

**COUNCIL REPORT**

M&C No.	2018-329
Report Date	November 15, 2018
Meeting Date	November 19, 2018
Service Area	Corporate Services

His Worship Mayor Don Darling and Members of Common Council

***SUBJECT: Amendment to A By-Law Respecting Water and Sewerage***

***OPEN OR CLOSED SESSION***

This matter is to be discussed in open session of Common Council.

***AUTHORIZATION***

Primary Author	Department Head	Acting City Manager
<b><i>Melanie C. Tompkins</i></b>	<b><i>J. Brent McGovern</i></b>	<b><i>Neil Jacobsen</i></b>

***RECOMMENDATION***

That Council give First and Second reading to the amendment to the *Water and Sewerage By-Law*, By-Law No. M-16, attached to this M&C No. 2018-329.

***EXECUTIVE SUMMARY***

The proposed amendment to the *Water and Sewerage By-Law* introduces a definition of “By-Law Enforcement Officers” for the purposes of enforcement of the by-law under the *Local Governance Act*. It also amends the enforcement section of the by-law by adding a provision that allows a fine to be multiplied by the number of days an offence continues.

***PREVIOUS RESOLUTION***

N/A

***STRATEGIC ALIGNMENT***

N/A

## **REPORT**

In order for the city to properly manage and enforce its by-laws under the authority of the *Local Governance Act*, it must have in place By-Law Enforcement Officers for this purpose.

Section 72 of the *Local Governance Act* provides that a council may appoint by-law enforcement officers for the local government and may determine their terms of office.

The current *Water & Sewerage By-Law* was originally enacted under the *Municipalities Act*. It does not include a definition of By-Law Enforcement Officers, nor does it contemplate that such officers may perform such functions and duties as are currently given them under the new *Local Governance Act*.

The proposed amendment creates a new definition of By-Law Enforcement Officers, and gives authority to Council to name such officers by resolution of the council. Once named, those By-Law Enforcement Officers properly appointed by council have the authority, under the *Local Governance Act*, to send written demands requiring the remedial of contraventions to the *Water & Sewerage By-Law* and take action in the event that the violation is not remedied. They are also able to send notices of penalty under the revised enforcement regime of the by-law – which allows the city to impose and collect administrative penalties in lieu of prosecution (and related fines), thereby keeping as city revenues the full amount of the administrative penalty. Finally, those appointed will also be authorized to lay information(s) in the Provincial Court of the Province of New Brunswick with respect to violations to that by-law.

The proposed amendment also adds to the by-law a provision which enables the city, when prosecuting an offence, to seek a fine that is multiplied by the number of days an offence continues. The authority to do this is granted to local governments at s. 148 of the *Local Governance Act*. This system of fines is geared toward deterrence, the intent being that the penalty related to an offence is directly related to the time during which said offence continues, thereby enticing those committing violations to reduce/limit the number of days during which they are in violation.

## **SERVICE AND FINANCIAL OUTCOMES**

Under the enforcement regime of the *Local Governance Act*, the city is able to impose administrative penalties in lieu of prosecution, the proceeds of which remain entirely with the city. The appointment of By-Law Enforcement Officers for the purposes of the *Water & Sewerage By-Law* will allow Saint John Water to impose such administrative penalties under the by-law's new penalty provision. The administrative penalty under the by-law is \$1,500.00 per violation.

***INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS***

The By-Law Amendment was drafted by the Manager of Legal Services for Saint John Water.

***ATTACHMENTS***

Amendment to the Water and Sewerage By-Law.