

Bylaw officers might no longer be able to enter properties without permission

By Brock Weir

If you have ever found a bylaw officer on your property unannounced, those days might soon be over.

Aurora has set the wheels in motion on a process which could remove, in most cases, the rights of municipal bylaw officers to enter properties without full notification of the property owner.

Council signed off on a motion from Councillor Tom Mrakas last week that tasks staff with reporting back to Council with a notification process to private property owners where rights of entry to properties will be exercised, along with a list of protocols where access to property would be required to ensure public health, safety, and the protection of property and the environment. The motion was approved with the safeguard that if a property owner refuses permission, or is absent to give permission, that a warrant must be obtained unless in those cases listed above.

“After reading an article back in 2012 before my time on Council, I came to realise that bylaw officers can actually enter onto your property and they have been given that right under the Municipal Act,” said Councillor Mrakas. “I think that is a bit of a shocking revelation not only for myself, but I think if you told a majority of residents that Town bylaw officers, just from a phone call complaint, can enter onto your property without your permission they would be shocked at that.”

The motion, he said, was a long time in being put together and ultimately sought change.

“I personally have concerns with allowing someone to have so much power or authority,” he said of bylaw officers. “I know our officers do take care, and our department does look at ways of [not] exercising those rights unless they absolutely have to, but I do believe this is not a matter of whether we're only going to use those rights in certain instances, or we're only going to use them if we have to.

“This is an important step for us to take. I don't believe that if a complaint is lodged or if someone calls in on someone, if our bylaw officers show up to the house, knock on the door and there is no answer, I don't think they should have the right to enter onto whether it is my property or any other resident's property in this Town. I think it is important that we put in these checks and balances [for the rights of residents.]”

The motion found widespread support at Council, but a note of caution was offered by Councillor Harold Kim, who questioned the clause requiring the bylaw department to seek a warrant in the cases where permission is refused or otherwise unattainable.

“If you were to go to the Newmarket Court and ask the judge for a warrant, the judge would look at us and say, “Under the Municipal Act, you had the ability to go in and you just took yourself out of there and now you're coming to me for a warrant to get in?” It seems paradoxical to put it that way, to want access because of an emergency and here we are in a court that is lined up with people,” said Councillor Kim. “Is there a happy medium where we can respect the rights of owners and their privacy but, at the same time, not jeopardize the safety and the rights of the neighbours next to them? I hope the report will contain some answers because I think the judge will probably laugh in our face to see we had the power and we rescinded that.”

Nevertheless, Councillor Kim was in favour of going ahead with the report, as was Councillor Paul Pirri who said he was not in favour of going forward without one.

“Everyone's in favour of getting the information and then, once we get the information, we can make a decision then,” he said. “I think this is a big benefit to our staff members and it provides safety. You never know whose homes you're walking into. I think this will provide some ability to give some foresight to our staff members on whose homes you're walking into.”

Added Councillor Sandra Humfries: “It protects the rights of our residents in having an option to not allow entry. I know police can't enter and first and foremost we're trying to keep our community safe and protected and that is very, very important. I do believe the owners have a responsibility to comply with our bylaws and they're ultimately responsible. If we approach the resident and we do not get entry we will go back with a warrant. We're still doing our job. It allows a two way street of respect.”