



**INFORMATION REPORT**  
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November 9, 2016

## **CORPORATE SERVICES INFORMATION REPORT – LEGISLATIVE SERVICES- 2016-23**

TO: Mayor Van Bynen & Members of Council  
SUBJECT: Municipal Regulation of Door-to-Door Sales  
ORIGIN: Legislative Services

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### **COMMENTS**

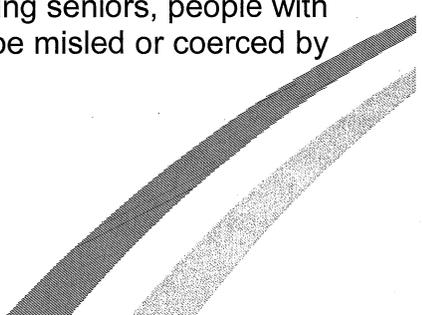
The purpose of this Information Report is to provide Council an update with respect to the municipal regulation of door-to-door sales, including of electricity and natural gas services.

In accordance with the Procedure By-law, any Member of Council may make a request to the Town Clerk that this Information Report be placed on an upcoming Committee of the Whole agenda for discussion.

### **Background**

This Information Report addresses Council's direction from May 18, 2016 for staff to review the potential municipal regulation of door-to-door sales including electricity and natural gas. Currently, the Town's by-laws do not directly address door-to-door sales. Upon review, staff is aware that the issue of door-to-door sales has been an area of concern for many municipalities in Ontario. In fact, Mississauga, Toronto, Barrie and Markham (among others) have recently put forward motions asking the province to ban certain types of door-to-door sales. Since 2015, the provincial government has reviewed proposed legislation that prohibits door-to-door sales of certain products including electricity and natural gas services.

Currently, a private member bill, Bill 14 (*Door-to-door Sales Prohibition Act, 2016*), is before the Legislative Assembly of Ontario after being carried at the first reading on September 15, 2016. Bill 14 was introduced for the purpose of protecting consumers from unsolicited door-to-door sales of water heaters, furnaces, air conditions and water treatment devices, and to eliminate the often aggressive and "high pressure" sales tactics of these household items. Most notably, the proposed legislation aims to protect the most vulnerable consumers including seniors, people with various health issues, young homeowners and new Canadians, who may be misled or coerced by forceful sales tactics. A copy of Bill 14 is attached as Appendix A.



If passed, Bill 14 sets heavy fines for businesses that contravene the regulations; individual sellers could face fines up to \$2000.00 and businesses could face fines up to \$25,000.00, depending on the number of offences. Bill 14 also includes a section that makes any contract void when the sale took place in the consumer's house, even after the consumer has paid for or received the product. The exception to these regulations is if the consumer initiated the sale and invited the seller to his or her house, in which case the sale is not considered unsolicited.

Staff has consulted with various municipalities across the Ontario, all of which have indicated that they are not moving forward with municipal regulation of door-to-door sales given that Bill 14 is already being debated at the provincial level. Staff feel that the Town does not need to implement regulations with respect to door-to-door sales at this time and that consumer protection, including the restrictions or prohibition of door-to-door sales should continue to be regulated by the Province.

Over the past year, the Town has taken steps to keep Newmarket residents informed about aggressive door-to-door sales tactics through news releases, information posted on the Town website and social media presence. These communication tactics advise residents that Town staff do not conduct door-to-door sales, encourage residents to use caution when they engage with door-to-door salespeople, and suggest that residents consult the *Consumer Protection Act* if they are unsure about their rights. In addition, the Town has provided resources for residents about how to report forceful door-to-door sales and how to file a complaint against the business.

#### Next Steps

In accordance with Legislative Services' *Enhancing Municipal Enforcement and Review of Regulations* work plan, a full review of the Hawker and Peddler by-law will continue in 2017. Should the provincial legislation not be passed, staff will evaluate the resources necessary to enforce a by-law banning door-to-door sales at that time.

### **BUSINESS PLAN AND STRATEGIC PLAN LINKAGES**

The initiative relates to the Well-equipped and managed link of the Town's Community Vision- implementing policy and process that reflect sound and accountable government.

### **CONSULTATION**

Staff consulted with various municipalities in the Ontario, to determine if they currently, or are planning to, regulate door-to-door sales at the municipal level.

### **HUMAN RESOURCE CONSIDERATIONS**

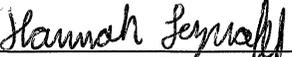
There are no human resources considerations related to this report.

### **BUDGET IMPACT**

There are no budget impacts related to this report.

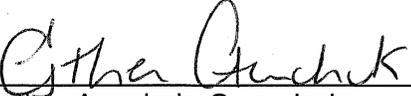
**CONTACT**

For more information on this report, contact Florence DiPassio, Licensing Officer at 905-953-5300, extension 2206 or via email at [fdipassio@newmarket.ca](mailto:fdipassio@newmarket.ca).

