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## **Emergency Measures By-law Staff Report to Council**

Report Number: 2020-24

Department(s): Legislative Services

Author(s): Flynn Scott, Manager of Regulatory Services

Meeting Date: April 27, 2020

### **Recommendations**

1. That the report entitled Emergency Measures By-law dated April 27, 2020 be received; and,
2. That the Emergency Measures By-law be introduced and adopted; and,
3. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

### **Purpose**

The purpose of this report is to present Council with an Emergency Measures By-law to regulate activities deemed to have potentially adverse impacts on the health and wellbeing of the public during the COVID-19 emergency. This by-law further provides delegated authority to the Mayor and Chief Administrative Officer (CAO) to impose immediate and necessary orders during any declared emergency within the Town.

### **Background**

On March 11, 2020, the World Health Organization assessed COVID-19 as a pandemic. On March 17, 2020 the Province declared a state of emergency related to the COVID-19 pandemic. Similarly, the Town of Newmarket also declared a state of emergency on March 18, 2020 to help contain and combat the spread of COVID-19 in an effort to protect the public. Since these times, the spread of COVID-19 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. This by-law shall be repealed upon the emergency declaration being terminated.

Throughout March 2020, 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”). Several orders included provisions to limit the number of persons permitted to gather, require the temporary closure of parks, playgrounds, and recreational facilities, require the temporary closure of non-essential businesses, and prohibit price gouging of essential products and goods. In addition to these measures, public health officials have been promoting physical social distancing to mitigate the spread of COVID-19 in the interest of health, safety, and wellbeing of persons in the community.

## **Discussion**

EMCPA contains provisions which confirm that failing to comply with Provincial orders is an offence, however, it does not provide penalties or enforcement action to be taken for failing to comply with the physical social distancing measures recommended by public health officials. There are also no provisions in place to require essential businesses to enforce physical social distancing practices within any storefront that remains in operation.

Between March 17 and April 21, 2020, the Town has received a total of 149 formal complaint calls in relation to both essential and non-essential businesses operating in contravention of the emergency order. The Town has also received a total of 126 formal complaint calls in relation to social distancing not being practiced, 367 general by-law inquiries or complaints, and 118 formal complaints for persons in parks despite park closures. In total, the Town has received 2164 general calls relating to COVID-19.

## **Powers Authorized Through By-law**

In addition to the powers for enforcement provided under EMCPA, Town staff are recommending additional powers be granted by by-law to empower municipal law enforcement officers in the course of their duties. These powers include:

- the ability to enforce physical social distancing recommendations (i.e. require individuals who are not of the same household to maintain a distance of no less than 2m);
- the ability to place conditions or requirements on any place of business in order to promote compliance under EMCPA or the recommendations from public health officials (i.e. require essential businesses to restrict the number of customers in a store at one time and practice/promote 2m physical social distancing of customers); and
- the ability to enforce provisions pre-established under EMCPA through the Administrative Monetary Penalties System (AMPS) By-law (i.e. park closures, gatherings of more than five (5) persons from different households, and non-essential businesses remaining in operation).

The COVID-19 pandemic has demonstrated that all levels of government are required to respond quickly to an ever-evolving environment in order to protect the health, safety,

and wellbeing of any community. It is critical that the Town be able to respond quickly and decisively to any emergency situation. For this rationale, Town staff are also proposing that the Emergency Measures By-law provide delegated authority to the Mayor and CAO to impose orders necessary to protect the health, safety, and wellbeing of residents during a declared emergency. This is largely due to the unforeseen circumstances that may arise during any emergency and enables the Mayor and CAO to act quickly without requiring later amendments to the proposed by-law. The Emergency Measures By-law is also proposed to be automatically re-enacted whenever the Town has declared a state of emergency.

### **Important Considerations**

It is relevant to note that the proposed Emergency Measures By-law will only remain in effect while the Town has declared a state of emergency. In the event that the Town declares a future state of emergency, this by-law will once again become enacted. Town staff will continue to use education as the primary means for compliance, however, this by-law will only be used as a tool to promote compliance with provincial health recommendations should education be deemed ineffective. The regulations proposed mirror the recommendations from public health officials and the emergency orders imposed by the Province of Ontario. Through the adoption of the Emergency Measures By-law, the Town will be empowered to take the appropriate actions, where necessary, to promote and support the health and safety of the public, the wellbeing of persons, and the economic, social, and environmental wellbeing of the Town for the duration of any declared emergency.

The proposed by-law also provides a means to impose escalating sanctions: staff will always choose education over enforcement action in all scenarios, however, the proposed by-law will establish administrative penalties under AMPS for lesser fine amounts, as well as significant fines under the Provincial Offences Act (“POA”) for repeat offenders.

### **Conclusion**

COVID-19 has created unprecedented circumstances that are not addressed within the existing regulatory by-laws that a municipality relies upon to govern its citizens. Under the recommendations made by public health officials and the emergency orders imposed by the Province of Ontario, Town staff believes that the Emergency Measures By-law will provide additional support to the Town of Newmarket in minimizing the spread of COVID-19.

### **Business Plan and Strategic Plan Linkages**

This report aligns with the Town’s vision of being well beyond the ordinary.

## **Consultation**

The Town of Newmarket Legal Department has reviewed the proposed by-law prior to this report coming forward.

Consultation has been completed with municipalities within York Region. To date, the City of Vaughan has implemented an Emergency Measures By-law. Additionally, Toronto, Mississauga, Brampton, and Hamilton have recently implemented similar by-laws.

## **Human Resource Considerations**

None.

## **Budget Impact**

There is no anticipated impact to the Town's existing budget as a result of the recommendations within this report. However, if enforcement action is necessary to gain compliance, fines issued under the AMPS model will be fully recovered by the municipality directly. There remains uncertainty at this time regarding cost recovery for charges laid under the POA system pursuant to the EMCPA and whether or not tickets issued under the emergency order are recovered by a municipality or to the province directly. For this rationale, staff recommends an amendment to the AMPS By-law to ensure the municipality recovers revenue for any enforcement action taken pursuant to the proposed by-law.

## **Attachments**

Attachment #1 – Emergency Measures By-law

Attachment #2 – Amended AMPS By-law

## **Approval**

Lisa Lyons, Director of Legislative Services/Town Clerk, Legislative Services

Esther Armchuk, Commissioner, Corporate Services

## **Contact**

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