

CITY OF NIAGARA FALLS

By-law No. 2010 - 61

A by-law to prohibit the connection of Weeping Tile (foundation drains) to the sanitary sewer system.

WHEREAS sections 8, 9, 10 and 11 of the *Municipal Act, 2001* provide The Corporation of the City of Niagara Falls with the power and authority to construct, maintain and regulate a storm water collection system;

AND WHEREAS sections 8, 9, 10 and 11 of the *Municipal Act, 2001* provide The Corporation of the City of Niagara Falls with the power and authority to construct, maintain and regulate a sanitary sewage collection system;

AND WHEREAS Part XIV of the *Municipal Act, 2001* provides that the Council of a municipality may pass by-laws providing penalties for contravention of by-laws and for the enforcement of those by-laws by other means;

AND WHEREAS in the year 1999 the City of Niagara Falls entered into certain agreements with the Province of Ontario as represented by the Ministry of the Environment concerning the gradual replacement of combined sewers by the City;

AND WHEREAS the immediate replacement of all the combined sewers located in the City of Niagara Falls is simply beyond the fiscal capacity of the City;

AND WHEREAS combined sewers were at one time the accepted standard for municipal sewage disposal systems;

AND WHEREAS experience and the application of science have demonstrated over the years that combined sewers are not capable of providing performance to modern standards;

AND WHEREAS the City is making every effort to improve the operations of its sewer system;

AND WHEREAS the disconnection of private storm water collection systems such as building drains includes, without limiting the generality of the foregoing, building foundation weeping tiles;

AND WHEREAS with reasonable application of science, storm water can be dispersed such that it will not enter the City's sewer system at a rate that will overload that system;

AND WHEREAS the purpose of this by-law is to improve the environmental and hydraulic performance of the City's sewer systems for the greater benefit of the residents of the City;

AND WHEREAS the City's Niagara Falls Pollution Control Plan identifies the need to mitigate wet weather impacts to the City sewer systems and the environment through City wide source control initiatives;

**THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS ENACTS
AS FOLLOWS:**

1. Definitions

1.1 The following terms shall mean the following in this by-law:

- (a) “City” means The Corporation of the City of Niagara Falls;
- (b) “City Council” means Municipal Council of The Corporation of the City of Niagara Falls;
- (c) “City Sewer” means a sewer under the control of the City;
- (d) “combined sewer” means a sewer intended to function simultaneously as a storm sewer and a sanitary sewer;
- (e) “Director” means the Director of Municipal Works for The Corporation of the City of Niagara Falls, or the person duly authorized to act in his or her stead;
- (f) “down spout” means a pipe or system of pipes inside or outside a building that conveys storm water from a roof of a building or structure to an improved place of discharge;
- (g) “sanitary sewage” means human waste and water intentionally contaminated by human activity other than water contaminated in a manner prohibited by law;
- (h) “sanitary sewer” means a sewer for the collection and conveyance of sewage and to which storm, surface and ground water are not intentionally admitted;
- (i) “sewage” means any one or combination of sanitary wastewater, non-domestic or water borne waste from any premises, together with such ground surface and storm water which are not intentionally admitted;
- (j) “storm sewer” means a sewer designed and intended for the collection and conveyance of uncontaminated water, including storm water, drainage of uncontaminated water from land or from a watercourse, or any of them;
- (k) “storm water” means water that originates from precipitation in any form and includes the run off caused by melting snow.

2. Administration and Enforcement

- 2.1 The Director shall be responsible for the administration and enforcement of this by-law.
- 2.2 The Director shall be permitted at all reasonable times to enter upon any lands and into any building or other structure, except land or premises lawfully being used as a dwelling, for the purpose of observation, measurement, inspection, sampling and testing, to ascertain if the provisions of this by-law are being complied with.
- 2.3 No person shall hinder, prevent or obstruct, or attempt to hinder, prevent or obstruct the Director from so doing.

3. Storm Water and Sewage Separation

- 3.1 No person shall connect or cause or permit the connection of any roof water leader, eaves trough, down spout or building foundation drain, including without limiting the generality of the foregoing, the weeping tile of a foundation drain, directly or indirectly to a sanitary sewer or combined sewer.
- 3.2 The Director may, at any time, disconnect or cause to be disconnected, any roof water leader, eaves trough, down spout, or building foundation drain including, without limiting the generality of the foregoing, the weeping tile of a foundation drain from any sanitary or combined sewer. The cost of such entry and disconnection may be added to the tax roll and collected in accordance with all of the relevant provisions of the *Municipal Act, 2001*.
- 3.3 The Director may order the owner of any building, land or other real property to disconnect any roof water leader, eaves trough, down spout or building foundation drain including, without limiting the generality of the foregoing, the weeping tile of a foundation drain from any sanitary or combined sewer. The cost of such entry and disconnection may be added to the tax roll and collected in accordance with all of the relevant provisions of the *Municipal Act, 2001*.
- 3.4 The Director and persons acting under his instruction may exercise any and all power and authority available to them at law including, without in any way limiting the generality of the foregoing, any power and authority available by virtue of the common law and provisions of the *Municipal Act, 2001*, the *Environmental Protection Act*, and the *Provincial Offences Act* and any successor legislation thereto.

4. No Change to Other Law

- 4.1 Nothing in this by-law shall be so construed as to permit any action and, without limiting in any way the generality of the foregoing, any discharge of any substance which by the provisions of any applicable Act, regulation or by-law is otherwise prohibited.

5. Severability

5.1 If any section or sections of this by-law, or parts thereof, is or are found by any Court or tribunal to be illegal or beyond the power of the City's Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this by-law shall be deemed to be separate and independent therefrom and to be enacted as such.

6. Offence

6.1 Any person who contravenes any provision of this by-law is guilty of an offence and is liable to a fine of not more than \$10,000, upon conviction of a first offence, and not more than \$25,000 for any subsequent offence under this by-law.

6.2 Any person who fails to comply with an Order of the Director issued pursuant to section 3 is guilty of an offence and is liable to a fine of not more than \$10,000 upon conviction of a first offence, and not more than \$25,000 for any subsequent offence.

6.3 Notwithstanding subsection 6.1, where a corporation is convicted of an offence under this by-law, the maximum penalty that may be imposed upon the corporation is \$50,000 for the first offence, and not more than \$100,000 for any subsequent offence.

7. Coming into Force

7.1 This by-law shall come into force and take effect on the date upon which it was passed.

Passed this twenty-sixth day of April, 2010.

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DEAN IORFIDA, CITY CLERK

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R.T. (TED) SALCI, MAYOR

First Reading: April 26, 2010
Second Reading: April 26, 2010
Third Reading: April 26, 2010.