

HALIFAX

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Item No. 15.1.1
Halifax Regional Council
December 13, 2022
January 10, 2023

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY:

Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: November 30, 2022

SUBJECT: **By-law C-901, Repealing By-law C-900**

ORIGIN

May 31, 2022, Halifax Regional Council motion (Item No. 18.1):

MOVED by Councillor Kent, seconded by Councillor Blackburn

THAT Halifax Regional Council direct the Chief Administrative Officer to prepare amendments to By-law C- 900 to reflect Option 2 – Area Rate as presented in the supplementary staff information report dated April 21, 2022.

MOTION PUT AND PASSED.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, subsection 93 (1),(6), section 96, and clause 104(1)(a) as follows:

Estimates of required sums

93 (1) The Council shall make estimates of the sums that are required by the Municipality for the fiscal year.

- (6) The Council shall authorize the levying and collecting of a
- (a) commercial tax rate of so much on the dollar on the assessed value of taxable commercial property and business occupancy assessment; and
 - (b) residential tax rate of so much on the dollar on the assessed value of taxable residential property and resource property.

Area rates and uniform charges

96 (1) The Council may spend money in an area, or for the benefit of an area, for any purpose for which the Municipality may expend funds or borrow.

(1A) For greater certainty, an expenditure under subsection (1) may include a contribution to a hospital to which the Hospitals Act applies.

(2) The Council may recover annually from the area the amount required or as much of that sum as the Council considers advisable to collect in any one fiscal year by an area rate of so much on the dollar on the assessed value of the taxable property or occupancy assessments in the area.

(3) The Council may provide

(a) a subsidy for an area rate from the general rate in the amount or proportion approved by the Council;

(b) in the resolution setting the area rate, that the area rate applies only to the assessed value of one or more of the taxable commercial, residential or resource property and occupancy assessments in the area.

(4) The Council may, in lieu of levying an area rate, levy a uniform charge on each

(a) taxable property assessment;

(b) dwelling unit,

in the area

(5) Charges pursuant to subsection (4) are first liens on the real property and may be collected in the same manner as taxes.

(6) The Council may expend money within an area for any lawful purpose and may raise all, or part of it, by a general rate on the whole Municipality.

(7) The area rate referred to in this Section may be different on commercial property and business occupancy assessments than on residential and resource property. 2008, c. 39, s. 96; 2019, c. 19, s. 17.

104 (1) The Council may make by-laws imposing, fixing and providing methods of enforcing payment of charges for

(a) wastewater facilities or stormwater systems, the use of wastewater facilities or stormwater systems and connecting to wastewater facilities or stormwater systems;

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Adopt By-law C-901, repealing By-law C-900 - the *Charges for Stormwater from Municipal Streets By-law*, as set out in Attachment 1 to this report.
2. Adopt the boundaries for a new Stormwater Right-of-Way area rate, effective on April 1, 2023, as shown in Attachment 2 to this report.

BACKGROUND

Stormwater is the water from rain and melted snow and ice, that runs off hard surfaces. If it is left unmanaged it could cause erosion and flooding and damage the environment, including lakes and streams. HRM has been charging for stormwater since amalgamation in 1996, through By-law S-100, which had a combined charge for both wastewater and stormwater. In 2007 Halifax Water assumed responsibility for both wastewater and stormwater service delivery and billing. In 2013 a separate HRM stormwater right-of-way charge was put in place. At that time the NSUARB required that Halifax Water charge HRM for their impervious surfaces on HRM streets that drained into the Halifax Water stormwater system. The charge currently appears on Halifax Water bills on behalf of HRM. On September 5, 2017, Council adopted By-law C-900, the *Charges for Stormwater from Municipal Streets By-law* (By-law C-900). Halifax Water currently applies a charge to customers of the stormwater system for the HRM stormwater right-of-way which is collected on behalf of HRM. Halifax Water customers also have a stormwater charge for the impervious surfaces on their property.

