

Special Committee of the Whole Report

DATE: Wednesday, April 08, 2020

WARD(S): ALL

TITLE: IMPLEMENTATION OF EMERGENCY MEASURES TO EFFECTIVELY MANAGE THE COVID-19 PANDEMIC

FROM:

Mary Reali, Acting City Manager

ACTION: DECISION

Purpose

To receive approval to enact a temporary emergency measures by-law providing extended authorities to both the Head of Council and City Officials to effectively and expeditiously combat issues relating to the spread of COVID-19.

Report Highlights

- On March 17, 2020 both the Province and the City declared a state of emergency related to the COVID-19 pandemic. Since then the spread of the COVID-19 virus has quickly accelerated, prompting all levels of government to respond by introducing a series of emergency measures intended to combat the spread of COVID-19.
- Staff are recommending that an Emergency Measures By-law be passed. This By-law is intended to grant delegated authority to staff and the head of Council to ensure that strong and timely measures may be implemented as necessary to address the changing nature of the emergency. Such grant of delegated authority will be subject to the restrictions under the *Municipal Act*.
- The proposed by-law also establishes a mechanism for the Head of Council to report to Council when additional powers are exercised.
- The proposed by-law is intended to provide a temporary delegation of authorities to ensure the City can respond quickly and decisively to any developing situation. The by-law shall be repealed upon the emergency itself being terminated, or shortly thereafter.

Recommendations

1. THAT the COVID Emergency Measures By-law, as provided in Attachment 1 be enacted.
2. THAT Staff be authorized to take any other actions necessary to implement the proposed by-law.

Background

On March 11, 2020, the World Health Organization assessed the Novel Coronavirus 19 (“COVID-19”) as a pandemic. The first case in Canada was confirmed on February 20; however, the first presumptive case in Ontario was identified on January 25, 2020. On March 17 both the Province and the City declared an emergency to help contain and combat the spread of COVID-19 in order to protect the public. As of April 8, 2020, there are an estimated 18,000 confirmed cases in Canada.

Over the last two weeks, the Province of Ontario has issued a number of emergency orders under section 7.0.1 of the *Emergency Management and Civil Protection Act* (“*EMCPA*”), including orders to limit certain gatherings of people, require the temporary closure of non-essential businesses and prohibition on accelerated and extreme pricing (“price gouging”) of essential products and necessary goods. At the same time, public health units and public health officials have been promoting the concept of social distancing as an additional measure to mitigate the spread of the disease, while attempting to implement various precautionary measures and best practices for essential business establishments that continue to operate. Despite the measures so far in place there is currently limited evidence of a “flattening of the curve” and limiting the spread of the virus, therefore requiring the City to take unprecedented measures and impose the necessary steps in the interest of the health, safety and wellbeing of the public.

Thus, as the COVID-19 emergency continues at this critical stage, it is more important than ever before for staff to be able to respond quickly and decisively to the evolving situation. To this end staff are proposing a comprehensive temporary emergency measures by-law to provide delegated authority to staff and the to the head of council in accordance with, and pursuant to, the legislative limitations prescribed by the *Municipal Act* and the *EMCPA*.

In preparation of this report, staff from By-law & Compliance, Licensing & Permit Services consulted with the Office of the City Solicitor and the Emergency Management Team, led by Fire Chief.

Previous Reports/Authority

Mayor Maurizio Bevilacqua – Declaration of Emergency Management and Civil Protection Act, R.S.O. 1990, c E.9 s.4.(l) – March 17, 2020

Analysis and Options

Under the *EMCPA*, the Head of Council has authority to declare an emergency and may take such action and make such orders as he or she considers necessary to implement the emergency plan and to protect property and the health, safety and welfare of persons in the municipality. While the *EMCPA* contains provisions which confirm that failing to comply with Provincial orders is an offence, it does not provide the same penalties for failing to comply with an order issued by the Head of Council. As such, to provide fuller force and effect to orders made, and to address gap in the legislation, staff are proposing that the City pass a comprehensive emergency measures by-law under the *EMCPA* and the *Municipal Act*. The *Municipal Act* provides broad powers for a municipality to pass by-laws respecting the economic, social and environmental well-being of the municipality; the health, safety and well-being of persons; and the protection of persons and property.

