

By-law 2010-214

A By-law of the City of Greater Sudbury Respecting the Supply of Water, the Management and Maintenance of the Waterworks Systems of the City

Whereas it is provided by section 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25, that a municipality may pass by-laws pertaining to matters within the sphere of public utilities;

And Whereas water and wastewater systems are public utilities within the meaning of the *Municipal Act, 2001*, S.O. 2001, c. 25;

Now Therefore the Council of the City of Greater Sudbury enacts as follows:

1. In this By-law, unless the context otherwise requires, the expression:

“Applicant” means the owner or his or her authorized agent who has responsibility for assuring continued servicing of his or her property with water, and who may be required to sign forms supplied by the City authorizing various works in regard to this service;

“approved” means having the approval of the General Manager;

“By-law Enforcement Officer” means a police officer, By-law Enforcement Officer, Water / Wastewater By-law Enforcement Officer, special constable and any other public officer engaged in the enforcement, of this or any other law;

“City” means the municipal corporation of the City of Greater Sudbury or the geographic limits of the City as the context requires;

“consumer” means any owner, tenant or lessee who may have occasion to make use of any water service connection to a building which he or she occupies in the course of residence or in the operation of a business;

“General Manager” means the General Manager of Infrastructure Services for the City and includes a person duly authorized to act in his or her stead;

“owner” means any owner of property which is located within the designated limits of the City and which may be serviced with water from the watermain distribution system;

“plumber” means any person, group, owner, firm, company, corporation or contractor who holds himself, herself or themselves out as plumbers, pipefitters, or earthmoving contractors who engage in the work of installing pipes for the purpose of carrying potable water;

“premises” means the building or structure which is serviced with a water connection from the watermain distribution system, and which is located on publicly or privately owned property within the limits of the City;

“service connection” means the service pipe connected to the watermain distribution system which is designed to carry water from this system to the premises;

“Water Rates By-law” means the City’s By-law to Establish a Water and Wastewater Policy and Water and Wastewater Rates and Charges in General and for Special Projects, being By-law 2009-292 as amended and replaced from time to time; and

“waterworks” means buildings, structures, plant, machinery, equipment, appurtenances, devices, conduits, intakes, outlets, underground pipelines and

2. In the management and maintenance of the City waterworks system the following shall apply:
 - (a) the laying of watermains and services, installing hydrants, valves, services, etc. and all construction pertaining to or incidental with the waterworks system of the City shall be under the control, at all times, of the City; and
 - (b) the General Manager may enter the premises of any consumer of sewer and water services at any reasonable time in the course of his or her duties.
3. In respect of service connections the following shall apply:
 - (a) Every owner of premises who applies for municipal water service for such premises, or his Agent, shall make application therefor to the General Manager on the form prescribed by the General Manager from time to time, and at the time of application, shall deposit with the City an amount equal to the cost, as estimated by the General Manager, of providing the service connection to such premises from the main to the street line or premises. The applicant shall pay the actual costs of providing the service connection from the main to the street line. Should the amount of the deposit exceed the actual cost the excess amount shall be refunded to the Applicant and the remainder retained by the City as payment. Should the actual cost be in excess of the amount deposited, the deposit shall be retained by the City and the Applicant shall pay the additional amount to the City.
 - (b) No premises shall be provided with more than one such service connection.
 - (c) In each case of land development where the property so developed will be serviced by municipal water, the developer shall enter into an agreement with the

City, dealing with the installation of watermains, and may include the installation of water service connections to the various lots in the development.

- (d) In every case the General Manager shall determine the nature of the service connection required, the size of pipe to be used for such purpose and the position in the street in which such pipe shall be laid, having regard to sound engineering principles.
- (e) When, in order to accommodate an Applicant, the General Manager permits any variance from the standard practice in the area, the Owner shall be charged the amount of the additional expense, if any, resulting from such variance.
- (f) Each Owner shall install all service connections and installations on his or her property and maintain the same in good order and repair and fully protected from frost, at his or her own expense.
- (g) No such service pipe shall be covered until inspected and approved by the General Manager.
- (h) Where such approval is refused, the General Manager may turn off or refuse to turn on the supply of water.
- (i) Unless specially authorized by the General Manager, no work shall be done by employees of the City on the premises of any consumer except the placing of a meter.
- (j) No work shall be done and no materials shall be placed on the premises of any consumer in relation of the water service unless approved by the General Manager.

(2) Where the General Manager has caused the water service to be shut off because of waste, a leak or a defect in a pipe or cock, the General Manager shall not cause the water service to be turned on again until he or she shall have received evidence satisfactory to him or her that all repairs that he or she considers necessary have been properly made.

