costs of work required to address an Urgent Situation where the cause of the Urgent Situation is found to be located on the Property Owner's Property.

14. Erosion and Sediment Control

- (1) No Person shall commence any Development or Construction on land without first receiving written approval by the General Manager for an Erosion and Sediment Control Plan that has been:
 - (a) prepared, signed and sealed by a professional engineer; and
 - (b) reviewed and signed by the Property Owner.
- (2) The submission of an Erosion and Sediment Control Plan shall be accompanied by the non-refundable Fee set out in Schedule 'A'.
- (3) Every Person who is subject to an Erosion and Sediment Control Plan shall:

- (a) implement and complete all the requirements of the Erosion and Sediment Control Plan; and,
 - (b) prevent the escape of Sediment from the subject Property.
- (4) Where a Property Owner fails to implement, undertake or complete all of the requirements of the Erosion and Sediment Control Plan for a Development or Construction Site, the General Manager may provide notice to the Property Owner to implement the Erosion and Sediment Control Plan forthwith.
- (5) Should the Property Owner fail to respond to a notice under Section 14(4) within the time period established in the Notice, the General Manager may cause the Erosion and Sediment Control Plan to be carried out without further notice and the Property Owner or Person responsible shall be responsible for the Actual Costs.
- (6) Where an escape of Sediment from a Development or Construction Site occurs the General Manager may order the Property Owner to take the necessary measures to prevent the further escape of Sediment forthwith and to remediate any area affected by the escape of Sediment.
- (7) Where the Property Owner fails to comply with an order made pursuant to section 14(6) the City or its Agent may undertake the work at the owner's cost without further notice.
- (8) Notwithstanding Sections 14(9) and 14(10), should the escape of Sediment create an Urgent Situation and the Property Owner cannot be immediately located to rectify the escape of the Sediment, the City or its Agent may enter onto the Property, without notice, and undertake the necessary action to control the escape, in which case the Property Owner is responsible for the Actual Cost.
- (9) The General Manager may waive the requirement to provide an Erosion and Sediment Control Plan, if, taking into account the following considerations:
 - (a) concern with Construction timing and scheduling;
 - (b) the size of a proposed building or structure;
 - (c) soil conditions;
 - (d) flood plain conditions or current flooding;
 - (e) existing ground cover;
 - (f) topographical conditions;
 - (g) location of proposed Construction with respect to the perimeter of the land or proximity to the Drainage System;
 - (h) known or potential archaeological sites;
 - (i) the General Manager determines that an Erosion and Sediment Control Plan is not warranted or feasible.
- (10) Despite waiver of the requirement for submitting an Erosion and Sediment Control Plan, the best practices measures as per applicable City standards and guidelines will still apply to any Development or Construction on land.

15. Fees for Service

- (1) The Applicant for a Permit issued pursuant to this Bylaw shall pay the Fee set out in Schedule 'A' to this Bylaw.
- (2) In the case of subdivision of a Property all storm sewer connection Fees, as set out in Schedule "A" shall be paid prior to acceptance of design for the works required for the subdivision plan as determined by the Approving Officer or the General Manager.
- (3) The Applicant for approval of an Erosion and Sediment Control Plan pursuant to this Bylaw shall pay the Fee set out in Schedule 'A' to this Bylaw.
- (4) The Fee under Schedule 'A' of this Bylaw may be waived or reduced for a Property Owner if:
 - (a) the Property Owner has constructed at the Property Owner's own expense a portion of the Storm Sewer System of the City; or
 - (b) the Property Owner has paid all outstanding Fees with respect of that portion of the Storm Sewer System that serves the Property.

16. Default and Recovery of Costs

- (1) Where this Bylaw requires or an order or notice provided pursuant to this Bylaw requires something to be done by a Person or Property Owner, if the Person or Property Owner subject to the requirement fails to take the required action, the City may fulfill the requirement at the expense of the Person or Property Owner and the Person or Property Owner shall be responsible for the Actual Costs and:
 - (a) the Actual Costs are recoverable as a debt and;
 - (b) where the action taken by the City amounts to works done or services provided to a specific Property the amount is recoverable as real Property taxes for that Property.
- (2) A charge imposed under this Bylaw which remains unpaid on the thirty-first day of December in any year shall be deemed to be taxes in arrears on the land or real Property on which the charge is imposed and may be recovered as provided in Section 258 of the *Community Charter*.

