

Amendment to the Municipal Code Chapter 681-Sewers, Article I, Sewage and Land Drainage

Date:	May 16, 2007
To:	Public Works and Infrastructure Committee
From:	General Manager, Toronto Water
Wards:	All
Reference Number:	P:\2007\Cluster B\TW\pw07022 (AFS# 4179)

SUMMARY

Purpose

The purpose of this report is to amend Chapter 681 of the Municipal Code (the Sewer Use By-law) to adopt a Best Management Practices (BMP) process with respect to Pollution Prevention Planning for Photo Processing Industries; to allow for enhanced powers of entry and inspection permitted by the *City of Toronto Act, 2006*; to facilitate the revision of forms; to require notification of change in contact information and business status or ownership by commercial facilities, to require a commercial credit check from businesses entering into an Industrial Surcharge Agreement with the City to ensure credit worthiness and reduce or eliminate financial write off situations by the City, and to update and correct technical references in the By-Law.

Conclusions

As a result of an ongoing review of the Sewer Use By-law since its passage in July 2000, staff is recommending certain technical and policy changes to the By-law.

The most significant change relates to Best Management Practices (BMPs) for Photo Finishing operations. The Photo Marketing Association International has been very proactive in ensuring that the discharge of waste from the photo finishing sector complies with the By-law in terms of the pollution prevention planning requirements. Staff are recommending that businesses in the photo finishing sector be exempt from meeting the By-law's pollution prevention planning requirements, provided that they are operating in

compliance with the By-Law and applicable BMP authorized and approved by Council for this sector industry. This would be similar in nature to the automobile service BMP passed by Council in 2005.

RECOMMENDATIONS

The General Manager of Toronto Water recommends that:

1. Municipal Code Chapter 681- SEWERS, ARTICLE I - Sewage and Land Drainage be amended in accordance with the draft amending by-law attached as Appendix “A” to this Report;
2. Council authorize and approve:
 - a. the Environmental Best Management Practices (BMP) document attached as Appendix “B” for facilities in the Photo Finishing Sector in Toronto;
 - b. the “Declaration by the Photo Finishing Operations for Implementing Environmental Best Management Practices (BMP)” form, attached as Appendix “C” be designated for use by the Photo Finishing Sector; and
 - c. that the General Manager of Toronto Water implement the Best Management Practices (BMP) Program for the photo finishing sector accordingly;
3. The combined Generic Pollution Prevention Plan & Plan Summary form, set out in Appendix “D”, be approved for use in the place of the current Generic Pollution Plan and Pollution Prevention Plan Summary forms;
4. The General Manager of Toronto Water be authorized to prescribe any City form under Chapter 681 and to amend or revise such forms from time to time.
5. The appropriate City officials and staff be authorized and directed to take the necessary action to give effect to these Recommendations and that staff be authorized to introduce the necessary bills to Council to implement the above recommendations.

FINANCIAL IMPACT

There are no financial implications to the City as a result of this report

DECISION HISTORY

At its meeting of June 7, 8 and 9, 2000, City Council, by adoption of Clause No. 1 of Joint Report No. 2 of the Works Committee and Economic Development and Parks Committee, approved a new Toronto Sewer Use By-law (the “By-law”). At that time, Council also requested the Commissioner of Works and Emergency Services to report back to Council at the end of a two-year phase-in period on any modifications to the new discharge limits contained in Section 2 and Section 4 of the By-law.

On July 6, 2000, Council officially enacted the By-law. It has since been incorporated into City of Toronto Municipal Code Chapter 681- SEWERS, ARTICLE I- Sewage and Land Drainage.

At its meeting of May 30, 31 and June 1, 2001, City Council, by adoption of Clause No. 9 of Report No. 7 of the Works Committee, approved for use the Generic Pollution Prevention Plan and Pollution Prevention Plan Summary Forms for manufacturing industries and a sector-specific pollution prevention plan and sector-specific pollution prevention plan summary forms for the photographic processing sector.

At its meeting on October 28, 2005, Council authorized and approved the Best Management Practices (BMP) documents for Automotive Repair Operations, Vehicle Wash Operations and Petroleum Facilities.

ISSUE BACKGROUND

Best Management Practices for Photo Finishers

The use of Best Management Practices (BMPs) to replace the Pollution Prevention (P2) Planning process was introduced in 2005 for the automotive sector. Experience has shown that the form required to be completed by businesses in this sector is simpler to complete and the BMPs offer them specific guidelines to help them comply with the requirements to reduce pollution. Inspection of these facilities to review compliance with BMPs started in 2006. The compliance rate has been very good with Canadian Petroleum Products Institute (CPPI) members. For independent operators follow up is required to ensure compliance. Staff will continue to use the BMP tool for this sector.

The BMP as a monitoring and compliance tool can be extended to a number of other commercial sectors. Staff have chosen photo finishing sector as the next group for BMPs. The sector contributes very little in terms of subject pollutant loading and wastewater management can be better dealt through the use of BMPs rather than extensive pollution prevention forms.

The Photo Marketing Association International (PMAI), whose members include retail one-hour photo finishers, wholesale photofinishers, commercial photo-finishing laboratories, corporate & law enforcement laboratories and institutional laboratories, has been supportive of the BMP as there are generally no compliance issues for any of the

Subject Pollutants. With businesses in this sector slowly moving towards digital technology the pollution will eventually be reduced significantly.

