



**Town of Aurora
General Committee
Meeting Revised Agenda**

Date: Tuesday, September 8, 2020
Time: 7 p.m.
Location: Council Chambers, Aurora Town Hall

Pages

1. Procedural Notes

Note: Aurora Town Council has resumed in-person meetings. For more information on attending in-person meetings, please email clerks@aurora.ca.

Additional Items are marked by an asterisk*.

Councillor Gallo in the Chair

2. Approval of the Agenda

3. Declarations of Pecuniary Interest and General Nature Thereof

4. Community Presentations

5. Delegations

Individuals who would like to provide comment on an agenda item are encouraged to visit www.aurora.ca/participation for guidelines on in-person or electronic delegation.

6. Consent Agenda

7. Advisory Committee Meeting Minutes

7.1 Mayor's Golf Classic Funds Committee Meeting Minutes of July 30, 2020

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1. That the Mayor's Golf Classic Funds Committee meeting minutes of July 30, 2020, be received for information.

8. Consideration of Items Requiring Discussion (Regular Agenda)

8.1 OPS20-013 - Review of Urban Forest Study and Associate Forestry Policies

8

1. That Report No. OPS20-013 be received; and
2. That Planning & Development Services present a Town initiated amendment to the Comprehensive Zoning By-Law to confirm and define the requirement for a landscape strip for all zones as required for the purposes of tree planting and supporting soil volume; and
3. That the definition of a Landscape Strip be changed to require a minimum 3.0m un-obstructed width solely for the purpose of tree planting and supporting soil volume; and
4. That the Landscape Design Guidelines be amended to:
 - a. Clarify the soil depth required within Landscape Strips be a minimum 0.6m continuous topsoil depth; and
 - b. Increase the Boulevard topsoil depth from 300mm to 450mm continuous depth; and
5. That the Town of Aurora's Engineering standards be reviewed and revised to support an increase in topsoil depth within Town boulevards; and
6. That the Tree Removal/Pruning and Compensation Policy be amended as described in Report No. OPS20-013; and
7. That a by-law to amend the Tree Permit By-law (Number 5850-16) be enacted at a future Council meeting to:
 - a. Confirm the minimum tree size for compensation be 5cm trunk diameter or greater; and
 - b. Refer compensation requirements for minor variance, consent to severe, stable neighbourhoods, site plan and subdivision applications to the Tree Removal/Pruning and Compensation Policy; and
 - c. Forbid tree removal permits from being issued from April 1st to August 31st in respect of the *Migratory Birds Convention Act*; and
8. That the Tree Protection/Preservation Policy and the Tree Planting and Approved Plant List Policy be amended as described in Report OPS20-013.

8.2 CMS20-020 - Pandemic Recovery Planning – Update No. 2

23

1. That Report No. CMS20-020 be received for information.

8.3 OPS20-009 - By-law Regulating Occupancy, Works, Fouling and Encroachments on Highways 33

1. That Report No. OPS20-009 be received; and
2. That the Highway Occupancy and Encroachment By-law, being a by-law to regulate occupancy, fouling and encroachment onto municipal highways and the repeal of By-law Nos. 4734-05.P, 4744-05.P and 5733-15, be brought forward to a future Council meeting for enactment.

8.4 FIN20-021 - Bill 197 – Update on Proposed Legislative Changes to Development Charges Act and Planning Act 68

1. That Report No. FIN20-021 be received for information.

8.5 FIN20-022 - 2020 Year End Surplus/Deficit Financial Control By-law 80

1. That Report No. FIN20-022 be received; and
2. That a bylaw be enacted to authorize the Treasurer and the Chief Administrative Officer to make the following year-end financial adjustments:
 - a. to allocate any 2020 Operating Fund surplus or deficit as set out in Report No. FIN20-022; and
 - b. to allocate any 2020 surplus or alternatively fund any deficit in the Water, Wastewater, or Storm water budgets to or from the appropriate related reserve accounts; and
3. That the Treasurer and Chief Administrative Officer report to Council after the year end surplus/deficit control adjustments and allocations have been completed.

8.6 FIN20-023 - Safe Restart Funding 86

1. That Report No. FIN20-023 be received for information.

9. Notices of Motion

9.1 Councillor Kim; Re: Sidewalk Installation Policy 90

9.2 Councillor Gallo; Re: Property Acquisition - Library Square 92

***9.3 Councillor Thompson; Re: Audio Recordings of Closed Session Meetings 93**

***9.4 Councillor Thompson; Re: Construction of Gymnasium at the SARC 95**

10. New Business

11. Public Service Announcements

12. Closed Session

There are no Closed Session items for this meeting.

13. Adjournment



Town of Aurora
Mayor's Golf Classic
Funds Committee
Meeting Minutes

Date:	Thursday, July 30, 2020
Time and Location:	10 a.m., Video Conference
Committee Members:	Nancy Harrison (Chair, departed at 11 a.m.), Koula Koliviras (Vice Chair), Barb Allan, Wendy Browne, Rosalyn Gonsalves, Heidi Schellhorn, and Beverley Wood
Member(s) Absent:	None
Other Attendees:	Councillor Wendy Gaertner, Jason Gaertner, Manager of Financial Management Services, Michael de Rond, Town Clerk, and Ishita Soneji, Council/Committee Coordinator

This meeting was held electronically as per Section 20.1 of the Town's Procedure By-law No. 6228-19, as amended, due to the COVID-19 State of Emergency.

The disbursement of funds being considered by the Mayor's Golf Classic Funds Committee is of the funds generated from the annual Aurora Mayor's Charity Golf Classic Tournament.

The Chair called the meeting to order at 10:04 a.m.

Nancy Harrison relinquished the Chair to Vice Chair Koula Koliviras at 10:14 a.m. and resumed the Chair at 10:16 a.m. during the consideration of Application (d) – Salvation Army.

The Committee consented to resolve into a closed session at 10:26 a.m. and reconvened into an open session at 10:58 a.m.

1. Approval of the Agenda

Moved by Beverley Wood

Seconded by Heidi Schellhorn

That the agenda as circulated by Legislative Services, including the following additional item, be approved:

- Application (g) – York Region Rose of Sharon Services for Young Mothers

Carried

2. Declarations of Pecuniary Interest and General Nature Thereof

Nancy Harrison declared a pecuniary interest under the *Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50* respecting Item 1(d), as she is employed with the organization. Nancy Harrison did not participate in the discussion or voting of this item.

Barb Allan declared a pecuniary interest under the *Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50* respecting Item 1(b), as she is on the organization's Executive Council. Barb Allan did not participate in the discussion or voting of this item.

Beverley Wood declared a pecuniary interest under the *Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50* respecting Item 1(b), as she is on the organization's Executive Council. Beverley Wood did not participate in the discussion or voting of this item.

3. Receipt of the Minutes

Mayor's Golf Classic Funds Committee Meeting Minutes of December 5, 2019

Moved by Rosalyn Gonsalves

Seconded by Beverley Wood

That the Mayor's Golf Classic Funds Committee meeting minutes of December 5, 2019, be received for information.

Carried

4. Delegations

None

5. Matters for Consideration

1. Applications for Review

(a) Abuse Hurts

The Committee reviewed the application and discussed about the allocation of funds as proposed by the organization. The Committee agreed that the application meets the criteria to receive funding from the Mayor's Charity Golf Tournament.

Moved by Rosalyn Gonsalves

Seconded by Koula Koliviras

1. That Application (a) be received; and
2. That the Committee grant funding to Abuse Hurts in the amount of \$2,500.

Carried

(b) Welcoming Arms

The Committee reviewed the application and agreed that the application meets the criteria to receive funding from the Mayor's Charity Golf Tournament.

Moved by Wendy Browne

Seconded by Rosalyn Gonsalves

1. That Application (b) be received; and
2. That the Committee grant funding to Welcoming Arms in the amount of \$5,000.

Carried

(c) Women's Centre of York Region

The Committee reviewed the application and discussed about the various aspects of the organization's programs and activities. The Committee agreed that the application meets the criteria to receive funding from the Mayor's Charity Golf Tournament.

Moved by Heidi Schellhorn
Seconded by Beverley Wood

1. That Application (c) be received; and
2. That the Committee grant funding to Women's Centre of York Region in the amount of \$3,000.

Carried

(d) Salvation Army

The Committee reviewed the application and discussed the organization's efforts to use the funds towards COVID-19 pandemic recovery programs. The Committee agreed that the application meets the criteria to receive funding from the Mayor's Charity Golf Tournament.

Moved by Barb Allan
Seconded by Beverley Wood

1. That Application (d) be received; and
2. That the Committee grant funding to Salvation Army in the amount of \$2,500.

Carried

(e) Kinark Child and Family Services

(f) Kinark Child and Family Services

The Committee discussed Applications (e) and (f) in Closed Session.

(g) York Region Rose of Sharon Services for Young Mothers

The Committee reviewed the application and agreed that the application meets the criteria to receive funding from the Mayor's Charity Golf Tournament.

Moved by Rosalyn Gonsalves
Seconded by Heidi Schellhorn

1. That Application (g) be received; and
2. That the Committee grant funding to York Region Rose of Sharon Services for Young Mothers in the amount of \$5,000.

Carried

6. Informational Items

2. Verbal Update from Town Clerk **Re: Committee Updates**

Staff provided an update regarding the available funds thus far and noted that the Aurora Mayor's Charity Golf Classic will not be held this year due to the ongoing pandemic. Staff noted that due to facility closures, formal in-person cheque presentations to the organizations receiving funds as discussed at previous meeting will be suspended.

The Committee and staff discussed about the possible means on how organizations can report back on the utilization of disbursed funds. Staff noted that a requirement for organizations to report back to the Town within a determined timeframe in anyway they deem appropriate regarding how the funds were utilized will be noted on the Application to Receive Funds.

Moved by Beverley Wood
Seconded by Barb Allan

1. That the verbal update regarding Committee Updates be received for information.

Carried

7. Closed Session

Moved by Wendy Browne
Seconded by Beverley Wood

That the Committee resolve into a Closed Session to consider the following matter:

3. Personal matters about an identifiable individual, including municipal or local board employees (Section 239(2)(b) of the *Municipal Act, 2001*); Re: Application (e) – Kinark Child and Family Services
4. Personal matters about an identifiable individual, including municipal or local board employees (Section 239(2)(b) of the *Municipal Act, 2001*); Re: Application (f) – Kinark Child and Family Services

Carried

Moved by Koula Koliviras
Seconded by Beverley Wood

That the Committee meeting be reconvened into an open session to rise and report out from Closed Session.

Carried

3. **Personal matters about an identifiable individual, including municipal or local board employees (Section 239(2)(b) of the *Municipal Act, 2001*); Re: Application (e) – Kinark Child and Family Services**

Moved by Wendy Browne
Seconded by Heidi Schellhorn

1. That application (e) be received; and
2. That the confidential direction to staff be confirmed.

Carried

4. **Personal matters about an identifiable individual, including municipal or local board employees (Section 239(2)(b) of the *Municipal Act, 2001*); Re: Application (f) – Kinark Child and Family Services**

Moved by Wendy Browne
Seconded by Barb Allan

1. That application (f) be received; and
2. That the confidential direction to staff be confirmed.

Carried

6. Adjournment

Moved by Heidi Schellhorn

Seconded by Rosalyn Gonsalves

That the meeting be adjourned at 11:05 a.m.

Carried



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Town of Aurora

General Committee Report

No. OPS20-013

Subject: Review of Urban Forest Study & Associated Forestry Policies

Prepared by: Gary Greidanus, Senior Landscape Architect

Department: Operational Services

Date: September 8, 2020

Recommendation

1. That Report No. OPS20-013 be received; and
2. That Planning & Development Services present a Town initiated amendment to the Comprehensive Zoning By-Law to confirm and define the requirement for a landscape strip for all zones as required for the purposes of tree planting and supporting soil volume; and
3. That the definition of a Landscape Strip be changed to require a minimum 3.0m un-obstructed width solely for the purpose of tree planting and supporting soil volume; and
4. That the Landscape Design Guidelines be amended to:
 - a. Clarify the soil depth required within Landscape Strips be a minimum 0.6m continuous topsoil depth; and
 - b. Increase the Boulevard topsoil depth from 300mm to 450mm continuous depth; and
5. That the Town of Aurora's Engineering standards be reviewed and revised to support an increase in topsoil depth within Town boulevards; and
6. That the Tree Removal/Pruning and Compensation Policy be amended as described in Report No. OPS20-013; and
7. That a by-law to amend the Tree Permit By-law (Number 5850-16) be enacted at a future Council meeting to:
 - a. Confirm the minimum tree size for compensation be 5cm trunk diameter or greater; and

- b. Refer compensation requirements for minor variance, consent to severe, stable neighbourhoods, site plan and subdivision applications to the Tree Removal/Pruning and Compensation Policy; and**
- c. Forbid tree removal permits from being issued from April 1st to August 31st in respect of the Migratory Birds Convention Act.**

8. That the Tree Protection/Preservation Policy and the Tree Planting and Approved Plant List Policy be amended as described in Report OPS20-013

Executive Summary

This Report provides Council with information regarding the review of the Urban Forest Study (UFORE Study), associated Policies, and provides policy update recommendations:

- Town's Zoning By-law should fully support Landscape Design Guidelines for new development areas.
- Improvement to soil conditions in new residential subdivision boulevards can maximize the potential for sustainable street tree growth.
- Ambiguity between Tree Removal/Pruning and Compensation Policy and Tree Permit By-law requires clarification of minimum diameter compensation requirements.
- Updates required in Tree Removal/Pruning and Compensation Policy to address a number of factors.
- Tree Protection/Preservation Policy requires "housekeeping" updates only.
- Tree Planting and Approved Plant List Policy requires minor updates.
- References to the Migratory Birds Convention Act require clarification of Town's position regarding tree removals.
- Unauthorized tree removals clarified in the Vegetation Management Agreement.
- Aurora's Tree Permit application Fees compared to local municipalities.

Background

Council adopted the UFORE Study in 2015 and directed staff in February 2020 to review the Study and bring back a report to a future General Committee meeting. The UFORE Study was initially prepared. The Study was prepared in partnership with York Region, Toronto and Region Conservation Authority and Lake Simcoe Region Conservation Authority. The purpose of the UFORE Study was to assess the distribution, structure and function of Aurora's urban forest, and to provide management recommendations for enhancing the sustainability of both the urban forest resources, as well as the community as a whole. A summary of these management recommendations

are provided (Attachment #1) with the accompanying 2015 action plan items as well as a 2019 update.

York Region is currently in the process of developing a timeframe for the for the urban forest update in partnership with local municipalities and conservation authorities. The update will be a two (2) year process with fieldwork completed in the first year of the update, with analysis and reporting completed in year two (2) of the update. At this time, there is no established schedule to complete the update for the Town of Aurora. In consultation with York Region regarding the costs of this future update, staff has included a placeholder within the Capital Budget for 2022/2023 for the amount of \$15,000. As the current UFORE Study serves as a baseline for future research, management and monitoring, accordingly, several policies were developed and/or refined to assist in the implementation of a number of the UFORE Study recommendations. These policies include:

- Landscape Design Guidelines – June 2015
- Tree Removal/Pruning and Compensation Policy – June 2015
- Tree Protection/Preservation Policy – June 2015
- Tree Planting and Approved Plant List Policy – June 2015
- Vegetation Management Agreements

As well, the Town of Aurora Tree Permit (By-law Number 5850-16) has ramifications on the recommendations of the UFORE Study. Since the York Region update schedule for Aurora has not yet been determined, this Council report will therefore review the policies and Tree Permit By-law to determine where changes are required to best address the intent of the UFORE recommendations in the short term.

Analysis

Town's Zoning By-law should fully support Landscape Design Guidelines for new development areas

The Landscape Design Guidelines address landscape standards for new development areas and include the requirement for side lot and rear lot tree plantings. In support of the UFORE Study recommendation #2, tree planting in new development areas improve the distribution of ecosystem services including urban heat island mitigation and storm water management. Currently the Town's Zoning By-law does not adequately address the requirement for side and rear lot line plantings that depend on adequate building setbacks and suitable landscape strips. The definition of "Landscaping / Landscape Strips" within the Zoning By-law permits decorative stonework, paving, curbs and retaining walls to be located within landscape zones. This directly conflicts with the

ability to plant trees and provide adequate soil volume to support the healthy growth and long term viability of trees. Furthermore, the various zone requirements in the By-law do not all indicate that a landscape strip is required; a landscape strip is only required adjacent to any Residential Zone.

Recommendation:

That staff coordinate with Planning & Development Services to bring forth a future Zoning By-law Amendment to require landscape strips for commercial, industrial and employment zones. In addition, the definition of landscape strips clarify the requirement of a minimum of 3.0m un-obstructed width solely for the purpose of tree planting and supporting soil volume (i.e., unobstructed by curbs, sidewalks, retaining walls and associated geotextiles and engineered fill that precludes tree plantings). Accordingly, the Landscape Design Guidelines should define the soil depth required within landscape strips as a minimum of 0.6m continuous topsoil depth.

Improvement to soil conditions in new residential subdivision boulevards can maximize the potential for sustainable street tree growth

Recommendation #8 of the study addresses sustainable streetscape and subdivision design to ensure adequate soil quantity for street tree establishment. With the development of the 2B residential areas, staff revised Town guidelines to increase the amount of boulevard topsoil to a 300mm depth, (as is currently reflected in the Landscape Design Guidelines). However, staff feel that this is still insufficient for proper growth and development of a mature streetscape canopy considering the harsh environment and increased ecological factors e.g. drought.

Various municipalities have developed standards for soil quantity to support street tree growth. The Toronto Green Development Standards (2007) recommends minimum of 30 m³ of high quality soil volume per tree. Based on the Town's current standards assuming a 3.0m width, unobstructed boulevard the volume of soil provided per tree in Aurora subdivisions is approximately 11 m³. Staff understand the restrictions in boulevards associated with the various road widths, sidewalks, and utility and services requirements however, improvements can be achieved.

Recommendation:

Increase boulevard topsoil depth from 300mm to 450mm, which will result in an average of 16 m³ of soil per tree, and that engineering standards be reviewed and revised to support an increase in topsoil within Town boulevards.

Ambiguity between Tree Removal/Pruning and Compensation Policy and Tree Permit By-law requires clarification of minimum diameter compensation requirements

The Tree Removal/Pruning and Compensation Policy currently requires compensation, in the form of a fee payment or replacement plantings, for trees with a 5cm trunk diameter or greater, removed from a development site, whereas the Tree Permit By-law is relevant to removal of trees greater than 20cm trunk diameter. This has led to confusion from applicants in determining the necessary size for inventory and compensation, where trees between 5cm and 20cm are not accounted in compensation.

Recommendation:

That the Compensation Policy be applicable to all development-type applications including minor variances, severances, stable neighbourhood applications, site plans and subdivision applications. Accordingly, the Tree Permit By-law should refer to the Compensation policy as the guiding mechanism for development-related tree compensation matters.

Updates required in Tree Removal/Pruning and Compensation Policy to address a number of factors

The administration of the Tree Removal/Pruning and Compensation Policy has led to a number of questions from applicants and issues requiring clarification.

