

The Corporation of the City of Burlington

City of Burlington By-law 59-2022

To Regulate the discharge of any matter into the Municipal Storm Sewers and to repeal By-law 86-2002, as amended.

File No. 110-04-1, 815-01 (ES-21-21)

Whereas paragraph 3 of s. 11(4) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the “Act”), provides that if a sphere or part of a sphere of jurisdiction is assigned to an upper-tier municipality non-exclusively, both the upper-tier municipality and its lower-tier municipalities have the power to pass By-laws under that sphere or part; and

Whereas pursuant to s. 4 of the Table in s. 11 of the Act, the collection of stormwater and other drainage from land is assigned to all upper-tier municipalities non-exclusively; and

Whereas section 425 of the Act provides that a municipality may pass a By-law providing that any person who contravenes the By-law of the municipality is guilty of an offence; and

Whereas section 444 of the Act provides that a municipality may make an order requiring a person who contravened a By-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity; and

Whereas pursuant to s. 30(1) of the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40, every person that discharges or causes or permits the discharge of any material of any kind into or in any waters or on any shore or bank thereof or into or in any place that may impair the quality of the water of any well, lake, river, pond, spring, stream, reservoir, artificial watercourse, intermittent watercourse, ground water or other water or watercourse, is guilty of an offence; and

Whereas Council determines it necessary to enact a By-law for prohibiting, regulating and inspecting the discharge of any gaseous, liquid or solid matter into land drainage works, private branch sewers and connections to any storm sewers; and

Now therefore the Council of the Corporation of the City of Burlington hereby enacts as follows:

## **PART 1: DEFINITIONS**

1.1 In this By-law:

**“accredited laboratory”** means any laboratory accredited by an authorized accreditation body in accordance with a standard based on "ISO/IEC/EN 17025: General Requirements for Competence of Calibration and Testing Laboratories" established by the International Organization for Standardization, as amended;

**“acute hazardous waste chemical”** means acute hazardous waste chemicals within the meaning of R.R.O. 1990, Reg 347, as amended, made under the *Environmental Protection Act*, R.S.O. 1990, c. E. 19 (the “EPA”);

**“Administrative Penalties By-law”** means the Administrative Penalties By-law of the City, as amended or replaced from time to time.

**“Administrative Penalty”** means an administrative penalty established by this By-law and specified in the Administrative Penalties By-law;

**“biochemical oxygen demand (BOD)”** means the five-day BOD which is the determination of the molecular oxygen utilized during a five-day incubation period for the biochemical degradation of organic material (carbonaceous demand), and the oxygen used to oxidize inorganic material such as sulphides and ferrous iron, and the amount of oxygen used to oxidize reduced forms of nitrogen (nitrogenous demand);

**“biomedical waste”** means biomedical waste as defined in the Ontario Ministry of the Environment Guideline C-4 entitled “The Management of Biomedical Waste in Ontario” dated April 1994, as amended from time to time;

**“blowdown water”** means water that is discharged from a cooling or heating water system for the purpose of controlling the level of water in the system, or for the purpose of discharging from the system materials contained in the system, the further build-up of which might impair the operation of the system;

**“City of Burlington” or “City”** means The Corporation of the City of Burlington;

**“combustible liquids”** means a liquid that has a flash point not less than 37.8 degrees Celsius and not greater than 93.3 degrees Celsius as defined in the regulations under the *Transportation of Dangerous Goods Act*, 1992, S.C. 1992, as amended;

**“compliance inspection fee”** means the fee charged by the City for an inspection to confirm compliance with this By-law or any order or direction issued under this By-law as may be prescribed from time to time in the City’s Rates and Fees By-law;

**“composite sample”** means a volume of uncontaminated water, stormwater, private water or effluent made up of three or more grab samples that have been combined automatically or manually and taken at intervals during the sampling periods;

**“connection or drain”** means that part or those parts of any pipe, channel or conduit or system of pipes, channels or conduits, including any appurtenances, leading directly to drainage works;

**“cooling water”** means water that is used in a process for the purpose of removing heat and that has not, by design, come into contact with any raw material, intermediate product, waste product, or finished product and has not had any treatment chemicals added, but does not include blowdown water;

**“Director”** means the Director of Engineering Services for the City or an authorized representative of the Director of Engineering Services;

**“Director of Roads, Parks and Forestry”** means the Director of Roads, Parks and Forestry for the City or an authorized representative of the Director of Roads, Parks and Forestry;

**“discharge”** when used alone as a verb, means add, deposit or emit and, when used alone as a noun, includes addition, deposit or emission;

**“drainage works”** means any works belonging to or operated by the City for the collection, transmission, treatment or disposal of uncontaminated water or stormwater, including a storm sewer or any part of such works, but does not include plumbing or other works to which the *Building Code Act, 1992, S.O. 1992, c. 23*, as amended, applies;

**“foundation drain”** means a perforated pipe installed beneath the foundation of a building or structure for the purpose of collecting flows from groundwater infiltration and conveying the flows to a sump pump for disposal on the surface of the ground or to a private service connection or drainage system for disposal in a municipal storm sewer;

**“fuels”** means alcohol, gasoline, naphtha, diesel fuel, fuel oil or any other ignitable substance intended for use as a fuel;

**“grab sample”** means a minimum volume of uncontaminated water, stormwater, private water or effluent suitable for analytical testing which is collected over a period not exceeding 15 minutes;

**“groundwater”** means water below the surface of the ground that occupies a zone of the earth's mantle that is saturated with water;

**“hailed sewage”** means waste removed from a cesspool, a septic tank system, a privy vault or privy pit, a chemical toilet, a portable toilet, or a sewage holding tank within the meaning of R.R.O. 1990, Reg 347, as amended, made under the EPA;

**“hailed waste”** means any non-hazardous liquid industrial waste which is transported to and deposited into any location in the drainage works, excluding hauled sewage;

**“hazardous industrial waste”** means hazardous industrial waste within the meaning of R.R.O. 1990, Reg 347, as amended, made under the EPA;

**“hazardous waste chemical”** means hazardous waste chemical within the meaning of R.R.O. 1990, Reg 347, as amended, made under the EPA;

