

The Regional Municipality of York

Committee of the Whole
Environmental Services
November 11, 2021

Report of the Commissioner of Environmental Services

Proposed Update to Sewer Use Bylaw and Enforcement Program Fees

1. Recommendations

1. Council enact the proposed Sewer Use Bylaw as of January 1, 2022, as described in this report and in the form set out in *Attachment 1* (the “Sewer Use Bylaw”).
2. Council approve fees for the Sewer Use Bylaw Enforcement Program as outlined in *Attachment 2*. All new fees will take effect January 1, 2022.
3. Schedule “A” of the fees and charges Bylaw (Bylaw No. 2010-15) be amended to implement the proposed fees as outlined in *Attachment 2*.
4. Council approve the recommended set fines related to existing and newly created offences (*Attachment 3*) under the Sewer Use Bylaw and authorize the Regional Solicitor to submit an application seeking an Order from the Office of the Chief Justice for the Ontario Court of Justice to approve the fines.
5. The Regional Clerk circulate this report to the Clerks of the local municipalities.

2. Summary

This report seeks Council’s approval to enact the updated Sewer Use Bylaw and associated program fees taking effect on January 1, 2022.

Key Points:

- Updates to bylaw are aligned with other Regional programs, for example, providing rainwater harvesting exemption acknowledges a reduction of municipal water use aligning with Water Conservation plan and program
- New sections added enable the Region to approve limited and special discharges which provide the ability for businesses to appeal orders and to establish the framework for administrative monetary penalties

- Modelling for fees undertaken to align with Council approved 2021 Water and Wastewater User Rate Study assumptions and principles with annual average fee increases capped at 5%

Previous reports to Council on updates to the Bylaw and fees include:

- [Update of Sewer Use Bylaw \(Report No.9, Clause 1 November 17, 2011\)](#)
- [York Region's Sewer Use Bylaw Enforcement Program Update \(Report No.12, Clause 36 June 5, 2014\)](#)
- [Sewer Use Bylaw Services Fees Update \(Report No.14 Clause 9 October 20, 2016\)](#)

3. Background

Sewer use bylaws manage risks to York Region's wastewater collection systems supporting asset management and environmental protection

Sewer use bylaws are a risk management mechanism used to protect regional infrastructure. York Region designs wastewater infrastructure to support conventional residential wastewater, but in some cases industrial, commercial and institutional (“ICI”) facilities discharge higher strength sewage. Higher strength discharges can contribute to critical infrastructure failures, premature degradation of equipment and negative operating impacts ranging from higher operation and maintenance costs (energy, chemicals), to failure of biological processes at Water Resource Recovery Facilities. Sewer use bylaws limit or prohibit contaminants that are not treated in York Region wastewater treatment systems, such as mercury, to protect against negative environmental or public health impacts.

York Region Sewer Use Bylaw Enforcement Officers support businesses by sampling and monitoring discharges, performing inspections, managing non compliances, and educating dischargers about their responsibilities under the Bylaw.

The Bylaw sets out several mechanisms for staff to work with businesses to improve their wastewater quality including entering into surcharge agreements, compliance programs or pollution prevention plans.

Surcharge Agreements are created between the industrial discharger and York Region to assist businesses with hard-to-treat biological parameters that are more cost effectively treated by a municipal wastewater system. A Surcharge Agreement allows the business to discharge wastewater above specific organic Bylaw limits or prohibits and ensures that York Region recuperates the higher cost of treating the concentrated wastewater.

The Compliance and Pollution Prevention sections in the Bylaw allow the Region to work with businesses to prevent contaminants from being used or to enable the installation of treatment systems to remove contaminants prior to discharge. The goal of the pollution prevention is for the business to look at their processes and assess whether chemical inputs could be replaced with other non-toxic or non-harmful products. This leads to long term improvements in wastewater quality. If an upstream solution is not viable, the compliance program section enables the time required for a business to install an end of pipe treatment

system. This also leads to long term improvements in wastewater quality. Staff work with industries to limit potential hardship through development of compliance or pollution prevention plans that provide improvement timelines that are realistic and manageable. The Sewer Use Bylaw Enforcement Program focuses on protecting infrastructure, workers, the public and the environment from harmful effects of ICI discharges through delivery of five core program areas:

