



To: Mayor and Councillors
From: Chad Paulin, M.Sc., P.Ag.
Manager, Environment
Date: December 5, 2018
File: 10-6175-00/Vol 01
Re: Amendment to the Pollution Prevention and Clean-Up Bylaw No. 9950

At the Regular Council Meeting held on November 26, 2018, Council adopted on consent:

1. That the *Pollution Prevention and Cleanup Bylaw No. 8475, Amendment Bylaw No. 9950*, which introduces the new *Non-Stormwater Discharge Permit, standards, and application fee*, be introduced and given first, second, and third readings.

Following the Regular Council Meeting, staff recognized the need to correct the following misprint listed on Page 1 of the *Pollution Prevention and Cleanup Bylaw Amendment Bylaw No. 9950*:

Staff have corrected this misprint and recommend:

1. That Third Reading of the *Pollution Prevention and Cleanup Bylaw Amendment No. 9950* be rescinded;
2. That the *Pollution Prevention and Cleanup Bylaw Amendment No. 9950* be amended as follows:

MINIMUM DISCHARGE CRITERIA definition for Dissolved Oxygen corrected from: "< or = to 5.0 mg/L" to: "> or = to 5.0 mg/L"; and

3. That the *Pollution Prevention and Cleanup Bylaw Amendment No. 9950* be given Third Reading as amended.

Chad Paulin, M.Sc., P.Ag.
Manager, Environment

Att. 1. *Pollution Prevention and Cleanup Bylaw No. 8475, Amendment Bylaw No. 9950*



Pollution Prevention and Clean-Up Bylaw No. 8475, Amendment Bylaw No. 9950

The Council of the City of Richmond enacts as follows:

- 1. Pollution Prevention and Clean-Up Bylaw No. 8475, as amended, is further amended at section 1.1.1 by deleting the definitions of "agreement", "application", "general manager", "qualified environmental professional" and "responsible person", and inserting the following in alphabetical order:

APPLICANT means the person who has applied for a Permit.

ENVIRONMENTAL LAWS means all applicable federal, provincial, and City laws, statutes, regulations, ordinances, bylaws, and codes, all applicable policies, standards, protocols, orders, directives, and decisions issued, rendered or promulgated by any ministry, federal or provincial department, or judicial, administrative, or regulatory agency or body, whatsoever relating to fisheries, public health and safety, occupational health and safety, the protection or preservation of the environment, or the manufacture, operation, processing, distribution, use, treatment, storage, disposal, release, transport, handling, or remediation of contaminants, all as may be amended or replaced from time to time, including, but not limited to, the Environmental Management Act, S.B.C. 2003 c. 53, the Canadian Environmental Protection Act, 1999 S.C. 1999, c. 33, and the Fisheries Act, R.S.C. 1985, c. F-14 (as may be amended or replaced from time to time), and all applicable principles of common law and equity.

GENERAL MANAGER means the General Manager, Engineering and Public Works, and his or her respective designates and authorized agents.

MINIMUM DISCHARGE CRITERIA means the following minimum criteria that any permitted non-stormwater discharge must meet:

Table with 2 columns: Parameter and Value. Parameters include pH, Temperature, Dissolved Oxygen, and Turbidity. Values include 6.5 - 9.0, < or = to 19°C, > or = to 5.0 mg/L, and < or = to 8 NTU, and < or = to 50 NTU during storm events.

Notes: NTU- Nephelometric Turbidity Units C- Celsius mg/L- milligrams per Litre

NON-STORMWATER DISCHARGE QUALITY DECLARATION means a statutory declaration or letter, in the form provided by the **City** from time to time or in form otherwise satisfactory to the **City**, signed and sealed by a **Qualified Environmental Professional**, certifying the findings of site investigation work as to the quality of the proposed **non-stormwater discharge** and confirmation that the proposed **non-stormwater discharge** meets the **minimum discharge criteria**.

QUALIFIED ENVIRONMENTAL PROFESSIONAL means an applied scientist or technologist registered and in good standing in British Columbia with an appropriate professional organization constituted by provincial statute, insured against professional liability arising from errors and omissions occurring in the performance of professional services, acting under that association's code of ethics, and subject to disciplinary action by that association, including but not limited to agrologists, biologists, engineers, foresters, geoscientists and technologists.