On September 14, 2021, Halifax Regional Council requested staff look at funding the annual stormwater right-of-way cost (approximately \$3.8M to November 2022) through the general tax rate. In the report to Halifax Regional Council dated January 12, 2022, staff identified how to do this. In the supplementary information report dated April 21, 2022, staff provided Council two options: to fund the charge through a general tax rate or to fund it through an area rate within specific boundaries as outlined in the municipal stormwater service area. On May 31, 2022, Council directed the Chief Administrative Officer to amend By-law C-900 to reflect Option 2 of the supplementary information report dated April 21, 2022. That is to implement an area rate for the stormwater right-of-way charge (ROW) from Halifax Water that aligns with the municipal stormwater service area.

DISCUSSION

Currently By-law C-900 (included as Attachment 3) imposes a stormwater charge on “customers” of the stormwater system. With the May 31, 2022, motion, Council directed the Chief Administrative Officer to amend By-law C-900 and implement an area rate for the HRM stormwater right-of-way charge. Under the Charter, a by-law is required to impose the stormwater charge. An area rate does not need to be set by by-law. It can be set by resolution of Council, as such, staff are recommending repealing By-law C-900.

An area rate is levied on communities within a designated boundary to fund specific infrastructure or services, in this case the stormwater service provided by Halifax Water to HRM for its road infrastructure. The new stormwater area rate would apply to all properties within the municipal stormwater service area and includes those properties within the service area not paying the Halifax Water site-related stormwater charge¹. The map of this municipal service area is found in Attachment 2. This revised map reflects the final service boundaries that have been agreed upon by HRM and the Province, following the transfer of responsibilities on June 1, 2022.

Note: 1. *Properties not paying the Halifax Water site-related stormwater charge include resource and vacant land, properties with less than 50m² of impervious area and properties draining away from Halifax Water stormwater infrastructure. Also, this may be considered to include properties (with property tax accounts) that pay water bills indirectly, such as condo units and mobile homes within parks, since they may not know they pay stormwater charges.*

This option considers three key areas of interest that Council directed be considered as moved by Deputy Mayor Lovelace on March 1, 2022 and discussed in the April 21, 2022 supplemental information report:

- Equity in consideration of who pays and who benefits
- Risks and benefits of alternative funding sources
- Those who do not pay the stormwater charge within the municipal stormwater service area

On May 31, 2022, Council selected Option 2 from the supplemental report dated April 21, 2022, a new Stormwater ROW area rate, to balance the considerations outlined above. The new stormwater right-of-

way area rate would become effective on April 1, 2023. It would replace the current HRM right-of-way charge that Halifax Water collects on HRM's behalf. Halifax Water customers will still see the Stormwater charge on their Halifax Water bill that relates to the impervious areas on their property. The HRM Right of Way charge that relates to stormwater from HRM streets will be removed. The charge includes properties who are benefiting from the public good of the road and sidewalk infrastructure and the area rate will be based on assessed value, so may be considered more equitable than a flat fee per property.

The new stormwater right-of-way area rate will replace By-law C-900 as the revenue source for the fee HRM is responsible to pay to Halifax Water based on HRM-owned impervious areas from the street rights-of-way. The catchment area covers the residents and businesses within the municipal services area that benefit from the Halifax Water Service.

The costs for Option 2 are outlined in the supplemental report and were based on the most recent rate submission by Halifax Water, recently approved by the NSUARB on October 31, 2022. The required HRM stormwater ROW charge will be \$5.3 million in 2023/2024 plus an incremental amount, calculated based on \$0.173 per m² of impervious area within the HRM owned street right-of-way. The rate was estimated to be \$0.011 per \$100 of Assessed Value for those properties within the municipal stormwater service area. This will be confirmed or revised once the final NSUARB decision is released, and 2023 assessments are known.

Council will approve the Stormwater Right-of-Way area rate (amount per \$100 of assessed value) annually as part of the overall budget approval process beginning in 2023/24.

FINANCIAL IMPLICATIONS

There are no financial implications of this report or of funding stormwater right-of-way costs through an area rate. Funding from the new Stormwater Right-of-Way area rate will replace the revenue currently collected from the HRM stormwater right-of-way charge on the Halifax Water bill (according to By-law C-900).

RISK CONSIDERATION

No risk considerations were identified.

COMMUNITY ENGAGEMENT

No community engagement was required at this time. HRM finance will provide information on the new area rate for taxpayers with the 2023/24 final tax bill.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified.