1.0 The Compensation Policy bases compensation on a monetary value for both assessing existing trees and determining replacement trees. Concerns have been expressed that trees offer more than just a monetary value to any given property including cultural value, ecological value (habitat, etc.) as well as value associated with carbon sequestering, and that these values should be considered in terms of compensation as well. Staff have concerns that assessing trees by standards other than monetary value is subjective and difficult to standardize, or uphold under legal scrutiny.

Recommendation:

That the Compensation Policy not be expanded to adopt other than monetary evaluations and the Town continue to utilize the well-established Aggregate Inch Method evaluation tool to determine compensation.

2.0 The “Pruning” component of the policy is more of a technical specification geared towards in-house standards for pruning techniques with the balance of the Policy relating toward development applications.

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Report No. OPS20-013

Recommendation:

That the “Pruning” component be removed from this policy and be adopted as a separate Policy.

- 3.0 The Tree Removal/Pruning and Compensation Policy does not currently address non-native species which applicant’s expect will be exempted from the Policy. Since the UFORE Study is concerned with enhancing the overall canopy cover, non-native species should remain, as they add to the green landscape and general objectives.

Recommendation:

That non-native species be included in compensation requirements, and that the Species Rating List, currently appended to the Compensation Policy, be revised to address a lower species rating (utilized to calculate compensation) for non-native vegetation.

- 4.0 The value of tree compensation on development sites is based on replanting with available sizes of nursery stock, with the largest size noted in our Compensation Policy being, a 60mm trunk diameter deciduous tree and a 200cm height coniferous tree. In order to address the loss of more mature trees, in some situations the site conditions may allow larger caliper trees be planted.

Recommendation:

Addition of language in the Compensation Policy to indicate, at the discretion of the Town and based on site conditions and opportunities, that larger caliper trees be provided including tree-spading of larger trees. Additionally revisions need to occur to the replacement schedule addressing compensation sizes for meadows and woodlot areas:

Tree Size (cm) (Unchanged)	Existing Replacement	Proposed Replacement	Quantity of Replacement Nursery Stock (Unchanged)
5 - 10	5 gal pots (1.0 – 3.0m tall)	150cm ht. conifer tree 45mm deciduous tree	1
11-20	150cm ht. conifer tree 45mm deciduous tree	175cm ht. conifer tree 60mm deciduous tree	2
>20	175-200cm ht. conifer 60mm deciduous tree	200cm ht. conifer tree 70mm deciduous tree	3

- 5.0 Clarification is required for compensation plantings related to the Town’s minimum planting standards for development sites.

September 8, 2020

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Report No. OPS20-013

Recommendation:

That street trees, as a long-standing minimum requirement are not be eligible for compensation; however, open space plantings, buffer plantings and storm water management facility plantings, be eligible for compensation plantings.

- 6.0 The current Compensation Policy includes compensation for shrub plantings. Since shrubs can be difficult to categorize in terms of size and are not typically included in vegetation surveys.

Recommendation:

To delete shrubs from the Compensation Policy.

- 7.0 Additional changes need to occur within the policy. Trees suffering from invasive species attack and that are threatened are not captured. In addition, a multi-stem tree requires further definition.

Recommendation:

Exempt Ash Tree species from the Compensation Policy due to emerald ash borer; and multi-stem trees be defined as the total diameter of the three (3) largest stems.

Tree Protection/Preservation Policy requires “housekeeping” updates only

The intent of the Tree Protection / Preservation Policy is to prevent or minimize damage to trees during land development, construction work, and maintenance activities. This Policy focuses on both development impacts as well as the maintenance and responsibilities for municipal staff for municipal projects. The components regarding the management of development and construction impacts on trees refers to the Compensation Policy and Landscape Design Guidelines. Therefore, no major changes or updates are required, with the exception of housekeeping updates to keep it current.

Tree Planting and Approved Plant List Policy requires minor updates

The purpose of the Tree Planting and Approved Plant List Policy is to make available in one reference all the various aspects of tree planting on both municipal and private lands. The Policy refers to the Landscape Design Guidelines and updates are required where information conflicts between the two documents. It also addresses species diversity, an important component in the long-term health of the urban forest. The ‘Tree Species and Site Suitability’ table within this document requires updating, specifying the most suitable trees for urban conditions, primarily streetscape conditions, based on the lessons learned of utilizing a number of species in the past and changing climate.

References to the Migratory Birds Convention Act require clarification on Town's position regarding tree removals

The Vegetation Management Agreement is a development agreement utilized to implement the vegetation management initiatives of the various Policies addressed herein. In the past, this Agreement has been referred to as a Tree Preservation / Tree Removal Agreement. The Vegetation Management Agreement to date has been silent on the implications of the Migratory Birds Convention Act.

The Tree Permit By-law indicates that a Permit will not be approved or issued where approval would be in contravention of the Migratory Birds Convention Act, however, regulation of this condition is difficult to manage.

The Migratory Birds Convention Act prohibits the harming of migratory birds, or the disturbance or destruction of nests or eggs. The nesting season of migratory birds varies by species and habitat preferences but is generally identified between April 1st and August 31st with the core nesting season in our region identified as mid-April to the end of July. The period of time between the general and core nesting season is considered the 'shoulder' season and it is typically regarded as 'due diligence' within the environmental professions to allow removals, as long as an avian expert does a nest sweep of the trees to be removed and confirms that no nests are present.

In order to avoid the responsibilities of managing the implications of the Migratory Birds Convention Act by Town staff, who are not avian specialists, and to reduce the liabilities of the Town in administering the requirements of the Migratory Birds Convention Act, an amendment to wording is required.

Recommendation:

That both, the Tree Removal Permit application and the Vegetation Management Agreement template confirm that tree removals will not be permitted between April 1st and August 31st unless the trees are considered hazardous.

Unauthorized tree removal activity, clarified in the Vegetation Management Agreement

In the administration of a recent Vegetation Management Agreement, portions of trees were removed during tree clearing operations, not identified for removal on the plans or in the field, nor were they identified to Town staff prior to removal. Compensation in this situation is addressed by the Town's standard specifications, a requirement on the tree preservation and removal plans, which refers to the Town's Compensation Policy whereby the trees are evaluated monetarily with additional compensation provided through fees or compensation planting.

Language should be included in the Vegetation Management Agreement template to prohibit additional tree removals without prior notification to the Town and unauthorized tree removals will be subject to the Tree Protection Bylaw fines

Aurora's Tree Permit application fees compared to local municipalities

Council inquired if the current application fees to remove trees under the Tree Removal Permit are adequate. Staff have completed comparison to fees charged by neighbouring municipalities. Attachment #2 identifies compares tree removal permit fees in York Region.

Advisory Committee Review

Not applicable.

Legal Considerations

To amend the Zoning By-law, the Town will be required to have at least one public meeting to give the public an opportunity make representations on the proposed amendments. There will also be appeal rights as set out in the Planning Act.

The policies will be amended upon Council approving the staff recommendations set out in this report.

Financial Implications

There will be financial implications associated with the proposed changes to the Tree Removal/Pruning and Compensation Policy in the form of replacement tree planting requirements and/or fees payable to the Town by applicants.

Communications Considerations

The Town of Aurora will use 'Inform' as the level of engagement for this project. There are five different levels of community engagement to consider, with each level providing the community more involvement in the decision making process. These levels are: Inform, Consult, Involve, Collaborate and Empower. Examples of each can be found in the Community Engagement Policy. These options are based on the International Association of Public Participation (IAP2) Spectrum and assist in establishing guidelines for clearly communicating with our public and managing community engagement. In order to inform, this report will be posted to the Town's website.

Link to Strategic Plan

The UFORE Study supports the Strategic Plan Goal of Investing in sustainable infrastructure by maintaining infrastructure to support forecasted population growth through technology, waste management, roads, emergency services and accessibility.

Alternative(s) to the Recommendation

1. Council could receive Report OPS20-013 and adopt any or all of the recommendations outlined within the Report.
2. Council could defer Report OPS20-013 back to staff for additional information or revisions.

Conclusions

That the review of the Urban Forest Study and associated Policies be received by Council and that the amendments to the various Policies be adopted as recommended.

Attachments

Attachment #1 – UFORE Recommendations Update

Attachment #2 – Tree Removal Permit Fee Comparisons

Previous Reports

PR14-035 Urban Forest Study (UFORE) – July 29, 2014

PR15-026 Urban Forest Management Plan & Policies – November 17, 2015

Pre-submission Review

Agenda Management Team review on August 20, 2020

Approvals

Approved by Sara Tienkamp for Al Downey, Director, Operational Services

Approved by Doug Nadorozny, Chief Administrative Officer

UFORE Study Recommendations Update – 2019

Attachment #1

UFORE RECOMMENDATION	2015 ACTION PLAN	2019 UPDATE
1. Refine the results of the urban tree canopy (UTC) analysis to develop an urban forest cover target.	Staff will continue to work with our Urban Forest Consultant, Silvicon, in an effort to develop achievable canopy targets and a strategy to implement a plan to increase canopy cover. Staff will report back to Council with appropriate recommendations as the information becomes available.	Updated tree inventory in 2015 and 2018. Inventory updates are planned for capital as inventory grows due to development. Official targets have not been set.
2. Build on the results of the urban tree canopy analysis (UTC) and the priority planting index to prioritize tree planting and establishment efforts to improve the distribution of ecosystem services, including urban heat island mitigation and storm water management.	Priority Planting Index has been identified in the scope of works associated with the Update of the urban tree inventory approved as capital project #73148. The planting index will encompass all areas where tree planting can potentially occur in an effort to comply with the recommendation.	Gap analysis has been completed, identifying municipal unplanted street blvd planting areas for which staff utilize to increase canopy cover. Also identifies areas in parks and openspaces, these areas are utilized for community planting events
3. Increase leaf area in canopied areas by planting suitable tree and shrub species under existing tree cover. Planting efforts should continue to be focused in areas of the Municipality that currently support a high proportion of Ash species.	This recommendation will be addressed in concert with the provision in the Landscapes Standards included in Appendix1 Policy A.	In addition staff have been working to help regenerate woodlots where large tracts of Ash dominant forest have been removed by EAB. This has been supported through partnerships with MNR Rangers program.
4. Utilize the Pest Vulnerability Matrix during species selection for municipal tree and shrub planting.	Staff have developed a tree and shrub planting list that take into consideration pest vulnerability included in Appendix 2 Policy B Tree Planting and Approved Plant List.	Ongoing
5. Establish a diverse tree population in which no species represents more than five per cent of the tree population, no genus represents more than 10% of the tree population, and no family represents more than 20% of the intensively managed tree population both municipal-wide and at the neighbourhood level.	This Recommendation has been addressed in Appendix 2, Policy B on page 2, section 2.0.	Ongoing
6. Utilize native planting stock grown from locally adapted seed sources in both intensively and extensively managed areas.	Local seed stock has been utilized when available and will continue to be sourced where feasible and where possible.	Ongoing, request this where applicable through procurement of product.

UFORE RECOMMENDATION	2015 ACTION PLAN	2019 UPDATE
<p>7. Evaluate and develop the strategic steps required to increase the proportion of large, mature trees in the urban forest. This can be achieved using a range of tools including Official Plan planning policy, by-law enforcement and public education. Where tree preservation cannot be achieved, Official Plan policy can be considered that will require compensation for the loss of mature trees and associated ecosystem services.</p>	<p>The current Tree protection By-law is an effective tool in the preservation of all trees greater than 20cm. in diameter. Additionally, a new Tree Removal Policy which is Appendix C Policy C establishes significant compensation measures for all trees removed that are subject to any Land Planning related application.</p> <p>The Heritage Tree Policy (Appendix 7 Policy G) is also an effective means to preserve our larger significant trees.</p>	<p>Ongoing</p>
<p>8. Develop municipal guidelines and regulations for sustainable streetscape and subdivision design that ensure adequate soil quality and quantity for tree establishment and eliminate conflict between natural and grey infrastructure.</p>	<p>The Parks and Recreation Services Department has developed and applied minimum landscape standards to all land planning and development applications. More recently these landscape standards have been revised and bolstered and consolidated into Appendix 1 Policy A. This policy establishes all criteria for plant material soils including detailed specifications.</p>	<p>ongoing</p>
<p>9. Explore the application of sub-surface cells and other enhanced rooting environment techniques for street trees. Utilizing these technologies at selected test-sites in the short-term may provide a cost-effective means of integrating these systems into the municipal budget.</p>	<p>Staff has conducted significant research into the use of sub-surface cells and enhanced rooting environment in specialized or difficult planting sites. An example of this is the proposed Yonge Street Promenade landscape project, where the use of Silvacells is being investigated as a means to provide a sustainable streetscape. Pending available funding this technology will be recommended and utilized where possible.</p>	<p>These cells are starting to be incorporated into design through developers in hard landscape designs. Cells are being proposed through the Library Square project and will certainly be explored for the Yonge St Promenade project in future.</p>
<p>10. Reduce energy consumption and associated carbon emissions by providing direction, assistance and incentives to residents and businesses for strategic tree planting and establishment around buildings.</p>	<p>Staff have been working with LEAF (Local Enhancement & Appreciation of Forests) an organization that partners with municipalities in the planting of trees and shrubs on Private properties. Staff will continue to explore opportunities for funding incentives to develop a sustainable private yard tree planting program in partnership with LEAF or other similar organization to occur in 2016.</p>	<p>This partnership continues currently and is available to residents for a reduced fee, though the Town does not funding incentives in place currently.</p>
<p>11. Research and pursue new partnerships and opportunities to enhance urban forest stewardship in Aurora.</p>	<p>Staff continues to work with the MNR Junior Ranger program each whereby wood lot improvement projects have been conducted in both the Case and Vandorf Woodlots. The Department remains committed to this program and will continue to pursue all available urban forest stewardship opportunities.</p>	<p>Ongoing</p>

UFORE RECOMMENDATION	2015 ACTION PLAN	2019 UPDATE
12. Pursue the development of an urban forest communication plan that guides the dissemination of key messages to target audiences.	Staff will investigate the implementation of a urban forest communications plan and work with our communications division on both content and delivery of key messages on a consistent basis this will be on ongoing initiative commencing in late 2015.	Webpage is constantly updated with Block pruning notices, EAB treatments etc and social media is leveraged now to reach a wider audience through our cross promotion of LEAF/Community planting events etc.
13. Explore the development and implementation of a municipal staff training program to enhance awareness of tree health and maintenance requirements generally, and of proper tree protection practices to be used during construction activities.	Staff responsible for the management of the urban forest receive regular training on all aspects of urban arboriculture and continue to stay abreast of all current forest health issues and tree care.	Ongoing Now include training for summer students, specific to trees and importance of not injuring bark during turf maintenance operation. Engineering retains an arborist for all road reconstruction projects
14. Establish an interagency Urban Forest Working Group to liaise with existing stakeholders and build new partnerships in the implementation of urban forest program objectives.	Staff continue to participate in the York Region Forestry Forum where staff meet on a regular basis with their counterparts in the nine regional municipalities for the purposes of information exchange and discussions on emerging issues in York Region.	Ongoing participation in the York Region Forestry Group Parks and Forestry N6 Groups have been established and meet regularly to discuss and exchange information.
15. Explore and develop targets that achieve a comprehensive distribution of ecosystem services and improve overall landscape function.	Aurora is in the very fortunate position in that there are many natural and unaltered green spaces and natural features widely distributed throughout the Municipality The future Wildlife Park will add yet another very diverse ecosystem to the Town of Aurora.	Wildlife park now in development with many ecological features being established and extensive planting. LID features being included on development plans, which are planted with many different species and help with water. Highland gate parkland is being naturalized. Staff continue to secure greenspace through development and are working to naturalize parkland through design.
16. Monitor the distribution, structure and function of the urban forest using the methods employed in this baseline study. A potential monitoring scenario may consist of a cover mapping assessment (UTC) at a five year interval and a field-based assessment (i-Tree Eco) at a ten year interval.	Staff will continue to work with York Region and the Metro Region Conservation Authority in an effort to monitor the urban forest at both the five-and ten-year windows, pending available financial resources.	Ongoing Region starting to plan for next round of monitoring in which the Town will be partnering in, pending funding.
17. Support research partnerships that pursue the study of climate change and its impacts on the urban forest and that evaluate the potential for planting more hardy and southern species in select locations.	This recommendation will be taken under advisement and may be considered at a later date in the event that the Corporation becomes involved in such a study.	Status quo. Staff have been in discussions with LSRCA and Regional Forum about effects of climate change and impact on species etc. Staff planting different species currently that have not been able to grow in area – pushing the growing zones and species tolerance.
18. Develop and implement an urban forest management plan for the Town of Aurora.	The Urban Forest Management Plan has been completed and is the subject of this report.	Comprehensive Urban Forestry Management Plan completed in 2015

Tree Removal Permit Fee Comparisons

Attachment #2

Municipality	Tree Removal Permit Requirements	Permit Fees
Aurora	-two (2) trees permitted for removal without permit between 20-60cm in calendar year (3 rd tree requires permit) -Any tree over 70cm	Over 20cm - based on quantity, three (3)-seven (7) trees \$204-612 Eight (8) or more additional \$102/tree to maximum of \$2,552 Over 70cm - \$510/tree
Newmarket	Bylaw relates only to trees on land owned by the Town	200% of the value of the actual cost of the tree + 15% admin fee \$750 for the removal + 15% admin fee \$250 for stump grinding + 15% admin fee
Richmond Hill	Single tree (over 20cm)	Over 20cm - \$155 for first tree, \$55 for each additional tree up to a max of \$430 Replanting requirement of 1:1 ratio or cash-in-lieu of \$371/tree
Vaughan	Single tree (over 20cm)	\$131.00/tree - \$66 permit processing fee Replanting requirement ratios based on removal size e.g.: 40-60cm removal size requires 3:1 replanting Cash in lieu - \$550/tree
Markham	Single tree (over 20cm)	\$200 for first tree, \$100/tree for each additional with a limit of \$5,000. Replanting requirement ratios based on removal size e.g.: 40-60cm removal size requires 3:1 replanting Cash in lieu - \$300/tree

Tree Removal Permit Fee Comparisons

Attachment #2

Municipality	Tree Removal Permit Requirements	Permit Fees
City of Toronto	Single tree (over 30cm)	Private, non-construction \$121.12/tree Municipal, non-construction related \$362.33/tree Private/Municipal, construction related \$362.33/tree Boundary, non construction \$252.83/tree Boundary, construction \$758.52/tree Replanting requirement of 1:1 ratio as a minimum or cash-in-lieu of \$583/tree
East Gwillimbury/ King Township/ Whitchurch-Stouffville	No Bylaw/permit York Region Tree Bylaw only	N/A



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Town of Aurora

General Committee Report

No. CMS20-020

Subject: Pandemic Recovery Planning – Update No. 2

Prepared by: Robin McDougall, Director of Community Services

Department: Community Services

Date: September 8, 2020

Recommendation

1. That Report No. CMS20-020 be received.

Executive Summary

This report summarizes some of the proposed reopening dates for various Town of Aurora facilities, programs and amenities as we continue to adjust to Stage 3 of the Provincial Restart Phase.