PERMIT means an authorization by the **City** to allow **non-stormwater discharge** to enter a **drainage system** or **watercourse**.

PERMITTEE means the holder of a **Permit**.

RESPONSIBLE PERSON means the person who has possession, charge, or control of a **polluting substance** when a **spill** of such **polluting substance** occurs, or is at imminent risk of occurring."

2. Pollution Prevention and Clean-Up Bylaw No. 8475, as amended, is further amended by deleting Part Six: Non-Stormwater Discharge Management and replacing it with the following:

"PART SIX: NON-STORMWATER DISCHARGE MANAGEMENT

6.1 Provisions for Non-Stormwater Discharge

6.1.1 Non-Stormwater Discharge Permit

No person shall allow any **non-stormwater discharge** to enter any **drainage system** or any **watercourse** without first making an application for and obtaining a **Permit**, and every such **discharge** shall be undertaken in accordance with all requirements and regulations of this bylaw, the terms and conditions of the **Permit**, and all applicable **environmental laws**.

6.1.2 Application Requirements

6.1.2.1 Unless exempted by the **General Manager**, an application for a **Permit** must:

- (a) be made in the form provided from time to time by the **City**;

- (b) be made by the **owner** of the source **parcel**, or by an agent of the **owner**, provided that such agent has been granted written authority to act on behalf of the **owner**;
- (c) include the applicable fees as specified in the *Consolidated Fees Bylaw No. 8636*;
- (d) include written confirmation from the **owner** that the **owner** will waive, release, remise, indemnify, and save harmless the **City** and its elected officials, agents, employees, officers, and servants from and against all claims, demands, losses, costs (including legal costs), damages, actions, suits, or proceedings whatsoever brought by reason of, or arising from, the issuance of the **Permit** by the **City**, or the breach of any of the terms and conditions of the **Permit** by the **owner** or by those for which the **owner** is responsible at law, or the proposed **discharge** of **non-stormwater discharge** by or on behalf of the **owner**;
- (e) be accompanied by one of the following:
 - (i) a **non-stormwater discharge quality declaration** satisfactory to the **City**; or
 - (ii) a copy of the written approval of the proposed **discharge** from the applicable federal or provincial regulatory authority as required by the applicable **environmental laws**;
- (f) be accompanied by proof of insurance in an amount and on the terms satisfactory to the **City**;
- (g) be accompanied by a **water quality monitoring and response plan** satisfactory to the **City**;
- (h) be accompanied by a capacity analysis of the **drainage system** and, based on the capacity analysis, a letter signed and sealed by an appropriate **Qualified Environmental Professional** (being a professional engineer) confirming that the **drainage system** has capacity to accommodate the flow rate of the proposed **discharge**;
- (i) if required by the **City**, be accompanied by evidence satisfactory to the **City** that the **owner** has been denied a permit to **discharge** the **non-stormwater discharge** into the sanitary waste disposal system servicing the **parcel**, if any; and
- (j) be accompanied by any supporting documentation requested by the **City** relevant to the matters referred to in subsections (e), (g), (h) and/or (i) above.

6.1.2.2 An application will be deemed to have been abandoned if the **Applicant** fails to fully and completely respond to a request by the **General Manager** for documentation or information under this bylaw within 6 months of the date the request is made. Once abandoned, all application fee(s) collected will be forfeited to the **City**. If the **Applicant** wishes to proceed with a **discharge** after any such abandonment, the **Applicant** must, unless exempted in writing by the **General Manager**, submit a new

application for a **Permit** and must pay an additional non-refundable application fee as specified in the *Consolidated Fees Bylaw No. 8636*.

- 6.1.2.3 If it is determined by the **General Manager** that any **discharge of non-stormwater discharge** has occurred without a valid **Permit**, all work must cease and the appropriate **Permit** application must be immediately submitted with a non-refundable application fee of twice the amount as specified in the *Consolidated Fees Bylaw No. 8636*.

6.1.3 Permit Issuance

- 6.1.3.1 Subject to section 6.1.3.2, the **General Manager** may issue a **Permit** upon being satisfied that:

- (a) the proposed **discharge of non-stormwater discharge** complies with this bylaw and all applicable **environmental laws**;
- (b) the proposed **discharge of non-stormwater discharge** can be carried out safely, without undue nuisance or interference to adjacent **parcels** or the public, or damage or injury to persons or property;
- (c) the **Applicant** has complied with the applicable requirements of section 6.1.2; and
- (d) the **Applicant** has paid to the **City** all applicable fees required under the *Consolidated Fees Bylaw No. 8636*.