It was determined that this sector would benefit from a BMP to assist operators in the proper handling and treatment of chemicals prior to discharge to the sewer system. This sector has low and intermittent discharges; but there are many of these facilities within the City and they can impact the quality of the wastewater through mass loadings rather than concentration. Also, the chemicals used by photo finishers require special handling and the high turn over of non-specialized employees is a concern. These employees generally have little understanding of the nature of the chemicals used, other than an introductory WHMIS training course, creating the potential for unwanted situations to occur within a photo finishing store. To minimize the impact to the sewer system and for safety reasons, the BMP was determined to benefit the photo finishers and the City.

The BMP is essentially a “do’s and don’t” guide for any employee of a photo finishing laboratory. The BMP approach was supported by PMAI during their discussions with the City. It is considered the best approach to address the environmental and safety concerns associated with its members’ discharge to the sanitary/combined or storm sewers and a similar Code of Management Practice has been in use for over a dozen years in many jurisdictions across the world.

Staffs from both the City and PMAI have jointly developed the BMP for photo finishing operations. The BMP can be found in Appendix “B” of this report. Each business must complete and deliver to the City a form declaring its commitment to adhere to the requirements of the BMP. In the event that a business does not comply with the requirements of the BMP document, the business’ exemption from the application of § 681-5.A. of the Sewer Use By-Law will be revoked and the applicable provisions of the By-law will be enforced.

With the success of BMPs in the City, the Ontario Ministry of the Environment undertook a project to develop BMPs for various pollutants and industry sectors in 2005 to be used eventually by all municipalities. The project was completed in 2006 with participation from other municipal governments in Ontario. This work shows recognition from other levels of governments that BMPs can be used as a tool to reduce pollution and are effective for small commercial operations which collectively can have an impact on a wastewater treatment system. The Ministry of the Environment is evaluating its next steps on the use of BMPs and has yet to share its decision on the matter.

City of Toronto Act

Sections 375 to 379 of the *City of Toronto Act, 2006* (the “Act”) govern the exercise of a power of entry and inspection under the Act. Under the Act, the City may pass a by-law authorizing the City to enter on land for the purpose of carrying out an inspection to determine whether a City by-law, order or licence condition is being complied with. Certain restrictions are placed by the Act on the power of entry. To take advantage of these new compliance, inspection and enforcement measures now available under the Act, amendments to the current Sewer Use By-law are necessary.

COMMENTS

The reasoning for the proposed amendments to the by-law set out in Appendix “A” of this report is set out as follows:

1. Since the General Manager of Toronto Water is a successor to the Commissioner of Works and Emergency Services for the purposes of enforcing contract and By-laws applicable to Toronto Water, it is recommended that the term “Commissioner” be replaced with the term “General Manager” throughout the By-law. The term “General Manager” was defined in a prior amendment to the By-law.
2. There is presently no mechanism in the By-law to ensure the City has up-to-date contact and business status or ownership information for the many commercial/business facilities which discharge wastewater into the City’s sewers under a surcharge agreement. With the current process, the City often does not discover that a commercial/business facility has ceased business operations at a particular location or its facilities have been taken over by another entity until an inspector happens to discover the change on a routine inspection. To allow the City to have a more accurate record of the business entity discharging into the City sewers and to allow the City to better manage the thousands of facilities within its database, the proposed change to the By-law is necessary.
3. Businesses which enter into an Industrial Surcharge Agreement with the City can change ownership overtime without the City’s knowledge resulting in the potential situation where the new owner fails to pay surcharge fees under the terms of the existing Agreement. To reduce or eliminate such financial risk scenarios to the City, the amendments will require businesses to notify the City within 10 days of any ownership changes otherwise the Agreement will be automatically cancelled on the 11th day.
4. The “Quality System, Analytical Methods Manual” for sampling and analytical requirements referenced in § 681-8 of the By-law is the quality manual for the City laboratories for accreditation. Businesses do not have access to the methods outlined in this manual therefore this section should be changed to make reference to the Standard Methods as defined in the By-law.
5. The Pollution Prevention Plan Summary Forms need ongoing modifications to make them more useful to the City and users. The changes are generally administrative and do not substantively change the information necessary for a good P2 Plan. In the circumstances, it would be more efficient to permit the General Manager to change the forms when and as required in the General Manager’s discretion.
6. Sections 375 to 379 of the *City of Toronto Act, 2006* permits the City to pass by-laws authorizing the City to enter upon land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the By-Law or a direction or

order of the City made under the By-Law are being complied with. The addition of these powers of entry and inspection would enhance the City's ability to determine compliance and effectively enforce the By-Law and is recommended as an amendment to the By-Law.

7. The current wording in § 681-11 A (1) of the By-law requires ancillary structures on a property, such as a shed or a garage, to be connected to the sanitary sewer system. This is not the intended purpose of this clause and the clause should be modified to accurately reflect that purpose, being that buildings or structures on a property, required by the Building Code to have plumbing or a sewage system, are required to be connected to the sanitary sewer system. An exemption from this provision is provided to allow the City to utilize new environmental technologies in its public parks and open spaces, in certain circumstances, without the need to be connected to the sewer system and further, to allow the installation of septic systems and holding tanks for properties which contain no more than one single family dwelling and where no municipal sanitary sewer exists adjacent to a property.

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SIGNATURE

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ATTACHMENTS

- Appendix A - List of Proposed by-law changes
- Appendix B - BMP for Photo Finishing Operations
- Appendix C - Declaration by the Photo Finishing Operations for Implementing Environmental Best Management Practices (BMP)
- Appendix D - Generic Pollution Prevention Plan and Plan Summary
- Appendix E - Appendix 1 – Subject Sectors
- Appendix F - Appendix 2 – Subject Pollutants