**“ignitable waste”** means a substance that:

- (a) is a liquid, other than an aqueous solution containing less than 24 per cent alcohol by volume with a flash point less than 93 degrees Celsius, as determined by the Tag Closed Cup Tester (ASTM D-56-97a), the Setaflash Closed Cup Tester (ASTM D-3828-97 or ASTM D-3278-96e1), the Pensky-Martens Closed Cup Tester (ASTM D-93-97), or as determined by an equivalent test method;
- (b) is a solid and is capable, under standard temperature and pressure, of causing fire through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burns so vigorously and persistently that it creates a danger;
- (c) is an ignitable compressed gas (Class 2, Division D) as defined in the regulations under the *Transportation of Dangerous Goods Act*, 1992, S.C. 1992, as amended; or
- (d) is an oxidizing substance (Class 5, Divisions 1 and 2) as defined in the regulations under the *Transportation of Dangerous Goods Act*, 1992, S.C. 1992, as amended.

**“industrial”** shall mean of or pertaining to industry, manufacturing, commerce, trade, business or institutions as distinguished from domestic or residential;

**“industry”** means any owner or operator of premises which carry on operations or activities of an industrial, commercial, non-profit or institutional nature or purpose and from which there is a discharge of any matter directly or indirectly into a City sanitary sewer, combined sewer or storm sewer;

**“industrial process area”** means any industrial building, property or land area which during manufacturing, processing or storage comes into direct contact with any raw material, intermediate product, finished product, by-product or waste product;

**“inspector”** means a person authorized by the City to carry out observations and inspections and take samples as prescribed by this article, and includes the Director and an Officer;

**“interceptor”** means a receptacle that is designed and installed to prevent oil, grease, sand or other materials from passing into a drainage system;

**“monitoring manhole”** means an access point in a private sewer connection to allow for observation, sampling and flow measurement of the uncontaminated water, stormwater, private water or effluent therein;

**“matter”** includes any solid, liquid or gas;

**“municipal sewer connection”** means that part of any drain leading from the private sewer connection and connected to the municipal sewer and located within the limits of the public road allowance, or other public lands or public land interests held for sewerage purposes;

**“nuclear substance”** means:

- (a) deuterium, thorium, uranium or an element with an atomic number greater than 92;
- (b) a derivative or compound of deuterium, thorium, uranium or of an element with an atomic number greater than 92;
- (c) a radioactive nuclide;
- (d) a substance that is prescribed as being capable of releasing nuclear energy or as being required for the production or use of nuclear energy; or
- (e) a radioactive substance or radioactive thing that was used for the development or production, or in connection with the use, of nuclear energy;

as defined under the *Nuclear Safety and Control Act 1997, c. 9.*

**“non-contact cooling water”** means water which is used to reduce temperature for the purpose of cooling and which does not come into direct contact with any raw material, intermediate product other than heat, or finished product;

**“occupier or occupant”** includes:

- (a) a person residing at the property;
- (b) a person entitled to the possession of the property if there is no other person residing on or in the property; or
- (c) a tenant or leaseholder of the property or a part of the property.

**“Officer”** means a person appointed by Council as a municipal law enforcement officer, a by-law enforcement officer of the City, or a person appointed under this By-law to administer or enforce this By-law and includes a person employed by the City whose duties are to enforce this By-law;

**“operator”** is a person or party responsible for the operations and maintenance of an industrial, commercial or institutional premises or multi-residential building(s);

**“owner”** means a person who has a right, title, estate, or interest in a property, other than that of only an occupant and, where that person is a corporation, shall include the officers, directors and shareholders of that corporation, and shall include any person with authority or power over or control over that property on the behalf of an owner.

**“pathological waste”** means pathological waste within the meaning of R.R.O. 1990, Reg 347, as amended, made under the *Environmental Protection Act*, R.S.O.1990 c. E.19 (EPA);

**“PCBs”** means any monochlorinated or polychlorinated biphenyl or any mixture of them or any mixture that contains one or more of them;

**“permit”** means a storm sewer discharge permit issued in accordance with this By-law and includes a Groundwater Discharge Permit and a Temporary Storm Sewer Discharge Permit;

**“permit fee”** means fees charged by the City under this By-law to process, review and administer a permit application and for inspection(s) as may be prescribed from time to time in the City’s Rates and Fees By-law;

**“permit holder”** means:

- (i) the owner or occupier of the property in relation to which a permit has been issued; or
- (ii) an agent that has obtained a permit on behalf of the owner

**“person”** means a natural person, an association, a partnership or a corporation, municipality and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;

**“pesticide”** means a pesticide regulated under the *Pesticides Act*, R.S.O. 1990, c. P.11 (PA);

**“pH”** means the logarithm to the base 10 of the reciprocal of the concentration of hydrogen ions in moles per litre of solution as determined in accordance with Standard Methods;

**“private sewer connection”** means that part of any drain or system of drains, including drains or subsurface drainage pipe for surface or subsurface drainage of the land in or adjacent to a building, lying within the limits of the private lands and leading to a municipal sewer connection;

**“private water”** means water originating from:

- (a) stormwater and/or groundwater accumulating or collected on private lands;
- (b) a private water drainage system;
- (c) a well or any other subsurface extraction of groundwater;
- (d) a permanent or temporary wastewater pond, water retention site or other area or site of surface water collection, whether natural or man-made, created, used or caused by or for renovation, repair, maintenance, demolition, construction-related or land development activity or activities;
- (e) a tank, tanker truck, vessel, or other means of water storage and not supplied by the City;
- (f) the permanent or temporary alteration of a natural or pre-existing drainage pattern; or

- (g) any combination of the above-noted activities, where the water from such activity would be discharged directly or indirectly to a municipal storm sewer or sewer connection thereto and such activity is related to renovation, repair, maintenance, demolition construction or land development activity or activities at a property.