ALTERNATIVES

Regional Council could choose to not to approve the stormwater right-of-way area rate and keep By-law C-900 in place.

ATTACHMENTS

Attachment 1 - By-law C-901

Attachment 2 - Municipal Stormwater Service Area Boundary map

Attachment 3 - By-law C-900

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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**HALIFAX REGIONAL MUNICIPALITY
BY-LAW C-901
REPEALING CHARGES FOR STORMWATER FROM MUNICIPAL STREETS**

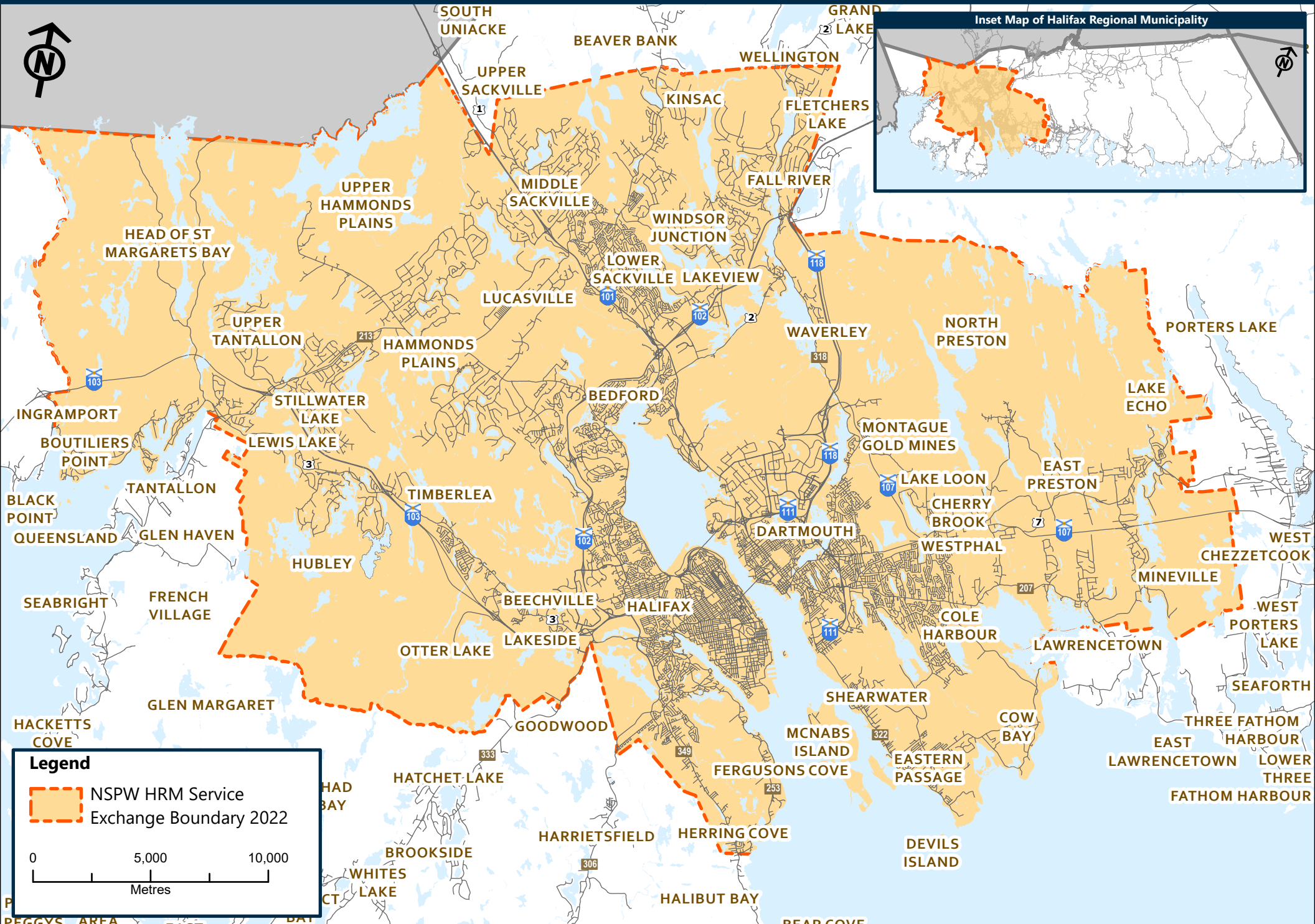
BE IT ENACTED by the Council of the Halifax Regional Municipality, as follows:

