

New rules on entering onto private property seen as 'step in the right direction'

By Brock Weir

A proposed set of new rules governing how local bylaw officers may enter onto your property is being hailed as a 'step in the right direction' by Council members looking for change.

The new guidelines, part of a one year pilot project, were presented to local lawmakers at last Tuesday's General Committee meeting, where Councillors signed off on the measures. That decision is expected to be ratified this week.

The rules are the latest in a series of changes that have been examined to combat complaints over right of entry. Changes were first proposed this past February, but were since honed further following Council input.

Further modifications are expected later this spring when the bylaw department will propose an official registry of vacant buildings and a new set of rules on how these properties should be kept.

'When a property complaint is registered with the Town, a Bylaw Officer will attend the site and make every effort to contact the property owner to inform them of any property standards issue and discuss resolution,' said Techa van Leeuwen, Aurora's Director of Corporate Services, in her report to Council. 'Property owners who reside in the home, or are responsible landlords are, for the most part, responsive and will typically commit to addressing any non-compliance in a reasonable and timely manner.'

In the future, entry onto private property 'rear or side yard, as defined in the bylaw' may be denied by the property owner or occupant. As such, Bylaw Officers will need to consult with the Director and together a decision will be made on whether or not to seek a search warrant, depending on the nature of the complaint.

If these new measures are approved by Council this week, Bylaw will no longer be entering onto vacant private property without consent to cut grass in response to neighbour complaints either.

'The previous report that came to us was a good first step. I think this has gone that step further. It is in the right direction and it is moving towards what we've asked for overall,' said Councillor Tom Mrakas. 'I like the fact we're going to be trying it out for a year and reporting back, taking a look at it and seeing how it has worked and evolved and do we need to go more, do we need to go less, so we can have that overall look at how it has worked and developed.'

'Staff have listened and they have put something forward I think we can live with and that respects the rights of the property owners and also respects our staff and what they need to do to make sure our Town stays functioning.'

Similar views were offered by Councillor Jeff Thom who said when the matter was previously in front of Council, he expressed some 'major concerns' over current practices. These 'remedies' are welcome, he said, and will be moving 'in a direction that really tries to respect the property rights and constitutional rights of Aurorans.'

He also supported the fact this is a one-year pilot, but questioned how staff will assess one of the few options that will be available to them in entering a property without consent: when there is a sense that evidence might be destroyed.

'That will be through an assessment of the complaint we've received,' said Ms. van Leeuwen. 'For example, if a person is cutting trees, there is an expressed concern and you can see when you attend the site: there will be contractors there, there will be evidence that is apparent from the street, there will be noise, there will be other indication that trees are being cut and, in those instances?' often we work with our parks division because they receive the initial call and they request that we attend with them, so we will do an analysis and an assessment of the complaints received.'

While Council members were largely supportive of the changes at the Committee level last week, there were still some lingering concerns.

Councillor Wendy Gaertner, for instance, questioned the new rule which would prevent the Bylaw department cutting the grass on vacant properties, a service which was previously carried out and billed to the property owner on a complaint-driven basis.

'Fixing one problem and creating another, I can see that there will be some very upset residents if they are living next to one home [that] really disrupts the look of the neighbourhood,' said Councillor Gaertner.

In response, Ms. van Leeuwen said that her department would make every effort to contact the property owner and potential maintenance agreements will be outlined 'within the next four weeks' with the vacant property registry.

Councillor John Abel nevertheless shared Councillor Gaertner's issue.

'We can't very well go get a warrant to cut someone's lawn,' he said. 'There is a change and I think it is important to communicate that; that if someone does not cut their lawn, the Town is not in a position to do anything and it will remain unsightly with no recourse, apart from us to try and continue to make contact and let them know that the Town is suggesting that perhaps you want to cut the lawn. Otherwise, people can leave it as they are.'

Councillor Paul Pirri also had misgivings, stating his issue was 'largely philosophical,' and supported the recommendation as just a one-year pilot 'but he said his support could waver by the time of this week's final vote.

'We're talking about policies that are place based on property rights,' he said. 'I haven't seen that many situations which, to me, would indicate the need for us to be undertaking this path forward. But I definitely understand the argument from an individual's perspective. This is a question of property rights and we have to fight for individuals property rights, we need to support the individual. From my perspective, I don't see that there is a problem and I haven't, in my view, seen any proof of that.

'That is one side of the equation. I think the other side of the equation is we have been having, over the last few years, tracked and collected the appropriate data to be moving forward on this. What we're seeing here tonight is we're going to put a policy in place and we're going to track the situation to see how things shake out, whether or not we're going to progress. We're not establishing any benchmarks first, we're not tracking first and then determining if we're going to put policy in place. To me, if we're going to be moving forward on putting policy in place, it makes sense to put benchmarks in place prior to instituting a policy.'