

The Regional Municipality of York

Committee of the Whole
Transportation Services
June 15, 2023

Report of the Commissioner of Public Works and Chief Planner

Right-of-Way Management Bylaw to Protect Regional Infrastructure and Traveller Safety

1. Recommendations

1. Council approve development of a Right-of-Way Management Bylaw and authorize the Regional Solicitor to prepare the necessary bylaw.
2. The Regional Clerk forward this report to Clerks of all local municipalities and request circulation of the report to the Planning and Chief Building Officials.

2. Summary

Staff are seeking Council approval to develop a Right-of-Way Management Bylaw to protect critical Regional infrastructure and ensure safety for all travellers.

Key Points:

- York Region relies on the development application approval process for development review and the provision of conditions for access and works in Regional right-of-ways
- The *More Homes Built Faster Act* has removed the site plan approval process for residential developments with 10 or fewer units
- York Region requires a legislative tool to ensure safety for travellers and to protect Regional infrastructure providing critical services for developments requiring an interface with Regional roads or other infrastructure
- Pursuant to the *Municipal Act*, a council is authorized to pass bylaws designating highways as controlled access highways and prohibiting or regulating the construction or use of any access onto highways
- Development and implementation of a Right-of-Way Management Bylaw assists in meeting York Region's development needs and ensures required Regional approvals are obtained for access and other required works within Regional right-of-ways

- A Right-of-Way Management Bylaw will allow York Region to provide the same level of service to our local municipal partners through the building permit process without disruption to development review timelines

3. Background

Under the *More Homes Built Faster Act* landowners developing a single lot into 10 or fewer units are not subject to the site plan process

The *More Homes Built Faster Act* exempts developments with 10 or fewer residential units from the site plan approval process. This means the Region no longer receives these development proposals prior to building permits being issued. This leaves the Region in a reactive position, reviewing safety related concerns or impacts to infrastructure for critical services once developments are in place. This may result in the Region undertaking modifications at additional expense.

The site plan approval process was previously used to ensure Regional development requirements are achieved through the planning process

Prior to approval of the *More Homes Built Faster Act*, York Region relied on the site plan approval process to manage access and connection to Regional and local infrastructure. Developers were required to submit a site plan application to local municipalities that was circulated to York Region for review and comment. This provided the Region with the opportunity to manage the number and location of underground connections and accesses to Regional roads, ensuring they met Regional design standards.

4. Analysis

A Right-of-Way Management Bylaw is needed to ensure safety for travellers and to protect critical Regional infrastructure that may be impacted

Road or private driveway connections to Regional roads are managed to ensure public safety and protection of Regional assets. Access to Regional roads is reviewed to ensure optimum road access, adequate spacing relative to existing road connections, and proper intersection design (e.g. turn lanes). Minimizing the total number of access connections improves safety for travellers by reducing opportunities for vehicular collisions and conflict points between motor vehicles, and pedestrians and cyclists.

Other Regional infrastructure that could be impacted by development, now exempted from the site plan approval process, includes underground water and wastewater infrastructure, fiberoptics and other private utilities. A Right-of-Way Management Bylaw will ensure that any new connections to Regional and local infrastructure meet Regional requirements and maintain uninterrupted critical services (for example water and wastewater or fiber optics).

The Right-of-Way Management Bylaw will allow York Region to provide the same level of service to our local municipal partners through the building permit process without disruption to development review timelines. Pursuant to the *Municipal Act*, a council is authorized to pass bylaws designating highways as controlled access highways and prohibiting or regulating the construction or use of any access onto highways.

Neighbouring Regions and Municipalities have similar bylaws in place

Both Peel and Halton Regions, and other jurisdictions including local municipalities, have similar bylaws in place which provide a clear process for site plan approval. Developers would be required to obtain a permit from York Region to access or undertake works on Regional roads, ensuring Regional design and construction standards are met. Bylaws provide a mechanism to legally enforce requirements to ensure compliance for public safety reasons.