(3) No person shall open or close a curb stop unless authorized by the General Manager. Every person opening or closing a curb stop shall report such action to the City by the end of the next succeeding business day.

(4) Upon application and after payment to the General Manger of the applicable fee, determined in accordance with Schedule A of the City's Water Rates By-law, the City may direct the thawing out of any service pipe that is frozen between the curb stop and the building supplied.

4. In regard to prohibited uses and restrictions the following shall apply:
- (a) No person who is a tenant, occupant or inmate of any house, building or other place supplied with water from the waterworks, shall lend, sell or dispose of the water, give it away, permit it to be taken or carried away, use or apply it to the use or benefit of another, or to any use and benefit other than his or her own, increase the supply of water agreed for or improperly waste the water.
 - (b) The use of water for purposes of air conditioning shall be permitted only where the air conditioning equipment provides for efficient cooling and recirculation of the water within the air-conditioning system, and where there is no provision for recirculation of the water the General Manager shall require the installation of the necessary additional equipment.
 - (c) No person shall tap into or make any improper connection with any of the public or private pipes or mains in the streets or lanes, in any premises, or private property, whereby water can be diverted for improper or unauthorized use.
 - (d) No person shall in any way interfere with any fire hydrant, water meter, valve, curb stop, pipe or other waterworks appliance.
 - (e) No person shall use water from the municipal waterworks for lawn and garden watering the City during the months of June, July, August and September except as follows:
 - (i) The owner or occupant of a property bearing an even street number may use municipal water for lawn and garden watering only on even-numbered days of the month;
 - (ii) The owner or occupant of a property bearing an odd street number may use municipal water for lawn and garden watering only on odd-numbered days of the month; and
 - (iii) The Mayor, in consultation with the General Manager, shall have the authority to prohibit the use of water supplied by the municipal waterworks throughout the entire system, or any part thereof, for lawn or garden watering, or in other residential outside use, when in his or her opinion such action is deemed necessary in the period of time he or she so specifies.
 - (e-1) Despite sub-paragraphs 4(e)(i) and 4(e)(ii), the owner or occupant of a property may use municipal water for watering freshly laid sod for up to 14 consecutive days.

- (f) No person shall use water from the municipal waterworks for any outdoor use including lawn and garden watering in the affected parts of the City during a period of water ban as may be declared by the Mayor and the General Manager from time to time for portions or all of the City.
- (g) From the commencement of the giving of a fire alarm until the extinguishment of the fire for which such alarm was given, no person in that area shall use water supplied by the City for lawn watering or other outside purposes.

5.-(1) In regard to the operation and use of public fire hydrants the following shall apply:

- (a) No person shall at any time let off or use any water from a public fire hydrant except:
 - (i) a municipal firefighter, where water is required for fire protection purposes; or
 - (ii) a person who has written authorization from the General Manager pursuant to Section 5.2 and in accordance with the terms and conditions of the written authorization; or
 - (iii) for operational testing authorized by the General Manager.
- (b) No person shall obstruct the free access to any public fire hydrant by placing on it or close to it building material, earth, snow, rubbish or other obstructive matter, nor shall any person conceal a fire hydrant with any type of building or shrubbery.
- (c) No person shall park an automobile, truck or vehicle of any description within a distance of three metres of any public fire hydrant measured along the curb line or along the shoulder of the roadway immediately adjacent to the public fire hydrant.

Private Fire Hydrants

- 5.1**
- (a) No person shall install a private fire hydrant unless the General Manager has first approved:
 - (i) the type of the private fire hydrant to be installed; and
 - (ii) the manufacturer of the private fire hydrant to be installed.
 - (b) The General Manager is authorized to approve or reject applications for installation of a private fire hydrant based upon sound engineering principles.
 - (c) The owner of any premises served with a private fire protection service shall make provision for testing water lines from time to time to determine if leakage is taking place.

- (d) The owner of any premises served with a private fire hydrant shall ensure that each private fire hydrant on the fire ring is separately valved.
- (e) The owner of any premises served with a private fire hydrant shall pay an annual charge determined in accordance with Schedule “A” to the City’s Water / Wastewater Rates By-law as a contribution towards the cost to the City to inspect and maintain the private fire hydrant. For the purposes of this By-law, the term “private fire hydrant” shall be deemed to include any form of private stand pipe system.
- (f) No person, including the owner of the property on which the private fire hydrant is located shall operate a private fire hydrant except:
 - (i) in the case of fire, for fire protection purposes; or
 - (ii) in accordance with the terms and conditions of the written permission of the General Manager granted under Section 5.2; or
 - (iii) for operational testing conducted by or authorized by the General Manager.
- (g) No person shall interfere with inspection or maintenance of the private fire hydrant conducted by the City or its authorized personnel.

