

Order No. 59/17

**AN ORDER RESPECTING THE CITY OF MORDEN
AMENDMENT TO UTILITY BY-LAW**

June 9, 2017

BEFORE: The Hon. Anita Neville, P.C., B.A. (Hons.), Acting Chair
Carol Hainsworth, C.B.A., Member
Allan Morin, B.A., ICD.D, Member

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1.0 Executive Summary

By this Order, the Manitoba Public Utilities Board (Board or PUB) approves an amendment to the City of Morden's (City) utility rate by-law; By-Law No. 5-2017 replaces By-Law No. 5-2013. The change is approved effective June 1, 2017.

The changes approved are administrative, and do not result in any revision to rates, charges or fees.

2.0 Application

The City of Morden has sought approval from the PUB to amend its sewer and water rate by-law, as set out in By-Law 5-2017, which received first reading March 27, 2017.

A notice of application was prepared April 3, 2017 and published in compliance with the Board's Rules of Practice and Procedure (available at www.pubmanitoba.ca)

The scope of the amendments are minor, intended only to bring clarity to the interpretation of the rates, align the billing periods and address how the City administers rental properties. The City proposed the changes in order to improve the administration of the billing process, which has been unnecessarily onerous in the past. The proposed amending by-law does not change the rates charged for water and wastewater services.

The wording of the existing by-law has caused some residents to interpret the Minimum Quarterly Consumption Allowance such that unused consumption can apply as a credit towards future quarterly consumption. It was discovered that City staff had been manually adjusting meter readings to show quarterly consumption equal to the minimum consumption allowance on the bills, and that meter readings had been rounded off, to the effect that there were very few true meter readings recorded in the City's utility database.

Historically, the City has chosen to bill ahead for service charges and to bill back for consumption. This has been found to be confusing to customers, and challenging to calculate when a customer moves out.

The proposed by-law clarifies a landlord's financial and administrative responsibility in Utility matters. The previous by-law included instructions for tenants, which may have created some confusion as to the property owner's ultimate responsibility.

Sections of the By-law which the Town proposed changes to:

- Remove section 1 of the by-law
- Revisions to Schedule “A”, clause 2.1
- Revisions to Schedule “B”, section 7 “general guidelines for rental properties” completely revised

Complete versions of both By-law 5-2013 and 5-2017 are available for review at the office of the City of Morden.

3.0 Board Findings

The Board has reviewed current By-Law No. 5-2013 and proposed By-Law No. 5-2017 and finds that the revisions proposed by the City are acceptable. The changes align with accepted practices by other utilities in the Province of Manitoba.

The Board will make one minor revision to By-law 5-2017. In the proposed version submitted by the City, the added notation in clause 2.1 of Schedule “A” stated: **“Quarterly Consumption Included”* means the *“Service charge”* includes the provision of up to the volume of water specified in the table. Unused amounts are not applied as a credit towards future water use.

The Board will replace *“Service charge”* with *“Minimum Quarterly Charge”*, as the quarterly service charge does not include any volume of water, it’s an administrative charge.

Notice was provided to all stakeholders by means of the PUB’s Rules of Practice and Procedure, and no responses were received.

4.0 IT IS THEREFORE ORDERED THAT:

- 1) The City of Morden submit a copy of its water and wastewater rate by-law to the Public Utilities Board once it has been revised to reflect the changes found in this Order, and received third and final reading.

Fees payable upon this Order - \$150.00

Board decisions may be appealed in accordance with the provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with Section 36 of the Board's Rules of Practice and Procedure. The Board's Rules may be viewed on the Board's website at www.pubmanitoba.ca.

THE PUBLIC UTILITIES BOARD

"The Hon. Anita Neville, P.C., B.A. (Hons.)"
Acting Chair

"JENNIFER DUBOIS, CPA, CMA"
Acting Secretary

Certified a true copy of Order No. 59/17 issued
by The Public Utilities Board

Acting Secretary

CITY OF MORDEN
By-law No. 5-2017
Schedule "A"
Water and Sewer Rates

WATER AND SEWER RATES - BY-LAW NO. 5-2017

1. **COMMODITY RATES - Effective January 1, 2014**

Two-Step Rate Structure

Rates per thousand gallons

		Water	Sewer	Water & Sewer
First	100,000 gallons per quarter	\$11.61	\$4.20	\$15.81
Over	100,000 gallons per quarter	\$5.57	\$1.70	\$7.27

2. MINIMUM CHARGES PER QUARTER - Effective January 1, 2014

2.1. Water and Sewer Customer

Notwithstanding the commodity rates set forth in Section 1 hereof, all customers with water and sewer service shall pay the applicable minimum charge set out below:

