THE CORPORATION OF
THE CITY OF WATERLOO

BY LAW NO. 2012 – 125

BY-LAW TO IMPOSE A STORMWATER CHARGE AND IMPLEMENT A STORMWATER CREDIT PROGRAM

WHEREAS municipalities are authorized to impose fees and charges pertaining to a stormwater system pursuant to sections 9, 10, 11 and 391 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended (the “Act”);

AND WHEREAS Council deems it necessary and desirable to create a separate stormwater fee and charge to fund the operation, maintenance and capital projects pertaining to stormwater management;

AND WHEREAS the creation of a separate stormwater charge to fund stormwater management will bring transparency to the actual costs of providing and maintaining the extensive stormwater management infrastructure within the City;

AND WHEREAS effective January 1, 2011, The Corporation of the City of Waterloo has imposed a stormwater charge on Customers in the City;

AND WHEREAS in establishing the stormwater charge rate tiers set out in this By-law, Council has had regard to differentiating between the amount of impervious surface and the density of stormwater infrastructure based on property classifications and property sizes and types;

AND WHEREAS in establishing the stormwater credit program outlined in Schedule A, Council wishes to acknowledge Customers who have taken steps to capture rain water, and in doing so lessen the impact on the municipally owned Stormwater Management infrastructure and related operating and capital programs;
AND WHEREAS effective January 1, 2013, The Corporation of the City of Waterloo desires to implement a stormwater credit program for Customers in the City;

NOW THEREFORE the Council of The Corporation of the City of Waterloo enacts as follows:

1. Citation

1.1 This by-law shall be known as the 'Stormwater Utility and Credit Program By-law" of the Corporation of the City of Waterloo.

1.2 Should any by-law refer to the City's, or a department of the City's, "Stormwater Utility By-law" or "Stormwater By-law", the aforesaid by-law, in using any of the aforementioned terms, shall be interpreted to mean this by-law, regardless of any definition to the contrary contained within that by-law.

2. Definitions:

In this By-law:

"Act" means sections 9, 10, 11 and 391 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended

"Applicant" means the Customer or Customers who completes the stormwater credit application

"Application" means the Stormwater credit application

"Baseline calculation" means the stormwater utility fee assigned to a property without any credits being applied

"BMP" means Best Management Practice

"City" means The Corporation of the City of Waterloo and includes its employees, servants and agents.

"Customer" means any owner, occupant, lessee, tenant or any other persons which is served by the stormwater system pursuant to sections 9, 10, 11 and 391 of the Act.

"Council" means the Council of The Corporation of the City of Waterloo.
"CVC" means the Credit Valley Conservation Authority

"Director of Water Services" means the Director of Water Services of the City, or his or her designate

"Fee And Charges By-law" means the current schedule of fees, rates or other charges as established by a by-law enacted pursuant to section 391 of the Act as may be amended from time to time.

"GM of Public Works" means the General Manager of Public Works of the City of Waterloo, or his or her designate

"Good Repair" means:
   a) free from health hazard;
   b) free from fire hazard;
   c) in good working order;
   d) not in poor condition by reason of deterioration, neglect, damage, or defacement; and,
   e) able to perform its intended function;

"LID" means Low Impact Development, which is an innovative approach to land development that mimics the natural movement of water in order to manage stormwater (rainwater and urban runoff) close to where it falls

"MOE" means the Ontario Ministry of Environment

"Officer" means the City Employee appointed for the purposes of administering and enforcing this by-law or his/her designate;

"Real Property" means property that includes land and buildings, or anything affixed to the land.

"SWM" means Stormwater Management

"Total Property Area" means the total horizontal area within the boundary of a lot.

"Water utility invoice" means the invoice issued by the City to the customer that details water, wastewater, and stormwater charges.