  
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Hannah Leznoff, Elections Assistant

  
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Florence DiPassio, Licensing Officer

  
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Andrew Brouwer, Director of Legislative Services/Town Clerk

  
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Esther Armchuk, Commissioner of Corporate Services

## Appendix A

Bill 14

2016

An Act to prohibit door-to-door sales of certain products

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### Interpretation and Administration

#### Definitions

1. In this Act,

“consumer” means an individual acting for personal, family or household purposes and does not include a person who is acting for business purposes; (“consommateur”)

“Minister” means the Minister of Government and Consumer Services or any other member of the Executive Council to whom responsibility for the administration of this Act is assigned or transferred under the Executive Council Act; (“ministre”)

“prescribed means prescribed in the regulations; (“prescrit”);

“regulations” means the regulations made under this Act. (“règlements”)

#### Administration

2. The Minister is responsible for the administration of this Act.

#### Door-to-Door Sales

3. (1) No person shall,

(a) sell, lease, rent or offer to sell, lease or rent a product listed in subsection (2) to a consumer in person at the consumer’s home; or

(b) cause a person to sell, lease or rent or offer to sell, lease or rent a product listed in subsection (2) to a consumer in person at the consumer’s home.

#### Products

(2) The products referred to in subsection (1) are the following:

1. Air conditioners.
2. Water heaters.
3. Furnaces.
4. Water treatment devices.

5. Any other prescribed product.

#### Exception

(3) Clause (1) (b) does not apply to a consumer who invites a person into his or her home but, for greater certainty, subsection (1) continues to apply to the invited person.

#### Same

(4) Subsection (1) does not restrict advertising and marketing activities or other prescribed activities.

#### Offence and penalty

(5) A person who contravenes subsection (1) is guilty of an offence and is liable on conviction,

(a) in the case of a first offence under this Act,

(i) to a fine of not more than \$500, in the case of an individual, or

(ii) to a fine of not more than \$5,000, in the case of a corporation;

(b) in the case of a second offence under this Act,

(i) to a fine of not more than \$1,000, in the case of an individual, or

(ii) to a fine of not more than \$10,000, in the case of a corporation; and

(c) in the case of a third or subsequent offence under this Act,

(i) to a fine of not more than \$2,000, in the case of an individual, or

(ii) to a fine of not more than \$25,000, in the case of a corporation.

#### Contract void

4. (1) A contract that is entered into as the result of a contravention of subsection 3 (1) is deemed to be void.

#### Same

(2) For greater certainty, a contract may be deemed to be void under subsection (1) even if,

(a) the consumer has already paid for the product; or

(b) the product has already been delivered to the consumer.

#### Right to payment

5. (1) If a contract between a person and a consumer is deemed to be void under subsection 4 (1), the person shall, in accordance with the regulations, pay to the consumer,

(a) the money paid by the consumer under the contract; and

(b) any additional reasonable costs the consumer incurred in uninstalling and returning the product and, if applicable, in obtaining and installing a replacement.

#### Right of action if no payment

(2) If the consumer has not received payment as required by subsection (1), he or she may commence an action in the Superior Court of Justice to recover the amounts referred to in subsection (3).

#### Judgment

(3) If the consumer is successful in the action, unless in the circumstances it would be inequitable to do so, the court shall order that the consumer recover twice the amount of the money referred to in clause (1) (a) and the costs, if any, referred to in clause (1) (b).

#### Legal costs

(4) If the consumer obtains an award of legal costs in an order made under subsection (3), the consumer is entitled to recover any additional actual legal costs incurred in obtaining the order.

#### Protection from liability

6. (1) If a contract is deemed to be void under subsection 4 (1), the consumer shall not be liable for any obligations under the contract or a related agreement, including obligations purporting to be incurred as cancellation charges, administration charges or any other charges or penalties.

#### Same

(2) No cause of action against the consumer arises as a result of a contract being deemed to be void under subsection 4 (1) or as a result of the operation of subsection (1).

#### Regulations

7. The Minister may make regulations,

- (a) prescribing anything that, under this Act, may or must be prescribed or done by regulation;
- (b) exempting any person or class of persons from any provision of this Act, subject to such conditions or restrictions as may be prescribed by the regulations;
- (c) clarifying the meaning of any paragraph listed in subsection 3 (2);
- (d) governing payments to consumers under subsection 5 (1).

#### Commencement and Short Title

#### Commencement

8. This Act comes into force two months after the day it receives Royal Assent.

#### Short title

9. The short title of this Act is the Door-to-Door Sales Prohibition Act, 2016.