- As York Region moves to Stage 3, additional facilities, programs and amenities are being reopened in a phased and coordinated manner
- Various Protocols have been created in collaboration with National/Provincial/Local Sport Guidelines and Public Health Guidelines
- A Working Remotely Toolkit has been created to help guide staff who continue to work from home
- Health screening for employees and patrons of facilities is required by the Provincial Order
- Accommodations to the Allocation Policies have taken place in order to support the Town's regular user groups

Background

The Province released its *Framework for Reopening* on May 14, 2020. This Framework included 3 Phases (Phase 1: Protect and Support, Phase 2: Restart and Phase 3: Recover). Phase 2 was divided into three stages.

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Report No. CMS20-020

On June 23, 2020 staff provided an update on the current state of facilities, programs and amenities as Aurora progressed to Stage 2 in the Provincial Order.

On July 24, 2020, the Province announced that York Region could move to Stage 3 and subsequently staff have been evaluating and developing plans for reopening.

Analysis

As York Region moves to Stage 3, additional facilities, programs and amenities are being reopened in a phased and coordinated manner

With the latest announcement that York Region could move to Stage 3, additional facilities, programs and amenities can be considered for reopening. Through coordination with National/Provincial/Local Sport Organizations, Public Health and Chief Medical Officer Guidelines, the following plan builds on the recommendations from the June 23, 2020 staff report (CMS20-18).

In preparation for the reopening schedule (Table 1), staff continue to consider restarting services by evaluating the ability to provide a safe and healthy environment, user needs and capacity to provide the services. This coordination also includes working with surrounding municipalities to help facilitate the development of standards that will meet the need of our residents and visitors.

Development of communication tools/signage, sign-in/screening protocols and sanitization cleaning standards have also been developed and will be in place with each new amenity or program reopening. Regardless of when the facility, program or amenity is opened, the public will need to be diligent about personal hygiene and sanitization as it is not practical or possible for the Town to ensure that all sites are sanitized at all times.

Table 1

Facility, Amenity or Program	*Proposed Opening/ Start Date	**Requirements/Level of Service
Town Hall	To Remain Closed	<ul style="list-style-type: none"> • Closed to the public until future phases • Minimum staff working at Town Hall • Staff continue to provide full range of services working remotely • The following services are being offered from Town Hall:

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		<ul style="list-style-type: none"> ○ All planning & building permit applications continue to be accepted and processed ○ By Appointment: marriage licenses, commissioning ○ Residents are encouraged to continue to make payments online or in-person through their bank or by cheque using the drop box • In-Person Council meeting August 25, monitor format for future meetings
Joint Operations Centre (JOC)	Closed to the Public	<ul style="list-style-type: none"> • Closed to the public until future phases • Operations/Bylaw Services continue to provide services out of JOC • Other staff continue to provide full range of services working remotely
Splash Pads	Open	<ul style="list-style-type: none"> • Inspection and cleansing daily as per Ministry of Health regulations • Trash collection/litter pick-up daily and as required • Public will need to be diligent about personal hygiene and sanitization as it is not practical or possible for the Town to ensure that all sites are sanitized at all times
Public Washrooms in Parks	Open	<ul style="list-style-type: none"> • Daily inspections/deep cleaning and twice daily wipe down of common touch surfaces as per Ministry of Health • Public will need to be diligent about personal hygiene and sanitization as it is not practical or possible for the Town to ensure that all sites are sanitized at all times
Sports Fields	Open	<ul style="list-style-type: none"> • Commence issuing Permits • Turf mowing • Line painting for ball/soccer on select fields • Infield grooming for ball • Public will need to be diligent about personal hygiene and sanitization as it is not practical or possible for the Town to ensure that all sites are sanitized at all times

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		<ul style="list-style-type: none"> Return to Sport – Sports Field protocols finalized and issued to permit holders
Playgrounds	Open	<ul style="list-style-type: none"> Public need to be diligent about personal hygiene and sanitization as it is not practical or possible for the Town to ensure that all sites are sanitized at all times
Library	August 17	<ul style="list-style-type: none"> Computer access via reservation Curbside pickup will continue Online programming will continue Hours will be limited Second floor will be closed
Pool	Open AFLC pool Sept. SARC pool	<ul style="list-style-type: none"> Private lessons Lane swim Aquafit classes Swim Clubs in September Limits on number of participants Change room use needs to be closely monitored, cleaned and disinfected to maintain standards Parent of younger participants can provide assistance, no spectators Limited hours of operation Hot Tub/Spa pool cannot be opened at this time Screening being completed by Town and/or permit holder Return to Sport – Aquatics protocols finalized
Ice Pad	August 17 2 pads – ACC 1 pad – SARC Sept. 16 1 pad – SARC AFLC pad	<ul style="list-style-type: none"> Commence issuing permits Training and modified games, no dressing rooms, no spectators (parent of younger players can provide assistance, but once they are on the ice, parent is to wait outside facility) No Spectators Screening being completed by Town and/or permit holder Return to Sport – Arena protocols finalized and issued to permit holders
Fitness Centre/Studio	August 31	<ul style="list-style-type: none"> Pre-registration only, no drop in

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		<ul style="list-style-type: none"> • Timeslots available to a maximum per hour • Membership model revised • Fitness classes to be available • Screening will be completed by Town
Gymnasium	August 31 Fitness Classes Only	<ul style="list-style-type: none"> • Fitness Classes only at this time • Sport play – considering protocols
Seniors Centre	Mid Sept	<ul style="list-style-type: none"> • Reopening protocols prepared in consult with OACAC and public health • Pre-registered programs only • Limited numbers • Limited programs, some programs not permitted at this time
Program & Meeting Rooms	End of Sept	<ul style="list-style-type: none"> • Some Town Programs may commence end of September
The Loft	Unknown	<ul style="list-style-type: none"> • Considering protocols
Walking Track	Unknown	<ul style="list-style-type: none"> • Considering protocols
Squash Courts	Unknown	<ul style="list-style-type: none"> • Considering protocols
Rock Wall	Unknown	<ul style="list-style-type: none"> • Not permitted at this time

*Each of these dates may be impacted by changes in the Provincial Orders.

Various Protocols have been created in collaboration with National/Provincial/Local Sport Guidelines and Public Health Guidelines

With each facility, program and amenity reopening, consideration is made to the development of new policies/procedures, communication to the public and user groups, and evaluating the feasibility of starting up (cost and resource implications).

The following Town of Aurora documents have been created for the reopening of a particular amenity or program:

- Pandemic Recovery Playbook – issued to staff – June 19
- Return to Sport – Outdoor Fields – issued June 30
- Return to Sport – Aquatics – issued July 17
- Return to Sport – Indoor Arenas – issued August 11
- Face Coverings in Enclosed Public Spaces – issued July 17
- Working Remotely Toolkit – issued August 20
- Return to Fitness Club – issued August

A Working Remotely Toolkit has been created to help guide staff who continue to work from home

As the COVID-19 situation continues to evolve, many Town employees are continuing to work from home full-time. For some, the experience of working from home is new, especially for a prolonged period of time. Some are balancing responsibilities with children and/or sharing their space with another adult who is also working at home. Work provides a lot of social interaction – more than you may realize and it goes without saying that these are very different times, which will now require new routines.

While the Pandemic Recovery Playbook (issued June 19 to employees) focusses on returning to the workplace, the Working Remotely Toolkit is a resource for staff who are still expected to work from home encouraging employee health and well-being.

Health screening for employees and patrons of facilities is required by the Provincial Order

The purpose of developing the screening application is to minimize opportunities for COVID-19 to be transmitted and ensuring that Town employees, patrons and work spaces are kept safe during the pandemic.

Part of the Return to Sport Guidelines requires that all permit holders perform screening of their participants at the time of entering the facility. Similarly, the Town will be screening all program registrants at the facility entrance. With both of these measures in place, the Town will be able to conduct contact tracing in the event an outbreak occurs.

For members of Council, employees, visitors to Town Hall or Joint Operation Centre, and 3rd party vendors/contractors, the Town has developed an electronic screening tool. This screening tool can easily be accessed via mobile phone or the internet and it asks questions about an individual's symptoms, recent travel, and contact they may have had with people who have had or been exposed to COVID-19. The data collected is maintained by the Town but will not be shared.

Accommodations to the Allocation Policies have taken place in order to support the Town's regular user groups

At the time of closing facilities (March 2019), many user groups/rentals were impacted by this unexpected closure. In order to assist the user groups/rentals, refunds were provided for the permit times unused. Subsequently, the user groups were able to

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provide refunds to their registrants. In doing so, the permit cancellation fees were waived as the need to cancel permits was out of the organizations control.

As staff looked ahead to accepting new permit requests for upcoming seasons, the deadline to submit requests has passed based on the definition in the Town's Allocation Policies. Therefore, to accommodate the unexpected situation, the deadline dates have been temporarily waved and continue to be reset as the Town adjusts to the ability for user groups to restart their programs.

Also, as certain amenities come back online while others remain closed, accommodations have been made to changing locations for some permits. For example, the Magna fields and St. Andrew's College fields will not be available this season. Additionally, it was only recently that the York Catholic District School Board grass fields became available. A similar situation is occurring with ice user groups with only 3 ice pads open at this time (typically there are at least 4 in the summer). In all cases, adjustments to where typical permits are located are being balanced with requests.

Indoor facilities require the implementation of additional health and safety measures due to the enclosed spaces (capacity limitations, cleaning frequencies, public directional flow through facilities, etc.). As an example, additional time is required between ice user permits to ensure participants do not cross paths with other user groups (one group needs time and space to leave the facility before the next group comes in). Also, time to clean high touch points needs to be incorporated into the operational schedule. With the startup of only 3 ice pads, staff have been able to test an operational model and will adjust where possible before additional ice pads are reopened. The reality of this adjusted operational schedule results in reduced capacity on the ice, even when all 5 ice pads are open. Staff are monitoring the demand versus available time to maximize operational revenue potential while maintaining quality health standards. It is important to note that staff are receiving requests from groups looking for time that they cannot get in other municipalities or private facilities they have used in the past. Staff are doing their best to issue permits where possible. Preference to space will continue to be considered for Aurora's regular user groups, then consideration will be given to other user groups, thereby, honouring the relationships with regular user groups.

With this unique situation, it is important for user groups to know that their regular use of facilities will not be impacted next year. With 2020 being an anomaly, the Allocation Policies needed to be adaptable for this year, but it is important that user groups can plan for their future and are not penalized for the unique circumstances this year.

Therefore, the grandfathering clause in the policy will honour 2021 requests based on 2019 (typical year) use.

All of these accommodations are deemed to be temporary and in response to the unexpected impact of COVID-19 on our regular user groups.

Advisory Committee Review

Not Applicable

Legal Considerations

The Town is responsible for ensuring that its operations are in compliance with the advice, recommendations and instructions of public health officials, including any advice, recommendations or instructions on screening, physical distancing, cleaning or disinfecting. Staff have implemented the appropriate measures to ensure that the operations detailed throughout this report are consistent with the provincial orders, as continuously amended, and the public health guidelines. In addition, clauses have been added to the online registration process and permits that obligate users of the facilities to be compliant with all provincial orders and public health guidelines, including self-screening, as may be amended from time to time.

Financial Implications

Throughout the duration of the pandemic, the Town has been regularly evaluating its impact on the Town's finances. As this event has progressed the Town has examined the financial implications of multiple possible scenarios. The presented pandemic recovery plan roughly aligns with the assumptions used by the Town in its most recent forecast update to Council which projected a small net surplus. The primary deviation from the Town's most recent forecast assumptions is the earlier partial opening of the Town's indoor facilities. The assumptions for staff's next forecast update to Council will be updated to fully align with the above presented pandemic recovery plan.

The nature of this pandemic is unpredictable and should the Town have a COVID-related deficit, the funding provided through the Safe Restart Agreement will be used to offset the impact.

Communications Considerations

The Town of Aurora will use 'Inform' as the level of engagement for this project. There are five different levels of community engagement to consider, with each level providing the community more involvement in the decision making process. These levels are: Inform, Consult, Involve, Collaborate and Empower. Examples of each can be found in the Community Engagement Policy. These options are based on the International Association of Public Participation (IAP2) Spectrum and assist in establishing guidelines for clearly communicating with our public and managing community engagement. In order to inform, once recreational programming is confirmed the Town will communicate key messages by using a series of communications tools i.e. media release, website, Notice Board, social media etc.

Link to Strategic Plan

This project supports Goal #1: Supporting an exceptional quality of life for all - Objective #4 – Encouraging and active and healthy lifestyle.

Alternative(s) to the Recommendation

Not applicable

Conclusions

As we have advanced to Stage 3 in the Provincial Order, the community is eager to start up programming, sports groups are eager to get back to playing and the general public is interested in utilizing various recreation amenities. Our top priority is the health and safety of our staff and the public, therefore, the Town will continue to plan accordingly to ensure proper safety measures are in place before reopening.

Staff have updated the reopening plan (previous June 23, 2020) based on the guidance from the different levels of government and following guidelines set out by health officials. It is important to note, that these proposed dates may change if the Provincial Orders are amended.

Attachments

None

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Report No. CMS20-020

Previous Reports

CMS20-018 – Pandemic Recovery Planning – Update, June 23, 2020

Pre-submission Review

Reviewed by CAO on August 25, 2020

Approvals

Approved by Robin McDougall, Director, Community Services

Approved by Doug Nadorozny, Chief Administrative Officer



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Town of Aurora

General Committee Report

No. OPS20-009

Subject: **By-law Regulating Occupancy, Works, Fouling and Encroachments on Highways**

Prepared by: Allan D. Downey, Director of Operations

Department: Operational Services

Date: September 8, 2020

Recommendation

1. That Report No. OPS20-009 be received; and
2. That the Highway Occupancy and Encroachment By-law, being a by-law to regulate occupancy, fouling and encroachment onto municipal highways and to repeal By-laws Number 4734-05.P, Number 4744-05.P and Number 5733-15, be brought forward to a future Council meeting for enactment.

Executive Summary

The purpose of this report is to respond to a Council directive to staff to develop a Policy for managing encroachments onto municipal roads rights-of-way and, in particular, to deal with an existing encroachment at 50 Pineneedle Drive in Aurora. This report will address the following:

- Private landscaping and plant materials are the most common and benign Encroachments that occur on the Municipal Road Right-of-Way
- Situations arise where action must be taken by the Town to remove Encroachments from the municipal road allowance for reasons of liability and risk to the public
- Town's existing by-laws relating to highway obstructions, fouling, works and incursions will be consolidated into a single highway control by-law
- Encroachments on the municipal road right-of-way may result in a non-compliance with the provincial standards and accessibility requirements
- The proposed by-law will create a policy relating to encroachments, update provisions relating to permitting of other road activities and provide staff with enforcement tools in case of non-compliance
- Encroachment at 50 Pineneedle Drive remains outstanding and will be

administered in accordance with the provisions contained in the proposed by-law

Background

In 2014 staff became aware of an issue associated with a hedge that had become overgrown and was encroaching well into the traveled portion of the sidewalk that flanks the south side of the property at 50 Pineneedle Drive, Aurora.

It was determined, through a formal property survey, that the entire cedar hedge, various other trees and landscaping were within the municipal road right-of-way as shown on the attached survey. At that time, staff with the involvement of Legal Services, had reached out to the property owner in an effort to resolve the situation and were unsuccessful in coming to a resolution on the matter.

Subsequently, the property owner appealed to Council with a request that the Town enter into an Encroachment Agreement to permit the encroachment to remain. The matter was tabled via report LLS15-036 at the May 19, 2015 General Committee meeting. On May 26, 2015, Council deferred the recommendations in the May 19, 2015 report and directed staff to develop a formal policy on encroachments.

During that same May 26, 2015 meeting, on a motion, an item was added to the agenda with respect to installations on Town roadways and community mailboxes. As result of that additional item, By-law 5733-15 - Excavation and Installation on Highways By-law, was also passed during that same meeting. By-law 5733-15 had the effect of requiring that permits be obtained prior to placing anything on Town highways, including community mailboxes. Although it has been ruled by the courts that municipalities are not able to regulate the placing of community mailboxes, the remainder of the by-law remains in force and generally prohibits the placing of anything on Town highways or conducting work on Town highways without prior permission of the Town. For the most, the Excavation and Installation on Highways By-law has been used with respect to any proposed construction activities on Town roads, such as permitting utilities companies to conduct work by obtaining a temporary Road Occupancy Permits. By-law 5733-15 has not been used to grant permission for any private or permanent encroachments.

Analysis

Private landscaping and plant materials are the most common and benign encroachments that occur on the Municipal Road Right-of-Way

There is minimal distinction between the exact boundary between private and public properties due to non-existent reference lines. The condition often results in private property owners straying from their property boundaries with various landscaping works.

This is a common situation throughout the municipality and for the vast majority of these types of encroachments, they involve trees and shrubs that have been planted by homeowners on the municipal road allowance in an effort to beautify or screen their properties.

For the most part, these encroachments are considered very benign and cause little or no concern to the municipality or to the public. Many of these plantings tend to improve the neighbourhood streetscape and add value to overall property aesthetics.

As such, our Roads and By-law Enforcement staff take no action in approaching property owners who have plant material encroaching onto the municipal road right-of-way. To do so would be a monumental and needless task which would lead to discontentment with most property owners.

Situations arise where action must be taken by the Town to remove Encroachments from the municipal road allowance for reasons of liability and risk to the public

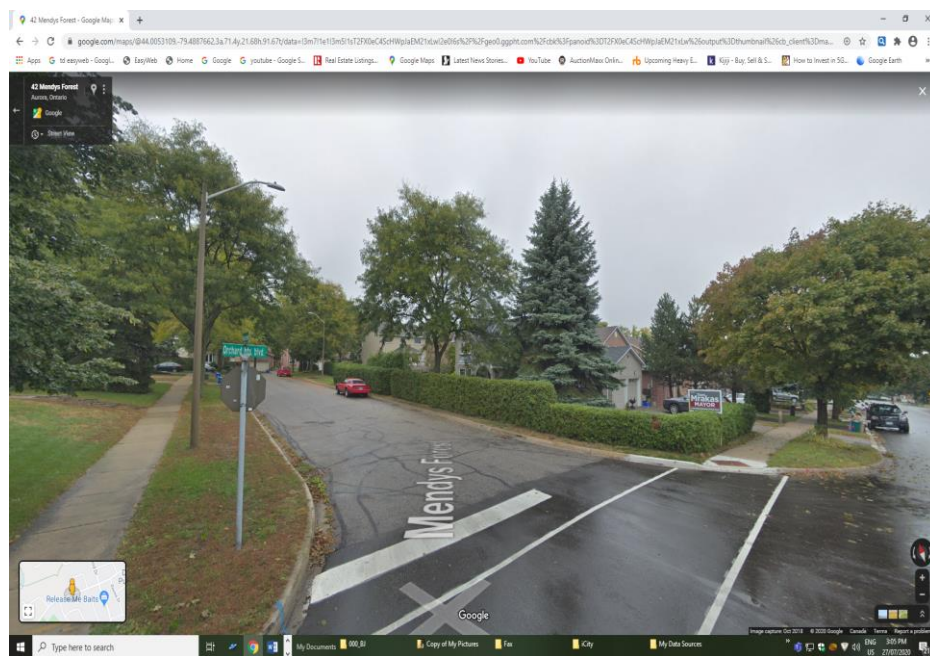
Although By-law Services and Operational Services staff do not actively seek out and act on all manner of encroachments onto the municipal road allowance, there are occasions where it becomes necessary to do so. The issue generally arises from an observation by Roads staff or a complaint from a member of the public, motorist, cyclist or pedestrian where the encroachment involves overgrown plants, trees, hedges or other landscaping materials causing a visual or physical obstruction to a roadway or sidewalk. In most cases, action can be taken by a property owner and/or the municipality in mitigating the obstruction either by issuing an order to a property owner to completely remove the obstruction or simply by trimming back overgrown vegetation. There is a very high success rate in managing these typical scenarios.