3. **Effecteded Lands – within City of Waterloo:**
A stormwater charge is to be imposed upon all owners of real property in the City in accordance with the following table, which is generally based on total property size:

<table>
<thead>
<tr>
<th>Property Type</th>
<th>Size Class</th>
<th>Size Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>Residential Small</td>
<td>Total property area less than or equal to 405 m² (0.1 acres)</td>
</tr>
<tr>
<td></td>
<td>Residential Medium</td>
<td>Total property area greater than 405 m² (0.1 acres) and less than or equal to 1012 m² (0.25 acres)</td>
</tr>
<tr>
<td></td>
<td>Residential Large</td>
<td>Total property area greater than 1012 m² (0.25 acres)</td>
</tr>
<tr>
<td>Multi-Residential</td>
<td>Multi-Res Small</td>
<td>Total property area less than or equal to 1012 m² (0.25 acres)</td>
</tr>
<tr>
<td></td>
<td>Multi-Res Medium</td>
<td>Total property area greater than 1012 m² (0.25 acres) and less than or equal to 8094 m² (1 acre)</td>
</tr>
<tr>
<td></td>
<td>Multi-Res Large</td>
<td>Total property area greater than 8094 m² (1 acre)</td>
</tr>
<tr>
<td>Institutional</td>
<td>Institutional Small</td>
<td>Total property area less than or equal to 8094 m² (2 acres)</td>
</tr>
<tr>
<td></td>
<td>Institutional Medium</td>
<td>Total property area greater than 8094 m² (2 acres) and less than or equal to 40469 m² (10 acres)</td>
</tr>
<tr>
<td></td>
<td>Institutional Large</td>
<td>Total property area greater than 40469 m² (10 acres)</td>
</tr>
<tr>
<td>Commercial/Industrial</td>
<td>Commercial/Industrial Small</td>
<td>Total property area less than or equal to 2023 m² (0.5 acres)</td>
</tr>
<tr>
<td></td>
<td>Commercial/Industrial Medium</td>
<td>Total property area greater than 2023 m² (0.5 acres) and less than or equal to 10117 m² (2.5 acres)</td>
</tr>
<tr>
<td></td>
<td>Commercial/Industrial Large</td>
<td>Total property area greater than 10117 m² (2.5 acres) and less than or equal to 40469 m² (10 acres)</td>
</tr>
<tr>
<td></td>
<td>Commercial/Industrial Largest</td>
<td>Total property area greater than 40469 m² (10 acres)</td>
</tr>
</tbody>
</table>

4. **Rate structure – General Principles:**

   The stormwater charge imposed shall be set out by Council in the Fee and Charges By-law.

5. **Stormwater Credit Program – General Principles:**

   The Stormwater credit program is set out in Schedule ‘A’ of this bylaw, and shall be implemented on January 1st, 2013.
6. **Inspections**

6.1 The City may at any reasonable time enter onto the property of any owner with municipally approved stormwater controls or who have completed a stormwater credit application, to ensure that the control exists, is in good repair, that the owner is adhering to any Site Plan agreements and obligations already in place, and to verify the stormwater credit calculation accuracy.

6.2 No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer in the exercise of a power or performance of a duty under this by-law.

6.3 For the purposes of conducting an inspection an Officer may:

6.3.1 require the production for inspection of documents or things relevant to the inspection;

6.3.2 inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;

6.3.3 require information from any person concerning a matter related to the inspection; and,

6.3.4 alone, or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

7. **Manner of invoicing:**

7.1 Stormwater charges shall be invoiced in the same manner as Waterloo water and sanitary sewer charges and shall be itemized on the same invoice.

7.2 Any stormwater credit(s) shall be displayed on the Water Utility invoice as a separate item.

7.3 Stormwater charges shall be payable upon receipt of invoice and every owner in receipt of such invoice shall ensure payment of such invoice on or before the due date noted upon the invoice.
7.4 Interest shall be added after the due date for each subsequent bill issued with unpaid carry forward and charged at a rate of one and a half percent (1.5).

7.5 If, after 21 days of nonpayment, the City may choose to collect any unpaid stormwater charges in the same manner as water and wastewater charges.

