

# Bylaw 18100 EPCOR Drainage Services Bylaw

To approve the rates and terms and conditions of Drainage Utility Services provided by EPCOR

## Recommendation:

1. That Bylaw 18100, as set out in Attachment 1 of the June 9, 2017, Financial and Corporate Services report CR\_4885, be read a first time.
2. That upon first reading of Bylaw 18100:
  - a. Bylaw 18100 be referred to the City Manager and return to City Council, through Utility Committee, with a report as to the reasonableness of the rates application, and a summary of written submissions by interested parties.
  - b. Bylaw 18100 be referred to the August 30, 2017, Utility Committee meeting, for a non-statutory public hearing.
  - c. EPCOR carry out the necessary advertisement of the non-statutory public hearing, to be held at the August 30, 2017, Utility Committee meeting, in accordance with section 606 of the *Municipal Government Act*.
  - d. Written submissions regarding material within the rates report from Councillors be provided to the Office of the City Clerk, no later than July 18, 2017, at 4 p.m., as per section 8(2) of Bylaw 12294 - EPCOR Rates Procedures Bylaw.

## Purpose

To establish customer rates and terms and conditions for Drainage utility services provided by EPCOR Water Services Inc. ("EPCOR") for the period of January 1, 2018, to March 31, 2022.

## Readings

Bylaw 18100 is ready for first reading only (please refer to Attachment 1 to this report). A non-statutory public hearing must be held within 60 days of Council giving first reading to the bylaw, as per 8(1) of Bylaw 12294 - EPCOR Rates Procedures Bylaw.

## Advertising and Signing

In accordance with Bylaw 12294 EPCOR Rates Procedures Bylaw, notice of a non-statutory public hearing must be advertised for two consecutive weeks at least five days in advance of the public hearing, consistent with requirements set out in section 606 of the *Municipal Government Act*.

## **Position of Administration**

Administration supports this Bylaw.

Administration recently received the rates notice, rates report, and the proposed Bylaw from EPCOR, and will be completing a thorough review. The material has been included as Attachment 4 to this report.

As set out in Bylaw 12294 - EPCOR Rates Procedure Bylaw, a thorough detailed review of the reasonableness of the proposed rates will be completed by Administration following first reading of the proposed Bylaw 18100 - EPCOR Drainage Services Bylaw. Guiding objectives for this review, as outlined in Bylaw 12294 - EPCOR Rates Procedures Bylaw, have been listed in Attachment 2 to this report.

## **Report Summary**

**In accordance with Bylaw 12294 - EPCOR Rates Procedures Bylaw, this report includes the proposed Bylaw 18100 - EPCOR Drainage Services Bylaw tabled by EPCOR to replace the existing Bylaw 16200 - Drainage Bylaw. This report also provides a brief background and outlines the process and timing recommended to allow for the assessment and approval of the related rates, fees, and charges established by the bylaw.**

## **Previous Council/Committee Action**

At the April 12, 2017, City Council meeting, the following motion was passed:

That the City Manager prepare recommendations for revisions to all applicable bylaws to effect the transfer, including Bylaw 16200 - Drainage Bylaw and the proposed EPCOR Drainage Bylaw and return to Utility Committee on June 9, 2017.

## **Report**

### **Background**

EPCOR provides water and wastewater treatment services within the boundaries of the city of Edmonton. Effective September 1, 2017, EPCOR will also begin providing drainage services to the city of Edmonton. On April 12, 2017, City Council approved the transfer of the Drainage Utility assets and liabilities to EPCOR in accordance with Attachment 1 - EPCOR Proposal Letter of Intent to Financial and Corporate Services report CR\_4436 (the "Letter of Intent").

On October 25, 2016, City Council approved Bylaw 17698 that sets customer rates for water and wastewater treatment services charged by EPCOR under Performance Based Regulation for the five year period April 1, 2017, to March 31, 2022.

Through the proposed Bylaw 18100, EPCOR is seeking approval for customer rates

for drainage services charged by EPCOR under a Performance Based Regulation framework for the period January 1, 2018, to March 31, 2022. The proposed Bylaw 18100 reflects EPCOR's commitment to hold the average annual rate increases to 3% for the period January 1, 2018, to March 31, 2022 (on a blended basis between the Sanitary and Stormwater Utilities). The proposed Bylaw is similar to Bylaw 17698 in that it provides for a mechanism for non-routine adjustments and services quality metrics and targets.

For the interim period September 1 to December 31, 2017, EPCOR will operate the Drainage utility under an Interim Regulatory Framework Agreement as described in Section 5.1 of the Letter of Intent. Under the interim agreement, EPCOR will provide Drainage services in accordance with Bylaw 16200 - Drainage Bylaw that sets out the customer rates and terms and conditions of service applicable to the City drainage utility.

As a result of the transfer of the Drainage utility to EPCOR, many of the functions set out in Bylaw 16200 - Drainage Bylaw will be transferred to EPCOR and have been incorporated into the proposed Bylaw 18100 - EPCOR Drainage Services Bylaw.

City Operations report CR\_4870 details the proposed Bylaw 18093 - Drainage Bylaw which will replace the existing Bylaw 16200. Bylaw 18093 incorporates existing provisions of the current Bylaw 16200 - Drainage Bylaw which are not included in the transfer of the Drainage utility from the City to EPCOR.