For example, staff became aware of an over grown private side hedge that was planted by a homeowner on the northeast corner of Mendys Forest and Orchard Heights Boulevard. It was confirmed by Town engineers that, in fact, the hedge was obstructing site lines at the intersection such that public safety was being compromised. Staff issued a notice to the homeowner that the hedge must be trimmed back to improve site lines and the homeowner did comply with the Towns directive, as illustrated in the photos below.

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Report No. OPS20-009



Town's existing by-laws relating to highways obstructions, fouling, works and incursions will be consolidated into a single highway control by-law

There are a few by-laws currently in force at the Town that in various ways address encroachments, occupancy and fouling of Town highways. These by-laws have been put in place over time to deal with various issues, creating some overlap and potential inconsistencies. As a result, staff recommend a consolidation of several by-laws dealing with road occupancy, fouling, obstructions and encroachment into one by-law. This will create consistency among the various existing provisions and address several issues that required an update, including the matter of encroachments. The affected by-laws are as follows:

- By-law Number 4744-05.P is a by-law to regulate the obstruction and fouling of highways and the crossing of boulevards by delivery vehicles.
 - This by-law was put in place in 2005 and contains inconsistencies and gaps. The provisions of this by-law require an update.
 - This by-law may be repealed since the relevant provisions of this by-law (prohibiting fouling, obstructions and crossing of sidewalks/curbs/boulevards) will be integrated into the new proposed highway by-law.
- By-law Number 4734-05.P is a by-law to regulate the planting of shade and ornamental trees upon the highways under the jurisdiction of the Town of Aurora. This By-law provides in section 2 that “[n]o person or his agents, servants or employees shall plant any tree upon any highway in the Town of Aurora without having first obtained consent of the Director pursuant to the provisions of this By-law.”
 - This by-law has been very seldom utilized and contains some inconsistencies and gaps.
 - This by-law may be repealed since the proposed highway by-law will address planting of vegetation on boulevards. Trees will not be permitted to be planted by private property owners.
- By-law Number 4750-05.P is a by-law to regulate temporary road closures for various parades, streets parties and other similar community events.
 - This by-law contains extensive detail with respect to the process and policy for road closures for various community events.
 - This by-law has been applied over the years and currently has not been identified as requiring an update, and was not part of this review process.
 - This by-law will be kept in place in its current form and continue to provide the process and policy relating to highway closures for various events it

addresses. The new highway by-law will provide that closures authorized by By-law 4750-05.P will be permitted.

- By-law Number 4752-05.P regulates parks and public places. This by-law has a general provision stating that no person shall take possession or encroach upon parks or public places, unless otherwise permitted by the Town and approved by Council.
 - This by-law does not relate to regulation of public highways. However, the broad definition of a public space includes highways.
 - The reference to encroachments within this by-law can be kept in place and applied to parks. If necessary, the wording will be adjusted at a future time when the parks and public spaces by-law is being updated.
- By-law Number 5733-15 is a by-law regulating installation on municipal highways. The by-law provides that no person is permitted to do, on any portion of any highway, a number of listed actions without first obtaining a permit pursuant to that by-law. The items that are prohibited are very broad and forbid anything to be placed on Town highways (including vegetation) or any work to be done on the highways.
 - This by-law requires an update as certain parts relating to community mailboxes have become unenforceable due to a decision by the Ontario Court of Appeal, and some items overlap with other by-laws and do not accurately reflect the Town's practices relating to installations on highways. Also, the broad application of this by-law creates uncertainty as to its application to items such as encroachment and fouling of highways.
 - This by-law may be repealed since the relevant provisions relating to permitting of road works from this by-law will be incorporated into the new highway by-law. The proposed by-law will reflect the Town's current Road Occupancy Permit system.

Encroachments on the municipal road right-of-way may result in a non-compliance with the provincial standards and accessibility requirements

With the passage of the amended Municipal Act Regulation O.Reg.239/02 Provincial Minimum Maintenance Standards for Municipal Highways (MMS) in May 2018, there are new standards and limits that must be considered by all municipalities in the Province of Ontario. Particularly, Section 16.2 of the MMS now requires that the area adjacent to sidewalk be inspected once per year to consider if it is in a state of repair.

Municipalities are required to then repair any encroachment (take steps to protect users) on the Town's boulevard that is found to be of unusual character or to pose a hazard to pedestrians. The area that is required to be inspected is limited to about half a metre from the edge of the sidewalk. In case of damage or injury suffered by a pedestrian due to such an encroachment, the Town may be found liable if it cannot show that it met its obligations under the MMS with respect to such an encroachment, regardless of who may have placed it or when.

The MMS did not specifically address encroachments prior to the amendments in May of 2018. It is now incumbent on municipalities to consider a plan to mitigate such encroachments when they become known.

Permitting an encroachment that constitutes any hazard to persons or property, left unresolved, places the Town in a position of risk and exposure to potential claims.

In addition to the above and to ensure that all aspects of encroachments are examined, staff must consider the impact an encroachment has on all members of the general public using public spaces, including people with disabilities. As of January 1, 2016, the standards under the Accessibility for Ontarians with Disabilities Act, 2005 ("AODA") for the design of public spaces describes ways to make outdoor communal spaces more accessible.

Section 80.23 of the Integrated Accessibility Standards regulation states that when constructing new or redeveloping existing exterior paths of travel organizations shall ensure that new and redeveloped exterior paths of travel meet, among others, the following requirements:

- The exterior path must have a minimum clear width of 1,500 mm, but this clear width can be reduced to 1,200 mm to serve as a turning space where the exterior path connects with a curb ramp.
- Where the head room clearance is less than 2,100 mm over a portion of the exterior path, a rail or other barrier with a leading edge that is cane detectable must be provided around the object that is obstructing the head room clearance

Given the wording of the legislation, the Town may be not required by the AODA to take action to mitigate conditions on existing pathways that are created by encroaching obstructions. Nevertheless, a site inspection was conducted by the Town Accessibility Advisor on July 30, 2020 of the hedge at 50 Pineneedle Drive and was found to have overgrown and encroached onto the exterior path of travel reducing the minimum clear width for travel and head room clearance.

It is the opinion of the Accessibility Advisor that, although this path was built prior to the legislation, maintenance of this exterior path of travel is necessary to keep this existing public space free of obstructions as per the intent of AODA standards.

The proposed by-law will create a policy relating to encroachments, update provisions relating to permitting of other road activities and provide staff with enforcement tools in case of non-compliance

The proposed by-law establishes the approach staff would take with respect to encroachment onto Town boulevards. Here are some important features of the by-law:

- Language has been included to better suit the type of encroachment situations most commonly encountered and to better define what exactly constitutes an encroachment.
- Soft landscaping, such as various shrubs, plants or other vegetation that meet certain criteria would be permitted without any process or the requirement for permission. The criteria that are required to be met are set out in the by-law in Section 3.2 and are very detailed. In simple terms, vegetation is not permitted to create any health or safety hazard and not interfere with Town operations. The specifics of the criteria have been developed after due consideration by staff of potential safety hazards, operational challenges and other issues that arise.
- Paving stones and irrigation systems are also permitted to be placed provided they are placed flat with ground surface and satisfy criteria outlined in Section 3.2. This is to eliminate the potential of such items being placed in a way that would create a tripping hazard on Town property.
- Property owners can also apply to obtain permission to place encroachments adjacent to their properties that do not meet the criteria for Soft Landscaping, Irrigation Systems or Paving Stones. Applications would be submitted to the Operations Department for consideration. An encroachment could be permitted by Staff provided that it meets certain criteria set out in the by-law as set out in Section 5.4, such as not posing any safety hazard or impeding with Town infrastructure or operations. The application would be determined at the discretion of the Director and would be final. The Director has discretion to not approve any encroachments and could reserve this authorization to special cases only. If approved, the owner would be required to enter into an agreement with the Town, indemnifying the Town for any claims that may arise as a result and requiring that owners provide insurance. The process also involves fees as part of the application and agreement process. The Director of Operations is also granted with some authority to waive certain requirements when appropriate.

- The by-law provides staff with various powers to enforce the provisions of the by-law and processes to be used in case of non-compliance. If compliance cannot be achieved voluntarily, staff could issue orders, lay charges or remove encroachments and seek costs against the owner. Normally, compliance with respect to encroachments is sought through cooperation with home owners. However, in the event that such efforts are not successful and a safety hazard exists or an encroachment impedes the Town's ability to be able to provide services to fulfill the Town's obligations, or otherwise impedes an essential infrastructure, Town may be required to take action given the MMS requirements and its obligations to provide certain essential services to the public.
- Given that certain encroachments are permitted to be placed without Town oversight and that the Town is continuously required to conduct various maintenance, repair and construction works on its highways and municipal infrastructure, the provisions of the by-law outline that any encroachments placed are at the risk of the person that places them. The provisions of the by-law set out that in cases where encroachments are required to be removed or become damaged due to Town operations, Town staff (or Town agents) have discretion to do so and would not assume liability for their repair or replacement. Although it is not done intentionally, it is not unusual that items placed on the boulevard become damaged during operational activities of the Town or have to be removed to accommodate road works.

The proposed by-law will also address highway obstructions, fouling, works and crossing of boulevards:

- The by-law contains prohibitions set out in Section 2.1 with respect to roadworks, obstructions, fouling and crossing of curbs/sidewalks/boulevards with vehicles. All such items are prohibited, unless a Road Occupancy Permit ("ROP") is obtained with respect to such activity.
- The by-law contains updated provisions with respect to the process for obtaining a ROP that reflect current practises and provides staff with authority to revoke or suspend permits in certain situations. Further, staff are given authority to take immediate action to address emergency situations.

The By-law contains updated provisions that allow for enforcement actions to be taken and infractions issued for violations, when necessary. The Director of Operations is granted the authority to administer the by-law and delegate tasks to staff. The proposed by-law does address a number of activities and items that are otherwise permitted by other by-laws or laws, through exceptions. These exceptions include activities such as placing of waste bins out on the curb for collection as addressed by the Town's Waste Collection By-law, placing of signs pursuant to the Town's Sign By-law, items otherwise

permitted or authorized by Council or an order of a court/tribunal, items contemplated in an agreement pursuant to the Planning Act, existing encroachment agreements and other items, as outlined in Section 2.6.

Encroachment at 50 Pineneedle Drive remains outstanding and will be administered in accordance with the provisions contained in the proposed by-law

The hedge at 50 Pineneedle, and other smaller items, continue to create an encroachment onto Town highway property. Staff have concerns regarding this particular matter as it continues to present a potential risk to the Town and is now not in compliance with MMS requirements. The situation continues to further impact the pedestrian sidewalk with each passing year with the incremental growth of the hedge. The hedge also blocks the views of drivers approaching the intersection going south on Pineneedle Drive, which obstruction limits the field of vision far in excess of what is required pursuant to engineering and transportation standards.

This matter was initially brought to Council by the previous owner of the property. Staff have reached out to the new property owners and will be meeting them to discuss the situation and a potential resolution to the matter. This meeting will only occur when safe to do so in accordance with applicable health and safety protocol under the COVID-19 social distancing measures. As such, and unless directed otherwise by Council, no action will be taken on the part of the Town until staff have had the opportunity for dialogue with the current property owners at 50 Pineneedle Drive.

The encroachment in this case is very significant and the hedge is used to appropriate a large portion of the Town's property for the property owners' personal use, which has become a significant detriment and potential risk to the Town over time. If the proposed by-law is approved, Town staff will attempt to resolve the issue through cooperation with the property owner, but ultimately the encroachment will be required to be brought into compliance with the new by-law.

Advisory Committee Review

None.

Legal Considerations

The Municipal Act obligates the Town to maintain the entire highway, which includes the boulevard. The boundary of the Town's right-of-way, and in effect the extent of responsibility, stretches past the sidewalk. The exact boundary of the boulevard varies from street to street. Although the standards with respect to the maintenance of the

boulevard may not be as stringent as with respect to vehicular roadway and the pedestrian sidewalk, in case of an injury or damage suffered on any portion of the highway, the Town would become involved in such a claim as the property owner and become liable if it can be shown that there was negligence on the part of the Town. With the addition of the responsibilities on the Town to inspect and remedy encroachments that may pose a hazard under the MMS, the Town is obligated to take action in certain situations. Any claims the Town becomes involved in will have an affect on the Town's insurance costs.

There are a number of potential ways in which encroachments could pose a hazard and a liability risk for the Town due to overgrown vegetation or various objects placed on the boulevard. When the Town does become aware of an issue, or should have become aware as part of its inspection obligations, the Town is obligated to deal with such items or otherwise risk being liable for any injuries or damage that may occur as a result. The proposed by-law does provide staff with direction and a policy statement with respect to encroachments and also provides the tools for staff to be able to respond in accordance with the situation and risks involved. Without having the enforcement authority outlined in the proposed by-law, Town staff may not be able to take appropriate remedy or enforcement action if discussions with a resident do not lead to a solution that would render safe any hazards to satisfy the Town's obligations.

With respect to the regulation of various works, obstruction, fouling and crossing of boulevards, the Town has authority to regulate such activities on its highways. Pursuant to the proposed by-law, Town staff will continue to administer its current Road Occupancy Permitting system with respect to activities on highways, which do not involve requests for long term placing of objects or closures relating to community events.

Financial Implications

Should Council approve staff's recommended mitigating measures, there will be no additional operational financial implications for the Town in the administration of the proposed by-law. Should the Town deem that an obstruction or encroachment require removal, or if works leave the highway in need of repair, it is intended to be remedied at the expense of the party that caused the damage, obstruction or encroachment.

Communications Considerations

The Town of Aurora will use 'Inform' as the level of engagement for this project. There are five (5) different levels of community engagement to consider, with each level providing the community more involvement in the decision making process. These

levels are: Inform, Consult, Involve, Collaborate and Empower. Examples of each can be found in the Community Engagement Policy. These options are based on the International Association of Public Participation (IAP2) Spectrum and assist in establishing guidelines for clearly communicating with our public and managing community engagement. In order to inform the public, this report and the new By-law will be posted to the Town's website.

Link to Strategic Plan

Encroachments onto Municipal lands supports the Strategic Plan goal of Supporting an Exceptional Quality of Life for All.

Alternative(s) to the Recommendation

1. Council could defer adoption of the By-law and direct staff to revise any or all provisions contained in the By-law.
2. Council defer the adoption of the By-law and continue to apply the existing municipal By-laws currently enforced.

Conclusions

Staff are recommending that Council enact the proposed of by-law to replace existing By-laws Number 4734-05.P, Number 4744-05.P and Number 5733-15. The new consolidated by-law will provide staff with a policy and a process to deal with highway encroachments. As part of the update, the provisions that are currently found in various Town by-laws relating to highway activities will be consolidated into one consistent document that is better aligned with the current processes and Town obligations relating to the management of highways.

Also, through the passage of the by-law, Town staff would be provided with tools to enforce deficiencies and issues relating to highway activities in cases where cooperation is not successful and the Town is required to take action to satisfy its highway maintenance obligations.

Attachments

Attachment #1 – Photos of Encroachment at 50 Pineneedle Drive, Aurora

Attachment #2 - Highway Occupancy and Encroachment By-law

September 8, 2020

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Report No. OPS20-009

Previous Reports

LLS15-036 Request for an Encroachment Agreement (50 Pineneedle Drive), May 19, 2015.

Pre-submission Review

Agenda Management Team review on August 20, 2020

Approvals

Approved by Sara Tienkamp for Al Downey, Director, Operational Services

Approved by Doug Nadorozny, Chief Administrative Officer





The Corporation of the Town of Aurora

By-law Number XXXX-XX

Being a By-law to regulate occupancy, fouling, construction and encroachments on highways.

Whereas Section 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25, (the “Act”) as amended, provides that a municipality may pass by-laws respecting the health, safety and well-being of persons, services and things that the municipality is authorized to provide, protection of persons and property, public assets of the municipality, drainage and flood control, public utilities, parks, as well as highways and structures, including fences and signs;

And whereas Section 9 of the Act provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Act;

And whereas Subsection 8(1) of the Act provides that powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality’s ability to respond to municipal issues;

And whereas Sections 30 of the Act provides that the municipality has ownership over highways under its jurisdiction and Section 44 requires the municipality maintain its highways in a state of repair and to adhere to minimum maintenance standards outlined in regulations;

And whereas Subsection 391(1) of the Act provides that a municipality may pass by-laws imposing fees or charges on any persons for the use of its property including property under its control;

And whereas Section 446 of the Act provides that a municipality may proceed to do things at a person's expense which that person is otherwise required to do under a by-law but has failed to do and to recover the costs of doing so by adding the costs to the tax roll and collecting them in the same manner as property taxes;

Now therefore the Council of The Corporation of the Town of Aurora hereby enacts as follows:

1. Definitions

1.1. In this by-law, the following words have the following meanings:

- (a) **“Act”** shall mean the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended;
- (b) **“Applicant”** shall mean the Person submitting an Application to the Town;
- (c) **“Application”** shall mean an application for a ROP or an application for an Encroachment, or for the renewal or extension of the same;
- (d) **“Arterial Road”** shall mean an Arterial Road as designated in the Town’s Official Plan, as amended or successor thereof;
- (e) **“Boulevard”** shall mean all parts of the Highway, including the shoulder and sidewalk, but excluding the curb and the road portion travelled by or designed for vehicular traffic;
- (f) **“Clerk”** shall mean the Clerk of the Town appointed pursuant to the Act;
- (g) **“Collector Road”** shall mean any Major and Minor Collector Road as designated in the Town’s Official Plan, as amended or successor thereof;
- (h) **“Council”** shall mean the Council of the Town;
- (i) **“Director”** shall mean the department head of the Operations Department of the Town, or his/her designate or successor;
- (j) **“Easement”** shall mean an interest in land owned by another Person, consisting in the right to use or control the land, or an area above or below it, for a specific limited purpose, but does not include an interest created by a licence agreement;
- (k) **“Encroachment”** shall mean anything that is placed, installed, constructed or planted within a Highway, including anything that is wholly upon or extends onto a Highway, that was not placed, installed, constructed or planted by the Town and shall include any aerial, surface or subsurface encroachment, but shall not include anything permitted pursuant to a ROP;
- (l) **“Encroachment Agreement”** shall mean an agreement executed by the Town and an Owner, granting authorization to erect, place or maintain an Encroachment on the Highway;
- (m) **“Encroachment Agreement Fee”** shall mean the fee as set out in the Town’s Fees and Charges By-law, as amended;
- (n) **“Encroachment Application Fee”** shall mean the fee as set out in the Town’s Fees and Charges By-law, as amended;
- (o) **“Geometric Design Guide”** shall mean the most current version of the Geometric Design Guide for Canadian Roads of the Transportation Association of Canada, as amended or successor thereof;
- (p) **“Highway”** shall mean a highway within the meaning of the Act;

- (q) **"Irrigation System"** shall mean the components of a system that is used or designed for the purpose of irrigating or watering vegetation located outdoors;
- (r) **"Local Road"** shall mean a Local Road as designated in the Town's Official Plan, as amended or successor thereof;
- (s) **"Minimum Maintenance Standards for Municipal Highways"** means O. Reg. 239/02: Minimum Maintenance Standards for Municipal Highways, as amended or successor thereof;
- (t) **"Officer"** shall mean a Municipal Law Enforcement Officer appointed by the Town;
- (u) **"Owner"** shall mean the registered owner of a parcel of property as such Person is described on the most current parcel register;
- (v) **"Paving Stones"** shall mean stones with a flat exposed surface that are placed in the ground in such manner that the top of the stone is level with ground level in the vicinity of such stone;
- (w) **"ROP" or "Road Occupancy Permit"** shall mean a written permit issued by the Town pursuant to this by-law authorizing regulated activities under subsection 2.1, other than for the erecting, installing or maintaining an Encroachment;
- (x) **"Person"** shall include an individual, sole proprietorship, partnership, unincorporated association, firm or corporation, business entity or club, trust, body corporate or natural person;
- (y) **"Premises"** shall mean a parcel of real property and includes all buildings and structures thereon;
- (z) **"Refuse"** shall mean any object or material that has been discarded by any Person or that is no longer in use, or reasonably intended to be used, by the Person having ownership or control over such object or material;
- (aa) **"Sign"** shall mean any structure or device, intended for identification or advertisement, visible to the general public;
- (bb) **"Soft Landscaping"** shall mean any shrubs, hedges, grass, flowers, maintained natural gardens or other vegetation, but excludes trees, noxious weeds and local weeds designated under the provisions of the *Weed Control Act*, R.S.O. 1990, c. W.5;
- (cc) **"Solicitor"** shall mean the Town Solicitor or his/her designate;
- (dd) **"Town"** shall mean The Corporation of the Town of Aurora; and
- (ee) **"Unauthorized Encroachment"** shall mean any Encroachment not authorized by this by-law.