**“private water drainage system”** means a subsurface drainage system which may consist of but is not limited to weeping tile(s), foundation drain(s), private water collection sump(s), private water pump or any combination thereof for the disposal of private water on the surface of the ground or to a private sewer connection or drainage system for disposal in a municipal sewer;

**“property” or “premises”** means a parcel of land having specific boundaries which is capable of legal transfer;

**“Rates and Fees By-law”** means City of Burlington By-law 41-2022 to impose Rates and Fees, as amended or replaced from time to time;

**“reactive waste”** means a substance that:

- (a) is normally unstable and readily undergoes violent changes without detonating;
- (b) reacts violently with water;
- (c) forms potentially explosive mixtures with water;
- (d) when mixed with water, generates toxic gases, vapours or fumes in a quantity sufficient to present danger to human health or the environment;
- (e) is a cyanide or sulphide bearing waste which, when exposed to pH conditions between 2 and 12.5, can generate toxic gases, vapours or fumes in a quantity sufficient to present danger to human health or the environment;
- (f) is capable of detonation or explosive reaction if it is subjected to a strong initiating source or if heated under confinement;
- (g) is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure; or
- (h) is an explosive (Class 1) as defined in the regulations under the *Transportation of Dangerous Goods Act, 1992, S.C. 1992*, as amended.



**“Region”** means the Regional Municipality of Halton;

**“sanitary sewer”** means a sewer for the collection and transmission of domestic or industrial sewage or any combination thereof;

**“severely toxic waste”** means waste containing any contaminant listed in Schedule 3 of R.R.O. 1990, Reg 347, as amended, made under the Environmental Protection Act, R.S.O. 1990 c. E. 19 (EPA);

**“sewage”** means any liquid waste containing human, animal, vegetable, mineral or chemical matter in solution or in suspension but does not include stormwater or uncontaminated water;

**“sewage works”** means any works belonging to or operated by Halton Region for the collection, transmission, treatment or disposal of sewage, or any part of such works;

**“sewer”** means a connection, pipe, conduit, drain, open channel or ditch for the collection and transmission of sewage or stormwater;

**“spill”** means a direct or indirect discharge or deposit to the drainage works or the natural environment which is abnormal in quantity or quality in light of all circumstances of the discharge;

**“standard methods”** means a procedure or method set out in Standard Methods for the Examination of Water and Wastewater published jointly by the American Public Health Association, American Water Works Association and the Water Environment Federation, latest edition;

**“standards and specifications”** means the City of Burlington’s standard construction specifications and drawings, as amended, including but not limited to those for sewers, as prescribed by the Director of Engineering Services;

**“storm sewer”** means a sewer for the collection and transmission of water, stormwater, drainage from land or from a watercourse or any combination thereof;

**“stormwater”** means water from rainfall, other natural precipitation or the melting of snow or ice or a combination of the foregoing;

**“subsurface drainage pipe”** means a pipe that is installed underground to intercept and convey subsurface water, and includes foundation drain pipes;

**“surface water”** means water originating from the release of water vapour from the atmosphere that falls upon and spreads or flows across the land's surface;

**“total PAHs”** means the calculated total of all the polycyclic aromatic hydrocarbons listed under Canada Ontario Agreement Tier I and II Substances Lists, i.e., anthracene, benzo(a)pyrene, benzo(a)anthracene, benzo(e)pyrene, benzo(b)fluoranthene, benzo(j)fluoranthene, benzo(k)fluoranthene, benzo(g,h,i)perylene, chrysene, dibenzo(a,h)anthracene, dibenzo(a,i)pyrene, dibenzo(a,j)acridine, 7Hdibenzo(c,g)carbazole, dinitropyrene, fluoranthene, indeno(1,2,3-c,d)pyrene, perylene, phenanthrene, and pyrene;

**“uncontaminated water”** means water with a level of quality which is typical of potable water normally supplied by the Region;

**“waste disposal site leachate”** means the liquid containing dissolved or suspended contaminants which emanates from waste and is produced by water percolating through waste or by liquid in waste;

**“waste radioactive prescribed substances”** means uranium, thorium, plutonium, neptunium, deuterium, their respective derivatives and compounds and such other substances as the Atomic Energy Control Board may by regulation designate as being capable of releasing atomic energy or as being requisite for the production, use or application of atomic energy;

**“wastewater”** means any liquid waste containing animal, vegetable, mineral or chemical matter in solution or in suspension but does not include stormwater or uncontaminated water;

**“watercourse”** means an open channel, ditch or depression either natural or artificial, in which flow of water occurs either continuously or intermittently;

**“weeping tile”** means a perforated pipe installed along the perimeter of a building or structure for the purpose of collecting flows from groundwater and/or surface water infiltration and conveying the flows to a sump pump for disposal on the surface of the ground or to a private service connection or drainage system for disposal in a municipal sewer.

**“xylenes”** means the total calculated sum of meta- and para xylene and ortho xylene.

## **PART 2: APPLICATION OF BY-LAW**

- 2.1 This By-law applies to the discharge of matter into the drainage works of the City of Burlington and to any connections to the drainage works system.
- 2.2 Nothing in this By-law is to be construed as permitting anything which is prohibited under federal or provincial legislation, and where there is a conflict in

this respect between federal or provincial legislation and this By-law, the federal or provincial legislation prevails.

- 2.3 Any reference to any act, statute, regulation, By-law, rule, standard, specification, policy or to a provision thereof shall be deemed to include a reference to any act, statute, regulation, By-law, rule, standard, specification, policy or provision enacted in substitution or amendment thereof.

### **Exception**

- 2.4 This By-law does not apply to the discharge of any matter or sewage, in an emergency, as determined by the Regional or Provincial Medical Officer of Health.