Meter Size	Group Capacity Ratio	Quarterly Consumption Included*	Service Charge	Commodity Rates		Minimum
				Water	Sewer	Quarterly Charges
5/8"	1	3,000	\$15.50	\$34.83	\$12.60	\$62.93
3/4"	2	6,001	\$15.50	\$69.67	\$25.20	\$110.38
1"	4	12,002	\$15.50	\$139.34	\$50.41	\$205.25
1 1/2"	10	30,004	\$15.50	\$348.35	\$126.02	\$489.86
2"	25	75,009	\$15.50	\$870.85	\$315.04	\$1,201.39
3"	90	135,017	\$15.50	\$1,356.04	\$479.53	\$1,851.07
4"	170	270,034	\$15.50	\$2,108.09	\$709.06	\$2,832.65

* "Quarterly Consumption Included" means the "Minimum Quarterly Charge" includes the provision of up to the volume of water specified in the table. Unused amounts are not applied as a credit towards future water use.

2.2. **Water Only Customers**

For customers with water service only, quarterly minimums shown in Section 2.1 hereof are reduced by the Sewer Commodity Charge shown for the customer's meter size.

2.3. **COMMODITY RATES AND MINIMUM CHARGE FOR CUSTOMERS WITH SIGNIFICANT VOLUME OF WATER NOT RETURNED TO SEWERS**

Notwithstanding Commodity Rates and Minimum Charges set forth in Section 2 hereof, Morden Research Station shall be charged the following rates:

Commodity Rates - at the water and sewer rate set forth in the Commodity Rates for the first 1,000,000 gallons per quarter and at the applicable water rate only for all consumption in excess thereof.

3. **BULK SALES**

Water sold in bulk by the utility shall be charged for at the rate of Twelve Dollars and Eight Five cents (\$12.85) per 1,000 gallons with a minimum charge of \$0.25 for 17 Gallons.

4. **SERVICE TO CUSTOMERS OUTSIDE CITY LIMITS**

The Council of the City may sign agreements with customers for the provision of water and sewer services to properties located outside the legal boundaries of the City. Such agreement shall provide for payment of the appropriate rates set out in Commodity Rates of this schedule, as well as a surcharge set by resolution of Council, which shall be equivalent to the frontage levy, general taxes and special taxes for utility purposes in effect at the time, or may be in effect from time to time, and which would be levied on the property concerned if it were within these boundaries. In addition, all costs of connecting to the utility's mains, and installing and maintaining service connections will be paid by the customer.

5. **PENALTY FOR LATE PAYMENT**

A late payment charge of 1 ¼% compounded monthly shall be charged on the dollar amount owing after the billing due date. The due date will be at least fourteen (14) days after the mailing of the bills.

6. **DISCONNECTION**

All utilities subject to The Public Utilities Board Act shall comply with the Conditions Precedent for water and/or sewer service disconnection, as attached hereto and marked as Schedule "B".

7. **RECONNECTION FEE**

Where any service is disconnected under the provisions of this By-law, it shall not be reconnected until all arrears, penalties and a reconnection fee of \$50.00 have been paid.

8. **OUTSTANDING ACCOUNTS**

Pursuant to Section 252(2) of The Municipal Act, the amount of all outstanding charges for water and sewer services, including fines and penalties, are a lien and charge upon the land serviced, and shall be collected in the same manner in which ordinary taxes upon the land are collectible, and with like remedies.

9. **HYDRANT RENTALS**

The City of Morden shall pay to the utility an annual rental of \$150.00 for each hydrant connected to the system.

10. **METER ACCURACY TESTING**

That any customer may request that his/her water meter be tested for accuracy and before having the same tested by the City, he/she shall deposit with the Director of Finance & Administration the sum of One Hundred (\$100.00) Dollars, which shall be retained and if the meter shall be found to be accurate, the said sum of One Hundred (\$100.00) Dollars shall be retained by the City and if the meter is found to be inaccurate, the said sum of One Hundred (\$100.00) Dollars will be returned to the customer.

11. **SEWER SURCHARGES**

- (a) Every person who contravenes any provision of By-law 10-00 is guilty of an offence and on conviction is liable to a fine of not more than Five Hundred (\$500.00) Dollars for every day or part thereof upon which such offence occurs or continues.
- (b) Every person who contravenes any provision of By-law 10-00 and as a result of which contravention damage or injury is or may be caused to the Sewage System or any part thereof is liable to the City for the full costs of such damage or injury including any fine or penalty imposed on the City in relation to said contravention.