1. ICI Risk Based Monitoring Program: monitoring and regulation of ICI wastewater discharges
2. Surcharge and Compliance Programs: provide opportunities for ICI dischargers with higher strength discharges to come into compliance with the Bylaw
 - a. Surcharge agreement – agreement between Region and a high strength wastewater discharger where a fee is charged to recover the Region’s treatment costs when no major infrastructure impacts are anticipated
 - b. Compliance program – the ICI agrees to implement mitigation measures at their facility, such as installing treatment systems to ensure Bylaw compliance and the Region gives them time to conduct these measures
3. Hauled Wastewater Receiving Program: provides a service to York Region residents and businesses not connected to a municipal wastewater system and aims to minimize adverse impacts of hauled wastewater
4. Dewatering Discharge Program: regulation of dewatering discharges to storm, sanitary and other Regional infrastructure to protect capacity and ensure quantity and quality standards are met
5. Information Services: responds to requests for information on historical discharges or environmental concerns regarding specific sites (i.e. Freedom of Information or Environmental Site Assessment requests)

Region’s Sewer Use Bylaw Enforcement Program engages business owners to modify practices, protect wastewater infrastructure and prevent pollution at the source

Engagement with businesses through compliance and education regarding risks to wastewater infrastructure from discharges is key for the Sewer Use Bylaw Enforcement Program. Compliance is accomplished through our five core program delivery areas as shown in Table 1. During 2020, some activities were limited by the Sewer Use Bylaw enforcement team because of COVID 19 pandemic. Initially, the York-Durham Laboratory had restricted sample submission to regulatory samples only; all sampling resumed in June

2020. Additionally, on site inspections were limited to high risk site visits to limit exposure of enforcement officers to potential workplace outbreaks.

Table 1
Sewer Use Bylaw Enforcement Program Monitoring Activities

Program Activities	2016*	2017	2018	2019	2020
ICI Risk-Based Monitoring Program					
Sites monitored (sampled)	202	244	322	247	170
Site inspections conducted	416	379	257	333	86
Total sampling events	1243	1276	1584	1761	1338
Violations Identified	112	87	99	59	50
Charges Laid	0	8	12	4	3**
Surcharge Agreements	73	78	80	87	89
Compliance Program Applications	46	37	38	22	12
Hauled Wastewater Program					
Haulers registered: companies	32	34	36	35	34
Haulers registered: trucks	158	162	167	171	154
Hauled wastewater samples	130	159	159	105	0 **
Dewatering Discharge Applications	23	14	20	16	16
Information requests	106	54	22	19	28

**Last report to Council*

***COVID-19 Pandemic –onsite inspections were suspended from March 2020 until October 2021 due to public health measures*

Education is also integral to program success. In recent years, staff have promoted the Bylaw to businesses and the public through a variety of approaches. The <http://www.york.ca/seweruse> website promotes Sewer Use Bylaw services, best practices and enforcement programs to support compliance. The website contains electronic copies of

brochures, forms for businesses seeking Sewer Use Bylaw services and fee information. Other approaches include social media broadcasts, special events, truck decals and partnership communication with local municipalities regarding the proper disposal of fats, oil and grease.

4. Analysis

Update reduces risk to \$5.320B wastewater infrastructure and provides greater clarity and flexibility for the regulated community

Table 2 provides highlights of some of the key modifications and enhancements to the Sewer Use Bylaw in the order appearing within the Bylaw.

Table 2
Summary of Sewer Use Bylaw Updates

Enhancement	Enhancement Overview
Definitions	Revised for clarity with obsolete definitions removed and some new definitions added
Obstruction or restriction in pipes	Clarification and expansion of list of items that can potentially obstruct or restrict sewer pipes (e.g. ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, masks, gloves, feathers, tar, plastic, feminine hygiene products, wood, dental floss, condoms, animal guts or tissues, and wipes)
Rainwater Harvesting	Exemption for discharges into sanitary system for rainwater harvesting systems that replace need for municipal water supply to support water conservation plans and programs
Discharge Approval	Addition of language that allows for limited discharges into sanitary or storm sewer that may be otherwise prohibited. Provides authority in situations such as approvals granted by higher authorities (i.e. the MECP) where Regional bylaw parameters may be exceeded. New language is consistent with other recent municipal Sewer Use Bylaw updates (i.e. City of Hamilton and City of Sarnia)
Grease Interceptors	Provision of application of risk-based approach for grease interceptor requirements where no risk to infrastructure exists from any discharge of fats, oils and grease such as fruit and vegetable washing facilities