- 6.1.3.2 The **General Manager** may refuse to issue a **Permit** if the requirements of section 6.1.3.1 have not been met or the **General Manager** is of the opinion that the proposed **discharge of non-stormwater discharge** will or is reasonably likely to:

- (a) endanger, damage, or otherwise adversely affect any adjacent **parcel**, structure, highway, easement, utility works and services or right-of-way, whether privately or publicly owned;
- (b) foul, obstruct, destroy, impede, divert, or otherwise adversely affect any **watercourse** or **drainage system**, whether privately or publicly owned;
- (c) contravene any applicable **environmental laws**;
- (d) threaten the health, safety, or welfare of the public or be otherwise contrary to the public interest;
- (e) cause a federal, provincial or municipal authority to incur excessive costs to provide public utilities, works, or services to the subject **parcel**, or an adjoining or reasonably adjacent **parcels**.

6.2 Non-Stormwater Discharge Regulations

6.2.1 In addition to any terms and conditions contained in a **Permit**, no person shall cause or permit the **discharge** of **non-stormwater discharge** except in accordance with the following requirements, unless exempted in writing by the **General Manager**:

- 6.2.1.1 the **Permittee** shall engage a **Qualified Environmental Professional** to supervise and monitor the **discharge**;
- 6.2.1.2 the **Permittee** conducts water quantity monitoring to confirm and ensure that the **discharge** does not exceed the allowable flow rate set out in the capacity analysis referred to in subsection 6.1.2.1(h) of this **Bylaw**, and, if requested by the **City**, provides a copy of the monitoring results signed and sealed by a **Qualified Environmental Professional** to the **City**;
- 6.2.1.3 the **Permittee** conducts continuous monitoring of water levels in the pipe, box culvert or ditch receiving the **discharge** and if water levels overload the pipe or box culvert or exceed the maximum hydraulic gradeline of the ditch, as specified in the capacity analysis of the **drainage system** referred to in subsection 6.1.2.1(h) of this **Bylaw**, the **Permittee** shall:
 - (a) immediately discontinue the **discharge**;
 - (b) report to the **City** that the **drainage system** is over capacity;
 - (c) retain the water from the **discharge** on the subject **parcel** until the **drainage system** is no longer over capacity; and
 - (d) only resume the **discharge** once the **drainage system** is no longer over capacity and the **discharge** will not cause it to become over capacity.
- 6.2.1.4 the **Permittee** complies with the **water quality monitoring and response plan** and, if requested by the **City** provide a copy of the monitoring results to the **City**;
- 6.2.1.5 the **discharge** complies with the **minimum discharge criteria**;
- 6.2.1.6 the **Permittee** complies with all applicable **environmental laws**;
- 6.2.1.7 the **Permittee** shall obtain any and all approvals and authorizations required, in addition to the **Permit**, by any applicable governmental authority, public utility or other governmental agency; and
- 6.2.1.8 the **Permittee** shall immediately report to the **City** any emergency or the existence of any condition which prevents the operation of any treatment system required in relation to the water being **discharged**.

6.3 Permit Expiry

6.3.1 Every **Permit** issued under this bylaw shall expire and cease to authorize any **discharge** of **non-stormwater discharge** twenty-four (24) months following the date of issue or upon such earlier date as may be specified in the **Permit** unless an expiry date for a different term is specified in the **Permit** or a renewal has been issued in accordance with section 6.3.2..”

3. Pollution Prevention and Clean-Up Bylaw No. 8475, as amended, is further amended by deleting the word ‘**agreement**’ from where it appears in sections 7.1.1 and 9.1.1 and replacing it with the word “**Permit**”.
4. Pollution Prevention and Clean-Up Bylaw No. 8475, as amended, is further amended by deleting section 8.1.1 and replacing it with the following:

“8.1.1 Where the **City** has determined that there has been a possible contravention of this bylaw which poses a possible threat to the environment or the health or safety of individuals, and immediate action is required to remedy the situation, the **City** may immediately take whatever action the **City** considers necessary to remedy the situation without the necessity of full compliance with the provisions of this bylaw at the time it is undertaken, and the expense of doing so, plus a reasonable sum as determined by the **General Manager** as a charge for the **City's** overhead, shall be paid by the **owner**. If not paid within 90 days, the expense, with interest at the prescribed rate and costs, shall be recovered in the same manner and with the same remedies as municipal taxes.”