7.6 Pursuant to subsection 398(2) of the Act and in accordance with the City's Fee and Charges By-law, stormwater charges may be added to the tax roll of the property in respect of the money is owed and shall then be collected in the same manner as municipal taxes.

8. Billing Errors:

8.1 Where billing errors have resulted in over-billing, the Customer shall be credited with the amount erroneously billed for the relevant period, but not exceeding two (2) years.

8.2 Where billing errors have resulted in under-billing, the Customer shall be charged the amount erroneously not billed for a period not exceeding two (2) years.

9. Severability:

9.1 If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in full force and effect.

10. Repeal & Amendment

10.1 By-law 2011-025 is hereby repealed

11. Contraventions and Orders

11.1 Where the City is satisfied that a contravention of this by-law has occurred, an Officer may make an order, requiring that the Customer who contravened this by-law, or who caused or permitted the contravention, or the owner or occupier of the land on
which the contravention occurred to do work to correct the contravention.

11.2 An order under section 11.1 shall set out:

11.2.1 reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,

11.2.2 the work to be done and the date by which the work must be done.

11.3 An order under section 11.1 may require work to be done even though the facts which constitute the contravention of the by-law were present before the by-law making them a contravention came into force.

11.4 Where an Customer fails to comply with an order within the prescribed period of time, an Officer may cause the required work to be done at the Customer's expense.

11.5 For the purposes of section 11.4 the municipality may enter upon land at any reasonable time.

11.6 The municipality may recover the costs of doing a matter or thing under section 11.4 from the Customer directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

12 Coming Into Force

This by-law shall come into force and effect on the date of its passage.

ENACTED this 10th day of December, 2012.

<table>
<thead>
<tr>
<th>Approval</th>
<th>Date</th>
<th>Authorized By</th>
<th>Initiator</th>
</tr>
</thead>
<tbody>
<tr>
<td>PWS</td>
<td>Dec 3/12</td>
<td>Bill Gachanedi</td>
<td></td>
</tr>
<tr>
<td>Legal</td>
<td>Dec 5/12</td>
<td>M Hare</td>
<td></td>
</tr>
<tr>
<td>Financial</td>
<td>Dec 5/12</td>
<td>K Neuling</td>
<td></td>
</tr>
</tbody>
</table>

B. Halloran, Mayor

S Greatrix, City Clerk
Schedule “A”: Stormwater credit program

Effective January 1st, 2013

Section 1. Stormwater Non-residential and Multi-residential credits

Non-residential and multi-residential Customers may qualify for stormwater rate credits when the Customer can demonstrate to the City's satisfaction that the property of interest contains impervious surfaces that are directed to an approved, or in accordance with, MOE accepted stormwater quantity and/or quality BMP's.

1.1a Restrictions

a. No public or private property shall be eligible to receive credits for any condition or activity unrelated to the reduction of the City's cost of providing stormwater management services, as determined by the Director of Water Services and / or the GM of Public Works.

b. Credits will not apply to fees attributable to new development or redevelopment projects;

c. Any stormwater BMP on public property or within a permanent easement maintained by the City shall not be eligible for a credit; and,

d. Credits shall only be given to the Customer(s) listed on the Water utility invoice.

1.1b Conditions and Requirements

a. The Applicant shall complete a stormwater credit Application.

b. A submitted Application shall constitute authority for the City to perform inspections of the Property to determine the eligibility of the on-site stormwater BMPs, and the accuracy of the credit calculation. The inspection shall be limited to stormwater BMPs and other elements described in the Application. In the event that the Applicant is required to attend, the City shall schedule the inspections at a date and time that is mutually acceptable to both parties. The City will offer the Applicant at least one (1) opportunity to reschedule to a mutually agreeable date and time. Failure to allow for an inspection may result in an administrative fee (as defined in the City's Fee and Charges bylaw) and / or a removal of the stormwater credit.
c. Credits will only be applied if requirements in this schedule are met, including but not limited to: completion of ongoing maintenance, guaranteed right-of-entry for inspections and submission of self-certification reports, on an annual basis, or at the discretion of the Director of Water Services and/or the GM of Public Works.