## **PART 3: OBLIGATIONS AND PROHIBITIONS**

- 3.1 No person shall:

- (a) hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law;
- (b) discharge, directly or indirectly, or deposit or cause or permit the discharge or deposit of matter into the drainage works or any connection to the drainage works in circumstances where water has been added to the matter for the purposes of dilution to achieve compliance with this By-law;
- (c) discharge, directly or indirectly, or deposit or cause or permit the discharge or deposit of private water into the drainage works or a connection to the drainage works without a permit issued in accordance with this By-law, or any other applicable City of Burlington development approval;
- (d) fail to comply with the requirements of Part 8 of this By-law;
- (e) damage, tamper with or permit the damaging of or tampering with:
  - (i) any part of a drainage works;
  - (ii) any structure, appurtenance, or equipment which is part of the drainage works; or
  - (iii) any permanent or temporary device installed in a drainage works or in a connection to any drainage works for the purpose of measuring

the flow of, sampling or otherwise monitoring private water, or drainage from land or a watercourse;

- (f) unless specifically authorized by the Director, enter any drainage works;
- (g) contravene, or cause or permit the contravention of the terms or conditions of a permit issued under this By-law or any policy or guideline made or issued under this By-law;
- (h) provide false information or give a false statement to an Officer or an employee and/or agent of the City while in the lawful exercise of a power or duty under this By-law; or,
- (i) provide false or inaccurate information in an application for a permit issued under this By-law or in any document or thing required to be submitted by this By-law.

3.2 Every person shall comply with any order or notice issued under the authority of this By-law.

#### **PART 4: DISCHARGES TO STORM SEWER AND DRAINAGE WORKS**

4.1 No person shall, directly or indirectly, discharge or deposit or cause or permit the discharge or deposit of matter of any type into a storm sewer or drainage works or connection to any storm sewer or drainage works, which may or could:

- (a) interfere with the proper operation of a storm sewer or drainage works;
- (b) obstruct or restrict a storm sewer or drainage works or the flow therein;
- (c) damage a storm sewer or drainage works;
- (d) impair the quality of the water in any watercourse;
- (e) result in the failure of any discharge from the storm sewer or drainage works to comply with the requirements of an environmental compliance approval or with federal or provincial legislation;
- (f) result in any hazard or other adverse impact to any person, animal, property or vegetation;
- (g) contravene or result in the contravention of an Environmental Compliance Approval or provisional Environmental Compliance Approval issued under

the *Ontario Water Resources Act* or the *Environmental Protection Act* (Ontario) with respect to the storm sewer or drainage works, its discharge, or any combination of the storm sewer, the drainage works and its discharge;

- (h) have one or more of the following characteristics:
  - (i) visible film, sheen or discolouration;
  - (ii) two or more separate layers;
- (i) contain one or more of the following:
  - (ii) acute hazardous waste chemicals;
  - (iii) blowdown water;
  - (iv) combustible liquids;
  - (v) floating debris;
  - (vi) fuel;
  - (vii) hauled sewage;
  - (viii) hauled waste;
  - (ix) hazardous industrial waste;
  - (x) hazardous waste chemicals;
  - (xi) ignitable waste;
  - (xii) pathological waste;
  - (xiii) PCBs, except where approved by an Ontario Provincial Ministry as part of a legal instrument, such as a valid Environmental Compliance Approval, a valid Certificate of Approval or order, and that legal instrument has been complied with;
  - (xiv) pesticides, except for those used by the City of Burlington for the following purposes:
    - 1. health and safety;
    - 2. protection of the natural environment; or

3. other uses in compliance with the Ontario Ministry of the Environment, Conservation and Parks legislation;

- (xv) reactive waste;
- (xvi) severely toxic waste;
- (xvii) sewage;
- (xviii) waste radioactive prescribed substances;
- (xix) waste disposal site leachate;
- (xx) a substance from raw materials, intermediate or final product, used or produced in, through or from an industrial process; or
- (xxi) a substance used in the operation or maintenance of an industrial site;
- (xxii) E. coli colonies in excess of 200 per 100 mL;
- (xxiii) contaminants from raw materials, intermediate or final products or wastewater from an industrial operation;
- (xxiv) a concentration in excess of any one or more of the limits in Table 1 entitled "Limits for Storm Sewer and Drainage Works Discharge."

**Table 1 - Limits for Storm Sewer and Drainage Works Discharge**

Parameter	Limit	Unit	Parameter	Limit	Unit
Arsenic (total)	0.02	mg/L	Methylene chloride	0.0052	mg/L
Benzene	0.002	mg/L	Nickel (total)	0.08	mg/L
Biochemical Oxygen Demand	15	mg/L	Nonylphenol ethoxylates	0.01	mg/L
Bis (2-ethylhexyl) phthalate	0.0088	mg/L	Nonylphenols	0.001	mg/L
Cadmium (total)	0.008	mg/L	PCBs	0.0004	mg/L
Chloroform	0.002	mg/L	Pentachlorophenol	0.002	mg/L
Chromium (hexavalent)	0.04	mg/L	pH	6.5 to 8.5	
Chromium (total)	0.08	mg/L	Phenolics (4AAP)	0.008	mg/L
Copper (total)	0.04	mg/L	Phosphorus (total)	0.4	mg/L
Cyanide (total)	0.02	mg/L	Selenium (total)	0.02	mg/L
Dichlorobenzene, 1, 2-	0.0056	mg/L	Silver (total)	0.12	mg/L
Dichlorobenzene, 1, 4-	0.0068	mg/L	Suspended Solids (total)	15	mg/L

Dichlorobenzidine, 3,3'-	0.0008	mg/L	Temperature	< 30	°C
Dichloroethylene, Cis-1,2-	0.0056	mg/L	Tetrachlorethane, 1, 1, 2, 2-	0.017	mg/L
Dichloropropylene, Trans-1,3-	0.0056	mg/L	Tetrachloroethylene	0.0044	mg/L
Di-n-butyl phthalate	0.015	mg/L	Toluene	0.002	mg/L
Ethyl benzene	0.002	mg/L	Total PAHs	0.002	mg/L
Lead (total)	0.12	mg/L	Trichloroethylene	0.0076	mg/L
Manganese (total)	0.05	mg/L	Xylenes (total)	0.0044	mg/L
Mercury (total)	0.0004	mg/L	Zinc (total)	0.04	mg/L

- (j) contain private water, except where, and only to the extent that:
  - (i) the person discharging has satisfied the Director, prior to discharging, that all other requirements of this By-law have been met; and
  - (ii) the Director has provided prior written approval by way of a permit being issued in accordance this By-law on such terms and conditions as the Director deems appropriate, including but not limited to those requirements in part 6 of this By-law.