### Process and Timing

Bylaw 12294 - EPCOR Rates Procedures Bylaw outlines the procedures for Council to approve rates applicable to any utility service provided by EPCOR within the boundaries of the city of Edmonton which the City has authority to approve.

Administration has worked with EPCOR to draft a proposed timeline for Utility Committee and City Council to review Bylaw 18100 - EPCOR Drainage Services Bylaw, including a non-statutory Public Hearing at the August 30, 2017, Utility Committee meeting (please refer to Attachment 3).

The process and timing proposed in this report will allow for the assessment and approval of Bylaw 18100 which include the following key elements as noted in Part I, Section 2.0 of the EPCOR Rates Report:

- A mechanism to adjust customer rates, fees and charges reflecting EPCOR's commitment to hold the average annual rate increases to 3% for the period January 1, 2018, to March 31, 2022 (on a blended basis between the Sanitary and Stormwater Utilities);
- A mechanism for non-routine adjustments under the Performance Based Regulation framework, similar to Bylaw 17698 for water and wastewater

- treatment services;
- Terms and Conditions of service; and
- Service quality metrics and targets, detailed in a similar manner to Bylaw 17698 for water and wastewater treatment services.

As discussed in Part I, Section 7.0 of the EPCOR Rates Report, EPCOR has adopted the performance measures currently used by the City Drainage Utility (excluding financial measures) for the years 2018 and 2019 in the proposed Bylaw 18100. Updated performance measures for the period January 1, 2020 to March 31, 2022 will be presented to the Utility Committee for approval in mid 2019.

### **Policy**

The information in this report is compliant with the *Municipal Government Act* and Bylaw 12294 - EPCOR Rates Procedures Bylaw.

### **Corporate Outcomes**

The information contained in this report is consistent with Council's strategic vision in terms of its conditions of success, particularly related to sound management practices and processes. This report contributes to the Corporate outcomes "The City of Edmonton has sustainable and accessible infrastructure" and "The City of Edmonton has a resilient financial position".

### **Public Engagement**

A non-statutory public hearing will be held at the August 30, 2017, Utility Committee meeting. EPCOR is to make advertisement of the hearing for two consecutive weeks commencing July 19, 2017. Public will be able to make submissions up to August 9, 2017.

### **Budget/Financial Implications**

Approval of Bylaw 18100 will have financial implications on EPCOR's revenues, therefore impacting the EPCOR franchise fee and dividend received annually by the City.

### **Legal Implications**

The *Municipal Government Act* provides that public utilities owned or operated by EPCOR Water Services Inc. within the boundaries of the City of Edmonton are not regulated by the Alberta Utilities Commission.

The *Municipal Government Act* provides City Council with the authority to pass bylaws relating to public utilities and to set terms, costs or charges relating to those public utilities.

The existing Bylaw 16200 - Drainage Services Bylaw sets out a mechanism for setting

and adjusting rates, fees and charges for Drainage Services for a period that expires December 31, 2017.

With the transfer of Drainage utility to EPCOR, a new bylaw is required to set rates, fees and charges for drainage services provided by EPCOR effective January 1, 2018. In accordance with the Letter of Intent, the proposed Bylaw 18100 EPCOR Drainage Services Bylaw is patterned after the current Bylaw 17698 - Water Services and Wastewater Treatment Bylaw. This includes limitation of liability provisions that are consistent with the provisions in Bylaw 17698 - Water Services and Wastewater Treatment Bylaw, although more expansive than municipal protections under the *Municipal Government Act*.

Bylaw 12294 - EPCOR Rates Procedures Bylaw sets out a procedure for Council to approve rates applicable to any utility service provided by EPCOR within the boundaries of the City of Edmonton which the City has authority to approve. Under Bylaw 12294 - EPCOR Rates Procedures Bylaw, if first reading of a bylaw determining rates applicable to a utility service passes, Council must refer the matter to a Utility Committee meeting, for a non-statutory public hearing to occur within sixty (60) days.

### **Metrics, Targets and Outcomes**

Please refer to Schedule 3 of Bylaw 18100 in Attachment 1 to this report for the metrics and targets for Drainage services.

#### **Justification of Recommendation:**

1. First reading of Bylaw 18100 initiates the process of rates review and approval in accordance with Bylaw 12294 - EPCOR Rates Procedures Bylaw. A new bylaw is required to set fees, rates and charges to be effective January 1, 2018.
2. That upon first reading of Bylaw 18100:
  - a. Referral of the report for review is consistent with the due diligence process outlined in Bylaw 12294 - EPCOR Rates Procedures Bylaw.
  - b. A non-statutory public hearing is required at a Utility Committee meeting within 60 days of first reading of Bylaw 18100, pursuant to Bylaw 12294 - EPCOR Rates Procedure Bylaw.
  - c. Public advertising of Bylaw 18100 is required in accordance with section 606 of the *Municipal Government Act*.
  - d. Receipt of Councillors' submissions within seven working days of first reading is required in order to ensure that adequate responses can be provided in a timely fashion.

**Attachments**

1. Bylaw 18100
2. Guiding Objectives for Assessment of Rates (as per Bylaw 12294)
3. Schedule for Consideration of Bylaw 18100
4. EPCOR Rates Notice and Rates Report