d. Unless otherwise obligated by law, the City shall limit the use of the Application or other registration documents to activities required to administer stormwater credits.

e. Credits will be defined as percent (%) reductions to the City's stormwater portion of Water utility invoice.

f. Each Customer can make one (1) application for each account they hold.

g. As long as the BMP is functioning as approved and as demonstrated by self-certification reports and City inspections, the credit will be applied to the stormwater portion of the Water utility invoice. If the approved BMP is not functioning as approved or is terminated for any reason whatsoever, the reduction will be cancelled and the rate will be returned to the baseline calculation. The City reserves the right to recuperate any lost revenue in such events.

h. If the City determines an Applicant has misrepresented information on their submitted Application, the City reserves the right to issue an administrative fee as outlined in the City's Fee and Charges Bylaw.

i. Credits will be applied within two (2) billing cycles from the date of the Application submission. In the event that the credit is not applied to the Water utility invoice within such timeframe, the City will apply the credit retroactively to the account holder to the second billing date from the time of the Application submission.

j. Only stormwater management facilities that serve the Property described on the Application shall be credited toward that Customer's invoice. The Applicant cannot transfer credit eligibility from the Property to another property owned by the Applicant. Similarly, the credit eligibility of a Property does not transfer from the Applicant to a new owner of the Property, without a separate Application completed on behalf of the new owner of the Property; and

k. All stormwater control BMPs must be an accepted industry practice and meet the requirements of the MOE's Stormwater Management Planning and Design Manual and/or the CVC's LID Stormwater Design Guide at the time of registration, as certified by qualified person. The City will waive this
requirement for a stormwater BMP that was installed prior to January 1, 2011, if such facilities are operating effectively and do not threaten or harm the Property, neighbouring property, City facilities or the environment, as determined by City inspections.

1.2 Stormwater Credits

Option 1. Quantity Control Credit

The percentage allocated for this credit is based on the percentage of impervious area that is directed to an approved quantity control BMP.

The maximum credit for this category is 25%.

Quantity control BMPs include, but are not restricted to:
1. Rooftop, underground, or parking lot storage
2. Cisterns
3. Infiltration Galleries
4. SWM Ponds

Option 2. Quality Control Credit

The percentage allocated for this credit is based on the percentage of impervious area that is directed to an approved quality control BMP as well as the degree of treatment the BMP provides based on criteria established by the MOE (Enhanced, Normal, Basic).

The maximum credit for this category is 15%.

Quality control BMPs include, but are not restricted to:
1. Oil / grit separator
2. SWM Pond
3. Bio swale

2.2a Enhanced Quality Control

Enhanced quality corresponds to the long term average removal of 80% of total suspended solids. The percentage allocated for this credit is based on the percentage of impervious area directed towards enhanced quality controls.

The maximum credit for this category is 15%.

2.2b Normal Quality Control
Normal quality corresponds to the long term average removal of 70% of total suspended solids. The percentage allocated for this credit is based on the percentage of impervious area directed towards normal quality controls.

The maximum credit for this category is 10%.

2.2c Basic Quality Control
Basic quality corresponds to the long term average removal of 60% of total suspended solids. The percentage allocated for this credit is based on the percentage of impervious area directed towards basic quality controls.

In addition to the total suspended solids removal criteria, the Applicant may also eligible for the basic pollution reduction credit if they have implemented a paved area sweeping program, a salt management plan, or both.

Paved Area Sweeping Program: the following minimum criteria must be satisfied:

a) Submit a detailed paved area sweeping plan to include definition of areas to be swept, frequency of sweeping (minimum three times annually), debris disposal method, and type of sweeper used.
b) Provide documentation to the satisfaction of the City of plan implementation, such as copies of paid invoice or employee timesheets, or a certification of work accomplished, prepared and signed by an officer of the sweeping company.

Salt Management Plan -the following criteria must be satisfied:

a) The Property or facility must be accredited through the "Smart about Salt" certification program or have an approved salt management plan that is administered by a contractor with "Smart about Salt" certification.

