



City of  
**Peterborough**

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**To:** **Members of the Committee of the Whole**

**From:** **Patricia Lester, City Solicitor and Director of Legal Services**

**Meeting Date:** **February 16, 2016**

**Subject:** **Report OCS16-001**  
**A new by-law to replace existing Smoking By-law's and**  
**appoint by-law enforcement officers at the Peterborough**  
**Regional Health Centre**

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## **Purpose**

A report to recommend that Smoking By-law's 11-074 and 13-002 be repealed and a new, condensed Smoking By-law be enacted, and a that a new by-law be approved to appoint by-law enforcement officers at the Peterborough Regional Health Centre.

## **Recommendations**

That Council approve the recommendations outlined in Report OCS16-001 dated February 16, 2016, of the City Solicitor and Director of Legal Services, as follows:

- a) That a new consolidated smoking by-law be passed by City Council.
- b) That Smoking By-Law's 11-074 and 13-002 be repealed.
- c) That a new by-law be passed by City Council to appoint by-law enforcement officers at the Peterborough Regional Health Centre;

## Budget and Financial Implications

There is no budget or financial implications to the City as a result of these recommendations.

## Background

In correspondence dated October 13, 2015, the Medical Officer of Health, Dr. Rosana Pellizzari sought the City's assistance in amending the Smoking By-law, to allow Peterborough Regional Health Centre (PRHC) contract workers, working for G4S Secure Solutions (Canada) Ltd., (G4S) to be appointed as by-law enforcement officers to enforce Section 2 of the smoking by-law on PRHC property.

The smoking by-law is currently enforced by the Tobacco Enforcement Officer employed by the Peterborough County-City Health Unit. Due to the 24 hour, 7 day-a-week operation of the PRHC, the Health Unit enforcement officer is unable to effectively enforce the by-law. Therefore the appointment of G4S staff by Council will allow them to enforce the by-law in a timely manner which would enhance the efficiency and effectiveness of enforcement activities. This initiative is supported by the PRHC.

In discussion with City Clerk's staff, it was recommended that condensing the current by-laws into one new by-law would improve readability and allow us to revise the enforcement section. The existing enforcement section of By-law 11-074 (as amended by 13-002) states:

"This by-law may be enforced by any:

- i. Person holding the title of Health Promoter or Health Inspector who is employed by the Peterborough County City Health Unit;
- ii. Police officer; or
- iii. Peace officer. (As amended by 13-002)"

The new by-law would read:

"This by-law may be enforced by any:

- i. Person holding the title of Tobacco Enforcement Officer who is employed by the Peterborough County City Health Unit;
- ii. Police officer; or
- iii. By-law Enforcement Officer appointed by Council."

The *Police Services Act* sections 15(1) and 15(2) state:

15(1) A municipal council may appoint persons to enforce the by-laws of the municipality.

15(2) Municipal law enforcement officers are peace officers for the purpose of enforcing municipal by-laws.

## Summary

The new consolidated Smoking by-law will allow for greater ease of readability and the appointment of by-law enforcement officers at PRHC, will ensure greater efficiency of bringing charges against offenders by writing Part I tickets under the **Provincial Offences Act**.

Submitted by,

Patricia Lester  
City Solicitor & Director of Legal Services

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Attachments:

Appendix A – Draft Smoking By-law  
Appendix B – Draft Appointment By-law

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## Appendix "A"



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### The Corporation of the City of Peterborough

#### By-Law Number 16-xxx

#### Being a By-Law to repeal By-law 11-074 (as amended by 13-002) and By-law 13-002 of the City of Peterborough and enact City of Peterborough Smoking By-Law Number 16-xxx

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**Whereas** subsection 10(2) of the **Municipal Act, 2001, S.O. 2001, c.25** as amended (the "Act"), permits councils of local municipalities to pass by-laws and make regulations for the health, safety and well-being of persons within the municipality;

**And Whereas** it has been determined that tobacco products and second hand-tobacco smoke are a health hazard because of its impairment, adverse effect and risk to human health, and is a public nuisance because of its irritating and discomforting properties to the inhabitants of the City of Peterborough;

**And Whereas** it is desirable for the health, safety, and well-being of the inhabitants for of the City of Peterborough to provide for regulating tobacco products, smoking and second hand tobacco for the better protection of persons from conditions injurious to health in accordance with the provisions of this by-law;

**Now Therefore** the Corporation of the City of Peterborough enacts as follows;

#### Article 1 - Definitions

- 1.1 By-law Enforcement Officer** – means a person that is employed and appointed by Council of the City of Peterborough to perform the duties of enforcing City By-Laws;
- 1.2 Council** – means the Council of the City of Peterborough;
- 1.3 Tobacco Product** – means tobacco in any processed or unprocessed form that may be smoked, inhaled or chewed, including snuff, but does not apply to products intended for use in nicotine replacement therapy;

- 1.4 Peterborough Utilities Group** – means City of Peterborough Holdings Inc. and any of its subsidiary companies.