Use of Hydrant – Other than Firefighting

5.2-(1) In exceptional circumstances, as determined by the General Manager, the General Manager is given the authority to provide written authorization for the use of a public fire hydrant or a private fire hydrant for a purpose other than fire fighting and to establish and to set out in the written authorization, the terms and conditions of such use.

(2) Any person authorized by the General Manager to use a private fire hydrant or public fire hydrant shall pay a fee for the water based on the bulk

water rate determined in accordance with Schedule A to the City’s Water / Wastewater Rates By-law.

(3) Any hydrant permit issued under the City’s Water / Wastewater Rates By-law prior to the passage of this By-law is hereby revoked.

Bulk Water Filling Stations

5.3-(1) No person shall dispense water or attempt to dispense water at a Bulk Water Filling Station except by use of a Prepaid Bulk Water Filling Station card issued by the City.

(2) Every holder of a Prepaid Bulk Water Filling Station card shall comply with rules and guidelines for use posted at the site of the Bulk Water Filling Station.

(3) Every holder of a Prepaid Bulk Water Filling Station card shall pay for water dispensed from the Bulk Water Filling Station at the rates established in Schedule A to the City's Water / Wastewater Rates By-law, through the reduction of the amount posted to the Prepaid Bulk Water Filling Station card.

Prepaid Bulk Water Filling Station Cards

5.4-(1) Any person may apply for a Prepaid Bulk Water Filling Station card or to replace a lost or stolen Prepaid Bulk Water Filling Station card by:

- (a) completing and signing an application in the form provided by the General Manager;
- (b) providing such information or documentation as may be required by the General Manager;
- (c) paying a non-refundable application fee determined in accordance with the Water / Wastewater Rates By-law, Schedule A; and
- (d) paying to the City amount requested to be posted to the Prepaid Bulk Water Filling Station card.

(2) In the case of the issuance of a replacement Bulk Water Filling Station card, the General Manager shall cancel the originally issued card and transfer to the replacement card, any balance then remaining to the credit of the card holder, as shown on the records of the City. The City shall not be responsible for any use made of the lost or stolen card prior to its cancellation.

(3) The General Manager is delegated the authority to issue Prepaid Bulk Water Station cards and replacement cards in accordance with the guidelines herein.

(4) The holder of a Prepaid Bulk Water Station card shall be entitled to deposit additional funds to its credit in accordance with the protocol established by the General Manager from time to time.

6. In regard to the installation, use, and operation of meters the following shall apply:

- (a) The General Manager shall cause a meter to be placed upon every service pipe or connection either within or without the building serviced by such pipe or connection, and may direct the manner of its installation with such requirements as may be necessary to adequately protect the meter from damage. The Owner

will be required to maintain sufficient heat in buildings normally heated to prevent damage to any meter located in such buildings.

- (b) The General Manager shall have seals placed on meters and bypass valves. In the event of seals being discovered to be broken, the General Manager will investigate the reasons therefore and where theft of water is suspected, in addition to any other action or remedy hereunder, the General Manager may report to the City Council.
- (c) All meters installed of nominal size of 2" or less for domestic water service shall be owned and maintained by the City.
- (d) Every Owner whose premises have a water connection that requires a meter of nominal size larger than 2" shall provide at his or her own expense, a meter of a type specified by the General Manager, which specification shall be based on sound engineering practice and upon the practice common in the plumbing trade and the City shall maintain such meter for the monthly service charge established in the Water Rates By-law for a water meter of that size.
- (e) For the purposes of this subsection and subsections 6(c) and 6(d) the minimum size of the meter shall be one size smaller than the service pipe (e.g., if a 2" service pipe has been installed in a premises, the minimum size of meter to be installed shall be nominal 1-1/2") except that the General Manager may permit another size based on sound engineering practice.
- (f) If a meter fails to register accurately, the quantity of water consumed during the period of such failure shall be estimated by the General Manager on the basis of the recorded consumption following the installation of any accurate meter; the Owner shall be liable for water charges based on this estimate.
- (g) Except where a person is responsible for damage to a meter by reason of trespass or negligence, the General Manager shall bear the cost of repairing, testing and maintaining meters serving domestic consumers.
- (h) The General Manager may remove and test any private meter or may permit the owner of such meter to have the meter tested at his or her own expense and to the satisfaction of the General Manager.
- (i) Every Plumber shall leave meter spacers and comply with the plumbing requirements of the City. Meter spacers shall be left in an accessible location having a minimum of 5 feet of headroom, located immediately adjacent to the point at which the service connection enters the foundation.