The maximum credit for this category is 5%.

Option 3 Education Credit
The maximum credit for this category is 5%.

3.1a Employee Education Program

Non-residential Customers are eligible to receive the stormwater education credit for educating employees in the areas of flood prevention and pollution reduction if the following criteria are satisfied:

a) Devote fifteen minutes per quarter (or an hour annually) to educating employees about flood prevention and pollution reduction. Additionally, provide basic stormwater management information to new employees. Organizations will be required to submit programs or agendas to the City for environmental education sessions that will include information concerning
number of attendees, time(s), place(s), and topic(s) covered during each session along with confirmation that a 50% employee participation goal was met. Pre and post session surveys are recommended. Topics must rotate on at least an annual basis;

b) Post stormwater and water quality specific educational information obtained from the City, provincial/federal environmental agencies, or from any other reputable educational resource center in employee frequented areas. Information posted must be clearly visible. Information topics must rotate on at least an annual basis. Copies of posted materials must be provided to the City; and

c) Distribute stormwater and water quality specific literature obtained from the City, provincial/federal environmental agencies, or from any other reputable educational resource center to all employees on a quarterly basis and provide copies to the City with the annual self-certification report. Literature topics must rotate on at least an annual basis;

3.1b Customer Education Program

Non-residential Customers are eligible to receive the stormwater education credit for educating the City stormwater customer base in the areas of flood prevention and pollution reduction if the following criteria are satisfied:

a) Disseminate stormwater and water quality specific literature obtained from the City, provincial/federal environmental agencies, or from any other reputable educational resource center to Customers on a quarterly basis using high traffic area kiosks, advertised special events, customer mailings, product label advertisements, public service announcements, advertisements, educational curricula, or other mass distribution techniques. Information topics must rotate on at least an annual basis. Copies of disseminated materials must be provided to the City along with estimates of the number of Customers reached in each annual self-certification report;

3.1c Student Education Program

Schools, public or private, are eligible to receive the stormwater education credit for educating students and employees in the areas of flood prevention and pollution reduction if the following criteria are satisfied:

a) Devote two hours per half (four hours annually) to educating one grade level of students (or split between two grade levels) about water quality awareness and protection. Educational institutions will be required to submit programs or agendas to the City for environmental education sessions that will include information concerning number of attendees, time(s), place(s), and
topic(s) covered during each session. The City will assist with providing materials for the education program. Pre and post session surveys are recommended. Topics must rotate on at least an annual basis, or become part of the curriculum for the same grade level each year;

b) Devote fifteen minutes per quarter (or an hour annually) to educating employees about water quality awareness and protection. Additionally, provide basic stormwater management information to new employees. Topics must rotate on at least an annual basis;

c) Post stormwater and water quality specific educational information obtained from the City, provincial/federal environmental agencies, or from any other reputable educational resource center to student and employees frequented areas. Information posted must be clearly visible. Topics must rotate on at least an annual basis;

d) Distribute stormwater and water quality specific literature obtained from the City, provincial/federal environmental agencies, or from any other reputable educational resource center to target students and all employees on an annual basis and provide copies to the City with annual self-certification report. Topics must rotate on at least an annual basis.

3.1d Multi-residential Education Program

Non-residential Customers are eligible to receive the stormwater education credit for educating their tenant base in the areas of flood prevention and pollution reduction if the following criteria are satisfied:

a) Disseminate stormwater and water quality specific literature obtained from the City, provincial/federal environmental agencies, or from any other reputable educational resource center to Customers on a quarterly basis using high traffic area kiosks, advertised special events, customer mailings, product label advertisements, public service announcements, advertisements, educational curricula, or other mass distribution techniques. Information topics must rotate on at least an annual basis. Copies of disseminated materials must be provided to the City along with estimates of the number of tenants reached in each annual self-certification report;
Section 2: Stormwater Residential Credits

Effective January 1st, 2013

Residential Customers may qualify for rate credits when the Applicant can demonstrate to the City's satisfaction that the property owned by the Applicant contains impervious areas that are directed to approved, or in accordance with, rainwater harvesting BMP's. The BMP must provide the City with a cost savings that the City otherwise would incur as part of their efforts to manage stormwater.

