



## Lead Program Enhancements - Bylaw Changes

<b>Date</b>	March 9, 2022
<b>To</b>	Executive Committee
<b>From</b>	Citizen Services
<b>Service Area</b>	Water, Waste & Environment
<b>Item No.</b>	EX22-23

### RECOMMENDATION

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The Executive Committee recommends that City Council:

1. Approve the amendments to *The Regina Water Bylaw*, Bylaw No. 8942 as outlined in the discussion of this report to implement the approved enhancements to the Lead Service Connection Management Program as outlined in CR21-90.
2. Instruct the City Solicitor to prepare an amendment to *The Regina Water Bylaw*, Bylaw No. 8942 as generally described in Appendix A to this report, to be brought forward to the meeting of City Council following approval of the recommendations in this report by City Council.
3. Approve these recommendations at its meeting on March 16, 2022.

### ISSUE

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On May 26, 2021 City of Regina (City) Council approved a number of changes to the Lead Service Connection Management Program (LSCMP). The program changes require amendments to *The Regina Water Bylaw*, Bylaw No. 8942 (Water Bylaw). This report details the bylaw changes resulting from *CR21-90 Lead Service Connection Management Report* (CR21-90), that resolved:

1. To amend the Water Bylaw to include the following regulations:
  - a. The mandatory replacement of the privately-owned lead service connections (LSCs)

- when a City-owned LSC is replaced.
- b. Outlining an interest-free coordinated agreement, where the private and City-side of the LSC are replaced at the same time and including the following payment options for property owners:
    - i. Direct payment to contractor at the time of replacement.
    - ii. Five-Year Equalized Payment Plan, plus up-front administration fee of \$240.
    - iii. Ten-Year Equalized Payment Plan (available only to property owners who meet the City's Affordable Access Program criteria).
  - c. Outlining an interest-free agreement available to property owners with private side lead to replace their LSCs, where the City-side is not lead with the following payment options:
    - i. Five-year Equalized Payment Plan, plus up-front administration fee of \$240.
    - ii. Ten-year Equalized Payment Plan (available only to property owners who meet the City's Affordable Access Program criteria).

## IMPACTS

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### Financial Impact

Providing property owners with deferred payment options will result in a financial impact averaging \$1.8 million per year, until all deferred payments are received, up to a maximum of ten years after the final replacements occur. Over the life of the Utility model, this portion of the funding will be paid back by residents. The financing of this program will be funded by the General Utility Reserve (GUR), and the GUR would be maintained within the minimum (\$25 million) and maximum (\$90 million) reserve balances.

### Risk/Legal Impact

On July 3, 2020, amendments to *The Cities Act* came into force that allow the City to enter into agreements with property owners to finance private side infrastructure replacements. Under the new provision, the City can pay the upfront capital cost of the LSC replacement of the private side and allows the property owner to reimburse the City for this expenditure over time, without interest.

The unpaid balance will be added to the taxes over multiple years without late payment penalties, as long as the person is making the payments according to the Lead Service Connection Replacement Program (LSCR) agreement. The Water Bylaw will be amended to include provisions for an interest-free agreement over five years, or ten, for the private side lead replacements. The ten-year deferral is only available if the property owner(s) qualifies for the City's Affordable Access Program.

### Policy/Strategic Impact

The LSCMP is consistent with *Design Regina: The Official Community Plan* (OCP) as follows:

- Additional financial resources to replace City-owned LSCs helps make the City's LSCMP accessible to all property owners of Regina (OCP D11 Goal 5 - Social Inclusion: 13.19).
- The 2022 updates to the LSCMP require the replacement of the private side LSCs when City-

owned LSCs are replaced, helping to improve the condition of existing housing stock (OCP D6 Goal 2 - Existing Housing Stock: 8.9).

### **Environmental Impact**

City Council set a community goal for the City of achieving net zero emissions and sourcing of net zero renewable energy by 2050. In support of this goal, City Council asked Administration to provide energy and greenhouse gas implications of recommendations so that Council can evaluate the climate impacts of its decisions. The recommendations in this report are administrative in nature and are expected to have limited direct impacts on energy consumption and greenhouse gas emissions.

### **OTHER OPTIONS**

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Other support options were explored in CR21-90.

### **COMMUNICATIONS**

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Information regarding the current LSCMP is available at [Regina.ca/leadservice](http://Regina.ca/leadservice). In the fall of 2021, the LSCMP annual notification letters were provided to residents and owners of properties serviced by City-owned LSCs. Included in the 2021 notifications were program details for the 2022 upcoming changes to the LSCMP.