- (j) At the request of any consumer, the General Manager shall test any meter at the expense of such consumer, and such consumer shall pay to the City, in advance, the estimated cost of such test. If the meter is found to be inaccurate, the City shall refund such payment and shall adjust the current water meter accordingly. A meter will be deemed to be inaccurate if it errs more than 2% at high flows, 5% at intermediate flows or 10% at low flows, these flows being as shown in Neptune tests.

Where alterations are required to existing plumbing in the premises of a consumer for purposes of installing a meter, such alterations shall be made by the owner upon request by the General Manager at no cost to the City, and the City shall not be held liable for any damages which may occur by reasons of compliance with such request.

- (k) Industrial and commercial consumers requiring a meter over 2" in size will be required to provide at their expense such meters which shall be of a type commonly used in the City. If at any time a meter fails to register accurately, or shall be removed for repair, renewal or any other purpose, the daily quantity of water supplied during the period of such failure or removal shall be deemed to be the average daily quantity supplied for the period immediately preceding such failure or removal, or as the General Manager may determine. Except as aforesaid, the register of the meter shall be prima facie evidence of the quantity of water supplied hereunder.

7. With regard to turning off of water supply the following shall apply:

- (a) The City may cause the supply of water to any premises to be shut off, and withheld while an amount payable to the City by any person at the premises or formerly at the premises is overdue and unpaid, whether such amount is for services supplied to each person at such premises or for services supplied to such persons at other premise and whether or not the water is metered;
- (b) The City may cause the supply of water to any premises to be shut off where an amount payable to the City for water or services supplied at the premises remains unpaid for more than thirty days after the days on which such amount was due and payable;
- (c) Where the supply of water is shut off hereunder for failure to pay an amount that is payable to the City, the General Manager shall not cause the supply to be turned on until the amount is paid in full to the City and the service charge for turning on water is paid to the City;

- (d) Water may be shut off by the City without notice for any reasonable cause, including repairs to the water system, or constructing new work, to prevent damage, to provide for proper pressure, or any other reason whatsoever, including the breach of any of the provisions hereof, and the City shall not be liable for any damages of any kind which result therefrom. It is understood that it is the intention of the City where practicable, to give reasonable notice of such discontinuance of water to the owners of boilers or their agents, if the City knows of the existence of such boilers.
8. The following general considerations shall apply:
- (a) The City does not guarantee the supply or quality of water, and failure to supply water shall not be construed as neglect on the part of the City;
 - (b) Where the premises of an applicant for water service is not adjacent to a watermain, the General Manager may:
 - (i) accept the application; and
 - (ii) cause temporary service pipes to be laid at the expense of the applicant from the nearest watermain to the premises, if the applicant pays to the City, in advance, the total amount of such expense and the connection charge determined in accordance with the City's Miscellaneous User Fee By-law then in effect, and agrees in writing:
 - 1) that he or she will actively support an application for the construction of a watermain to service his or her premises; and
 - 2) that his or her failure to actively support such application will provide sufficient grounds for the City discontinuing the temporary water service;
 - (c) Where an owner or his or her agent is desirous of improving fire protection to his or her property, separate fire and domestic services may be provided for any building, except that:
 - (i) an entirely metered service may be used for both domestic and fire service;
 - (ii) a combined service with meter on the domestic branch only may be used where the fire service branch is used solely for supply of a closed circuit sprinkler system controlled by alarm valves or supervisory service; or
 - (iii) a combined service with standard meter on the domestic branch and a detector checkvalve of a type approved by the National Board of Fire Underwriters on the fire service branch where the fire service branch

supplies any open sprinkler systems, standpipes, hose connection outlets, external fire hydrants or other outlets. In all cases involving metering of combined services, the meters shall be installed as close as practicable to the point of branching;

- (d) If required by the General Manager, every person who furnishes the General Manager with a statement or information in respect of a quantity of water used or to be used for the purpose for which water is to be used, shall verify such statement or information by a statutory declaration.

9.-(1) All owners of buildings or any class or classes of buildings in the City shall connect the said buildings or class or classes of buildings to the waterworks of the municipality where such services are available or become available.

(2) If the owner of a building fails to make the connection required by this By-law within three months after the City has sent notice to him or her by registered mail to his or her last known address requiring the connection to be made, the City shall make the connection at the expense of the owner, and for this purpose, may enter in and upon the property of the owner.

(3) A notice sent under this section shall advise the owner that if he or she fails to make the connection as required, the City has the right to make the connection at the owner's expense and to recover the expense by action or in like manner as municipal taxes, and the General Manager and Chief Financial Officer / Treasurer are hereby authorized to take such action.