**PART 5: DISCHARGE SELF-MONITORING**

- 5.1 Where a permit or order or notice has been issued by the Director to any person discharging to a City drainage works, the person shall carry out all monitoring and/or sampling of any discharge to the drainage works as required by the Director, and provide the results to the City in accordance with the permit or order or notice from the Director.
- 5.2 The obligation set out in or arising out of section 5.1 shall be completed at the expense of the person discharging unless the Director has agreed in writing to share the expense with the person discharging.

**PART 6: PERMITS**

**General**

- 6.1 A person may discharge or deposit private water into a storm sewer or drainage works or a connection to a storm sewer or drainage works, which discharge or deposit would otherwise be prohibited by this By-law, where authorized, and only to the extent of such authorization, by:
  - (a) a Groundwater Discharge Permit for permanent groundwater control, including conditions for payment, restrictions on the discharge, and such

other terms and conditions as may be deemed appropriate by the Director;  
or

- (b) a Temporary Storm Sewer Discharge Permit for temporary private water dewatering, including conditions for payment, restrictions on the discharge, and such other terms and conditions as may be deemed appropriate by the Director.

6.2 A person applying for a permit shall submit a completed application to the Director that is signed, and which includes, as applicable:

- (a) the name, municipal address, telephone number and email address of the applicant, owner and operator;
- (b) technical reports, groundwater quality test reports, groundwater treatment details, drawings identifying the location of all required equipment, as may be required by the Director to determine if the permit should be issued;
- (c) any revised or additional information or documentation as may be required by the Director to determine if the permit should be issued; and
- (d) the payment of the permit fee, as included in the attached Schedule 1, in a manner as required by the Director.

6.3 If no permit has been issued pursuant to this By-law and no active steps are being taken by the applicant to provide the information or documents required under section 6.2, the application shall be deemed withdrawn one year after its filing, and the applicant shall not be entitled to a refund of any prescribed fees paid.

6.4 Where a person has entered into a permit with the City in respect to the discharge or deposit of private water, that person shall notify the Director in writing, within 10 days of the occurrence, of:

- (a) any change in ownership of the property upon or from which the discharge of private water is occurring;
- (b) in the case where such party is a lessee or licensee of the property upon or from which the discharge of private water is occurring, the termination of such lease or license;
- (c) in the case where a corporation is a party to such a permit, any change in control or majority ownership of such corporation;
- (d) in the case where a partnership is a party to such a permit, any change in the partnership status or partners;



- (e) any change in the information contained in an application for a permit;
  - (f) any change in the information contained in a permit that has been issued;
  - (g) any change in the characteristics of the discharge for which the permit has been issued; or
  - (h) any change in the manner of discharge or deposit of the private water by such person.
- 6.5 Prior to the issuance of a permit by the City in respect to the discharge or deposit of private water, where the party is a corporation, such party shall deliver to the City a true copy of its letters of incorporation, letters patent or similar instrument of incorporation and any amendments to such instruments of incorporation and, within 10 days of the occurrence of same, shall deliver to the City a true copy of any change in status or name of such corporation since the date of the issuance of the permit.
- 6.6 Prior to the approval of any permit, the Director may require the applicant to provide such plans, specifications, reports, studies, data, analytical results, samples, photographs, records, documentation or other information that would enable the Director to fully assess whether or not the actual or potential discharge could contravene this By-law or detrimentally affect the City's inhabitants, its drainage works infrastructure or the environment.

### **Altering or Revoking a Permit or Terms or Conditions of a Permit**

- 6.7 The Director may suspend, revoke, or alter a permit, where:
- (a) any term or condition of a permit, or applicable policy or guideline, is not complied with;
  - (b) any of the provisions of this By-law are not complied with;
  - (c) any order(s) or notices under this By-law have not been complied with;
  - (d) a situation of immediate threat or danger to any person, property, plant or animal life, water or drainage works;
  - (e) the permit holder fails to notify the Director forthwith of any of the changes referred to in section 6.4;

- (f) the permit holder fails to apply forthwith for an amendment to a permit where the characteristics of the discharge for which the permit has been issued have changed;
  - (g) the permit holder is in arrears to the City for municipal property taxes, or for fees and charges related to the use of the City's drainage works, including any fees and charges referred to in this By-law;
  - (h) the permit was issued because of mistaken, false or incorrect information received by the Director; or
  - (i) the Director reasonably determines that it necessary to impose any new term and condition or alter or revoke any term and condition of a permit.
- 6.8 Except in the case of an immediate threat or danger as described in section 6.7(d), in which case the Director may immediately suspend, revoke or alter a permit, before taking action under section 6.7, the Director shall notify the permit holder, in writing, 30 days in advance of the proposed action, and give the holder an opportunity to make written submissions about the proposed action, and the holder has 15 days from deemed receipt of the written notice to provide submissions to the Director.
- 6.9 If the Director decides, after consideration of any written submissions made by a permit holder under section 6.8, to proceed with or discontinue the proposed action under section 6.7, the Director shall notify the permit holder, in writing, and set out the reasons for decision.
- 6.11 The Director shall consider submissions permitted under section 6.8, but shall not hold a hearing into the matter, and the Director's decision suspending, altering or revoking a permit is final and not subject to appeal.
- 6.12 The Director may reinstate a suspended or revoked permit, subject to any terms and conditions, where the Director is satisfied that the discharge no longer poses a threat or danger to a drainage works or to any person, animal, property, watercourse or vegetation, and that the permit holder is no longer in violation of any of the provisions of this By-law.

### **Permit Terms and Requirements**

- 6.13 A permit is the property of the City and may not be transferred or assigned without the written approval of the Director.
- 6.14 A permit expires on the earlier of:

- (a) The expiry date indicated on the permit (1-year term); or
- (b) On notice of revocation by the Director.

6.15 An extension for a Temporary Storm Sewer Discharge Permit may be issued at the discretion of the Director if:

- (a) Additional time is required for private water dewatering during construction; or
- (b) Additional documentation is provided, justifying this need.