CITY OF MORDEN

By-law No. 5-2017

Schedule "B"

Conditions Precedent Allowing for Collection and Disconnection of Water and/or

Sewer Services for Non-Payment of Accounts

POLICY AND PROCEDURES

1.0 PURPOSE:

The purpose of this document is to outline and define the disconnection and reconnection policies and procedures for customers with water and/or sewer services.

Disconnection, in accordance with the steps outlined in the following policy and procedures may occur if a customer is in arrears and full payment or payment arrangements suitable to the utility have not been made and if so, such disconnections must occur in conformance with these conditions precedent.

Reconnection, in accordance with the following policy and procedures will occur as soon as it is reasonably possible after the account returns to good standing. This Policy and Procedure does not apply to disconnection practices for routine maintenance of the utility including emergencies.

2.0 SCOPE:

The policy and procedures apply to customers receiving water and/or sewer services. The procedures are detailed to reflect the variety of situations that may occur for each of the following customers.

2.1. All property owners and/or tenants responsible for water and/or sewer services.

2.2. All landlords responsible for providing tenant water and/or sewer services covered under The Residential Tenancies Act (C.C.S.M. c R119).

2.3. Where water and/or sewer services are added to taxes.

2.4. Where water is sold in bulk.

2.5. Where sewage is dumped into a treatment facility.

2.6. Where water and/or sewer service is provided beyond the boundaries of a municipality, if applicable.

3.0 DEFINITIONS:

Account Holder/Customer – shall refer to the person or persons who have applied for water and/or sewer service at a particular residence, whether it be the property owner or renter.

Property Owner – shall refer to the person or persons who are listed on the title of a specific property.

Renter – is not the property owner of the subject property and shall refer to the utility account holder/customer of the subject property.

Security Deposit – shall be based on the risk to the utility and should not exceed an estimated bill for three months.

4.0 POLICY:

4.1. The Utility will normally confine collection activity to the person(s) identified on the account who requested the service(s) with an implied agreement to pay or the person or agency who has agreed to pay for the service(s), with the following exception: where a reasonable person would expect that a customer not named on the bill is implicitly responsible for the service(s), i.e. husband or wife (legal or common-law), that person will also be presumed to have liability for the outstanding balance.

4.2. In order to satisfy provisions of The Freedom of Information and Protection of Privacy Act, Utilities are encouraged to develop an agreement between the utility and the account holder/customer, with provisions that establish at minimum conditions for service, recourse for unpaid bills, deposits required, and for renter's acknowledgement that information relating to their account status and other information may be released to the property owner to assist with collections.

4.3. The Public Utilities Board (Board) may, on its own initiative, or at the request of a customer, review a Utility's action and make recommendations and/or orders with respect to same as the Board may determine.

4.4. Every effort is to be made by the Utility to resolve outstanding accounts, disconnection and reconnection issues directly with its customer(s). If a solution cannot be reached the customer may apply to the Board for dispute resolution.

4.5. The Utility must make special application to the Board prior to disconnecting service to a community or multiple residences/properties. Such an application must be shared with the affected community(ies) and/or multiple residences/properties. The Board will consider the circumstances and particulars of the application and provide the Utility with direction, following such process as the Board may deem appropriate.

- 4.6. If a landlord is responsible for the provision of water and/or sewer services to tenant occupied premises, arrears will be based on the outstanding account balance and will be subject to Residential Tenancy Branch (RTB) procedures at the tenant occupied premises. Landlords failing to bring their outstanding account balance to good standing will be subject to disconnection of services of the same utility at their personal residence and any vacant premises under the same name.
- 4.7. This policy does not affect the Utility's right to disconnect in times of emergency and/or for reasons of safety or for failure to comply with water rationing requirements.
- 4.8. The Utility will keep current data of all disconnected customers in accordance with the following procedures.
- 4.9. The Utility may seek Board exemption from full disconnection procedures when faced with customers who consistently and deliberately show patterns of payment avoidance and who clearly understand the consequences of their actions.

5.0 PROCEDURES

5.1. DISCONNECTION PROCEDURE

Steps 1, 2 and 3 must be followed on water and/or sewer services in arrears.

Step 1

Customers shall receive a billing statement each billing cycle for services. In some cases the bill is for past consumption and/or minimum quarterly bill for the prior quarter and in other cases, for past consumption over the minimum quarterly bill in the prior quarter plus the next minimum quarterly bill in advance. The due date which appears on the bill shall be no less than 14 days after the billing date. Bulk water customers or customers dumping sewage may have special billing arrangements. However, failure to pay an outstanding bill may result in the removal of the right to use the service.

Step 2

If payment is not received within 31 days from the last billing date, a message similar to the following shall appear on a reminder statement:

“Our records indicate your account is past due. Please give this your prompt attention. If payment or payment arrangements have been made, kindly disregard this notice.”