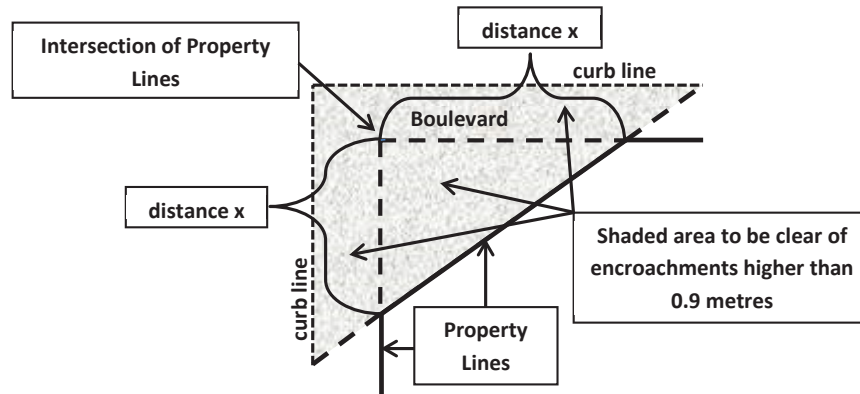
2. General Prohibitions

- 2.1. No Person shall do, or shall cause to be done, or shall permit to be done, or shall attempt to do, on any portion of any Highway, any of the following actions without previously obtaining a ROP or entering into an Encroachment Agreement pursuant to this by-law permitting such action or activity, except where otherwise specifically permitted or exempted pursuant to this by-law:
- (a) excavate, dig-up, break, tear-up, connect to, alter or destroy any portion of the land within the Highway whether for the purpose of constructing a means of access, or for any other purpose;
 - (b) cross any raised curb, sidewalk or paved Boulevard with a vehicle or with the aid of mechanical equipment, over which he/she has control, to deliver or remove any materials from abutting land;
 - (c) place, deposit, spill, track or otherwise leave on a Highway, any construction material, debris, soil, dirt, mud, stone, gravel, aggregate, concrete or any other similar material;
 - (d) place or construct any Encroachment on any Highway;
 - (e) obstruct or block any Highway, including any culvert or ditch on any Highway.
- 2.2. In addition to the above, no Person shall throw or deposit any Refuse, including any animal carcass, on any Highway.
- 2.3. The Owner of the Premises from which, or to which, any material or items are being removed or deposited, placed, spilled or tracked shall be presumed to have caused such items or materials to be placed, deposited, spilled, tracked or otherwise left deposited on the Highway, as the case may be, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.
- 2.4. The Owner of the Premises from which, or to which, any vehicle crosses any curb, sidewalk or paved Boulevard to deliver or remove any items or material shall be presumed to have caused such vehicle to cross any curb, sidewalk or paved Boulevard, as the case may be, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.
- 2.5. The Owner of the Premises immediately adjacent to the land on which an Encroachment is located, shall be presumed to have caused to be placed, constructed or maintained the Encroachment, as the case may be, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.
- 2.6. Notwithstanding subsections 2.1 and 2.2, the following classes of items and Encroachments, as well as activities related to such items and Encroachment, are exempted from the requirements and restrictions of this by-law:
- (a) Signs and advertising devices, as authorized or permitted by the Sign By-law, as amended or a successor by-law thereof, or Council;

- (b) Refuse or waste that is left or placed in compliance with the Waste Collection By-law, as amended or a successor by-law thereof;
 - (c) activities and Encroachments arising as a result of construction or maintenance activity on behalf of and under contract with the Town;
 - (d) any Highway closure authorized by the Town;
 - (e) Encroachments arising as a result of a decision of the Town's Committee of Adjustment or the Local Planning Appeal Tribunal, or a successor body thereof, permitting the Owner of a residential Premises to widen a driveway, provided such Encroachments are limited to hard surfaces comprising of the permitted driveway extension that is level with the surrounding ground level, and that any other requirements set out under any other Town by-law are met;
 - (f) Encroachments permitted as a result of a written and signed agreement with the Town, other than an Encroachment Agreement, including any agreements pursuant to the *Planning Act*, R.S.O. 1990, c. P.13 or Easements agreements;
 - (g) any Encroachment specifically permitted by the Council;
 - (h) any Encroachments placed, created or caused by the Town;
 - (i) any Encroachments authorized by a court order, or by provincial or federal authority or law, or
 - (j) any Encroachment authorized under a valid Encroachment Agreement that was entered into prior to the date of this by-law coming into force.
- 2.7. Notwithstanding subsections 2.1 and 2.2, in the case of any activity, works, construction or Encroachments governed by a duly executed municipal access agreement with a utility company for access onto Town's Highways, the terms of any such agreement shall supersede this by-law in case of any conflict or inconsistency.
- 3. Permitted Encroachments**
- 3.1. Notwithstanding subsection 2.1, Owners of land adjoining the Highway are permitted, without a ROP, Encroachment Agreement or any other authorization of the Town, to maintain Encroachments on the Boulevard:
- (a) in the form of an Irrigation System;
 - (b) in the form of Paving Stones; or
 - (c) in the form of Soft Landscaping;
- provided that the Encroachment conforms to all the requirements of this by-law, including subsection 3.2.
- 3.2. Encroachments pursuant to subsection 3.1 may only be permitted if the Encroachment conforms to the following:

- (a) if it is in the form of Soft Landscaping, it is maintained by the Owner in a state of healthy and vigorous growth;
- (b) if it is in the form of Paving Stones, it is placed and maintained in compliance with any applicable zoning by-laws or regulations;
- (c) if it is in the form of an Irrigation System:
 - (i) it is placed entirely under or in the ground and in such a way that no part of the system is located or protrudes above the level of the ground level, except for when the water discharge mechanism is in operation to actively irrigate as per the design of the system,
 - (ii) it is maintained in a manner that does not permit water to leak from it at any time other than when the system is in operation to actively irrigate as per the design of the system, and
 - (iii) the system is designed, constructed and functions in a manner that does not permit water to be sprayed or discharged onto the sidewalk or the travelled portion of the Highway;
- (d) it does not obstruct pedestrian or vehicle sight lines as per the Geometric Design Guide;
- (e) it does not interfere with traffic control devices or Signs permitted under the Sign By-law, as amended or a successor by-law thereof;
- (f) it does not interfere with ability of the Town to access and to conduct any maintenance, repair or operational activity on any Town property, infrastructure and municipal services;
- (g) it is not in a form of a fence or barrier, including barriers comprised of vegetation, that prevents access onto any part of the Highway or prevents Town staff or agents from being able to conduct any maintenance activity or to use any such area for storage of snow, unless it is located at the property line of the abutting private property and in compliance with any applicable zoning by-laws or regulations and the Fence By-law, all as amended or successor thereof;
- (h) it does not obstruct driveways, impede or pose a hazard or potential hazard to pedestrian or vehicle traffic;
- (i) on a corner lot, it is not erected or permitted to grow to a height greater than 0.9 metre above the traveled surface of the grade of the streets that abut the lot within the shaded triangular area as indicated below, with "distance x" being:
 - (i) in the case of an intersection between an Arterial Road with any other road, distance x, as illustrated below, shall be fifteen (15) metres in either direction;
 - (ii) in the case of an intersection between a Collector Road with another Collector Road, distance x, as illustrated below, shall be ten (10) metres in either direction;

- (iii) in the case of an intersection between a Collector Road with a Local Road, distance x, as illustrated below, shall be seven (7) metres in either direction;
- (iv) in the case of an intersection between a Local Road with another Local Road, distance x, as illustrated below, shall be five (5) metres in either direction;



- (j) it does not interfere with the Town's ability to maintain the Town's property, including Highways, in a state of good repair and maintenance, including keeping Town property free of litter, snow and ice;
- (k) it does not interfere with the existing and future locations of sidewalks, bicycle trails or utilities;
- (l) it does not extend into the Boulevard area fronting any property other than of the Owner when the common lot line is projected perpendicular to the road, unless the Owner of such other property consents to it in writing;
- (m) no part of the Encroachment creates a condition or obstruction that results in any pedestrian path of travel not meeting any standard established pursuant to the *Accessibility for Ontarians with Disabilities Act, 2005*, S.O. 2005, c. 11 with respect to exterior paths of travel, regardless of when such path of travel was constructed or redeveloped;
- (n) no part of the Encroachment is located within 0.50 metre of the edge of either side of the sidewalk, unless it is in the form of a Paving Stone;
- (o) if it is located on the Boulevard between the curb line and sidewalk, it does not measure more than 0.9 metre in height;
- (p) it is not within one (1) metre of the curb, on a road with curbs, unless it is in the form of a Paving Stone;
- (q) it is not within three (3) metres of the vehicle traveled portion of any road without curbs, unless it is in the form of a Paving Stone;
- (r) no part of the Encroachment is located within a one (1) metre radius around fire hydrants, fire hydrant valves or private water service shut off valves;

- (s) no part of the Encroachment is located within a 1.5 metres of the side or rear of any hydro electric transformer, switch or equipment and no part is located in front of or at the opening side of such equipment at any distance;
- (t) it is in a state of repair pursuant to the Minimum Maintenance Standards for Municipal Highways; and
- (u) any other criteria considered appropriate by the Director.

4. **Road Occupancy Permits**

- 4.1. Any Person requesting authorization to conduct any of the regulated activities under subsection 2.1 on a Highway, other than erecting, installing or maintaining an Encroachment, is required to submit an Application to the Town for a ROP.
- 4.2. The form and content of the Application for a ROP shall be as prescribed by the Director from time to time and the Director may require as part of an Application:
 - (a) any affidavits, drawings, plans, surveys, photographs and other documents the Director deems to be necessary in order to assess the proposed Application;
 - (b) any information deemed necessary by the Director to be able to evaluate the Application with respect to the proposed activities and the associated timeframes;
 - (c) a reasonable estimate of the cost of performing the associated works and a security deposit for such works;
 - (d) the Applicant to agree to the terms and conditions of the ROP as prescribed by the Director; and
 - (e) the Applicant to provide proof of and maintain continual insurance coverage, naming the Town as an additional insured party, as required by the Director to provide coverage with respect to the work and activities to be conducted or maintained on the Highway.
- 4.3. Upon receipt of an Application for a ROP and receipt of the applicable fees, the Director shall make investigations as necessary to assess the Application and may, in accordance with the criteria and requirements set out in this by-law:
 - (a) issue a ROP after receipt of a complete Application that meets all the requirements of this by-law and the receipt of any applicable securities;
 - (b) in the case of an approved Application for a ROP, impose such terms and conditions on the ROP deemed appropriate by the Director:
 - (i) for the protection of any Highway, public infrastructure and property abutting the area subject to the ROP,
 - (ii) for the protection of the health and safety of the public and the environment,

- (iii) for the purposes of administration of ROPs and the operations of the Town,
 - (iv) for the purposes of maintaining proper standards and workmanship with respect to any work conducted on the Highway,
 - (v) for the purposes of protecting the Town interests with respect to any risks associated with the work or activities pursuant to the ROP, and
 - (vi) to satisfy any requirements of this by-law or any other applicable legislation.
 - (c) refuse to issue a ROP if:
 - (i) the Application is not completed, all the information as required under this by-law is not provided or the Application does not meet all the requirements of this by-law,
 - (ii) the required fees or securities are not provided, or
 - (iii) the Applicant has not addressed, to the Director's satisfaction, any non-compliance or default with respect to a previous ROP.
- 4.4. In addition to the above, the Director may, on his or her own initiative, acting reasonably:
- (a) alter or revoke the terms and conditions of a ROP after it has been issued; or
 - (b) impose new terms and conditions in a ROP.
- 4.5. A ROP holder shall immediately inform the Director of any change to:
- (a) the information contained in an Application for a ROP;
 - (b) the information contained in a ROP that has been issued;
 - (c) the characteristics of the activity or work for which the ROP has been issued; or
 - (d) the cancellation of any related activity or work.
- In the case of any such change, the Director may require revised or additional information, additional prescribed fees, or a new Application with respect to the change.
- 4.6. A ROP shall be time limited and shall expire pursuant to the terms and conditions as set out in the ROP, upon completion of the work or activity governed by the ROP or revocation of such ROP, whichever occurs first.
- 4.7. Prior to the expiry of an ROP, a ROP holder may apply for an extension to the ROP, and the Director may approve of such extension, having regard to:
- (a) the work to be completed during the extension;

- (b) the progress of the work up until the date of the Application;
 - (c) the performance of the ROP holder up until the date of the Application;
 - (d) any potential conflict that may result from the extension with other planned or ongoing work; and
 - (e) the safety and convenience of the public.
- 4.8. A ROP issued under this by-law is the property of the Town and is not transferrable or assignable.
- 4.9. The Director may revoke a ROP if the ROP holder, or parties conducting the work or activities pursuant to the ROP on behalf of the ROP holder:
- (a) fail to comply with the terms and conditions of such a ROP or fail to comply with this by-law;
 - (b) fail to notify the Director immediately of any of the changes referred to in subsection 4.5 of this by-law;
 - (c) fail, within thirty (30) days after the issuance of the ROP, to commence the work or activity, beyond a preliminary or nominal level, for which the ROP was obtained;
 - (d) substantially discontinue the work or activity for a period of more than thirty (30) days;
 - (e) provide false or inaccurate information in the Application for the ROP; or
 - (f) any Person doing work on behalf of the ROP holder has failed to comply with any applicable law, statutes, regulations, orders, standards, codes, by-laws or rules.
- 4.10. In addition to the above, the Director may immediately suspend or revoke a ROP issued under this by-law, in writing, where the Director is satisfied that a suspension or revocation is necessary in an emergency situation of immediate threat or danger to a Highway, public infrastructure, any property abutting a Highway, or to any Person.
- 4.11. The Director may give notice of the suspension or revocation of a ROP by contacting a ROP holder in writing, by telephone or by email in accordance with the contact information provided on the ROP Application.
- 4.12. Notwithstanding anything in this by-law, if the Director or an Officer deems that an emergency exists, or may ensue, as a result of any activities pursuant to a ROP, as a result of expiry, revocation or suspension of a ROP, or as a result of activities requiring a ROP that were conducted without a valid ROP, being, or about to become, a source of danger to the health and safety of the public or to a Highway or public infrastructure, the Director or Officer may take such measures, without notice, as the Director or Officer may deem necessary to remove the danger or potential danger at the expense of the Person responsible for creating the danger, or potential danger.

- 4.13. Any decision of the Director pursuant to this Section shall be final without a right to appeal to the Council.

5. Encroachment Application

- 5.1. Any Person requesting authorization to erect, install or maintain an Encroachment on a Highway that is not exempt under subsection 3.1 or otherwise permitted under this by-law, is required to submit an Application to the Director for permission for the Encroachment.
- 5.2. The form and content of the Application for an Encroachment shall be as prescribed by the Director from time to time and the Director may require as part of an Application:
- (a) any affidavits, drawings, plans, surveys, photographs and other documents the Director deems to be necessary in order to assess the proposed Application;
 - (b) any information deemed necessary by the Director to be able to evaluate the Application with respect to the proposed activities and the associated timeframes; and
 - (c) a reasonable estimate of the cost of performing the associated works.
- 5.3. Upon receipt of an Application for an Encroachment and receipt of the applicable fees, the Director shall make investigations as necessary to assess the Application and may, in accordance with the criteria and requirements set out in this by-law:
- (a) approve an Application for the Encroachment after receipt of a complete Application that meets all the requirements of this by-law;
 - (b) in the case of an approved Application for an Encroachment, impose such terms and conditions to any associated Encroachment Agreement deemed appropriate by the Director:
 - (i) for the protection of any Highway, public infrastructure and property abutting the area subject to the Encroachment,
 - (ii) for the protection of the health and safety of the public and the environment,
 - (iii) for the purposes of administration of Encroachments and the operations of the Town,
 - (iv) for the purposes of maintaining proper standards and workmanship with respect to any work conducted on the Highway, and
 - (v) for the purposes of protecting the Town interests with respect to any risks associated with the presence of the Encroachment or work or activities related to the Encroachments,
 - (vi) to satisfy any requirements of this by-law or any other applicable legislation.

- (c) refuse to approve an Encroachment if:
 - (i) the Application is not completed, all the information as required under this by-law is not provided or the Application does not meet all the requirements of this by-law,
 - (ii) the required fees are not provided, or
 - (iii) the Applicant has not addressed, to the Director's satisfaction, any non-compliance or default with respect to the Encroachment or a previous Encroachment Agreement related to the same Encroachment or property.

5.4. The Director may approve an Application for an Encroachment if the proposed Encroachment:

- (a) does not obstruct pedestrian or vehicle sight lines as per the Geometric Design Guide;
- (b) does not interfere with traffic control devices or Signs;
- (c) does not obstruct driveways, impede or pose a hazard or potential hazard to pedestrian or vehicle traffic;
- (d) does not interfere with the Town's ability to maintain the Town's property, including Highways, in a state of good repair and maintenance, including keeping Town property free of litter, snow and ice;
- (e) does not interfere with the existing sidewalks, bicycle trails and future locations of sidewalks, bicycle trails or utilities;
- (f) does not extend into the Boulevard area fronting any property other than of the Owner when the common lot line is projected perpendicular to the road, unless the Owner of such other property consents to it in writing;
- (v) does not create a condition or obstruction that results in any pedestrian path of travel not meeting any standard established pursuant to the *Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c. 11* with respect to exterior paths of travel, regardless of when such path of travel was constructed or redeveloped;
- (g) is on a parcel that is directly adjacent to the parcel owned by the Applicant;
- (h) is in a state of repair pursuant to the Minimum Maintenance Standards for Municipal Highways; and
- (i) satisfies any other criteria considered appropriate by the Director.