### **Request for Reconsideration**

6.16 A person who has received a notice of refusal to issue a permit from the Director may request a reconsideration by the Director by sending a request for review to the Director in writing, within 14 days of receiving the notice of refusal.

6.17 On a review of the Director's decision to refuse a permit and in exercising its authority under this part, the Director may confirm, modify or rescind the decision to refuse the permit

6.18 The decision of the Director under this part is final.

## **PART 7: SAMPLING AND ANALYSIS**

7.1 Except as otherwise specifically provided in this section, all tests, measurements, analyses and examinations of groundwater or private water required pursuant to or referenced in this By-law, shall be carried out by an accredited laboratory in accordance with those methods determined by the Director as appropriate for the type of test, measurement, analysis, or examination undertaken, which may include but not limited to:

- (a) standard methods;
- (b) established methods developed or approved, or both, by the Ontario Ministry of the Environment, Conservation and Parks;
- (c) methods developed or approved, or both, by Environment Canada; or
- (d) methods developed by U.S. Environmental Protection Agency or International Standards Organizations.

7.2 Compliance or non-compliance with this part may be determined by the analysis of a grab sample or a composite sample done in accordance with section 7.1, may contain additives for its preservation, and may be collected manually or by using automatic sampling device.

- 7.3 Where there is no monitoring manhole meeting the requirements of this By-law, the Director may, by written notice, make use of an alternate device or facility for the purpose of sampling a discharge to the drainage works.

## **PART 8: SPILLS**

- 8.1 In the event of a spill to the drainage works, the person responsible and/or the person having the charge, management and control of the spill shall immediately notify the Director, the Director of Roads, Parks and Forestry and the Ministry of Environment, Conservation and Parks and provide any information with regard to the spill that is requested.
- 8.2 The duty imposed by section 8.1 comes into force immediately when the person responsible and/or the person having the charge, management and control of the spill knows or ought to know that the matter referred to in that subsection has the potential to enter or is spilled into any drainage works.
- 8.3 For any discharge in section 8.1 for which the person responsible and/or the person having the charge, management and control of the spill is required to forthwith notify the Director and the Director of Roads, Parks and Forestry, the notification shall include the following information:
- (a) location where the spill occurred;
  - (b) name and telephone number of the person who reported the spill and the location and time where that person can be contacted;
  - (c) date and time of the spill;
  - (d) material spilled;
  - (e) characteristics of the material spilled;
  - (f) volume of material spilled;
  - (g) work completed and/or still in progress in the mitigation of the spill *thus far*; and
  - (h) whether the spill was reported to the Ministry of the Environment, Conservation and Parks and any other agency and, if so, the date and time such report was made.
- 8.4 The person responsible and/or the person having the charge, management and control of the spill shall provide a detailed report on the spill to the Director and

the Director of Roads, Parks and Forestry within 5 days after the spill, containing the following information to the best of the person's knowledge:

- (a) location where spill occurred;
- (b) name and telephone number of person who reported the spill;
- (c) date and time of spill;
- (d) material spilled;
- (e) characteristics of material spilled;
- (f) volume of material spilled;
- (g) duration of spill event;
- (h) work completed and/or still in progress in the mitigation of the spill; and
- (i) preventative actions being taken to ensure the situation does not occur again.

8.5 Upon receipt of the detailed report specified in section 8.4, the Director and the Director of Roads, Parks and Forestry may require a further more detailed submission by the responsible person outlining preventative actions being undertaken which, at the sole discretion of the Director of Roads, Parks and Forestry, may require the development of a spills response contingency plan which must be updated on an as needed basis and copies submitted to the Director and the Director of Roads, Parks and Forestry within 30 days of the spill.

8.6 The person responsible for the spill into the drainage works and/or the person having the charge, management and control of the spill shall do everything reasonably possible to contain the spill, protect the health and safety of all persons, minimize damage to property, protect the environment, clean up the spill and contaminated residue and restore the affected areas to its condition prior to the spill.

8.7 All costs incurred by the City as a result of such discharge shall be borne by the person responsible for the spill.

## **PART 9: MONITORING MANHOLE AND INSPECTION PORTS**

9.1 Any person as the owner or operator of commercial, institutional or industrial premises, or multi-residential building(s) with one or more connections to the drainage works shall, at their expense, install and maintain in good repair in each

connection a suitable monitoring manhole to allow observation, sampling and flow measurement of the groundwater or private water therein, provided that where installation of a monitoring manhole is not possible, an alternative device or facility may be substituted with the prior written approval of the Director.

- 9.2 Any monitoring manhole or alternate device shall be located at the property line of the person's property and in accordance with City standards and specifications.
- 9.3 Each monitoring manhole or alternate device shall be designed, constructed and installed in accordance with good engineering practice and the City's standards and specifications and shall be constructed and maintained by the owner or operator of the premises at his or her expense.
- 9.4 The owner or operator of an industrial, commercial or institutional premises or multi-residential building(s) shall at all times ensure that every monitoring manhole or alternate device required by this By-law is accessible to the Director for the purposes of separately observing, sampling and measuring the flow of groundwater or private water therein.
- 9.5 No person shall structurally modify any monitoring manhole or alternate device or install devices which may result in interfering with the City's access or the installation and observation of the City's devices used for the purpose of observation, sampling and measuring the flow of groundwater or private water without the prior consent of the Director.
- 9.6 Any person as the owner or operator of commercial, institutional or industrial premises, or multi-residential building(s) with one or more connections to the drainage works shall, at their expense, install and maintain in good repair in each connection a suitable inspection port to allow observation, sampling and flow measurement of the groundwater or private water therein.
- 9.7 Any inspection port shall be located on the person's property and shall be for the purpose of observation, sampling and flow measurement of the groundwater or private water therein, if necessary, prior to combination and/or dilution with other private water (i.e. within an underground stormwater storage tank).

## **PART 10: CONFIDENTIAL INFORMATION**

- 10.1 All information submitted to and collected by the City will, except as otherwise provided in this section, be available for disclosure to the public in accordance with the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA).