1. By-law C-900, the *Charges for Stormwater from Municipal Streets By-law*, is repealed.
2. All charges, interest and liens imposed under By-law C-900 on or before March 31, 2023, shall continue to be charged, and owed in accordance with By-law C-900.
3. All outstanding charges under By-law C-900 may continue to be collected by the Commission and the Municipality in accordance with By-law C-900.
4. This by-law comes into force on April 1, 2023.

Done and passed this day of 202 .

Mayor

Municipal Clerk



Halifax Water will become responsible for stormwater services in these areas effective June 1, 2022. For more information visit halifaxwater.ca/stormwater-expansion or call 902.420.9287



**HALIFAX REGIONAL MUNICIPALITY
BY-LAW C-900
RESPECTING CHARGES FOR STORMWATER FROM MUNICIPAL STREETS**

Short Title

1. This by-law may be cited as the *Charges for Stormwater from Municipal Streets By-law*.

Interpretation

2. In this by-law,
 - (a) “Board” means the Nova Scotia Utility and Review Board;
 - (b) “Commission” means the Halifax Regional Water Commission;
 - (c) “Customer” means a customer of the Commission as defined by the Regulations;
 - (d) “Municipality” means the Halifax Regional Municipality;
 - (e) “Regulations” mean the *Halifax Regional Water Commission Regulations* made by order of the Board, as amended from time to time;
 - (f) “Site Related Flow Charge” means a site related flow charge set by the Board;
 - (g) “Stormwater” means water from precipitation of all kinds, and includes water from the melting of snow and ice, groundwater discharge and surface water; and
 - (h) “Stormwater System” means a method or means of carrying stormwater, including ditches, swales, sewers, drains, canals, ravines, gullies, pumping stations, retention ponds, streams, watercourses, floodplains, ponds, springs, creeks, streets or private roads, roadways or driveways, that is vested in or under the control of the Commission.

Flat Charge Imposed

3. A flat charge is imposed on a Customer of the Stormwater System.

Amount of Charge

4. (1) The amount of the flat charge for each Customer shall be calculated by dividing the annual amount of Municipality is required to pay the Commission for stormwater service associated with the street right of way owned by the Municipality, as determined by the Board from time to time, by the number of Customers charged the Site Related Flow Charge by the Commission.
 - (2) For the calculation of the flat charge pursuant to subsection 1, the required annual Stormwater Right-of-Way payment shall be:
 - (a) reduced by the amount of any surplus resulting from the flat charge imposed under this By-law for the previous fiscal year; or
 - (b) increased by the amount of any deficit resulting from the flat charge imposed under this By-law for the previous fiscal year.

(3) The amount of the flat charge for each Customer shall be rounded up to the nearest dollar (\$1.00).

5. The charge shall be billed to the Customer by the Commission on the same basis as the Commission bills the Customer for the Site Related Flow Charge.

Set Off

6. The amount of the charge collected by the Commission under this By-law may be set off against the Right-of-Way Charge owned by the Municipality to the Commission.

Lien

7. A Charge imposed pursuant to this by-law is a first lien on the real property to which the charge has been levied and may be collected at the same time and by the same proceedings as other taxes.

Interest

8. Interest shall accrue at the same rate and on the same basis as interest is charged to the Customer by the Commission.

Done and passed this 5th day of September, 2017.

Mayor

Acting Municipal Clerk

I, Sherryll Murphy, Acting Municipal Clerk for the Halifax Regional Municipality hereby certify that the above noted By-law was passed at a meeting of the Halifax Regional Council held on September 5, 2017.

Sherryll Murphy, Acting Municipal Clerk

Notice of Motion:	June 20, 2017
First Reading:	August 15, 2017
Notice of Public Hearing Publication:	August 19, 2017
Second Reading:	September 5, 2017
Approval by Service Nova Scotia and Municipal Relations:	N/A
Effective Date:	September 16, 2017