



City of
Peterborough

To: **Members of the General Committee**

From: **Patricia Lester, Commissioner of Corporate and Legislative Services**

Meeting Date: **June 6, 2018**

Subject: **Report CLSOCS18-004
Enacting New Smoking and Appointment By-laws**

Purpose

A report to recommend that the Smoking By-law and Appointment of Enforcement Officers By-law be repealed and replaced with new by-laws.

Recommendations

That Council approve the recommendations outlined in Report CLSOCS18-004 dated June 6, 2018, of the Commissioner of Corporate and Legislative Services, as follows:

- a) That Smoking By-law 16-021 be repealed and replaced with the By-law attached as Appendix A.
- b) That Appointment By-law 18-004 be repealed and replaced with the By-law attached as Appendix B.

Budget and Financial Implications

There are no budget or financial implications to receiving this report.

Background

Smoking By-law

In Report OCS18-001 dated January 15, 2018, Council was informed that revisions to the Provincial **Smoke-Free Ontario Act, 2017**, (“SFOA”) would necessitate amending the City’s Smoking By-law.

In April, 2018, the City received a letter from Dr. Rosana Salvaterra, Medical Officer of Health requesting such amendment to prohibit the smoking or holding of medical cannabis and e-cigarettes in all areas of the City where smoking is prohibited.

The Smoking By-law currently only prohibits the smoking of tobacco products in buildings or on land owned by the City, but does not prohibit individuals from smoking medical cannabis in the same locations.

Bill 174, an Act to enact the SFOA received Royal Assent on December 12, 2017. The new SFOA added definitions for “electronic cigarettes”, “e-substances”, “medical cannabis” and “vapour products” and prohibits the use of these devices and substances in the same locations that smoking or holding lighted tobacco is prohibited in the province. The SFOA will come into force on a day to be named by Proclamation of the Lieutenant Governor, which is expected to be by July 1, 2018.

Therefore, the terms “Electronic Cigarette”, “e-substance”, “Medical Cannabis” and “Vapour Product” have been defined in the new Smoking By-law and the terms have been inserted into every section that previously only prohibited tobacco. A new term was also added which will require individuals to provide proof of identity to any enforcement officer. This will greatly assist officers who are laying a charge under the Smoking By-law, and assist the Provincial Offences Office in the collection of any outstanding fines. Please find attached as Appendix A, the revised by-law.

The new Smoking By-law and the SFOA will only apply to individuals who have a prescription to obtain medical cannabis from a federally licensed facility.

The legislation legalizing recreational cannabis, the **Cannabis Act, 2017**, is expected to be in force by July 1, 2018 but is contingent upon the Federal government passing the **Cannabis Act**, which is presently before the Standing Senate Committee on Social Affairs, Science and Technology. Cannabis purchased by the public for recreational purposes at an Ontario Cannabis Store may not be smoked in any public place.

Appointment of Enforcement Officers By-law

With regards to the enforcement of the Smoking By-law at the Peterborough Regional Health Centre, the Appointment By-law required amendments as it references Smoking by-law 16-021 which we are seeking to repeal, and the appointment of new officers is required (attached as Appendix B). The Set Fine Schedule under the Smoking By-law has also been amended and will be forwarded to the Regional Senior Justice of the Central East Region for approval of new fines.

Submitted by,

Patricia Lester
Commissioner of Corporate and Legislative Services

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Attachments:
Appendix A – Smoking By-law 18-XXX
Appendix B – Appointment By-law 18-XXX

Appendix A



The Corporation of the City of Peterborough

By-Law Number 18-xxx

Being a By-Law to repeal By-law 16-021 and enact City of Peterborough Smoking By-Law Number 18-xxx

Recitals

- A. 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.
- B. It has been determined that tobacco products, vapour products, electronic cigarettes, medical cannabis and second-hand 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.
- C. It is desirable for the health, safety, and well-being of the inhabitants for of the City of Peterborough to regulate where people may use tobacco products, vapour products, and Medical Cannabis, in order to better protect persons from conditions injurious to health resulting from smoking and or from second-hand smoke 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 **City** – means The Corporation of the City of Peterborough or the geographical boundary of the municipality as the context requires;