(4) Upon the application of the owner, the Council may grant an extension of not more than two years from the end of the three month period provided for in Subsection 9 (2) above within which the connection is to be made, provided that nor more than two extensions may be granted in respect of any single building.

Enforcement - No Obstruction Etc.

10.-(1) This By-law may be enforced by any By-law Enforcement Officer.

(2) No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this By-law.

Offence

11.-(1) Every person who contravenes any of the provisions of this By-law and any director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act*.

(2) For the purposes of subsection 11(1), each day on which a person contravenes any of the provisions of this By-law shall be deemed to constitute a separate offence under this By-law.

(3) The levying and payment of any fine as provided for under the *Provincial Offences Act* shall not relieve a person from the necessity of compliance with the obligations under this By-law.

(4) The making of a false or intentionally misleading statement or representation in any agreement or request for permission provided for by this By-law shall be deemed to be a violation of the provisions of this By-law.

Prohibition Order

12. When a person has been convicted of an offence under this By-law, the Ontario Court (Provincial Division), or any court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation of the offence or doing of any act or thing by the person convicted directed towards the continuation of the offence.

Right of Entry - Inspection

12.1-(1) A By-law Enforcement Officer may enter on private property at all reasonable times to ascertain whether there is compliance with:

- (a) the provisions of this By-law; or
- (b) a direction or order or notice given under this By-law.

(2) Despite subsection 12.1(1), entry into a dwelling unit shall be effected only in accordance with the *Municipal Act, 2001*.

Order to Discontinue

12.2 Where the By-law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the By-law Enforcement Officer may make an order requiring the person who contravened this By-law or who caused or permitted the contravention to discontinue the contravening activity. The order shall set out reasonable particulars of the contravention, and

where applicable, the location of the land on which the contravention is occurring and the date by which there must be compliance.

Order to Comply

12.3-(1) Where the By-law Enforcement Officer is satisfied that a contravention of this By-law has occurred, an order may be made requiring the person who contravened this By-law or who caused or permitted the contravention to correct the contravention. The order shall set out:

- (a) reasonable particulars of the contravention;
- (b) particulars of the location where the contravention occurred, where applicable;
- (c) any work to be done or steps to be taken to comply with this By-law;
- (d) the date by which the work must be done or steps taken; and
- (e) provide that if any work specified is not completed by the date specified to the satisfaction of the By-law Enforcement Officer, that the By-law Enforcement Officer may cause the work to be done at the expense of the owner.

(2) Pursuant to subsection 445(3) of the *Municipal Act, 2001*, as amended, an order pursuant to subsection 12.3(1) may require the work to be done even though the facts which constitute the contravention of the By-law were present before this By-law making them a contravention came into force.

Service of Orders

12.4 Service of an Order issued under section 12.2 or subsection 12.3(1) shall be given to each person, by delivering personally to the person, in which case service will be effective immediately; by mail, in which case service will be effective on the 5th day after mailing; or by posting in a conspicuous place on the property affected, in which case, service will be effective on the 3rd day after posting.

Comply with Order

12.5 Every person who is served with an order under this By-law shall comply with the requirements of the order within the time period specified in the order.

Attendance Fees

12.6-(1) Enforcement fees shall be payable in accordance with the provisions of the User Fees By-law then in effect.

(2) Any fee payable pursuant to subsection 12.6(1) shall be in addition to:

- (a) any fine levied upon conviction of an offence under this By-law; and
- (b) any costs incurred for remediation.

(3) No fee payable pursuant to subsection 12.6(1) shall be waived or cease to be payable in the event that no charge is laid or a charge that is laid does not lead to a conviction.

City May Remediate - Liability

13. Where a Permit Holder is in default of doing the matter or thing required to be done pursuant this By-law the General Manager may have the matter or thing done and the cost thereof shall be a debt owing to the City and if unpaid, shall bear interest at the rate provided for in the City's Miscellaneous User Fee Bylaw until payment in full. The City may enforce such debt by action, or any means available to it at law.

Repeal

14.-(1) By-law 2003-119 is repealed.

(2) The repeal of By-law 2003-119 does not affect any offence committed against the By-law so repealed or any penalty or forfeiture or punishment incurred in respect thereof; or affect any investigation, legal proceeding or remedy in respect of such privilege, obligation, liability, penalty, forfeiture or punishment.

15. This By-law shall come into effect upon passage.

READ AND PASSED IN OPEN COUNCIL this 29th day of September, 2010

_____ Mayor

_____ Clerk