Enhancement	Enhancement Overview
Appeal of Order	Introduced to establish formal dispute mechanism for Orders issued under the Sewer Use Bylaw
Administrative Monetary Penalties	New part to allow alignment with future Administrative Monetary Bylaw and program Penalties
Evidence of Documents	Receipt in evidence of official document(s) from an accredited laboratory for a proceeding as statement of fact. Reduces need for laboratory staff to appear in court

Public Consultation on draft Bylaw conducted in June and July 2021

Consultation on the proposed Bylaw was conducted across several channels:

- June 16, 2021 – virtual consultation reviewing revisions to Bylaw with local municipal staff, Durham and Peel Regions and conservation authority staff
- July 7, 2021 – virtual consultation hosted with registered haulers
- June 28 – July 18, 2021 – broad public consultation through webpage involving notification to registered contacts through Sewer Use Bylaw Enforcement Programs and other public consultation databases and signage posted across the Region in visible areas with high industrial population (e.g. Highway 7 corridor in Vaughan and Markham)

During public consultation there were 670 pageviews of the webpage. Social media (i.e. Facebook, Twitter and LinkedIn) generated 26,476 total impressions (number of times social media browsers have been shown the content) and 142 link clicks.

Stakeholders were generally supportive of the update and enhancements. There were nine direct consultation responses received from local municipal staff, consultant, residents, and a Hauled Wastewater client. Minor language changes suggested through consultation were incorporated to provide clarity in some of the definitions.

Reduction of up-front costs for low-risk businesses through alternative service model innovations for sampling and changes to Hauled Wastewater Receiving program fee structure

In low-risk situations, enforcement staff will work with a discharger to permit self-monitoring and sample submission. In this circumstance the responsibility for monthly sampling and analysis is transferred to the business resulting in the reduction of onsite sampling for verification. This allows enforcement staff to dedicate more time to new or more challenging situations. A reduced program fee from \$2,050 to \$675 for annual registration has been proposed for this self-monitoring option given the reduced administrative burden.

The Hauled Wastewater Receiving Program supports the disposal and treatment of wastewater that is not connected to a municipal system (e.g. septic tank pump outs, portable toilets). A review of the program fee structure indicated that a base program registration fee per vehicle would better support smaller companies with fewer vehicles and place more appropriate costs on larger companies with more vehicles requiring registration. This will ensure fairness to all haulers.

Sewer Use Bylaw supports 2019 to 2023 Strategic Plan Sustainable Environment priority of ‘delivering and promoting environmentally sustainable services’

The Sewer Use Bylaw Enforcement Program focuses on protecting infrastructure, workers, the public and the environment from harmful effects of ICI discharges through the delivery of monitoring and enforcement activities and associated programs.

5. Financial

Sewer Use Bylaw Enforcement Program fees offset cost of providing extra wastewater services

Sewer Use Bylaw Enforcement Program costs include program administration, monitoring, treatment costs, enforcement and laboratory expenses that are recovered through two funding mechanisms:

- Wastewater rate revenues - cover costs associated with risk-based monitoring program which helps ensure protection of infrastructure, health and safety as well as the environment
- User fees - costs associated with providing additional wastewater services to ICIs such as surcharge agreements, monitoring and compliance program approvals as examples

Program Fee increases structured for full cost recovery

The Region has committed to full cost recovery through user rates as demonstrated through the water and wastewater user rates approved by Council in September 2021. York Region Council has prioritized the financial sustainability of its water and wastewater systems by phasing in full cost recovery pricing.

While full cost recovery of the Sewer Use Bylaw programs is the goal by 2026, annual program fee increases have been limited to a maximum of 5%, with some fees seeing smaller increases. The fee range protects for volatility of some historic estimates and factors, including program administration, enforcement requirements, increased flows, treatment costs and future asset management needs. The total 2020 revenue for the Sewer Use program (including industrial dischargers and the hauled wastewater program) was about \$3.6 million and covers 138 industrial dischargers and 30 waste haulers. Total revenue is collected based on wastewater discharges from industries that exceed bylaw limits along with revenue from concentrated hauled wastewater. Revenues fluctuate with varying discharge characteristics.