For clarity, the Director is not required to approve any Application for an Encroachment pursuant to this subsection, even if it satisfies all of the criteria set out above, and may choose to only approve Applications in exceptional circumstances as determined by the Director or pursuant to any internal policies established by the Director.

- 5.5. If granted approval pursuant to subsection 5.3 for a specific Encroachment, an Owner of land adjoining the Highway is permitted to maintain such an approved Encroachment provided that he/she enters into an Encroachment Agreement, pursuant to the terms of this by-law, with respect to such an Encroachment and complies with all the terms of this by-law, any terms or conditions imposed by the Director under subsection 5.3 and the associated Encroachment Agreement.
- 5.6. Notwithstanding anything in this by-law, the Director has the authority to allow an Encroachment and the authority to waive the requirement for an Encroachment Application or an Encroachment Agreement in cases of Encroachments that are deemed by the Director to be of trivial or inconsequential nature, but only if such Encroachments do not appear to pose any hazard to the health and safety of the public and do not interfere with any Town operations. In any case where an Encroachment is permitted pursuant to this subsection, the Director has the authority to rescind any such permission or waiver, at any time and for any reason, and require that an Application be submitted and/or an Encroachment Agreement be entered into with respect to an Encroachment, or otherwise that such an Encroachment be removed pursuant to this by-law.
- 5.7. Any decision of the Director pursuant to this Section shall be final without a right to appeal to the Council.

6. Encroachment Agreement

- 6.1. Where an Application for an Encroachment has been approved by the Director pursuant to subsection 5.3, the Owner of land adjoining the Highway that intends to or has placed an Encroachment shall enter into an Encroachment Agreement with the Town and pay the Encroachment Agreement Fee, as set out in the Fees and Charges By-law in effect at the time of approval by the Director of the Application.
- 6.2. Where an Applicant fails to pay the Encroachment Agreement Fee within thirty (30) calendar days of receipt of notice of approval by the Director or where the Applicant fails to execute an Encroachment Agreement within the thirty (30) calendar days, or such longer period the Director deems appropriate at his/her discretion, from receipt of the Encroachment Agreement from the Town, the Applicant shall be deemed to have abandoned its Application and such Encroachment, if already placed, shall be immediately removed from the Highway by the Owner and at the Owner's expense and any associated Application or approval for an Encroachment shall be deemed to be void and the Applicant shall not be entitled to any refund of fees remitted to the Town.
- 6.3. Any Encroachment Agreement entered into by the Town, in addition to any terms and conditions imposed by the Director pursuant to paragraph (b) of subsection 5.3, shall to the satisfaction of the Solicitor:
- (a) require the Applicant to indemnify the Town for any claims, damages or causes of action that may arise as a result of the Encroachment;
 - (b) release the Town from and waive any claims the Applicant has or may have in the future with respect to the Encroachment and any actions or omissions of the Town in relation to the Encroachment, including damage, inspection, maintenance and removal;

- (c) require the Applicant to provide the Town with comprehensive general liability insurance, satisfactory to the Solicitor, against any occurrence of injury, death or property damage resulting from the Encroachment; and
 - (d) be subject to any requirements of this by-law.
- 6.4. Any Encroachment Agreement entered into by the Town may, subject to the discretion of the Director, be time limited or expire pursuant to the terms of such an agreement. Upon request from an Owner who is party to an Encroachment Agreement, the Director may renew or extend an Encroachment Agreement on terms satisfactory to the Director and the Solicitor provided that:
 - (a) the Owner requesting the renewal or extension pays to the Town the extension/renewal fee, as set out in the Fees and Charges By-law in effect at the time of submitting the renewal/extension request;
 - (b) the Owner that is party to the Encroachment Agreement and the Encroachment that is subject to the agreement comply with all the requirements of this by-law and the associated Encroachment Agreement; and
 - (c) the Owner requesting the renewal or extension executes any amendment or other documentation required by the Solicitor in association with the extension or renewal.
- 6.5. Where the Solicitor deems it appropriate, an Encroachment Agreement may be registered against title to the property of the Owner who is a party to the Encroachment Agreement and the Highway upon which the Encroachment exists and all expenses in doing so shall be paid for in advance by such Owner.
- 6.6. The entering into an Encroachment Agreement does not create any vested right in the Owner or occupant of the Premises to which the Encroachment is adjacent, or in any other Person, and the Encroachment Agreement may be terminated at any time in accordance with this by-law or the terms set out in the Encroachment Agreement.
- 6.7. Owners who are a party to an Encroachment Agreement shall notify future purchasers of any such Encroachment Agreement.
- 6.8. Any decision of the Director pursuant to this Section shall be final without a right to appeal to the Council.
- 7. **Discontinuance of Encroachments**
 - 7.1. The Director may revoke an approval of an Encroachment and terminate any associated Encroachment Agreement if the Owner of Premises to which an Encroachment is adjacent provides notice to the Town that he/she wishes to permanently discontinue the Encroachment. If such notice is provided, such an Owner shall restore the Highway to the condition the lands were in prior to the placing of the Encroachment at his/her own expense and in compliance with this by-law.
 - 7.2. If the Director is, at any time, of the opinion that a breach of the terms and conditions of an Encroachment Agreement has occurred and that the default has

not been remedied, or where an Encroachment Agreement has expired, terminated or been invalidated, the Director may revoke the approval of an Encroachment and terminate any associated Encroachment Agreement. Following such revocation and/or termination, the Director shall cause a notice to be sent to the Owner of the Premises responsible for or associated to the Encroachment and upon the receipt of such a notice from the Town, the Owner of the adjacent Premises shall have the Encroachment removed or filled in and closed up and the Highway be restored to the condition the lands were in prior to the placing of the Encroachment at the expense of the Owner.

- 7.3. Where an Owner fails to have an Encroachment removed, filled in and/or closed up, as required by this section within ten (10) business days of providing the notice pursuant to subsection 7.1 or receiving the notice pursuant to subsection 7.2, the Encroachment may be removed or filled in and closed up by the Town and the Highway restored to the condition the lands were in prior to the placing of the Encroachment at the expense of such Owner.

8. Removal of Encroachments

- 8.1. In addition to any other rights and remedies set out in this by-law, where the Town becomes aware of an Unauthorized Encroachment, including Soft Landscaping and Paving Stones that do not comply with the requirements of this by-law, the Director or an Officer may:
- (a) give notice in writing to the Owner of the Premises to which an Unauthorized Encroachment is adjacent, to forthwith remove, fill in or close up the Unauthorized Encroachment and to restore the Highway to the condition the lands were in prior to the placing of the Encroachment at the expense of the Owner; or
 - (b) remove, fill in or close up any Encroachment without notice and require the Owner of the Premises to which an Unauthorized Encroachment is adjacent, to restore the Highway to the condition the lands were in prior to the placing of the Encroachment at the expense of such an adjacent Owner.
- 8.2. Where the notice pursuant to paragraph (a) of subsection 8.1 is not complied with within five (5) business days of the date of the notice, the Town may, on behalf of the Owner, remove, fill in or close up the Unauthorized Encroachment and restore the Highway to the condition the lands were in prior to the placing of the Encroachment at the expense of the Owner.
- 8.3. Without limiting any rights and in addition to any remedies under this by-law, the Town may remove all parts of any item that creates, forms or contributes to an Unauthorized Encroachment, regardless of whether all such parts constitute an Unauthorized Encroachment or whether the removal of certain components of an Unauthorized Encroachment would render it compliant under this by-law. Without limiting the above, when an Encroachment grows or expands to a condition where it is not permitted under this by-law, the Town may remove the entire Encroachment from the Highway at the expense of the adjacent Owner.
- 8.4. Any materials or residue forming part of or attached to an Encroachment that are removed by or on behalf of the Town may, at the discretion of the Director or an Officer handling the matter, be deposited at the Owner's Premises or disposed of without notice to the Owner.

- 8.5. Notwithstanding anything in this by-law, if the Director or an Officer deems that an emergency exists, or may ensue, as a result of any Encroachment, regardless of whether or not it is authorized or permitted under this by-law, being, or about to become, a source of danger to the health and safety of the public or to a Highway or public infrastructure, or if the Director deems that an Encroachment, regardless of whether or not it is authorized or permitted under this by-law, is required to be removed, entirely or in part, for the purpose of conducting any construction or operations by the Town or any Town service, the Director or Officer may:
- (a) provide written notice to the Owner of the Premises to which the Encroachment is adjacent, requiring the repair, removal, filling in or closing up of the Encroachment and restoration of the Highway at the expense of the Owner, and/or
 - (b) take such measures on behalf of the Owner, without notice to the Owner, as the Director or Officer may deem necessary to remove the danger or potential danger created by the Encroachment at the expense of the Owner.
- 8.6. Where a notice pursuant to paragraph (a) of subsection 8.5 is not complied with within five (5) calendar days, or such other time set by the Director or Officer, of the date of the notice, the Director or Officer may, on behalf of the Owner, repair, remove, fill in or close up the Encroachment subject to the notice and restore the Highway to the condition the lands were in prior to the placing of the Encroachment at the expense of the adjacent Owner subject to the notice.
- 8.7. In addition to section 8.5 and notwithstanding anything in this by-law, any Person acting on behalf of, or under the authority of, the Town may, at any time and for any reason, remove or damage any Encroachment, or any part of an Encroachment, regardless of whether or not it is authorized or permitted under this by-law, that is not subject to an Encroachment Agreement.
- 9. Liability**
- 9.1. The provisions of this by-law shall not be construed as relieving or limiting the responsibility or liability of any Person who undertakes or causes any activities, works or Encroachment on any Highway. Likewise the provisions of this by-law shall not be construed as imposing on the Town, its officers, employees or agents, any responsibility or liability by reason of approval or inaction with respect to any Application, ROP or Encroachment.
- 9.2. Any item or Encroachment, regardless of whether or not it is authorized or permitted under this by-law, placed or left on any Highway is at the complete risk and responsibility of the Person leaving or placing, or causing it to be placed or left, on the Highway. The Town, its officers, employees or agents, are not responsible or liable for any repair or replacement of any items, ROP works or Encroachment removed or damaged as a result of any Town undertakings, activities, or activities by agents or contractors on behalf of the Town, including any construction, reconstruction, repair and maintenance activities and clearing or removing of litter, graffiti, posters, snow or ice, and any other actions taken by the Town, including any actions taken and the removal of any works or Encroachments under the authority of this by-law.

- 9.3. Neither, the granting of any ROP, permission for an Encroachment, approving any Application, entering into an Encroachment Agreement, nor any renewal or extension of the above, is intended to and shall not be construed as granting any property rights over any Highway or Town property, or permission or consent by the Town to contravene or fail to observe or comply with any laws of Canada or Ontario or any other by-law of the Town or the Regional Municipality of York.

10. Administration and Enforcement

- 10.1. The Director shall be responsible for and is delegated the power to administer and enforce this by-law, including prescribing the content of any forms or other documents required under this by-law, setting conditions of ROPs and Encroachment Agreements, permitting Encroachments, issuing any ROPs and entering into any agreements all as pursuant to this by-law.
- 10.2. The Director and Officers of the Town are hereby delegated the authority to enforce this by-law, including the authority to conduct inspections pursuant to this by-law, the Act, as amended, and any other applicable by-law or legislation.
- 10.3. The Director is authorized to delegate responsibilities for the administration and enforcement of this by-law to any Town staff or external third parties deemed to be qualified and appropriate by the Director for such purposes.

11. Power of Entry, Inspection, Prohibitions

- 11.1. An Officer, or any other individual authorized to enforce this by-law on behalf of the Town, may at any reasonable time enter upon any land for the purpose of carrying out an inspection to determine whether the following are being complied with:
- (a) this by-law;
 - (b) any ROP or agreement issued pursuant to this by-law,
 - (c) any direction or order under this by-law; or
 - (d) an order issued under section 431 of the Act.
- 11.2. Where an inspection is conducted pursuant to this section, an Officer or any other individual authorized to enforce this by-law on behalf of the Town, may:
- (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies and extracts;
 - (c) require information from any Person concerning a matter related to the inspection; and
 - (d) alone or in conjunction with a Person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.

- 11.3. No Person shall hinder or obstruct or attempt to hinder or obstruct the Town, its employees, officers or agents from carrying out any powers or duties under this by-law.
- 11.4. No Person shall fail to comply with, or contravene, any order or direction issued by the Town pursuant to this by-law or the Act.
- 11.5. Where an Officer, or an individual authorized to enforce this by-law, has reasonable grounds to believe that an offence has been committed by any Person, they may require the name, address and proof of identity of that Person, and the Person shall supply the required information.
- 11.6. No Person shall decline or neglect to give, produce or deliver any access, information, document or other thing that is requested by the Town pursuant to this by-law.
- 11.7. No Person shall knowingly make, participate in, assent to or acquiesce in the provision of false information in a statement, affidavit, application or other document prepared, submitted or filed under this by-law.

12. Orders

- 12.1. Where any Officer is satisfied that a contravention of this by-law has occurred, such Officer may make an order requiring the Person who caused or permitted such contravention, or the Owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity and/or to do work to correct the contravention.
- 12.2. An order pursuant to subsection 12.1 shall set out the following:
- (a) reasonable particulars identifying the location of the land on which the contravention occurred;
 - (b) reasonable particulars of the contravention;
 - (c) what is required of the Person subject to the order (i.e., what activity is to be seized and/or actions or work to be done);
 - (d) the date by which there must be compliance with the order and/or, if any work is ordered, the date by which any such work must be done; and
 - (e) information regarding the Town's contact Person.
- 12.3. An order pursuant to subsection 12.1 shall be deemed to have been received upon:
- (a) Personal service of the order to the Person being served; or
 - (b) the fifth (5th) day after the order is sent by registered mail to the last known address of the Person who is subject to the order.

13. Remedial Action and Cost Recovery

- 13.1. Wherever this by-law or an order issued under this by-law directs or requires any matter or thing to be done by any Person within a specified time period, in default

of it being done by the Person directed or required to do it, the action may be taken under the direction of the Director or an Officer at that Person's expense and the Town may recover the costs incurred through a legal action or by recovering the costs in the same manner as taxes.

- 13.2. For the purposes of taking remedial action under subsection 13.1, the Town, its staff and/or its agents may enter, at any reasonable time, upon any lands on which a default to carry out a required thing or matter occurred.

14. Offences and Penalties

- 14.1. Every Person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended.
- 14.2. Every Person who contravenes any order issued pursuant to this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended.
- 14.3. If a corporation has contravened a provision of this by-law, including an order issued under this by-law, every director and officer who knowingly concurred in such a contravention is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended.
- 14.4. Pursuant to subsection 429(2) of the Act, all contraventions of this by-law or orders issued under this by-law are designated as multiple offences and continuing offences. If a contravention of any provision of this by-law has not been corrected, or an order issued under this by-law has not been complied with, the contravention of such a provision or an order shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected or an order not complied with. A multiple offence is an offence in respect of two (2) or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this by-law.
- 14.5. In addition to fines under this section, a Person convicted of an offence under this by-law may be liable to a special fine in the amount of the economic advantage or gain that such a Person obtained from the contravention of this by-law.
- 14.6. Where a Person is convicted of an offence under this by-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the Person convicted.

15. Administrative Penalties

- 15.1. Instead of laying a charge under the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended, for a breach of any provision of this by-law, an individual authorized to enforce this by-law on behalf of the Town may issue an administrative penalty to the Person who has contravened this by-law.
- 15.2. Individuals authorized to enforce this by-law on behalf of the Town have the discretion to either proceed by way of an administrative penalty or a charge laid under the *Provincial Offences Act*, R.S.O. 1990, c. P.33. If an administrative

penalty is issued to a Person for the breach, no charge shall be laid against that same Person for the same breach.

- 15.3. The amount of the administrative penalty for a breach of a provision of this by-law, shall be as established pursuant to applicable Town by-laws.
- 15.4. A Person who is issued an administrative penalty shall be subject to the procedures as provided for in the applicable Town by-laws relating to administrative penalties.
- 15.5. An administrative penalty imposed on a Person pursuant to this by-law that is not paid within fifteen (15) days after the day it becomes due and payable, constitutes a debt of the Person to the Town and may be added to a municipal tax roll and collected in the same manner as municipal taxes.

16. Interpretation

- 16.1. In this by-law, unless the context otherwise requires, words importing the singular number shall include the plural and words importing the masculine gender shall include the feminine.

17. Severability

- 17.1. If a court of competent jurisdiction declares any provision, or any part of a provision, of this by-law to be invalid or to be of no force and effect, it is the intention of the Town in enacting this by-law that such provision or part of a provision shall be severable, and such a decision shall not affect the validity of the remaining sections, subsections, clauses or phrases of this by-law.

18. Repeal

- 18.1. By-laws Number 4734-05.P, Number 4744-05.P and Number 5733-15, all as amended, are hereby repealed.

19. Short Title

- 19.1. This by-law shall be known and may be cited as the "Occupancy and Encroachment of Highways By-law".

20. Effective Date

- 20.1. This by-law comes into full force and effect on the date of final passage hereof.

Enacted by Town of Aurora Council this XX day of XXXX, 2020.

Tom Mrakas, Mayor

Michael de Rond, Town Clerk



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Town of Aurora

General Committee Report

No. FIN20-021

Subject: **Bill 197 – Update on Proposed Legislative Changes to
*Development Charges Act and Planning Act***

Prepared by: Alice Liu, Senior Financial Management Advisor

Department: Finance

Date: September 8, 2020

Recommendation

1. That Report No. FIN20-021 be received.

Executive Summary

This report provides an overview and amendments made within Bill 197 “Covid-19 Economic Recovery Act, 2020” (“Bill”) relating to the proposed changes to the *Development Charges Act (DC Act)* and the *Planning Act*. Bill 197 builds on previous changes made within Bill 108 “More Homes, More Choice Act, 2019” and Bill 138 “Plan to Build Ontario Together Act, 2019”. This Bill which received royal assent on July 21st includes multiple amendments to these two acts.

- Bill 197 has repealed changes previously made on Bill 108/138 and its legislation will amend the *Development Charges Act* and the *Planning Act*
- This Bill makes two of the Town services in the DC bylaw ineligible for recovery under the *Development Charges Act*, but removes the 10 percent statutory deduction on eligible soft services
- A new Community Benefits Charge has been introduced to replace Section 37 of the *Planning Act* through which municipalities may recover their growth related costs
- The Town can choose if it wants to implement a Community Benefits Charge
- Several parkland dedication changes have been made to the *Planning Act*
- The Bill has also made other *Planning Act* changes
- There are multiple next steps in the Town’s implementation of these changes

Background

Bill 197 “Covid-19 Economic Recovery Act, 2020” was given first reading by the Ontario Government on July 8, 2020. Although its regulations are yet to be approved, it has received Royal Assent on July 21, 2020. This Bill was introduced to amend Bill 108/138 that were previously prescribed.