[The following is applicable to residential premises.]

“Information on service disconnection, payment arrangements and financial assistance is enclosed.”

Sample Insert:

<p>If your account is past due and you have not made payment arrangements, your water and/or sewer service could be disconnected.</p> <p>The Public Utilities Board adopted Order No. --/08 governing the disconnection of water and/or sewer service for nonpayment of account.</p>	<p>To make payment arrangements, please contact the utility at: <i>[Insert contact information here]</i></p> <p>If you have already made payment arrangements, please disregard this notice.</p>	<p>Financial assistance may be available through Employment and Income Assistance:</p> <ul style="list-style-type: none"> • 1-800-626-4862 <p>Additional financial counseling and support may be available through Community Financial Counseling Services:</p> <ul style="list-style-type: none"> • 1-888-573-2383
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Step 3

If payment is not received within 45 days of the last billing date, a message similar to the following shall appear on the second and final reminder notice. Reconnection fees will be charged as approved by the Board from time to time:

IMPORTANT PAST DUE NOTICE

Your **account** is past due. If suitable payment arrangements or full payment of the arrears are not made on or before *(enter Date {14 calendar days from date of issue})* your account will be subject to disconnection. If payment of the arrears has already been made, please notify us immediately. If payment arrangements have already been made kindly disregard this notice.

If your service(s) is disconnected, full payment of the arrears balance plus a reconnection fee will be required before service is fully restored. A security deposit may also be required.

Customers may appeal the Utility's action by contacting the Public Utilities Board.

The Utility is not responsible for any damages or losses that may occur as a result of services which are disconnected for non-payment. Please ensure you protect people, animals and property that may be impacted by disconnection of service.

Reconnect Fees are \$50.00.

Your service will be disconnected on _____ in the a.m. or p.m.

5.2. Where the Utility bills the minimum quarterly bill in advance, and where service is not reconnected, the bill should be adjusted and prorated accordingly, for the period from the date of disconnection to the end of the next quarter.

5.3. The following are exceptions to the above notice requirements before disconnection:

(a) Where the customer's account was past due and where a payment arrangement was made and subsequently broken, the Utility may disconnect the customer's service with 7 calendar days notice.

(b) Where the customer's account was past due for services billed at a previous premise, the Utility may, with 10 days notice, disconnect the customer's service at the new premise if the customer fails to make a payment arrangement.

The Utility shall take all reasonable steps to collect the arrears from its account holder/customer before adding any arrears to taxes.

5.4. A message similar to the following shall appear on any future billing statements where services have been disconnected:

"Your account remains outstanding despite previous requests for payment. Failure to pay the outstanding account balance may make your account subject to legal action. Please call the phone number on the front of your billing statement or pay in person. If payment of the arrears has already been made please notify the Utility immediately. If payment arrangements have already been made kindly disregard this notice."

6.0 RECONNECTION OR RESTORATION OF SERVICE PROCEDURE:

6.1. No reconnection of service(s) shall occur unless full payment of the arrears or payment arrangements is made suitable to the Utility including a reconnection fee. Reconnection terms may also include the payment of a security deposit.

6.2. All reasonable efforts shall be made to reconnect or restore the service as soon as possible.

7.0 GENERAL GUIDELINES FOR RENTAL PROPERTIES:

7.1. The Utility is not responsible for administering rental properties; as such, the Utility will administer every property based on the property's ownership, not the property's tenancy as in cases where the occupant is not the owner, and all terms and conditions in this by-law will apply to the property as if the owner is the occupant.

7.2. The property owner is solely responsible for all utility related matters regarding any property under their ownership including, but not limited to the following:

- Providing access for meter readings and meter maintenance/replacement as required by, and at the discretion of the Utility;
- All fees and charges related to the Utility providing the services described in this by-law;
- Administering vacancies and changes in tenants with regards to meter readings and charges to tenants for utility related services upon vacating a property, though the Utility may provide assistance at the Utility's discretion.

8.0 REPORTING REQUIREMENTS:

8.1. The Utility shall record the following information which the Board may request at any time:

- (a) the name of the account holder disconnected;
- (b) efforts made by the Utility to contact the customer (bill messages, letters, telephone calls, personal visits) and the results of such efforts;
- (c) any evidence of the customer either contacting, or being encouraged to contact an appropriate social agency;
- (d) if known, details of any follow-up action being undertaken by a social agency; and
- (e) information indicating the presence of children, the elderly and the disabled. Where there are children 12 and under, the matter will be referred in writing to Child and Family Services as soon as the facts are known.