Financial model for Sewer Use Bylaw program fees consistent with assumptions and projections in the Region’s Approved 2021 User Rate Study

In 2020, a detailed review was undertaken to examine the Sewer Use Bylaw Enforcement Program finances and recommend new fees to achieve full cost recovery through to 2026. Staff aligned financial model provided by third party with Region’s 2021 Water and Wastewater Rate Study assumptions and principles. Proposed Sewer Use Bylaw Enforcement Program fees until 2026 can be found in *Attachment 2*. Moving forward, these fees will be updated at the same time as the User Rate model.

Recommended increases in all program areas are based on detailed treatment cost analysis at York Region’s Water Resource Reclamation Facilities (WRRFs) and Duffin Creek Water Pollution Control Plant.

The Surcharge program is the largest program associated with the Bylaw and generates the largest revenue. A heat map is presented in Table 3 shows proposed increased fees are aligned with our neighbouring municipalities for Surcharge Agreement parameters. The green shades represent lower cost, transitioning to yellow/orange with midrange costs and the red scale represents highest cost values.

Table 3

Jurisdictional Comparison of 2020 Fees for Surcharge Parameters

Surcharge Parameter	Municipality							
	York Region	Durham Region	City of Toronto*	City of Ottawa	Niagara Region	City of Orillia	Peel Rate	
Biochemical Oxygen Demand (BOD5)	\$1.04	\$0.53	\$0.64	\$1.66	\$1.55	\$3.18	\$368 per 1000 cubic meters (based on volume and not on loading)	
Phenolic Compounds	\$1.04	\$0.53	\$0.64	\$1.66	\$1.55	n/a		
Total Suspended Solids (TSS)	\$0.97	\$0.53	\$0.70	\$0.88	\$1.55	\$1.51		
Total Phosphorus (TP)	\$3.24	\$0.53	\$2.24	\$2.66	\$1.55	\$4.41		
Total Kjeldahl Nitrogen (TKN)	\$1.21	\$0.53	\$1.43	\$6.60	\$1.55	n/a		

Note: * Surcharge fee is based on highest parameter in excess



The Sewer Use Bylaw protects \$5.32B in wastewater assets with program costs over \$3M equating to 0.06% of overall infrastructure costs.

6. Local Impact

York Region's Sewer Use Bylaw works in collaboration with local municipal Sewer Use Bylaws. Local municipal bylaws are targeted to local infrastructure and Regional bylaw targets regional infrastructure. Together Regional and Local staff address issues through ongoing communication and joint approvals and investigations.

Targeted consultation was conducted with local municipal staff, conservation authorities and other stakeholders (e.g. Durham and Peel Regions). A review of changes to the proposed Bylaw was presented, along with proposed fees, and any questions were addressed in the session. The session was held prior to broad public consultation to ensure any concerns were addressed.

Surcharge program data was reviewed as a proxy for pandemic related impacts to participating businesses as it is the largest program and would impact the most businesses. 2019 and 2020 data were evaluated and upwards of 97% of businesses enrolled in the Surcharge program remained in production during COVID19 pandemic.

A cost impact analysis was conducted based on current program fees and proposed fees to illustrate the change to an average business in the Surcharge program. The average business may incur an annual increase of approximately \$1,000. In 2020, the business types based on the North American Industry Classification System (NAICS) that had the highest billed surcharge invoices included:

- Food manufacturing such as sugar and confectionary product manufacturing or bakeries and tortilla production
- Chemical manufacturers such as pharmaceutical and medicine manufacturers
- Recyclable material merchant wholesalers that operate recycling facilities, and
- Multi-unit buildings with varied tenants such as plaza or a strip mall

7. Conclusion

This report seeks Council approval to enact the Sewer Use Bylaw and endorsement of associated enforcement program fees. It also provides an update on implementation of the Region's Sewer Use Bylaw Enforcement Program and provides rationale for the proposed fee structure to achieve full cost recovery. The Sewer Use Bylaw is vital to protect health and safety, the environment and wastewater infrastructure. The proposed fee increases are

necessary to ensure the Sewer Use Bylaw Enforcement Program recovers costs while continuing to provide a best-in-class program.

For more information on this report, please contact Elizabeth Weir, Director, Operations, Maintenance and Monitoring at 1-877-464-9675 ext. 75340. Accessible formats or communication supports are available upon request.



Recommended by:

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Commissioner of Environmental Services



Approved for Submission:

Bruce Macgregor
Chief Administrative Officer

October 22, 2021
Attachments (3)
eDOCS #13230704