- 10.2 In the event that any person in submitting information to the City or to the Director in any form, as required under this By-law, where such information is confidential or proprietary or otherwise may be exempt from disclosure under the MFIPPA, the person submitting the information shall so identify that information upon its submission to the City or the Director and shall provide sufficient details as to the reason for its purported exemption from disclosure.

## **PART 11: ENFORCEMENT, REMEDIAL ACTIONS AND RECOVERY OF EXPENSES**

### **Entry and Inspections**

- 11.1 A person authorized to enforce this By-law may enter on any land, including private property, at any reasonable time in accordance with the conditions set out in the *Municipal Act, 2001* for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (a) an order or other requirement under this By-law, including any policy or guideline made or issued in connection to this By-law;
  - (b) a permit or a condition of a permit issued under this By-law; or
  - (c) an order made under section 431 of the *Municipal Act, 2001*.
- 11.2 For the purposes of the inspection under section 11.1 of this By-law, and in accordance with the conditions set out in section 436 of the *Municipal Act, 2001*, a person authorized to enforce this By-law may:
- (a) require the production for inspection of documents or things relevant to the inspection;
  - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
  - (c) require information from any person concerning a matter related to the inspection; and
  - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.
- 11.2 Any person authorized to enforce this By-law may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the *Municipal Act, 2001*, in accordance with the conditions set out

in that section, where they have been prevented or is likely to be prevented from carrying out an inspection under this By-law.

## Orders

- 11.3 If an Officer is satisfied that a contravention of this By-law or a permit has occurred, they may make an order requiring the person who contravened the By-law or the permit, or who has caused or permitted the contravention, or the owner or occupier of a premises on which the contravention occurred, to discontinue the contravening activity.
- 11.4 An order under section 11.3 shall set out:
- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the premises on which the contravention occurred; and
  - (b) the date or dates by which there must be compliance with the order, which may be of immediate effect should the Officer determine that the circumstances warrant.
- 11.5 If an Officer is satisfied that a contravention of this By-law or a permit has occurred, they may make an order requiring the person who has contravened this By-law or who caused or permitted the contravention or the owner or occupier of a premises on which the contravention occurred, to do work to correct or rectify the contravention.
- 11.6 An order under section 11.5 shall set out:
- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the premises on which the contravention occurred;
  - (b) the work to be completed by the owner, occupier or any other person who caused or permitted the contravention in order to rectify the contravention, which may include but is not limited to requiring:
    - (i) prior to performing any work or activities, all necessary permits or other approvals be applied for and obtained;
    - (ii) examinations or tests be conducted or samples be taken for the purpose of determining the cause of the contravention and the remedial measures that are necessary to correct the contravention, and that such examinations, tests or samples be supplied to the Officer together with any accompanying reports required in the order;



- (iii) appropriate treatment or plan for a discharge that does not comply with this By-law be provided;
  - (c) the date or dates by which the work required by the order must be completed; and
  - (d) notice that if the order is not completed in compliance with the order, then the work may be done at the expense of the person ordered to do the work; and
  - (e) contact information for the City's representative.
- 11.7 An order under this By-law may require the permit holder, an owner, an occupier, or any other person who caused or permitted the contravention, to pay a prescribed compliance inspection fee, or any other prescribed applicable fee(s), by a specified date and time.
- 11.8 Without limiting section 11.3 or 11.5, an order under section 11.3 or 11.5 of this By-law may include, among other requirements, an order that the drainage works or private sewer connection or municipal sewer connection to any storm sewer carrying the prohibited discharge be stopped or disconnected until such time as measures are undertaken by such persons, owners or occupants satisfactory to the Director to eliminate the prohibited discharge. All expenses incurred by the City in connection with any order under this section shall be reimbursed to the City by the persons, owners or occupants at the time of reconnection or unstopping of the sewer connections
- 11.9 Where a time frame is set out in an order or other document for carrying out any action, an Officer may extend the time for compliance beyond the established time frame provided such extension is required and is acceptable to the Officer.
- 11.10 If an Officer is satisfied that a contravention of this By-law or a permit has occurred, the owner of the premises on which the contravention has occurred shall be presumed to have caused or permitted the contravention, which presumption may be rebutted by the owner by evidence to the contrary on a balance of probabilities.

### **City Carrying Out Work**

- 11.11 Where a person does not comply with a direction or a requirement, including an order or a condition of a permit under this By-law, to do a matter or thing, the Director, with such assistance of others as may be required, may carry out such direction, requirement or order at the person's expense.

- 11.12 Where the costs of doing a matter or thing under section 11,11 are estimated to be:
- (a) Up to but not including \$100,000, the Director may proceed without further approval and in accordance with the City's Procurement By-law; or
  - (b) \$100,000 or greater, the Director may proceed with approval of an authorized person or of Council and in accordance with the City's Procurement By-law.
- 11.13 The City may recover the costs of doing a matter or thing under section 11.11 by means of any one or more of:
- (a) bringing an action;
  - (b) adding the costs to the tax roll and collecting them in the same manner as property taxes and such costs shall include an annual interest rate of 15 per cent commencing on the day the City incurs the costs and ending on the day the costs, including the interest, are paid in full;
  - (a) realizing on security provided for this purpose; or,
  - (d) charging a prescribed fee, where applicable, or as otherwise set and approved by Council from time to time.
- 11.12 The amount of the City's costs, including interest to the date payment is made in full, constitutes a lien upon the land, upon the registration of a notice of lien upon the land.

