

Rodic, Alexandra

To: Regional Clerk
Subject: RE: Regional Council Decision - Water and Wastewater Infrastructure, Regional Jurisdiction Policy Update

From: Regional Clerk <ClerkGeneralLine@york.ca>
Sent: Monday, November 25, 2019 3:03 PM
Subject: Regional Council Decision - Water and Wastewater Infrastructure, Regional Jurisdiction Policy Update

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On November 21, 2019 Regional Council made the following decision:

1. Council approve the updated Water and Wastewater Infrastructure, Regional Jurisdiction Policy (Attachment 1).
2. Regional Clerk circulate this report to the Clerks of the local municipalities.

The original staff report is attached for your information.

Please contact David Szeptycki, Director of Strategy and Innovation at 1-877-464-9675 ext. 75723 if you have any questions with respect to this matter.

Regards,

Christopher Raynor | Regional Clerk, Office of the Regional Clerk, Corporate Services

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Our Mission: **Working together to serve our thriving communities – today and tomorrow**

The Regional Municipality of York

Committee of the Whole
Environmental Services
November 7, 2019

Report of the Commissioner of Environmental Services

Water and Wastewater Infrastructure, Regional Jurisdiction Policy Update

1. Recommendations

1. Council approve the updated Water and Wastewater Infrastructure, Regional Jurisdiction Policy (Attachment 1).
2. Regional Clerk circulate this report to the Clerks of the local municipalities.

2. Summary

Both York Region and its local municipalities provide water and wastewater services across the Region. The Water and Wastewater Infrastructure, Regional Jurisdiction Policy establishes criteria to define the extent of Regional water and wastewater infrastructure in areas of non-exclusive jurisdiction as defined under Section 11 of the *Municipal Act, 2001*.

Key Points:

- This update does not alter York Region's jurisdiction of water and wastewater infrastructure from that provided under previous policies
- The policy defines criteria to clearly establish York Region jurisdiction of water and wastewater infrastructure to support Asset Ownership Agreements with each local municipality that delineate asset ownership boundaries
- York Region is in the process of executing water and wastewater Asset Ownership Agreements. The benefit of the policy update is to remove detail from the Policy covered in Asset Ownership Agreements, combine two Council approved policies into one concise policy, and use language consistent with the *Municipal Act, 2001*

3. Background

Jurisdiction over water and wastewater infrastructure in York Region is governed by Section 11 of the *Municipal Act, 2001*

Ownership and responsibility of water and wastewater services are shared between local municipalities and York Region.

The *Municipal Act, 2001* states York Region has exclusive jurisdiction over:

- Water production, treatment and storage

Non-exclusive jurisdiction means both, or either, the upper and lower tier municipality can provide the service. The Water and Wastewater Infrastructure, Regional Jurisdiction Policy provides criteria to define the extent of Regional water and wastewater infrastructure in the areas of non-exclusive jurisdiction.

The *Municipal Act, 2001* states York Region has non-exclusive jurisdiction over:

- Sewage treatment
- Collection of sanitary sewage
- Water distribution

Historically, the Region has exclusively provided sewage treatment services for the Region, along with collection of sanitary sewage from local municipalities and distribution of water to local municipalities. This policy updates and combines two Council approved policies created in 2002 and last updated in 2006, [Water Infrastructure, Regional Jurisdiction Policy](#) and [Wastewater Infrastructure, Regional Jurisdiction Policy](#). The updated policy simplifies language to form one concise Water and Wastewater Infrastructure, Regional Jurisdiction Policy (Attachment 1).

4. Analysis

Policy update provides language that is more concise and consistent with the *Municipal Act, 2001*

The updated policy defines York Region's jurisdiction for water distribution infrastructure to specifically include the following criteria:

- Distribution systems (watermains and pumping stations) that transmit bulk water supply to the local municipalities
- Metering to determine flow from York Region to local municipalities

The updated policy defines York Region's jurisdiction for sanitary sewage collection and treatment infrastructure to specifically include the following criteria:

- Collection systems (sanitary sewers, forcemains and pumping stations) to transmit wastewater from local municipalities to a treatment facility
- Treatment facilities that treat wastewater prior to discharge to the natural environment
- Metering to determine flow from local municipalities to Regional systems

The *Municipal Act, 2001* uses the term sanitary sewage where York Region uses the term wastewater. To be consistent with the *Municipal Act, 2001* the policy update uses the term sewage when using text from the *Act* and the term wastewater when describing the Region's services.