Education and awareness about enhancements to the LSCMP will continue in 2022. Communications will focus on providing information to residents that may have City-owned or privately-owned LSCs, including notification of mandatory replacement of privately-owned LSCs and financial payment options available to assist with the replacement. Communications will include:

- Improved accessibility to information on [Regina.ca/leadservice](http://Regina.ca/leadservice), including online application forms for the filter program and payment options for mandatory replacement.
- Annual notification letters that include information on impacts on lead in drinking water, updates to the LSCMP along with free filter and water testing options.
- Notification letters to property owners affected by construction, where City and privately-owned LSCs will be replaced as part of a project.

The Administration will continue to establish relationships with community partners and groups to develop better collaboration methods to reach residents and increase water filter distribution.

### **DISCUSSION**

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The proposed amendments will be made to the Water Bylaw. The amendments to the Water Bylaw will be modelled after the City of Saskatoon's bylaw with modifications to definitions/terms to fit within the context of Regina bylaws. The general details of the amendments to the Water Bylaw can be found in Appendix A.

The proposed amendments to the City's Water Bylaw are in accordance with *The Cities Act* and allow the City the general power to pass bylaws in relation to the following:

- The safety, health and welfare of people and the protection of people and property.
- Services provided by or on behalf of the City, including establishing fees for providing those services.
- Respecting public utilities.
- Requiring construction, maintenance, repair, or replacement of a service connection by the owner of a parcel of land, with the costs being an amount owing by the owner.

The Water Bylaw will be amended to include the following provisions:

### **Mandatory Private Side Replacement**

Replacing only the City-owned portion of LSCs does not solve the issue of lead in drinking water if lead plumbing materials also exist on the private side. Disturbing the service connection without completing a full LSC replacement has been shown to increase lead concentrations in the tap water supplied to residents immediately after replacement and has not been shown to significantly reduce lead levels over time.

Replacements will occur in conjunction with infrastructure renewal projects and will be mandatory for property owners to replace the private side of their LSC when a City-side LSC is also present. In cases where there is no City-side LSC present, but the private side is still lead, the property owner will not be required to replace the private side of the LSC. If the property owner wishes to replace the private side where the City-side has been replaced, they will have access to the deferred payment options in the LSCRCP.

In cases where the replacement occurs due to an emergency break on the City-side LSCs, the property owner will have 60 days to replace the private side of their LSC. During this time, the City will facilitate the replacement of the private side of the LSC for the property owner and the property owner will have access to the deferred payment options in the LSCRCP.

The City is responsible for the City-owned portion of the service connection from the water main to the property line. The property owner is responsible for the privately-owned portion of the service connection from the property line into the home, as well as in-house plumbing (Appendix B).

The Administration will continue to coordinate with the Residential Road Renewal Program (RRRP) as well as other infrastructure renewal projects to create a block-by-block program for the replacement of LSCs. This approach will help to manage impacts to roadways, create an efficient schedule to coordinate with residents, and help to minimize mobilization costs between replacement locations.

The City does not maintain records of the material used in the private side of service connections. To ensure that all lead is removed from the LSC at the time of replacement, each location will need to be investigated prior to the replacement to determine where lead exists. This will entail entering residents' homes to inspect the private side of the service connection.

When replacing the LSC, the City will:

- Provide residents and/or homeowners advanced notice of replacement.
- Obtain the necessary permits for the full replacement.
- Replace the City-owned and private side of the LSC.
- Provide interior flushing instructions post replacement of the LSC.

To complete the replacement, the contractor needs access to the water meter inside of the property. If access is not provided, the City will replace the City-owned portion of the LSC and turn off the curb box which shuts off water to the property until such time as the property owner allows the contractor to enter the property to access the water meter and complete lead service connection replacement.

When the replacement of a LSC takes place, damage or failure of the existing sewer service connection can also occur. If the private side of a sewer service connection requires replacing when an LSC is also being replaced, the property owner can include the cost of the replacement as part of the deferred payment options in the LSCRP up to the maximum amount permitted under the program, which is \$10,000.

### **Deferred Payment Options**

In conjunction with mandating the private side replacements, the City is offering residents deferred payment options, recognizing residents may not have planned on a replacement for when the work is being completed. Deferred payments are also available to properties with private side lead service connections to complete their replacements using a contractor from the City's approved underground contractor list.

Once the replacement has been completed, the City will inspect the installation and, if completed properly, the City will pay the contractor on the property owner's behalf.

The property owner will be able to finance the private side replacement of an LSC (and any necessary sewer replacement) up to a maximum cost of \$10,000.

Property owners interested in the deferred payment options will be required to enter into a financing agreement with the City. The agreement requires the cost of the replacement be registered as a pending liability on the property tax information and the replacement cost is registered as a lien against the property until the total replacement amount is paid in full.