On June 6, 2019, Bill 108 “More Homes, More Choices Act, 2019” received Royal Assent. The Act proposed changes to the *Development Charges Act* and *Planning Act*.

On December 10, 2019, Bill 138 “Plan to Build Ontario Together Act, 2019” received Royal Assent, introducing modifications to Bill 108.

In recognition that the Town would need to update its development charge study and bylaw as result of this legislation change, Council approved a capital project for the engagement of a consultant as part of the Town’s 2020 capital budget.

On December 20, 2019, Bill 108 and 138’s complimentary O/Reg. 454/19 under the *DC Act* was filed by the province which specified the definition of Institutional, Non-profit, and Rental developments.

This regulation addressed the following key Bill 108/138 provisions which came into force on January 1, 2020 are:

- For all developments, the amount of DCs payable is determined and frozen on the day a site plan application or Zoning bylaw amendment application is submitted, as provided for in Section 26.2(1) of the *DC Act*.
- On the date on which the application is deemed complete by the Planning and Development department as per the *Planning Act*, a two-year period begins.
- DCs payable for building permits issued within the two-year period will be charged at the frozen rate determined on the day of site plan application or Zoning bylaw amendment submission.
- DCs payable for building permits issued after the two-year period will be updated to the prevailing rate and bylaw at the time of the building permit issuance.
- Residential, Commercial, and Industrial developments will continue to pay full amount of DCs owing at the time of building permit issuance.
- For Institutional, Non-profit, and Rental developments, the Town can charge interest on the DCs payable on the application completion date, as permitted under Sections 26.1(7) of the *DC Act*. The Province has not prescribed any restrictions on the

interest rate and policy. DC payments will commence at the earlier of date of Occupancy Permit Issuance or Date of Occupancy.

- For Institutional and Rental developments, DC is payable in six equal annual instalments over five years.
- For Non-profit developments, DC is payable in 21 equal annual instalments over 20 years.

In response to Ontario Regulation 454/19, on April 28, 2020 Council approved a series of changes to the Town's development charge administration procedures.

It is important to note that the Province has actively sought input from all municipal stakeholders as the aforementioned legislation has been tabled and subsequently enacted. Together with colleagues from other York Region municipalities, as well as feedback provided by the Town's development charge consultant, the Province has been responsive to the impacts on the municipal sector. The Region has also previously submitted proposed legislative framework to Council for consideration in 2019 and 2020 relating to this matter.

Analysis

Bill 197 has repealed changes previously made on Bill 108/138 and its legislation will amend the *Development Charges Act* and the *Planning Act*

Bill 197 aims to create jobs and stimulate economic activities, as well as introduce changes to the land use planning regime that were contemplated as part of Bill 108. CBC being positioned as a single source mechanism to primarily recover the cost of growth from developers within Bill 108 are now being repealed in this Bill.

Although the substantive details of Bill 197 will follow within its accompanying regulations which are yet to be approved, this legislation will amend 20 statutes in order to provide municipalities with the tools necessary to support economic recovery from COVID-19. These amendments include changes to key sections of the *Development Charges* and the *Planning Acts* which may influence the Town's total sources of funding available to support its "growth related" municipal infrastructure costs.

This Bill makes two of the Town services in the DC bylaw ineligible for recovery under the *Development Charges Act*, but removes the 10 percent statutory deduction on eligible soft services

Bill 197 has restored eligibility for collection under provision of the *Development Charges Act* for certain municipal services that were previously identified as excluded services under Bill 108, as well as eliminated the mandatory 10 percent statutory deduction of eligible soft services (i.e. municipal infrastructure in the areas of Parks, indoor and outdoor recreations, Library services, Fire & etc.). In the broader categories of municipal services where Development Charge eligibility has been restored include:

- Libraries
- Long-Term Care
- Public Health
- Indoor & Outdoor Recreation (excluding the provision to acquire)
- Childcare
- Housing Services (i.e. affordable housing & Shelters)
- Bylaw Enforcement/Court Services
- Emergency Preparedness

Bill 197 did not restore two town services, these services remain ineligible for recovery through development charges:

- General Government (i.e. Administrative Buildings)
- Municipal Parking

This strategy allows existing development charge funded services to continue their eligibility for development charge recovery. By recommending them in the Act rather than in its accompanying Regulation, this list of services will be less subject to change, however the Province will have the power to impose additional services in the future through Regulation if required.

These now ineligible municipal services will need to be removed from the Town's existing DC Study and bylaw and will become only recoverable through a Community Benefits Charge (CBC) under the *Planning Act* which will be discussed later in this report.

The preliminary assessment for the removal of the 10 percent statutory deduction, which the soft services were previously only 90 percent recoverable based on eligible growth related capital costs on the basis of historical service level standards appears to better support the principle of "growth paying for growth" and advances cost recovery of the overall impacts.

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It is the Town's intent to engage a consultant who will undertake a review and update of the Town's development charges study and bylaw, including the identification of the financial impacts to the Town. However, to illustrate the possible impact of these changes, Table 1 is prepared to illustrate changes to the Town's current Singles and Semi Detached Dwelling development charges rate.

Table 1 demonstrates that the overall rate per unit is expected to be larger after all anticipated changes have been applied, with a net favorable DCs increase of \$922 if the two ineligible soft services are removed and the 10 percent statutory deduction of eligible soft services are restored.

Table 1
Illustration of Bill's Anticipated Impacts on Development Charges

DC	Types	*DC Rate (\$) as of July 1, 2020	** DC Rate (\$)	
			Bill 197 Anticipated Impacts	Net Change
Hard service	Services Related to a Highway	6,425	6,425	-
Hard service	Wastewater Services	768	768	-
Hard service	Water Supply and Distribution Services	395	395	-
Hard service	Fire Services	932	932	-
Soft service	Outdoor Recreation Services	6,319	7,021	702
Soft service	Indoor Recreation Services	7,929	8,810	881
Soft service	Library Services	1,374	1,527	153
Soft service (ineligible)	Municipal Parking Spaces	4	-	(4)
Soft service (ineligible)	General Government	810	-	(810)
Total		24,956	25,878	922

* Soft cost - at 90%, Hard cost - at 100%

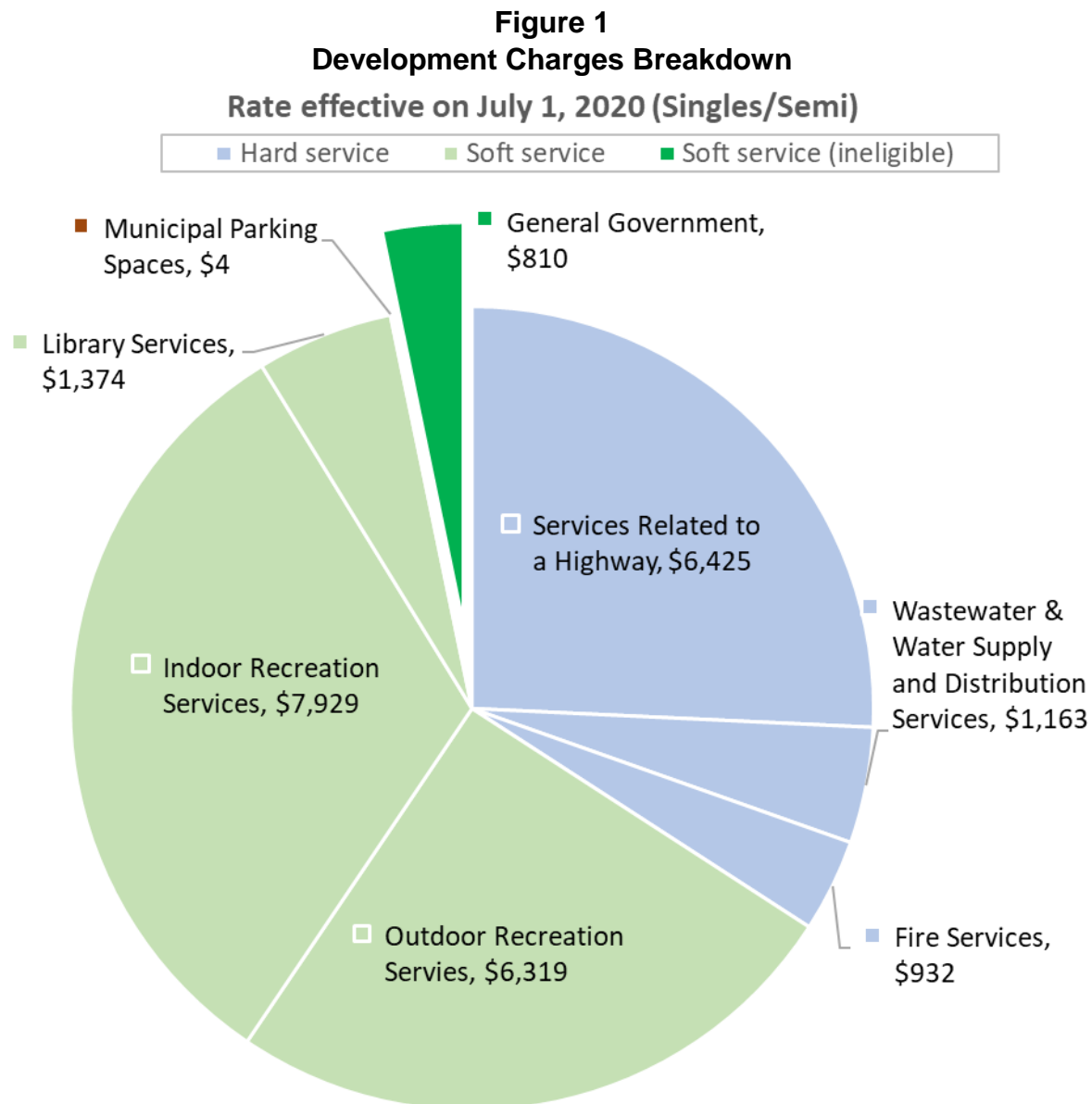
** Soft cost - at 100%, Hard cost - at 100% (ineligible services removed)

Figure 1 (left) presents a summary of the hard and soft development services that the Town recovers through its present development charge. Figure 1 (right) presents the Bill's anticipated impacts on these recoverable services. It can be observed from these figures that the development services that are expected to be no longer recoverable under the *DC Act* represent a relatively small component of Town's total DC charge.

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A new Community Benefits Charge has been introduced to replace Section 37 of the *Planning Act* through which municipalities may recover their growth related costs

Bill 197 introduced a new Community Benefits Charge (CBC) through which a municipality can recover select growth related costs. More specifically, a CBC may be used to recover the capital costs of any service needed due to development. This may

include any service that is ineligible or eligible for recovery under the *DC Act*, as well as, costs for parkland dedication or density bonusing. The primary rule of thumb is that these costs must be recovered only once from a given development. In other words, a municipality should not recover the same service growth costs arising from a development through its development charges or parkland dedication bylaws that has already recovered through the CBC.

Under the new Community Benefits Charge regime, the following criteria will apply:

- A CBC may only be used by lower and single-tier municipalities
- Bill 197 prescribes that a CBC
 - may only be levied on residential development of at least 10 residential units **and** five storeys at or above ground
 - may be used in conjunction with existing parkland provisions
 - its bylaw must consider any existing parkland dedication bylaws and is appealable to the Local Planning Appeal Tribunal
 - cannot be area specific
 - Must be calculated using prescribed percentages of the land value on the day before the date of the building permit issuance for a development are expected to be finalized through subsequent regulations

In essence, the CBC will eliminate all low and/or medium density residential developments from paying the CBC, however its impact is not yet clear in the context of non-residential developments at this time.

Parameters relating to the CBC also include a prescribed cap as a percentage of land value on the day before the date of the building permit issuance for an approved development parcel of land. However, a land appraisal must be completed for every proposed development in order to derive the CBC owing and therefore increase administrative procedures for the Town staff to coordinate and administer such processes (i.e. third party land appraisal). Lower-tier municipalities are prescribed at a 10 percent cap as suggested by the Minister. Each municipality will be required to complete a CBC strategy that demonstrates its need to charge the full available 10 percent cap, as well as produce an accompanying CBC bylaw. This 10 percent cap may prove to be restrictive and will not provide revenue neutrality and more importantly may impact the overall efficiency of the Town's growth management strategy.

Although a local municipality may impose a CBC against land to pay for the capital costs of facilities, services and matters required for a development or redevelopment, Bill 138 has provided the avenue for a developer to appeal a CBC bylaw to the Local

Planning Appeal Tribunal (LPAT), which in turn may require that the Town refund partial or whole of CBC collected plus applicable interest after a successful appeal.

The Town can choose if it wants to implement a Community Benefits Charge

The majority of the Town's current and short term projected residential development will not meet the criteria as set under Bill 197 whereby the development must exceed five storeys at or above ground and consist of at least 10 residential units. Whereby the majority of new growth relating to mid/longer term projected residential development will come from infilling and intensification. These facts must be taken into consideration as the Town evaluates its possible use of an optional CBC for its recovery of growth related costs.

The Town should consider the benefits and costs of introducing a CBC bylaw compared to continuing to use the amended parkland dedication/cash in-lieu and density bonusing provisions within the *Planning Act*. The CBC option is only available for mid to high density residential development (i.e. at least five storeys at or above ground and consist of at least 10 residential units) of which will represent a very small proportion of the Town's overall anticipated development.

As low density residential development is not eligible for CBCs, the Town will need to recover the growth costs through the more traditional provisions of the *Planning Act*. The benefits and costs of using a CBC will vary materially from one municipality to the next depending upon the nature of their future planned development and existing levels of service. As such, the feasibility of a CBC strategy should be developed in conjunction with a review of the Town's Development Charge bylaw, including an evaluation of the impacts of changes in the Development Charge legislation, parkland dedication and density bonusing needs, which may include:

- Anticipated increase in need for municipal services resulting from new development or re-development
- A park plan that examines the need for parkland
- Master planning examination of parkland requirements, (i.e. the amount of parkland per person standard is anticipated to increase, decrease or remain consistent)
- Municipal infrastructure needs/capital costs arise from new development or re-development
- Development forecast relating to anticipated residential and non-residential types and location
- Whether existing residents can be benefit from the increase in need for service
- Funding identification such as capital grants, subsidies or other external funding

Should the Town decide to opt out of a CBC, it will need to devise an approach that mitigates the impacts of these changes to the *Planning Act*. Alternative funding will need to be identified to support of land acquisition and/or municipal services that are now ineligible for recovery under the *DC Act*, such as general government and municipal parking services. This source of funding will likely be tax levy and could adversely impact future year tax rates.

Several parkland dedication changes have been made to the *Planning Act*

In the current Ontario context, there are three main types of levies available to municipalities in order to partially recover the cost of growth from developers: development charges, parkland dedication, and in certain circumstances, height and density bonusing. The most understood municipal cost recovery tool are development charges. Parkland dedication and density bonusing are more misunderstood.

Parkland Dedication:

Section 42 of the *Planning Act* allows that as a community grows, so do their parks and open spaces – either through the conveyance of land or payment of money in the value of the lands required. In Aurora, parkland dedication or cash-in-lieu thereof is governed by by-law number 4291-01.F. Commercial and industrial rates are set at 2% of the appraised land value of the property, and residential rates are 5% of the appraised land value, or alternatively one hectare for each 300 dwelling units proposed. Bill 108 had previously proposed to eliminate the ability of municipalities to charge the alternative unit-based rates, and to roll parkland dedication in with Community Benefits Charges. But now Bill 197 proposes to repeal those changes and continue to permit stand-alone parkland dedication and alternative rates.

Height and Density Bonusing:

Section 37 of the *Planning Act* allows municipalities to secure a public benefits as a condition of approval of a Zoning bylaw amendment, in exchange for an increase in building height and/or density over and above existing planning permissions. In Aurora, Guidelines for the Implementation of Height & Density Bonusing (Section 37 of the *Planning Act*) were introduced to Council in 2016. As the name suggests, height and density bonusing generally applies to multi-storey development. Public benefits are to be realized in the neighbourhood where the bonus is given, and often take the form of affordable housing units that are set aside within the development itself.

The current system within which municipalities obtain parkland will generally be maintained under Bill 197 (reversing many of the original major changes that were proposed under Bill 108). While the current alternative parkland dedication rate in Aurora's bylaw of one hectare for each 300 dwelling units proposed will continue to be permitted in situations where land is to be conveyed under this new legislation, the maximum alternative rate for payments in lieu set by the Province is different, this rate has been set lower at one hectare for each 500 dwelling units.

In addition, public consultation will now be required prior to the passing of a bylaw that sets an alternative parkland dedication rate (unit-based), and an alternative rate would become appealable to the Local Planning Appeal Tribunal (LPAT). Limits to the LPAT's decision-making powers clarify they cannot set higher alternative parkland rates. Existing parkland dedication bylaw expires two years after the changes come into force (i.e. July 22, 2022).

The Bill has also made other *Planning Act* changes

Further Planning Act changes that were made under this bill include the creation of an office of the Provincial Land and Development Facilitator to advise the Minister of Municipal Affairs and Housing on complex land use planning issues and provincial interests. Bill 197 also enables the Minister to give more direction on site plan control and inclusionary zoning. Related to infrastructure development, Bill 197 revises the Environmental Assessment process, to reduce timelines in order for infrastructure to be built sooner.

There are multiple next steps in the Town's implementation of these changes

Several milestones remain in the Town's implementation of these above noted Bill 197 changes. Firstly, the Town will need to await the accompanying regulation(s) to be developed and approved by the provincial government.

The legislation provides municipalities with more time to assess their path forward in response to this noted legislation with a two year transition period from the date that the Schedule 3 of Bill 197 comes into force (until July 22, 2022).

Upon the availability of the above regulation(s), the Town is able to proceed with the below next steps:

- 1) The Town will engage a consultant to:

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- To assist it in the completion of a comprehensive feasibility study which will allow it to make a fully informed decision as to whether or not it will implement the new optional CBC regime; and
- To update its Development Charge Study and the Bylaw (#6166-19) in accordance to the latest amendments made through Bill 197 which will include the removal of all ineligible services and the additional recovery of the previous 10 percent discount to soft services. The study and bylaw update will also be reflective of any outcomes arising from its CBC feasibility study.
- To undertake a study to allow the Town to determine whether it should implement an alternative parkland dedication bylaw or go with the new DC rate as per Bill 197

Advisory Committee Review

Not applicable

Legal Considerations

Legal considerations are throughout the report.

Financial Implications

As Council approved a capital project as part of the Town's 2020 capital budget in support of this planned consultant engagement, the Town will engage a consultant to assist it in its assessment of the financial impacts arising from the above noted Bill 197 driven changes to both the *Development Charges Act* and *Planning Act*. These detailed financial implications will be presented in a future report to Council through which staff will present their recommendations for approval.

Communications Considerations

The Town of Aurora will use 'Inform' as the level of engagement for this project. There are five different levels of community engagement to consider, with each level providing the community more involvement in the decision making process. These levels are: Inform, Consult, Involve, Collaborate and Empower. Examples of each can be found in the Community Engagement Policy. These options are based on the International Association of Public Participation (IAP2) Spectrum and assist in establishing guidelines for clearly communicating with our public and managing community engagement. In order to inform, this report will be posted to the Town's website.