## **PART 12: OFFENCES**

- 12.1 Any person who contravenes any provision of this By-law or an order is guilty of an offence and upon conviction is liable to a fine and such other penalties as provided for by the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended.
- 12.2 All contraventions of any provision of this By-law or an order are designated as multiple offences and continuing offences pursuant to section 429(2) and (5) of the *Municipal Act, 2001*.
- 12.3 Upon conviction of an offence under this By-law, every person is liable to a

fine as follows:

- (a) a person other than a corporation, is liable for every day or part thereof upon which such offence occurs or continues to a fine not less than \$500 and not more than \$100,000 for a first offence and not less than \$1,000 and not more than \$100,000 for a subsequent offence;
  - (b) a person that is a corporation, is liable for every day or part thereof upon which such offence occurs or continues to a fine of not less than \$1,000 and not more than \$100,000 for a first offence and not less than \$5,000 and not more than \$100,000 for a subsequent offence;
  - (c) in the case of multiple offences, for each offence included in the multiple offence, a fine of not less than \$1,000 and no more than \$10,000 and the total of all fines for each included offence is not limited to \$100,000.
- 12.4 Any person who contravenes an order made under this By-law, or an officer or director of a corporation who knowingly concurs in such a contravention by the corporation, is guilty of a continuing offence and upon conviction is liable to a daily fine or penalty of a maximum of \$5,000 for each day or part of a day that the offence continues, and despite section 12.3, the total of all the daily fines imposed for an offence is not limited by the fine amounts listed in that section.
- 12.5 Every person who is convicted of an offence under this By-law may be liable, in addition to the fines established under sections 12.1-12.4, to a special fine, which may exceed \$100,000, designed to eliminate or reduce any economic advantage or gain from contravening this By-law or failing to comply with an order made under this By-law.
- 12.6 Where a person has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order:
- (a) prohibiting the continuation or repetition of the offence by the person convicted; and
  - (b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.
- 12.7 Any costs payable or associated with an order of the court are in addition to, and not in substitution for, the payment of any penalty imposed by the court for the commission of an offence under this By-law or any other applicable

legislation.

### **PART 13: ADMINISTRATIVE PENALTIES**

- 13.1 This By-law in its entirety is designated as a By-law to which the City's Administrative Penalties By-law applies.
- 13.2 Every person who contravenes this By-law, and each owner, when given a penalty notice in accordance with the City's Administrative Penalties By-law, shall be liable to pay the City an administrative penalty in the amount specified in the Administrative Penalties By-law, and any fees related thereto.
- 13.2 Where an administrative penalty and administrative fee(s) respecting the administrative penalty are not paid within sixty days after the date that they become due and payable, the treasurer of the City may add the administrative penalty and administrative fee(s) to the tax roll for any property for which all of the owners are responsible for paying the administrative penalty and administrative fee(s), and collect it in the same manner as municipal taxes.

### **PART 14: AUTHORITY**

#### **General**

- 14.1 The Director shall be responsible for the administration and enforcement of this By-law, including but not limited to:
- (a) arranging for:
    - (i) the assistance or work of City staff, City agents or the assistance of police officers;
    - (ii) the making of orders or other requirements and the imposition of conditions as authorized under this By-law;
    - (iii) the obtaining of court orders or warrants as may be required; and
    - (iv) the commencement of such actions on behalf of the City to recover costs or restrain contravention of this by-law as deemed necessary.
- 14.2 The Director is authorized to:
- (a) prescribe the form of any notices, applications, permits, policies, guidelines and documents required or permitted pursuant to this By-law, and to amend or revise such notices, applications, permits, policies, guidelines or documents, as may be required from time to time;

- (b) impose, amend or revise the City standards and specifications relating to this By-law, as may be required from time to time;
  - (c) issue notices under this By-law;
  - (d) establish conditions related to permits;
  - (e) issue, refuse, revoke, extend, transfer, or assign permits; and
  - (f) conduct reviews under this By-law;
- 14.3 The Director may assign Officers to enforce this By-law and officers so assigned or appointed by Council to enforce this By-law shall have the authority to:
- (a) carry out inspections;
  - (b) issue orders or other requirements as authorized under this By-law; and
  - (c) give immediate effect to any orders or other requirements made under this by-law.
- 14.4 The Director and all City employees of Engineering Services are appointed as Officers for the purposes of the administration and enforcement of this By-law and the applicable sections of the *Municipal Act, 2001*.
- 14.5 The Director may assign duties or delegate tasks under this By-law to be carried out in the Director's absence or otherwise.

## **PART 15: GENERAL PROVISIONS**

- 15.1 This By-law may be referred to as the "Storm Sewer Discharge By-law".
- 15.2 Should a court of competent jurisdiction declare a part or whole of any provision of this By-law to be invalid or of no force and effect, then the particular provision or part thereof is deemed severable from this By-law and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its remaining terms to the extent possible under law.
- 15.3 References in this By-law to any legislation or by-law means as may be amended or replaced from time to time and include any regulations thereunder.

### **Methods of Giving Notice**

- 15.4 Any notice given by the City pursuant to this By-law in writing, including an order, may be given in any of the following ways:

- (a) personally;
- (b) by posting it on the recipient's property;
- (c) by fax to the recipient's last known fax number;
- (d) by e-mail to the recipient's last known e-mail address; or
- (e) by registered or regular mail or courier or hand delivery addressed to the recipient's last known address.

### **Deemed Effective**

15.5 Notice given in accordance with section 15.4 shall be deemed to be effective:

- (a) on the date it is personally given, posted to the recipient's property, delivered by courier, or hand delivered;
- (b) on the date on which the fax is sent;
- (c) on the date the e-mail is sent; or
- (d) on the fifth day after the date of mailing y registered or regular mail.

## **PART 16: REPEAL, TRANSITION AND ENACTMENT**

16.1 The Corporation of the City of Burlington Storm Sewer Discharge By-law 86-2002 is hereby repealed.

16.2 This By-law shall come into effect and force on the date of its passing.

16.3 Despite the repeal of By-law 86-2002 under section 16.1:

- (a) the repeal shall not affect any offence committed against the provisions of that By-law or any penalty or fee incurred in respect thereof or any investigative proceedings thereunder;
- (b) that By-law shall continue to apply to proceedings in respect of offences that occurred before its repeal;
- (c) any permit applications received by the City prior to the date of repeal, for which a decision has not been rendered on the date of the repeal will be processed in accordance with this By-law, and the

fees and charges payable for the permit application shall be those in effect as of the date the permit, if any, is issued;

- (d) all permits and approvals issued under By-law 86-2002 that are in effect at the time of the repeal will continue as terms and conditions of a permit issued under this By-law and be subject to this By-law;

Enacted and passed this 12<sup>th</sup> day, of July 2022

Mayor Marianne Meed Ward \_\_\_\_\_

City Clerk Kevin Arjoon \_\_\_\_\_