The update aligns with terminology of the *Municipal Act, 2001* but does not change the infrastructure the Region owns and operates. For example, infrastructure such as a watermain or pumping station that meets criteria for Regional ownership under existing policies would continue to do so under the updated policy, and vice versa.

The policy update removes details regarding decision making frameworks, which are covered under water and wastewater Asset Ownership Agreements between York Region and each local municipality. The Commissioner of Environmental Services has delegated authority from Council to execute and amend Asset Ownership Agreements. Attachment 2 provides a status update on the progress being made to execute water and wastewater Asset Ownership Agreements with each local municipality.

Through the Region's Asset Management Program, the Region continually evaluates, in consultation with the local municipalities, where legacy ownership may exist that is not in accordance with the Water and Wastewater Infrastructure Regional Jurisdiction Policy. Future recommendations will be brought forward to Council as required to transfer asset ownership from the Region to a local municipality or vice versa.

5. Financial

The policy update does not alter the amount of water and wastewater infrastructure within York Region's jurisdiction. The policy update does not have further financial impact on York Region.

6. Local Impact

The policy update does not delineate ownership boundaries, York Region and local municipalities delineate ownership boundaries through water and wastewater Asset Ownership Agreements. The update offers a more concise policy that better supports Asset Ownership Agreements. Comments were solicited from the local municipalities on this policy update and no concerns were communicated.

7. Conclusion

The Water and Wastewater Infrastructure, Regional Jurisdiction Policy update combines two Council approved policies into one concise policy. The policy update continues to provide criteria to define York Region's water and wastewater infrastructure and is consistent with the language used in the *Municipal Act, 2001*.

For more information on this report, please contact David Szeptycki, Director Strategy & Innovation at 1-877-464-9675 ext. 75723. Accessible formats or communication supports are available upon request.

Recommended by: **Erin Mahoney, M. Eng.**
Commissioner of Environmental Services

Approved for Submission: **Bruce Macgregor**
Chief Administrative Officer

October 24, 2019
Attachments (2)
9547743

Water and Wastewater Infrastructure, Regional Jurisdiction Policy

Approved By: Council

Approved On:

Last Reviewed:

Policy Statement

A policy to establish jurisdiction over Regional water and wastewater infrastructure.

Application

This policy applies to York Region and its Local Municipalities. This policy does not apply to privately owned and operated water and wastewater systems including those systems operating under Municipal Responsibility Agreements.

Purpose

This policy establishes criteria to define the extent of Regional water and wastewater infrastructure in the areas of non-exclusive jurisdiction as defined under Section 11 of the *Municipal Act, 2001* and as summarized below. This enables York Region to efficiently manage, operate, maintain, monitor, plan and construct Regional water and wastewater infrastructure to meet legislative and regulatory requirements including:

- *Safe Drinking Water Act, 2002*
- *Ontario Water Resources Act*
- *Clean Water Act, 2006*
- *Environmental Protection Act*
- *Environmental Assessment Act*
- *Water Opportunities Act, 2010*
- *Public Sector Accounting Board standards, as amended from time to time*

Definitions

Local Municipality: Refers to one of the nine lower-tier municipalities within York Region, the upper-tier municipality. Specifically, Town of Aurora, Town of East Gwillimbury, Town of Georgina, Township of King, City of Markham, Town of Newmarket, City of Richmond Hill, City of Vaughan and Town of Whitchurch-Stouffville.

Municipal Responsibility Agreements: Refers to legal agreements between York Region and the owner of private communal sewage and/or water services, which stipulate how the communal services are constructed, operated and maintained, the action to be taken in the event of default, as well as provisions to ensure a reserve fund is available in the event the Region is required to operate or assume ownership of the communal services.

Regional Water Infrastructure: Infrastructure for the purposes of delivering drinking water services to the nine Local Municipalities as defined by the criteria in this policy.

Regional Wastewater Infrastructure: Infrastructure for the purposes of delivering wastewater services to the nine Local Municipalities as defined by the criteria in this policy.

Water and Wastewater Asset Ownership Agreements: Signed legal agreements with each Local Municipality that:

- Delineates the ownership boundary of Regional water and wastewater infrastructure
- Establishes requirements for the transfer of asset ownership
- Establishes access rights over Regional Water and Wastewater Infrastructure and local water and wastewater infrastructure

Description

Jurisdiction over water and wastewater infrastructure in York Region is governed by Section 11 of the *Municipal Act, 2001*. Ownership and responsibility of water and wastewater services are shared between Local Municipalities and York Region.