A Right-of-Way Management Bylaw is being developed to meet Regional needs

The Right-of-Way Management Bylaw will contain measures pertaining to all Regional infrastructure including those associated with transportation, YorkNet (fibreoptics), water and wastewater needs. This differs slightly from bylaws in other jurisdictions which focus primarily on transportation access. Including all Regional infrastructure needs in a Right-of-Way Management Bylaw will fulfill the needs of the Region given changes associated with the *More Homes Built Faster Act*.

The bylaw will designate all Regional road corridors to be included as part of the Right-of-Way Management Bylaw. This bylaw will apply to any person, firm or corporation who wishes to use, construct or alter an access onto a right-of-way or to carry out any work or activity. The Bylaw will require that a permit be obtained to use, construct or alter any connection to infrastructure in a Regional right-of-way including roads and underground pipes. Approval or denial of permits would be delegated to the Commissioner of Public Works. This process is the same as is in place currently but would be connected to the local municipal building permit process, rather than the site plan approval process.

The Right-of-Way Management Bylaw includes details on penalties and enforcement

Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable upon conviction to a fine in accordance with the provisions of the Provincial Offences Act. Provisions of this Bylaw may be enforced by police, bylaw enforcement, Provincial Offences Officer or any person appointed for this purpose by a bylaw of the Region.

A Right-of-Way Management Bylaw is aligned with the Regional Official Plan, and Regional master plans ensuring safety and protection of infrastructure

The Regional Official Plan guides the efficient use of existing and planned infrastructure. This includes maximizing use of existing infrastructure while leveraging future infrastructure

investments including those implemented through development. The Transportation and Water and Wastewater Master Plans further support this direction with measures aimed at ensuring the most efficient use of current and future infrastructure. A Right-of-Way Management Bylaw is a mechanism to ensure that existing and planned Regional infrastructure is considered for new development through the local building permit process in the absence of a site plan approval process.

5. Financial

A Right-of-Way Management Bylaw allows the Region to proactively manage site access interfacing with Regional roads, as well as connections to Regional infrastructure providing critical services such as water and wastewater. Having a mechanism to review designs prior to connecting to Regional infrastructure ensures that improper or unsafe infrastructure does not need to be modified or removed at the Region's expense. Cost implications to the Region, of infrastructure not built compliant with Regional standards or specifications, vary depending on the circumstance.

Although the intent is to ensure the safety of travellers and protect infrastructure providing critical services, there will be financial penalties associated with not meeting Right-of-Way Management requirements which will be contained within the bylaw under development.

6. Local Impact

Approving the Right-of-Way Management Bylaw ensures the Region continues to provide the same level of service to residents, businesses and local municipalities as previously done through the site plan approval process for developments with less than 10 units. It creates and clarifies a process that meets joint York Region and local municipal needs.

Meetings with local municipalities have taken place to discuss the bylaw and the Region will continue to coordinate with local municipal staff to ensure seamless integration into the building permit process for assessing these small proposed developments.

7. Conclusion

As a result of the *More Homes Built Faster Act*, landowners choosing to develop a single lot into 10 or fewer residential units are exempt from the site plan approval process. York Region relied upon this process to comment on site access requirements and to protect Regional and local infrastructure providing critical services. Establishment of a Right-of-Way Management Bylaw, similar to neighbouring regions and local municipalities, will ensure York Region needs are met with a clear process for developers and local municipalities.

For more information on this report, please contact Brian Titherington, Director of Transportation Infrastructure Asset Management at 1-877-464-9675 ext. 75901. Accessible formats or communication supports are available upon request.

Recommended by: 
Mike Rabeau
General Manager, Capital Infrastructure Services

Recommended by: 
Erin Mahoney, M. Eng.
Commissioner of Public Works

Recommended by: 
Paul Freeman, MCIP, RPP
Chief Planner

Approved for Submission: 
Bruce Macgregor
Chief Administrative Officer

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