- 1.3 Council** – means the Council of the City of Peterborough;
- 1.4 Electronic Cigarette** – means a vaporizer or inhalant-type device, whether called an electronic cigarette or any other name, that contains a power source and heating element designed to heat a substance and produce a vapour intended to be inhaled by the user of the device directly through the mouth, whether or not the vapour contains nicotine;
- 1.5 e-substance** – means a substance that is manufactured or sold to be used in an electronic cigarette;
- 1.6 Medical Cannabis** – means cannabis that is obtained for medical purposes in accordance with applicable federal law;
- 1.7 Peterborough Utilities Group** – means City of Peterborough Holdings Inc. and any of its subsidiary companies;
- 1.8 Tobacco Product** – means any product that contains 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;
- 1.9 Vapour Product** – means an electronic cigarette, an e-substance, or any component of an electronic cigarette.

Article 2 – Prohibitions

- 2.1** No person shall smoke or hold a lighted Tobacco Product or Medical Cannabis or use an Electronic Cigarette, e-substance, or Vapour Product on any land owned by the Peterborough County-City Health Unit.
- 2.2** No person shall smoke or hold a lighted Tobacco Product or Medical Cannabis or use an Electronic Cigarette, e-substance, or Vapour Product within a nine (9) metre radius surrounding any entrance, exit, or air intake of any building owned by:
- i. The City;
 - ii. The Peterborough Utilities Group;
 - iii. The Peterborough Utilities Commission;
 - iv. The Peterborough Public Library Board; or
 - v. The Corporation of the County of Peterborough located within the City.
- 2.3** No person shall smoke or hold a lighted Tobacco Product or Medical Cannabis or use an Electronic Cigarette, e-substance, or Vapour Product at the Riverview Park and Zoo except in an area designated to allow smoking.

- 2.4** No person shall smoke or hold a lighted Tobacco Product or Medical Cannabis or use an Electronic Cigarette, e-substance, or Vapour Product within a nine (9) metre radius of any of the following:
- i. any public playground, beach, wading pool or splash pad; or
 - ii. any sport field.
- 2.5** No person shall smoke or hold a lighted Tobacco Product or Medical Cannabis or use an Electronic Cigarette, e-substance, or Vapour Product within any City park except in an area designated to allow smoking.
- 2.6** No person shall smoke or hold a lighted Tobacco Product or Medical Cannabis or use an Electronic Cigarette, e-substance or Vapour Product within Del Cray 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 that has not been closed to through traffic, 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 – Duty to Identify

- 6.1** Where a Tobacco Enforcement Officer, Police Officer or By-law Enforcement Officer has reasonable grounds to believe that an offence has been committed by a person, they may require the name, address and proof of identify of that person and the person shall supply the required information. A failure by the person to supply the required information constitutes a hindrance or obstruction of the Officer.

Article 7 – Severability

- 7.1** In the event any provision of this by-law is deemed invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect unless the court makes an order to the contrary.

Article 8 – Short Title

- 8.1** This by-law may be referred to as the Smoking By-law.

Article 9 – Effective Date and Repeal

- 9.1** This by-law and the attached Schedule, comes into effect on the day it receives third reading.

- 9.2** By-law 16-021 is repealed, effective the date this by-law comes into effect.

By-Law read a first, second and third time this _____ day of _____, 2018.

Daryl Bennett, Mayor

John Kennedy, City Clerk

**Schedule A: By-law 18-XXX,
Designated Smoking Area for Del Crary Park**



Appendix B



The Corporation of the City of Peterborough

By-Law Number 18-xxx

Being a By-Law to Repeal By-law 18-004 and Enact By-law 18-XXX, a By-law to Appoint By-law Enforcement Officers at the Peterborough Regional Health Centre at 1 Hospital Drive to Enforce the City's Smoking By-law

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 the City of Peterborough Smoking By-law:

Brett White
William Johnston
Michael Kollaard
Calvin Cathcart
Rob Morrow
Kelly Killoran
Gordon Bartlett

2. That By-law 18-004 be repealed.

By-Law read a first, second and third time this _____ day of _____, 2018.

Daryl Bennett, Mayor

John Kennedy, City Clerk