

TO: CITY MANAGER **DATE:** 2019 March 20
FROM: DIRECTOR FINANCE **FILE:** 41500-20
**SUBJECT: CREDITS FOR 2019 SUPPLEMENTARY UTILITY FEES FOR
SECONDARY AND IN-LAW SUITES**

PURPOSE: To obtain Council approval for bylaw amendments to implement credits for supplementary utility fees for secondary suites and in-law suites which are not rented or intended to be rented in 2019.

RECOMMENDATIONS:

1. **THAT** Council approve the issuance of credits to property owners who paid supplementary utility fees for secondary suites and in-law suites which are not rented and not intended to be rented in 2019 and the imposition of penalties for false or inaccurate declarations, as outlined in Section 3.0 of this report.
2. **THAT** Council direct the City Solicitor to bring forward amendments to the following bylaws, as outlined in Section 4.0 of this report:
 - (a) *Burnaby Waterworks Regulation Bylaw 1953;*
 - (b) *Burnaby Sewer Charge Bylaw 1961; and*
 - (c) *Bylaw Notice Enforcement Bylaw 2009.*

REPORT**1.0 INTRODUCTION**

Supplementary utility fees for water and sewer have been levied on single and two family dwellings containing a Secondary Suite or In-Law suite since 2017 January 01. Fees are levied on the basis of the existence of a suite (whether authorized or not under the Zoning Bylaw) in the dwelling, with waivers only applied in cases where the suite has been decommissioned or when the suite is part of a new construction, for which supplementary utility fees are waived for a period of 12 months after issuance of the Building Permit.

Existing supplementary utility fees for water and sewer are based on 50% of the standard fee for the respective property type – Single Family Dwelling or Two Family Dwelling (or duplex). Fees for 2019 were imposed with the annual Utility Notices in February, with a discounted fee available for payment by the due date of 2019 March 15. Approximately 7,000 properties in the City were subject to the supplementary utility fees in 2019, representing \$4 million in revenue collected and placed in the Utility Operating Funds for Waterworks and Sanitary Sewer. The majority of property owners pay their 2019 Utilities Notice by the mid-March due date.

Table 1 - 2019 Supplementary Utility Fees for Secondary and In-Law Suites

Supplementary Utility Fees	Amount if paid by 2019 March 15	Amount if paid after 2019 March 15
Water – Secondary Suite or In-Law Suite in Single Family Dwelling	\$294.88	\$310.39
Water – In-Law Suite in Two Family Dwelling	\$221.16	\$232.79
Sewer – Secondary Suite or In-Law Suite in Single or Two Family Dwelling	\$276.13	\$290.66

This report is in response to Council’s request that staff bring forward recommendations to provide credits or account adjustments to property owners who were charged supplementary utility fees for secondary suites and in-law suites which are not rented and not intended to be rented in 2019.

2.0 POLICY SECTION

Goal

- A Dynamic Community:
 - Economic opportunity –
Foster an environment that attracts new and supports existing jobs, businesses and industries
 - Community development –
Manage change by balancing economic development with environmental protection and maintaining a sense of belonging

3.0 CREDITS FOR 2019 SUPPLEMENTARY UTILITY FEES

The focus of existing utility bylaws and City policy has been to levy supplementary utility fees on the basis that a secondary suite or in-law suite exists in a single or two family dwelling, whether such suite is used by a second household or not. Due to property owners’ concerns about the supplementary utility fees being charged whether or not a secondary suite or in-law suite is used by a second household, Council has requested that City staff provide recommendations on providing a credit or account adjustment for suites that are not rented in 2019. This represents a policy change, in that only suites which are rented by the property owners would be subject to the 2019 supplementary utility fees. Since 2019 utilities were invoiced in February and due on 2019 March 15, a credit to a property’s annual Tax Notice is recommended as the method for implementing the policy change for properties that have already paid the 2019 supplementary utility fees.

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The credit would be in the amount of the supplementary utility fees imposed for the property, assuming payment has been received (see Table 1 for 2019 rates). Utilities account adjustments to remove the supplementary utility fees will be made for all properties with outstanding unpaid amounts.

In order to determine whether a property owner is entitled to a credit / account adjustment for 2019 supplementary utility fees, City staff recommend requiring property owners to complete a declaration form to confirm that the secondary suite or in-law suite in their single family or two family dwelling was not rented, is currently not rented and is not intended to be rented in 2019. “Rented” in the context of this declaration would mean the owner receives rental income for use or occupancy of the suite for any period of time, whether short-term or long-term, and would include renting to family members or relatives. The declaration would apply to both the supplementary utility fee for water under the *Burnaby Waterworks Regulation Bylaw 1953* and the supplementary utility fee for sewer, under the *Burnaby Sewer Charge Bylaw 1961*.

Subject to Council approval of this report, declaration forms would be sent in early April to approximately 7,000 properties in the City that have been charged the 2019 supplementary utility fees. The deadline for returning the declaration forms would be set for 2019 April 30, so that adjustments can be applied and credits then added to the property’s Tax Account in time for issuance of Tax Notices at the end of 2019 May. During initial implementation of the supplementary utility fees in 2017, the City received a considerable number of owner requests for mid-year / partial adjustments, which required significant staff resources to address. In order to minimize such adjustments, staff recommend that 2019 April 30 be a firm deadline for receipt of completed declarations and those property owners who do not submit a completed declaration by this date will not receive a credit for their 2019 supplementary utility fees. This deadline will also apply to those accounts for which utility fees remain outstanding.