In addition to the extended enforcement powers, the proposed COVID-19 Emergency Measures By-Law sets out the following delegated authorities:

City Manager

- Authority to determine essential City services;
- Cancel, reduce or defer any fees, charges or other amounts owed to the City by Persons or businesses, subject to section 106 of the Municipal Act

Director and Chief Licensing Officer

- Enforce Social distancing (i.e. require individuals who are not of the same household to maintain a distance of no less than 2.0m);
- Protect tenants from discontinuance of a vital service by a landlord (e.g. gas, hydro, fuels, and water);
- Place conditions or requirements on any place of business in order to promote requirements/compliance under the *EMCPA* or recommendations from other City officials;
- Limit, regulate or prohibit access to any Public Property (including limiting access on activities that take place within Public Property).

Head of Council

- Exercise statutory powers of Council necessary to address the COVID-19 pandemic. This authority can be exercised where:
 - The authority is necessary and essential to address the situation in a timely manner, and to prevent, reduce or mitigate serious harm to persons;
 - The exercise of authority is required to alleviate harm or damage; and
 - The actions authorized reasonably limit their intrusiveness (in terms of the effect of the order, the temporal limit, and geographic scope within the City).
- An Order made by the Head of Council under this By-law is revoked after 30 days (unless it is revoked sooner, or it is otherwise stated in the Order).
- The Head of Council is also required to prepare a report to Council outlining any Orders made, and Orders will also be posted on the City's website.

The proposed By-law makes it an offence to fail to comply with an Order made by the Head of Council or the Director. The fines and penalties under this By-law fall into two categories: traditional fines, and administrative monetary penalties. This structure grants further flexibility for enforcement personnel to either proceed and take punitive action through the court system, while other by-law infractions may be processed through an administrative penalty. Administrative monetary penalties are civil in nature and provide an effective mechanism for enforcing compliance with regulatory requirements.

By providing for delegated authority to the Head of Council and identified City officials, in accordance with and subject to the limitations prescribed by legislation, such as the *Municipal Act* and the *EMCPA*, the City is in a far greater position to respond to an ever changing environment, better promote and support the health and safety of the public, the wellbeing of persons and the economic, social and environmental wellbeing of the City for the duration of the declared emergency.

Staff believe that the proposed by-law creates a system to enable the municipality to more effectively enforce compliance, beyond the provisions and in support of the Province's emergency orders. The proposed by-law also works within the larger scheme of provisions for maintaining public health and safety that have been created at all levels of government in response to the COVID-19 pandemic. The proposed by-law provides a means to impose escalating sanctions, from administrative penalties to significant fines, in order to address immediate and specific local needs.

COVID-19 has created unprecedented circumstances that could not have been contemplated or addressed within the existing regulatory by-laws that a municipal relies upon to govern its affairs and that of its citizens. In such times, and within the prescribed legal framework established by provincial legislation, staff believe the support and enactment of the proposed Emergency Measures By-law will serve this Council, the City and its residents well.

Financial Impact

There is no anticipated impact to the City's exiting budget as a result of the recommendations of this report. Any unanticipated future expenses, should any arise will be addressed through the City's approved financial processes.

Broader Regional Impacts/Considerations

No broader direct regional impacts are anticipated as a result of this report; the proposed by-law applies to all lands and property under the control of the Region of York and the Toronto Regional Conservation Authority. The proposed by-law and all local measures are being established to mitigate the spread of COVID-19 and are an important contribution to the broader fight against the pandemic.

Conclusion

New cases of COVID-19 continue to rise with health officials expecting caseloads to peak in April. As the weather warms up, and with the general recommendation for people to stay at home going into its fourth week, staff expect COVID-related enforcement pressures to mount. The by-law proposed through this report will provide both staff and the head of council with the required temporary authorities to more effectively and expeditiously deal with emerging issues, will serve to complement the mandates prescribed by provincial orders and establishes reasonable and necessary measures that will enhance and mitigate against the spread of this deadly virus.

For more information, please contact: Gus Michaels, Director & Chief Licensing Officer, By-law and Compliance, Licensing and Permit Services, and Chief Licensing Officer

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Attachments

1. COVID-19 Emergency Measures By-law