- York Region has exclusive jurisdiction over water production, treatment and storage
- York Region has non-exclusive jurisdiction over:
 - Sewage treatment
 - Collection of sanitary sewage
 - Water distribution

This policy provides criteria to define Regional water and wastewater infrastructure in the areas of non-exclusive jurisdiction.

Water Distribution Criteria

Section 89 of the *Municipal Act, 2001* provides that York Region shall only distribute drinking water to Local Municipalities who in turn distribute to residents and businesses.

Regional water infrastructure provides at least one of the following essential functions:

1. Metering to determine inter-municipal flow information
2. Distribution in the form of watermains and pumping stations whose purpose is to transmit bulk water supply to Local Municipalities

Sanitary Sewage Collection and Treatment Criteria

Regional wastewater infrastructure provides at least one of the following essential functions:

1. Metering to determine inter-municipal flow information
2. Collection in the form of sanitary sewers, forcemains and pumping stations whose purpose is to transmit wastewater from Local Municipalities to a treatment facility. York Region shall only collect wastewater from the Local Municipalities who in turn collect from residents and businesses
3. Treatment of wastewater prior to discharge to the natural environment

Delineation of Water and Wastewater Infrastructure

York Region and Local Municipalities delineate ownership boundaries through Water and Wastewater Asset Ownership Agreements.

Responsibilities

Environmental Services Department:

- Oversee and ensure that the Water and Wastewater Infrastructure, Regional Jurisdiction Policy is implemented.
- Implement, manage and amend Water and Wastewater Asset Ownership Agreements with Local Municipalities as required. The Commissioner of Environmental Services has authority to execute and amend Water and Wastewater Asset Ownership Agreements as approved in Council Report No. 9 of Environmental Services Committee November 15, 2012.
- Recommend to Council water and wastewater infrastructure jurisdictional transfer(s) based on the criteria outlined in this policy.

- Develop and implement water and wastewater infrastructure jurisdictional transfer processes and procedures with Local Municipalities.
- Ensure newly constructed water and wastewater infrastructure jurisdiction is delineated and defined.
- Engage Local Municipalities to build consensus on water and wastewater infrastructure delineation.

Corporate Services Department:

- Make reasonable efforts to own or purchase land and/or easements, in accordance with the [Corporate Land Acquisition Policy](#), on which Regional Water and Wastewater Infrastructure is located or will be located.
- Ensure the Regional Official Plan, its amendments and other Corporate Strategies comply with the policy as required.

Legal and Court Services Department:

- Prepare legal documents required to support policy implementation including:
 - Water and Wastewater Asset Ownership Agreements with Local Municipalities
 - Bylaws to support water and wastewater infrastructure jurisdictional transfers
 - Land Transfer Agreements

Compliance

Existing water and wastewater infrastructure that does not comply with this policy shall be identified and transfer(s) recommended through the Water and Wastewater Asset Ownership Agreement.

Reference

Legislative and other authorities

- [Municipal Act, 2001](#)
- [Corporate Land Acquisition Policy](#)

Contact

Director, Infrastructure Asset Management, Environmental Services Department

Approval

Council Date: <input type="text"/>	Committee Date: <input type="text"/>
Council Minute Item: <input type="text"/>	Committee Minute Item: <input type="text"/>

Accessible formats or communication supports are available upon request.

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Summary of Asset Ownership Agreements Status

Local Municipality	Agreement Status	Target Execution Date
Aurora	Comments on Agreement received and under review, changes will be integrated into Agreement revisions	Q4 2019
East Gwillimbury	Comments on Agreement received and under review, changes will be integrated into Agreement revisions	Q4 2019
Georgina	Awaiting comments	Q4 2019 pending comments
King	Comments on Agreement received and under review, changes will be integrated into Agreement revisions	Q4 2019
Markham	Comments on Agreement received and under review, changes will be integrated into Agreement revisions	Q4 2019
Newmarket	Comments on Agreement received and under review, changes will be integrated into Agreement revisions	Q4 2019
Richmond Hill	Awaiting comments	Q4 2019 pending comments
Vaughan	Comments on Agreement received and under review, changes will be integrated into Agreement revisions	Q4 2019
Whitchurch-Stouffville	Comments on Agreement received and under review, changes will be integrated into Agreement revisions	Q4 2019