The deferred payment options available to residents for the replacement of private-side LSCs are:

- An interest free, five-year equalized payment plan (plus an up-front administration fee of \$240)
  - The purpose of the up-front administration fee of \$240 includes the cost of applying the amount to the property taxes and the time required to process the equalized payment program.
  - In this case, the City pays the contractor and attaches the cost for the private side replacement to the property owners' taxes. One fifth of the total amount is then due and payable when your taxes are due. In each year thereafter, one fifth of the amount is due and payable until the amount is paid in full. If property owners are on the TIPPS program, you would make 60 equal payments after the replacement has been completed.
  
- An interest free, ten-year equalized payment plan for residents that meet the City's Affordable Access Program criteria. Please refer to Appendix C for an example of the City's Affordable Access Program Application, which will be amended to reflect the lead service connection program, if approved by Council.
  - There is no up-front administration fee if the property owner is eligible for the ten-year equalized payment plan option.
  - In this case, the City pays the contractor and attaches the cost for the private side replacement to the property owners' taxes. One tenth of the total amount is then due and payable when your taxes are due. In each year thereafter, one tenth of the amount is due and payable until the amount is paid in full. If you are on the TIPPS program, you would make 120 equal payments after the replacement has been completed.

If an LSC at a property is replaced on or before September 30, the amount due, if unpaid, will be added to the tax roll of the property on January 1 of the next calendar year.

If an LSC at a property is replaced after September 30, the amount due, if unpaid, will be added to the tax roll of the property and form part of the taxes on January 1 of the year following the next calendar year.

**Failure to Pay**

Included in the agreement is the acknowledgement and agreement of the property owner that if there is a failure to make any of the required payments on the due date(s), then the City is entitled to collect the same as the property tax arrears, together with the City's normal penalties and interest through the City's property tax collection system.

If the property is sold or the property owner dies, a representative of the estate shall notify the City within 60 days of the sale or transfer of the property. The City will then send out notice that the remaining replacement cost is now due and owing, unless the City has agreed to another arrangement for repayment of the remaining replacement cost with a subsequent owner, to collect the same as property tax arrears.

If the property owner or a representative does not repay the City upon transfer of ownership, the City is entitled to recover the unpaid portion of the replacement cost, from any subsequent owner of the property.

A clause will be added under the Offences, Penalties and Enforcement section of the bylaw that states no person shall fail to notify City with false or misleading information on an application under the deferral program; or fail to notify the City of the death of a taxpayer or the sale of property which could lead to discontinuation of service.

## **DECISION HISTORY**

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In 2017, (*Lead Service Connection Management Program Report CR17-74*), City Council approved additional elements for the LSCMP including testing and a water filter program for residents.

In 2018, (*Lead Service Connection Management Program Report CR18-27*), City Council was provided with an update of 2017 and proposed 2018 program activities. Administration was directed to provide a report to Public Works & Infrastructure (PWI) Committee annually on the progress of the LSCMP.

In April 2019, (*Lead Service Connection Management Update Report PWI19-9*), a report was submitted to PWI to provide an update on the progress of the LSCMP.

On December 3, 2019 (*Accelerating the Lead Service Connection Management Program MN19-23*), Council approved a motion that required that Administration prepare a report for Public Works and Infrastructure Committee in March 2020 that considers and analyzes potential enhancements to the LSCMP.

On March 25, 2021, as part of the 2021 Utility Budget, City Council approved a continuous supply of water filters for eligible residents as part of the LSCMP.

On May 26, 2021, (*Lead Service Connection Management Program CR21-90*), City Council approved:

1. A fifteen-year LSC replacement program with mandatory private side replacement, with a target completion year of 2036.
2. Program support options with payment options up to ten years for qualifying residents for full

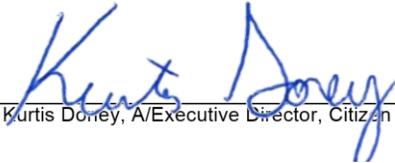
LSC replacements.

3. A two-percent Utility Rate increase beginning in 2022

The recommendations contained in this report require City Council approval.

Respectfully Submitted,

Respectfully Submitted,



Kurtis Doney, A/Executive Director, Citizen Services

2/23/2022



Kim Conra, Executive Director, Citizen Services

2/24/2022

Prepared by: Laine Froehlich, Technologist II-Water & Sewer Services

**ATTACHMENTS**

- Appendix A - Proposed Changes to The Water Bylaw
- Appendix B - Service Connection Diagram
- Appendix C - 2022 Affordable Access Application