## **Article 2 - Prohibitions**

- 2.1** No person shall use any Tobacco Product in any building or on any land owned by the Peterborough County-City Health Unit or by the Peterborough Regional Health Centre.

- 2.2** No person shall smoke or hold lighted tobacco within a nine (9) metre radius surrounding any entrance, exit, or air intake of any of the following:

- i. City Hall;
- ii. Any Fire Station;
- iii. The buildings owned by the Peterborough Utilities Group;
- iv. The buildings owned by the Peterborough Utilities Commission;
- v. The Art Gallery of Peterborough;
- vi. The Downtown Transit Terminal;
- vii. The Simcoe Street Parking Garage;
- viii. The King Street Parking Garage;
- ix. The Main Branch of the Peterborough Public Library;
- x. The DelaFosse Branch of the Peterborough Public Library;
- xi. The Morrow Building;
- xii. The offices of the City of Peterborough's Social Services Division;
- xiii. The buildings at the City of Peterborough's Public Works yard;
- xiv. The Pearson Day Care;
- xv. The Peterborough Day Care;
- xvi. The Peterborough Museum and Archives;
- xvii. The Peterborough Sport and Wellness Centre;
- xviii. The Provincial Offences Office;
- xix. The terminal building at the Peterborough Airport;
- xx. The Queen Alexandra Community Centre;
- xxi. The Waste Water Treatment Plant;
- xxii. The Peterborough Memorial Centre;
- xxiii. The Evinrude Centre
- xxiv. The Kinsmen Centre;
- xxv. Northcrest Arena; or
- xxvi. The offices of the Peterborough-Lakefield Community Police Service.
- xxvii. 70 Simcoe Street

- 2.3** No person shall smoke or hold lighted tobacco within the following portions of the Riverview Park and Zoo:

- i. the children's playground;

- ii. the train station and platform; and
- iii. the area bounded by the secondary containment fence, at the Riverview Park and Zoo.

**2.4** No person shall smoke or hold lighted tobacco within a nine (9) metre radius of any of the following:

- i. any public playground, beach, wading pool or splash pad effective July 1, 2010; and
- ii. any sport field or skateboard park effective May 1, 2011.

**2.5** Effective May 1, 2012, no person shall smoke or hold lighted tobacco within any City park except in an area designated to allow smoking or holding lighted tobacco.

**2.6** No person shall smoke or hold lighted tobacco within Del Crary Park, except within the designated smoking area, outlined on the map attached hereto as Schedule "A".

### **Article 3 - Enforcement**

**3.1** This by-law may be enforced by any:

- i. Person holding the title of Tobacco Enforcement Officer who is employed by the Peterborough County City Health Unit;
- ii. Police officer; or
- iii. By-law Enforcement Officer appointed by council.

### **Article 4 - Exceptions**

**4.1** This by-law does not apply to any portion of a public road allowance or to any private property.

### **Article 5 – Penalty**

**5.1** Every person who contravenes any provision of this By-Law, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, and the *Municipal Act*, 2001, as each may be amended from time to time.

### **Article 6 – Short Title**

**6.1** This By-Law may be referred to as the Smoking By-Law.

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**Article 7 – Effective Date and Repeal**

**7.1** This By-Law and the attached Schedule, comes into effect on the day it receives third reading.

**7.2** By-laws 11-074 and 13-002 are repealed, effective the date this by-law comes into effect.

By-Law read a first, second and third time this                      day of, 2016.

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Daryl Bennett, Mayor

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John Kennedy, City Clerk

**Schedule A: By-law 16-XXX,**

**Designated Smoking Area for Del Crary Park**





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**Appendix "B"**



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**The Corporation of the City of Peterborough**

**By-Law Number 16-xxx**

**Being a By-Law to Appoint By-law Enforcement Officers at the Peterborough Regional Health Centre at 1 Hospital Drive to Enforce Smoking By-law 16-xxx**

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The Corporation of the City of Peterborough by the Council thereof hereby enacts as follows:

1. That the following individuals be appointed as By-law Enforcement Officers pursuant to Article 3.1(iii) of By-law 16-XXX:

1. Brett White
2. William Johnston
3. Dale Patrick
4. Bailey Larmer

By-Law read a first, second and third time this                      day of, 2016.

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Daryl Bennett, Mayor

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John Kennedy, City Clerk