17. Disconnection

- (1) Where any Property connected to a Service Connection, temporary Service Connection or any portion of the Storm Sewer System is found to be in contravention of this Bylaw the General Manager may order that the Property be disconnected from the Storm Sewer System.
- (2) In the case of a proposed disconnection, the General Manager shall provide five days' notice in writing to the Property Owner, or in the case of a Property occupied as a private dwelling, to the occupant of the of the dwelling and the Property Owner, of the intention to disconnect the Property from the Storm Sewer System and the right to make representations to Council with respect to the proposed disconnection.

- (3) Where the Property Owner or occupant requests the opportunity to make representations to Council with respect to the proposed disconnection, the disconnection shall be postponed until after that opportunity is satisfied.
- (4) Requests to reconsider a disconnection to the Storm Sewer System must be made in writing to the Corporate Officer within 14 days after the decision is delivered to, or made available to, the Property Owner and/or occupant of the dwelling as outlined in the "Appeals Procedure Bylaw, 2022 No. 7354" as amended from time to time.
- (7) Nothing in this Bylaw prevents the General Manager from taking immediate measures as the General Manager considers necessary or warranted to respond to an Urgent Situation or otherwise to protect the Storm Sewer System or other Property by immediately disconnecting a Service Connection, temporary Service Connection or any portion of the Storm Sewer System.

18. Inspection

- (1) Every owner of Property and every occupier of premises to which a Service Connection or Permit has been provided must allow and facilitate the City and all associated inspection equipment to enter into or upon the real Property and premises for the purpose of inspecting the premises including Building Drain, inspection chamber, fixtures and any other apparatus used with the Service Connection or plumbing system, as well as to observe, measure, sample and test the quantity and nature of water being Discharged into the Storm Sewer System, and to ascertain compliance with the terms of this Bylaw.

19. Violation and Penalty

- (1) Any Person who causes, Permits, or allows anything to be done in contravention or violation of this Bylaw, or who neglects or fails to do anything required to be done pursuant to this Bylaw, commits an offence against this Bylaw and is liable upon summary conviction to pay a fine of not more than \$50,000, plus the costs of prosecution, and any other penalty or remedy available under the *Community Charter* or the *Offence Act*.
- (2) Where an offence under this Bylaw is of a continuing nature, each day that the offence continues, or is Permitted to exist, shall constitute a separate offence.
- (3) Section 19(1) shall not prevent the City or an authorized Person on behalf of the City, issuing an enforcing a bylaw notice under the City's "Bylaw Notice Enforcement Bylaw 2012 No. 7159", as amended or replaced.

20. Severability

If any section or provision of this Bylaw is held to be invalid by a court of competent jurisdiction, the invalid portion shall be severed and the validity of the remainder of the Bylaw shall not be affected.

21. Repeal

“Storm Sewer Regulation and Charge Bylaw 1990 No. 3808” and all amendments thereto, are hereby repealed.

PASSED FIRST READING: 2022-DEC-05
PASSED SECOND READING: 2022-DEC-05
PASSED THIRD READING: 2022-DEC-05
ADOPTED: _____

MAYOR

CORPORATE OFFICER

SCHEDULE 'A'

FEES

Storm Drainage Service Pipe Fees

1. Upon application, a Fee shall be paid to the City for all connections, disconnections, and extensions to the City Storm Sewer System installed by the City.

2. Connection Fees shall be as follows:

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|-----|---------------------------------|-----------|
| (a) | 100mm (4 inch) storm sewer pipe | "At Cost" |
| (b) | 150mm (6 inch) storm sewer pipe | "At Cost" |
| (c) | Over 150mm (6 inch) | "At Cost" |

The Fees in (a), (b), and (c) apply where a direct connection to the storm sewer main is possible.

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| 3. Disconnection Fees | "At Cost" |
| 4. Temporary connection Fees | "At Cost" |
| 5. Extension Fees | "At Cost" |
| 6. Erosion and Sediment Control Plan Fees | \$250.00 |

Notwithstanding Section 2 (a) and (b), in the event that rock or contaminated soils are encountered, other agencies Permits are required or work is to be completed after regular working hours, the cost for installation will be billed by the City "At Cost".