In order to discourage misrepresentation by property owners, a penalty of \$500 each under *Burnaby Waterworks Regulation Bylaw 1953* and *Burnaby Sewer Charge Bylaw 1961* is proposed for any owner who submits a false or inaccurate declaration. In such a case, the property owner would be subject to a combined penalty amount of \$1000 for a false or inaccurate declaration.

The above approach is recommended for 2019 only, as supplementary utility fees were already imposed in 2019 February and most owners have paid the fees by the due date of 2019 March 15. The proposed bylaw amendments below reflect the implementation of this approach for 2019 only.

4.0 PROPOSED BYLAW AMENDMENTS

In order to implement a credit or account adjustment for supplementary utility fees and a penalty for false or inaccurate declarations, as described in Section 3.0 above, amendments are proposed for the following three bylaws:

- *Burnaby Waterworks Regulation Bylaw 1953*
- *Burnaby Sewer Charge Bylaw 1961*
- *Bylaw Notice Enforcement Bylaw 2009*

Burnaby Waterworks Regulation Bylaw 1953

It is proposed that a new provision be included in the *Burnaby Waterworks Regulation Bylaw 1953* as Section 41B. This new section would read as follows:

41B. (1) An owner of a parcel of land or premises that has been charged a flat rate service fee for a secondary suite or in-law suite, in accordance with Schedule "A", shall receive a credit or account adjustment equal to such flat rate service fee for the period from January 1 to December 31, 2019 if the owner submits to the City a declaration, in form and content established by the City, by no later than April 30, 2019 confirming that the secondary suite or in-laws suite located on the parcel of land or premises was not, is not and will not be rented at any time during the 2019 calendar year. For the purpose of the declaration, "rented" shall mean the receipt of rental income in exchange for use or occupancy of the suite for any period of time, including renting to family members or relatives.

(2) No owner shall submit to the City a declaration pursuant to subsection (1) that contains false or inaccurate information.

Burnaby Sewer Charge Bylaw 1961

It is proposed that new provisions be included in the *Burnaby Sewer Charge Bylaw 1961* as Sections 4A (3) and (4). These new sections would read as follows:

4A. (3) An owner of a parcel of land or premises that has been charged a sewer use charge for a secondary suite or in-law suite, in accordance with Schedule "C", shall receive a credit or account adjustment equal to such sewer use charge for the period from January 1 to December 31, 2019 if the owner submits to the City a declaration, in form and content established by the City, by no later than April 30, 2019 confirming that the secondary suite or in-law located on the parcel of land or premises was not, is not and will not be rented at any time during the 2019 calendar year. For the purpose of the declaration, "rented" shall mean the receipt of rental income in exchange for use or occupancy of the suite for any period of time, including renting to family members or relatives.

(4) No owner shall submit to the City a declaration pursuant to subsection (3) that contains false or inaccurate information.

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Burnaby Notice Enforcement Bylaw 2009

It is proposed that the following be added to Schedule “A” of the *Burnaby Bylaw Notice Enforcement Bylaw 2009*, under the penalties relating to the *Burnaby Waterworks Regulation Bylaw 1953*, in numerical order:

Bylaw Section	Description	Penalty Amount	Discounted Penalty (within 15 days)	Compliance Agreement Available (50% reduction)
Burnaby Waterworks Regulation Bylaw 1953				
41B(2)	Submitting false or inaccurate declaration.	\$500	\$400	NO

There are currently no penalties under the *Burnaby Bylaw Notice Enforcement Bylaw 2009* relating to the *Burnaby Sewer Charge Bylaw 1961*. It is proposed that the following be added to Schedule “A” of the *Burnaby Bylaw Notice Enforcement Bylaw 2009*, in alphabetical order:

Bylaw Section	Description	Penalty Amount	Discounted Penalty (within 15 days)	Compliance Agreement Available (50% reduction)
Burnaby Sewer Charge Bylaw 1961				
4A (4)	Submitting false or inaccurate declaration.	\$500	\$400	NO

5.0 RECOMMENDATION

Council has requested that staff provide recommendations for the implementation of credits or adjustments for 2019 supplementary utility fees imposed on properties where the secondary suite or in-law suite was not, is not and will not be rented during the 2019 calendar year. Staff proposes to issue credits or account adjustments on the basis of declarations to be completed by property owners that meet these criteria, provided an owner submits a completed declaration by 2019 April 30. In order to implement the credit or account adjustment and associated penalty for false or inaccurate declarations, amendments are proposed for the *Burnaby Waterworks Regulation Bylaw 1953*, *Burnaby Sewer Charge Bylaw 1961* and *Bylaw Notice Enforcement Bylaw 2009*.

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It is recommended that Council approve the issuance of credits to property owners who paid supplementary utility fees for secondary suites and in-law suites which are not rented and not intended to be rented in 2019 and the imposition of penalties for false or inaccurate declarations, as outlined in Section 3.0 of this report.

It is also recommend that Council direct the City Solicitor to bring forward amendments to the following bylaws, as outlined in Section 4.0 of this report:

- (a) Burnaby Waterworks Regulation Bylaw 1953;
- (b) Burnaby Sewer Charge Bylaw 1961; and
- (c) Bylaw Notice Enforcement Bylaw 2009.

The proposed amendment bylaws appear elsewhere on the Council Agenda, for Council consideration of first, second and third readings.



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