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Link to Strategic Plan

None

Alternative(s) to the Recommendation

1. Nil

Conclusions

This report provides Council with a summary of the key legislative changes made to the *Development Charges Act* and *Planning Act* as part of the recently approved Bill 197. Upon receipt of this Bill's accompanying regulations the Town will engage a consultant to assist it in its implementation of all these changes. Further details of the Town's implementation plan will be presented to Council as they become available. The Town will have up to a maximum of two years to implement these said changes.

Attachments

Nil

Previous Reports

FIN20-005 - Administrative Changes to the Calculation and Collection of Development Charges under Bill 108 and Bill 138

Pre-submission Review

Agenda Management Team review on August 20, 2020

Approvals

Approved by Rachel Wainwright-van Kessel, Director, Finance/Treasurer

Approved by Doug Nadorozny, Chief Administrative Officer



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Town of Aurora

General Committee Report

No. FIN20-022

Subject: 2020 Year End Surplus/Deficit Financial Control By-law

Prepared by: Sandy Dhillon, Financial Management Advisor

Department: Finance

Date: September 8, 2020

Recommendation

1. That Report No. FIN20-022 be received; and
2. That a bylaw be enacted to authorize the Treasurer and the Chief Administrative Officer to make the following yearend financial adjustments
 - a) to allocate any 2020 Operating Fund surplus or deficit as set out in Report No. FIN20-022; and
 - b) to allocate any 2020 surplus or alternatively fund any deficit in the Water, Wastewater, or Storm water budgets to or from the appropriate related reserve accounts; and
3. That the Treasurer and Chief Administrative Officer report to Council after the year end surplus/deficit control adjustments and allocations have been completed.

Executive Summary

This report proposes a surplus/deficit control bylaw for the 2020 fiscal yearend, similar to the one used in past years; which will allow the Town to control its yearend surplus amounts through making specific allocations to various reserve funds. Should the town finish the year in a deficit position, this bylaw would also provide the necessary authority to allocate additional funds from its rate stabilization reserve in order to balance its operating budget. This report is an annual report to General Committee/Council prior to yearend.

- The Town uses allocations to/from various reserve funds to mitigate the unpredictable impacts of surpluses or deficits carried over from year-to-year
- A tax funded surplus supports the tax rate stabilization reserve to protect the Town's budget from potential deficits
- The next operating forecast is scheduled for October and will include actual results as of end of August

Background

Surpluses and deficits created by operating results for municipalities must carry into the following budget years as set out in subsection 290(4) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (hereinafter the "*Act*"). Meaning any surpluses or deficits from a previous fiscal year would need to be factored into the following year's budget as a revenue or expense, respectively.

Historically in an effort to manage the unpredictable impacts of a potential operating budget carryover of surplus or deficit, the Town has mitigated this risk through a surplus control bylaw.

Analysis

The Town uses allocations to/from various reserve funds to mitigate the unpredictable impacts of surpluses or deficits carried over from year-to-year

In an effort to mitigate the unpredictable impacts that carry-overs could have on long range tax rates, budgets and budget pressures, the Town should control its yearend surplus or short-fall amounts through making specific allocations to/from various reserve funds as part of the yearend accounting process. However, any such allocation must be authorized by Council before the end of the fiscal year. Since the final results of the calendar year are not known for some time, after the close of the year, a formula approach to surplus allocations is necessary, followed by a detailed report back to Council. Today's report and bylaw (to follow) will set this budget control approach in place for the current year.

A number of municipalities use this same approach as it allows for the separation of the disposition of surpluses or the funding of short-falls of one year from the following year's budget process. It greatly simplifies both the budget process and the yearend reporting process, while also assisting with transparency to the community.

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Report No. FIN20-022

A tax funded surplus supports the tax rate stabilization reserve to protect the Town's budget from potential deficits

The following actions are recommended for a surplus/deficit resulting from the tax funded operating results:

- a) Any unexpended portions of the 2020 operating budgeted contributions from reserves will be returned to source as appropriate. The 2020 budgeted contributions from reserves are as follows:

Table 1
2020 operating budget draws from reserve

Reserve	Amount
Roads & Related Repair & Replacement	\$273,730
Storm	\$243,817
Tax Stabilization	\$ 84,000
WSIB	\$105,000
Facilities Repair & Replacement	\$93,065
Water	\$41,870
Sanitary Sewer	\$42,054
Landscape Fee	\$75,000
Cash-in-Lieu Parkland	\$10,000
Recreation Sponsorship	\$31,000
Arts and Cultural	\$5,000

- b) As required for Bill 124, a Building Permit Fees Reserve Fund was established in which provisions for potential recessionary years may be made. Any surplus in these activities is required by legislation to be allocated to the Building Permit Fees Reserve Fund, while any deficit arising may be funded from this source. The 2020 Budget included a \$614,200 contribution to the building permit fees reserve fund reflecting a budgeted permit revenue surplus driven by 2C lands growth. Any budgetary surplus or deficit in the Building Services Division budget is to be allocated to or funded from the Reserve Fund.
- c) That any net Winter Control operations budget surplus be allocated to the Winter Control reserve fund if the overall operating budget ends the year in a surplus. Alternatively should a Winter Control operations net operating deficit occur that cannot be accommodated within the overall operating budget, any remaining net shortfall will be funded from the Winter Control reserve fund.

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Report No. FIN20-022

- d) Any remaining surplus may be allocated toward approved carry-forwards to 2021, if any.
- e) Any remaining 2020 net operating surplus after approved carry-forwards will be allocated in a ratio of 50 percent to the Town's rate stabilization reserve and 50 percent to be allocated proportionately to the Town's tax funded Repair & Replacement reserves.

It is wise for a municipality to maintain reserves specifically intended to stabilize or cushion annual tax rates from significant one-time or temporary pressures. Such pressures could include the impacts from significant new service or facility costs, market conditions affecting revenues, adverse weather or climate events, or other factors. Staff normally recommend that the Town's rate stabilization reserve's target balance should be approximately 10% of annual tax revenue, which is a benchmark used by many municipalities. Once this reserve's ceiling has been reached any remaining eligible funds to be allocated can instead be redirected toward other town infrastructure reserves.

Alternatively, should a net operating deficit occur in 2020, adjustments a), and b) above are still required, with the remaining net shortfall to be funded from the tax rate stabilization reserve.

The following actions are recommended for a surplus or deficit in the water, wastewater and stormwater operating budget. Any surplus or deficit for this budget be allocated to or be funded from the appropriate related reserve fund(s). This will assist in meeting the requirements of Bill 175 which requires that water and wastewater costs relating to the replacement of their infrastructure be fully recovered through their rates.

The adjustments authorized by the surplus control bylaw are to have an effective date of December 31, 2020, whether determined prior to or after that date.

The next operating forecast is scheduled for October and will include actual results as of end of August

As of the previous forecast review which took place at the end of May, the corporation was on track to conclude the fiscal year essentially at breakeven from its tax levy funded operations and a zero variance was projected for the Town's rate funded operations. The Town's next planned review and update of its annual forecasted financial results will commence at the end of August which should offer further clarity on what the Town's final yearend position will be.

Advisory Committee Review

Not applicable

Legal Considerations

The Municipal Act, subsection 11(2) (3) allows the municipality to pass bylaw s respecting the financial management of the municipality and its local boards.

Financial Implications

This report outlines how the yearend surplus or deficit in the tax funded and rate funded operations. The Municipal Act requires that any surplus or deficit be carried forward into the following year's budget, unless otherwise controlled through reserves as proposed in this report. Using the controls, the surplus or deficit will become zero, avoiding the need for any budget carry-forwards.

Communications Considerations

The Town of Aurora will use 'Inform' as the level of engagement for this project. There are five different levels of community engagement to consider, with each level providing the community more involvement in the decision making process. These levels are: Inform, Consult, Involve, Collaborate and Empower. Examples of each can be found in the Community Engagement Policy. These options are based on the International Association of Public Participation (IAP2) Spectrum and assist in establishing guidelines for clearly communicating with our public and managing community engagement. In order to inform, this report with be posted to the Town's website.

Link to Strategic Plan

Outlining a strategic approach to managing year end surpluses and/or deficits, and thereby avoiding the need to complicate the following year's budget with such matters, contributes to achieving the Strategic Plan guiding principle of "Leadership in Corporate Management" and improves transparency and accountability to the community.

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Report No. FIN20-022

Alternative(s) to the Recommendation

1. Council could choose not to approve the Surplus/Deficit Control bylaw and address any year end results by way of budget amendment following early budget approval.

Conclusions

Staff are recommending that a bylaw be adopted which will authorize the Director of Finance – Treasurer and the Chief Administrative Officer to control the 2020 tax levy funded operating surplus/deficit and the surpluses or deficits arising from Water, Wastewater, Stormwater operations by giving them authority to make adjustments and allocate surplus funds or fund deficits strictly as itemized in this report. Not doing so will cause all fund surpluses or deficits to be carried forward into the 2021 operating budget which would result in required adjustments to this budget subsequent to its reaffirmation by Council.

As part of the year end procedures, staff will report back to the General Committee as to the actual yearend results and the final surplus allocations made for 2020.

Attachments

None

Previous Reports

None. A new bylaw is required each year. This equivalent report for 2019 was FS19-038 which went to General Committee on November 19, 2019.

Pre-submission Review

Reviewed by the CAO on August 26, 2020

Approvals

Approved by Rachel Wainwright-van Kessel, Director, Finance/Treasurer

Approved by Doug Nadorozny, Chief Administrative Officer



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Town of Aurora

General Committee Report

No. FIN20-023

Subject: Safe Restart Funding

Prepared by: Laura Sheardown & Tracy Evans, Financial Management Advisor

Department: Finance

Date: September 8, 2020

Recommendation

1. That Report No. FIN20-023 be received.

Executive Summary

This report provides information regarding the Safe Restart Agreement and associated funding from the Province, including guidelines for use of the funds and reporting requirements.

- Municipalities deliver critical services that require support during COVID-19
- Municipal Operating Funding Provided as Part of Phase 1
- A record of COVID-related spending and revenue losses must be maintained
- Municipal Operating Funding Phase 2: Additional support if required

Background

On July 27, 2020, as part of the federal-provincial Safe Restart Funding, the Ontario government announced that it had secured emergency assistance funding to provide Ontario's 444 municipalities with the support that they need to respond to COVID-19. This funding will give municipalities the support and flexibility they need to protect the health and well-being of their communities, while continuing to deliver critical public services.

Analysis

Municipalities deliver critical services that require support during COVID-19

Municipalities play key roles in the delivery of critical services that are relied upon and are also at the frontlines of a safe reopening of the economy. This funding will provide much needed support to municipalities and transit operators to help them address financial pressures related to COVID-19, maintain critical services and protect vulnerable populations as the province gradually and safely reopens. It includes:

- Up to \$2 billion to support municipal operating pressures; and
- Up to \$2 billion to support municipal transit systems.

Municipal Operating Funding Provided as Part of Phase 1

In September, Ontario's municipalities will receive Phase 1 funding for municipal operating pressures. This funding will be allocated on a per household basis and will be shared 50/50 between upper and lower tier municipalities. The Town of Aurora will receive \$1.298M to support its COVID-related operating costs and pressures, while The Regional Municipality of York will receive funding for not only operating pressures but also in support of the transit system.

A record of COVID-related spending and revenue losses must be maintained

The Town of Aurora is accountable for the use of this funding for the purposes of addressing its priority COVID-19 operating costs and pressures. If the amount of funding exceeds the Town's expected COVID-related pressures for 2020, the additional funds are to be placed in a reserve and used to cover any COVID-related expenses and pressures that are experienced in 2021. There are several reporting deadlines that the Town must meet in order to maintain this funding.

Municipal Operating Funding Phase 2: Additional support if required

Phase 2 of this funding will provide additional funding for the municipalities that require more support for COVID-related financial impacts that exceed the initial per household allocation provided under Phase 1.

Advisory Committee Review

Not applicable

Legal Considerations

In order to receive this funding, the Town will enter into an agreement with the Province. The agreement will be reviewed by Legal Services. Council has delegated to staff the authority to enter into and sign these types of agreements.

Financial Implications

The Safe Restart funding is expected to be received by the Town in September. This funding will help the Town mitigate any cost pressures or lost revenue as a result of the COVID-19 pandemic this year and next year. For this year, the last forecast reported to Council showed that the Town is expected to essentially break even, however the nature of this pandemic is unpredictable and should the Town have a COVID-related deficit, this funding will be used to offset the impact.

Any of these funds that are not used in 2020 can be set aside and used to manage the impact of COVID-related costs that the Town experiences in 2021. Staff are currently working on the update of the multi-year budget approved last year. This funding will provide an offset so that COVID-19 will not require staff to find alternative sources of funding or reduce services.

The next in-year forecast, including actual results to the end of August will be brought forward to a General Committee meeting in October.

Communications Considerations

The Town of Aurora will use 'inform' as the level of engagement for this project. There are five different levels of community engagement to consider, with each level providing the community more involvement in the decision making process. These levels are: Inform, Consult, Involve, Collaborate, and Empower. Examples of each can be found in the Community Engagement Policy. These options are based on the International Association of Public Participation (IAP2) Spectrum and assist in establishing guidelines for clearly communicating with our public and managing community engagement.

September 8, 2020

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Report No. FIN20-023

Link to Strategic Plan

Management of grant funds for specific purposes contributes to achieving the Strategic Plan guiding Principle of “Leadership in Corporate Management” and improves transparency and accountability to the community.

Alternative(s) to the Recommendation

Not applicable.

Conclusions

Staff continue to monitor and provincial orders and other guidelines and as they provide more flexibility, we will adjust operations and process enabling us to collect more revenues.

Attachments

None

Previous Reports

None

Pre-submission Review

Reviewed by CAO on August 26, 2020

Approvals

Approved by Rachel Wainwright-van Kessel, Director, Finance/Treasurer

Approved by Doug Nadorozny, Chief Administrative Officer



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Town of Aurora Notice of Motion

Re: Sidewalk Installation Policy

To: Mayor and Members of Council

From: Councillor Harold Kim

Date: September 8, 2020

Whereas in September 2009 Council has approved a “Sidewalk Installation Policy” (#67), for the installation of sidewalks on Town’s roads that ensures connectivity, safety and convenient pedestrian traffic in new development and existing areas, and the policy was subsequently revised in April 2015; and

Whereas the Transportation Master Plan Update endorsed by Council in February 2020, identified the existing traffic operational concerns and recommended “TDM, Transit, and Active Transportation Improvements” and “Operational Improvements” as viable alternative solutions to accommodate future growth;” and

Whereas “The Active and Safe Routes to School Program” implemented in Aurora has helped to encourage the physical activity of youth, enhance environmental sustainability by reducing greenhouse gas emissions and help alleviate traffic concerns in school areas; and

Whereas the Town based on the “Active and Safe Routes to School Program” has implemented “The School Travel Planning Policy (#69)” in December 2013 and set out a mechanism that would allow for student pedestrian priority; and

Whereas the Town has a duty to comply with the Accessibility for Ontarians with Disabilities Act (AODA) that took effect January 1, 2016 that requires municipalities to remove barriers to accessibility and to construct sidewalks and pathways where gaps exist; and

Whereas while the Town’s population grows, we have to look at sustainable growth measures by implementing active transportation principles and designing complete streets that will further reduce greenhouse gas (GHG) emissions;”

1. Now therefore be it hereby resolved that staff be directed to review the “Sidewalk Installation Policy” (#67), and report back to General Committee before the end

of October 2020 with proposed revisions for consideration including an approach that provides staff the delegated authority to install sidewalks for existing areas when the road is scheduled for reconstruction.



100 John West Way
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Town of Aurora
Notice of Motion

Re: **Property Acquisition – Library Square**

To: Mayor and Members of Council

From: Councillor John Gallo

Date: September 8, 2020

Whereas on May 19, 2020 Aurora Council passed the following resolution “A proposed or pending acquisition or disposition of land by the municipality or local board (Section 239(2)(c) of the Municipal Act, 2001); Re: Closed Session Report No. PDS20-046 – Potential Property Acquisition – Library Square”; and

Whereas on July 30, 2020 the Town completed the purchase of 15157, 15165, 15171 Yonge Street for \$7,500,000 plus \$146,475.00 in land transfer fees; and

Whereas it is in the interest of all Taxpayers to understand the full details of the purchase and all information that lead to the purchase, which council relied on;

1. Now Therefore Be It Hereby Resolved that the Town of Aurora post all closed session reports pertaining to the purchase of 15157, 15165, 15171 Yonge Street publicly the Library Square page on the Town’s website; and
2. Be It Further Resolved That those reports include the consultant prepared attachments provided staff receive their consent to be posted publicly.



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Town of Aurora Notice of Motion

Re: **Audio Recordings of Closed Session Meetings**

To: Mayor and Members of Council

From: Councillor Michael Thompson

Date: September 8, 2020

Whereas the Town of Aurora acknowledges our responsibility to provide good government in an accountable and transparent manner; and

Whereas the closed session meetings and attendant proceedings of Council are subject to investigation at anytime should a member of the public feel it is warranted; and

Whereas the accuracy of the records and/or documentation kept in regards to the closed session meetings and proceedings of Council is therefore vital; and

Whereas currently only minutes are taken and there is no verbatim – written or audio-recorded record of the closed session proceedings of Council; and

Whereas the Ombudsman recommends that all municipalities make audio recordings or video recordings of all meetings – both open and closed – to ensure a thorough record; and

Whereas it provides a clear and accessible record for closed meeting investigators to review, and assists in ensuring that officials do not stray from the legal requirements during closed meetings; and

Whereas Council, in 2015, approved an Accountability and Transparency policy with the purpose of ensuring openness, accountability and transparency while protecting the best interests of the Town;

1. Now Therefore Be It Hereby Resolved That staff be directed to report back before the end of the year on the recommendation to have all future closed session meetings of Council audio-recorded; and

Audio Recording of Closed Session Meetings
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2. Be It Further Resolved That the report include recommended policies pertaining to security, limited access for investigation purposes only and what protocols should be put into place for the retention and destruction of these records.



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Town of Aurora
Notice of Motion

Re: **Construction of a Gymnasium at the SARC**

To: Mayor and Members of Council

From: Councillor Michael Thompson

Date: September 8, 2020

Whereas in 2017 staff were directed to bring back a report on the feasibility of adding a gymnasium onto the Stronach Aurora Recreation Complex (SARC); and

Whereas in the report to the Parks, Recreation and Cultural Services Advisory Committee (PRCSAC) staff supported the concept of constructing a gym and noted it “would be very well received and utilized by the community”; and

Whereas in 2018 the PRCSAC committee recommended the construction of a multi-purpose space that maximizes the land available on the southeast corner of the SARC be approved; and

Whereas capital project 72410 SARC - Gymnasium was considered in the 2019 budget deliberations but postponed as a result of the overall expansion to the SARC discussion and potential land acquisition at Bloomington;

1. Now Therefore Be It Hereby Resolved That the construction of a multi purpose space/gymnasium be added to the 2021 Capital Budget discussions; and
2. Be It Further Resolved That an option for a single, 6,000 sq. ft. gym, as initially discussed, and a second option for multiple gyms be presented at budget time.