2.1a Restrictions

a. No public or private property shall be eligible to receive credits for any condition or activity unrelated to the reduction of the City's cost of providing stormwater management services, as determined by the Director of Water Services and / or the GM of Public Works;

b. Credits will not apply to fees attributable to new development or redevelopment projects;

c. Any stormwater BMP off site or within a permanent easement maintained by the City shall not be eligible for a credit; and,

d. Credits shall only be given to the Customer(s) listed on the City's Water utility invoice.

2.2a Conditions and Requirements

a. The Applicant shall complete a stormwater credit Application.

b. A submitted Application shall constitute authority for the City to perform inspections of the Property to determine the eligibility of the on-site stormwater BMPs, and the accuracy of the credit calculation. The inspection shall be limited to stormwater BMPs and other elements described in the Application. The City shall schedule the inspections at a date and time that is mutually acceptable to both parties. The City will offer the Applicant at least one (1) opportunity to reschedule to a mutually agreeable date and time. Failure to allow for an inspection may result in an administrative fee (as defined in the City's Fee and Charges bylaw) and / or a removal of the stormwater credit.
c. Credits will only be applied if requirements in this schedule are met, including but not limited to: completion of ongoing maintenance and guaranteed right-of-entry for inspections, on an annual basis, or at the discretion of the Director of Water Services and/or the GM of Public Works.

d. Unless otherwise obligated by law, the City shall limit the use of the Application or other registration documents to activities required to administer stormwater credits;

e. Credits will be assigned as per section 2.2.b up to a maximum of 45% of the baseline calculation;

f. Credits will be defined as percent (%) reductions to the baseline calculation;

g. Any BMP must comply with all applicable municipal, provincial and federal standards and guidelines

h. As long as the BMP is functioning as approved and as demonstrated by City inspections, the credit will be applied to the stormwater portion of the Water utility invoice. If the approved BMP is not functioning as approved or is terminated for any reason whatsoever, the reduction will be cancelled and the rate will be returned to the baseline calculation. The City reserves the right to recuperate any lost revenue in such events.

i. If the City determines an Applicant has misrepresented information on their Application, in addition to removing the existing credit, the City reserves the right to issue an administration fee as outlined in the City’s Fee and Charges Bylaw.

j. Credits will be applied on the next available billing cycle after an application has been received, and deemed complete as at the discretion of the Water Services Programs Manager. In the circumstances where an application requires a more detailed review, the credit will be applied within two (2) billing cycles from the date of the application.

k. Only stormwater management facilities that serve the Property described on the Application shall be credited toward that Property's Water utility invoice. The Applicant cannot transfer credit eligibility from the Property to another property owned by the Applicant. Similarly, the credit eligibility of a
Property does not transfer from the Applicant to a new owner of the Property, without a separate Application completed on behalf of the new owner of the Property;

I. All stormwater quantity control BMPs must be a municipality accepted practice. Accepted stormwater storage practices include but are not restricted to:
   1. Infiltration galleries
   2. Storage devices (e.g. cisterns, rain barrels)
   3. Landscaping techniques (e.g. rain gardens, depressed areas to collect rainwater)
   4. Combination of first three techniques;

2.2b Residential Quantity Control Credit

The percentage allocated for this credit is based on the storage volumes in Table 1.

<table>
<thead>
<tr>
<th>Volume Lower Range (Volume Higher Range)</th>
<th>Credit Granted (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>200 (400)</td>
<td>9</td>
</tr>
<tr>
<td>401 (800)</td>
<td>18</td>
</tr>
<tr>
<td>801 (2000)</td>
<td>27</td>
</tr>
<tr>
<td>2001 (3200)</td>
<td>36</td>
</tr>
<tr>
<td>3201 (Unlimited)</td>
<td>45</td>
</tr>
</tbody>
</table>