5. Pollution Prevention and Clean-Up Bylaw No. 8475, as amended, is further amended by inserting the following as a new “PART NINE: ENFORCEMENT” and renumbering the remaining Parts and sections:

“PART NINE: ENFORCEMENT

9.1 Suspension of a Permit

9.1.1 The **General Manager** may suspend any **Permit** where, in the opinion of the **General Manager** there is a contravention of or non-compliance with the terms and conditions of the **Permit**, this bylaw, or any other relevant **City** bylaw. The **Permit** shall remain suspended and will cease to authorize the **discharge** of **non-stormwater discharge** until, in the opinion of the **General Manager**, compliance is obtained.

9.1.2 Where a **Permit** is suspended, the **General Manager** will cause written notice of suspension to be delivered to the **Permittee** and to the **owner** of the subject **parcel** by registered mail and to be posted on the subject **parcel** where possible.

9.1.3 Sections 9.1.1 and 9.1.2 are without prejudice to any other remedies available to the **City** under this bylaw, any other law, or in equity.

9.2 Non-compliance

9.2.1 If a **Permittee** or the **owner** of the subject **parcel** contravenes a provision of this bylaw or a term of a **Permit**:

9.2.1.1 such person shall immediately cease any and all contravening actions;

9.2.1.2 the **General Manager** may notify the **Permittee** or the **owner** in writing of such contravention; and

9.2.1.3 the **General Manager** may instruct the **Permittee** or the **owner** to correct the contravention by a date specified in the notice. If the correction of the contravention will not be completed by the date specified in the notice, the **Permittee** or the **owner** as instructed by the **General Manager** must inform the **General Manager** of such and immediately take all reasonable steps to begin to correct the contravention.

9.2.2 If a **Permittee** or the **owner** of the subject **parcel** fails to cease any and all contravening actions and/or correct a contravention referenced in section 9.2.1 by the date specified in the notice, or otherwise instructed by the **General Manager**:

9.2.2.1 the **City** may carry out such works and undertake such actions as the **City** deems necessary to correct the contravention;

9.2.2.2 the **General Manager** may revoke or suspend the relevant **Permit**, if any; and

9.2.2.3 in the event that any person having received notice fails to correct a contravention within the time specified in the notice, the **City** or its appointed agents may enter upon the subject **parcel** or any part thereof and carry out the works required to remedy the contravention, and the expense of doing so, plus a reasonable sum as determined by the **General Manager** as a charge for the **City's** overhead, shall be paid by the **owner**. If not paid within 90 days, the expense, with interest at the prescribed rate and costs, shall be recovered in the same manner and with the same remedies as municipal taxes.

9.2.3 Other than in case of emergency (in the opinion of the **General Manager**), in which case no notice is required, the **City** will give ten days' written notice to the **Permittee** of the **City's** intention to carry out works pursuant to section 9.2.2.

9.2.4 If the **City** carries out works pursuant to section 8.1.1 or 9.2.2, the **Permittee** or the **owner** of the subject **parcel** will reimburse the **City** for the **City's** cost of carrying out such works, within ten days of receiving a written request by the **City** for such reimbursement.

9.2.5 The **City** will not be liable for any damage, loss or expense of any nature or kind whatsoever, arising out of or in connection with the issuance of a **Permit**, or the **discharge** of **non-stormwater discharge**, or any other action by the **City** under this bylaw or a **Permit**.

9.2.6 In the event of damage to **City** or privately-owned **drainage system, watercourses**, highways, lands, or other **City** property or privately-owned property or facilities, resulting from a

discharge of non-stormwater discharge operation, the **Permittee**, or an agent of the **Permittee**, will promptly and properly repair the damage to the satisfaction of the **General Manager.**”

- 6. This Bylaw is cited as “**Pollution Prevention and Clean-Up Bylaw No. 8475, Amendment Bylaw No. 9950**”.

FIRST READING

SECOND READING

THIRD READING

ADOPTED

CITY OF RICHMOND
APPROVED for content by originating dept.
<i>CP</i>
APPROVED for legality by Solicitor
<i>JA</i>

MAYOR

CORPORATE OFFICER