Staff Report 2019-0220

Meeting Date: October 22, 2019

Subject: Request regarding Region of Peel By-law to Prohibit Smoking and Vaping in Outdoor Places and Workplaces

Submitted By: Laura Hall, Manager, Regulatory Services

RECOMMENDATION

That Peel Region By-law 2019-49 being a By-law to Prohibit Smoking and Vaping in Outdoor Public Places and Workplaces be endorsed; and

That the Peel Region’s request for consent to repeal the Peel Outdoor Smoking By-law 20-2013 be endorsed; and

That the Peel Region be requested to provide enforcement for complaints pursuant to Peel Region By-law 2019-49 within the Town of Caledon.

REPORT HIGHLIGHTS

- At a Regional Council meeting on September 5, 2019, Regional Council passed a By-law to prohibit smoking or vaping in outdoor public places and workplaces.
- The new By-law prohibits smoking or vaping in all outdoor public owned properties and construction sites and restricts such activity within 9 metres of all indoor public places and indoor workplaces.
- As per the Municipal Act, the Region is seeking triple majority consent to rescind the resolutions that consented to the enactment of By-law 20-2013 (Peel Outdoor Smoking By-law) and a new resolution endorsing the enactment of the new By-law.
- The proposed By-law aims to provide residents further protection from second-hand smoke exposure (tobacco and cannabis) and vapour exposure. Smoke-free outdoor spaces support healthy and safe communities.
- The requirements of the By-law will be communicated through various strategies which will include posted signage, social media and traditional communication methods. Staff of the Region will produce the signage and communication materials for use on Regional and local municipal property.
- Enforcement of the By-law will continue to be on a complaint basis and each municipality is expected to enforce on their municipal properties; the Region will enforce on all other Prohibited Places. Progressive enforcement focused on bringing people into compliance through education and awareness will be utilized first.
- Town staff are supportive of the new measures within the proposed By-law as they are one of the most comprehensive within Ontario when it comes to prohibiting smoking and vaping of tobacco, cannabis and other substances. However the Town does not currently have the resources to adequately respond to complaints pursuant to the new By-law and request that the Region continue to enforce smoking and vaping complaints within the Town.
DISCUSSION

At a Regional Council meeting on September 5, 2019, Regional Council passed a By-law to prohibit smoking or vaping in outdoor public places and workplaces.

The purpose of this Report is to provide background information on the proposed by-law and the Town’s role in the implementation and enforcement of the By-law. As per the Municipal Act, the Region is seeking triple majority consent to rescind the resolutions that consented to the enactment of By-law 20-2013 (Peel Outdoor Smoking By-law) and a new resolution endorsing the enactment of the new By-law.

This report contains excerpts that were extracted from the Region of Peel’s Report dated September 5, 2019 regarding the Proposed By-law. The Letter received from Peel Region and a copy of the Region’s Staff Report is attached as Schedule A to this Report for reference.

Background

In 2013, the Peel Outdoor Smoking By-law was passed to protect the public from second-hand smoke exposure. It prohibited smoking of lighted tobacco within nine metres in areas where children play and at entrances and exits to municipal buildings and facilities. The existing By-law does not address smoking of cannabis or the vaping (i.e., use of electronic cigarettes) of cannabis and other substances.

Current Legislative Framework – Smoking and Vaping in Ontario

For over a decade, the Smoke-Free Ontario Act (SFOA), 2006, prohibited smoking in enclosed workplaces and enclosed public places, as well as other designated places. Prior to 2018, vaping and cannabis protections were not included in Provincial and Federal regulations.

Government Legislation and Oversight

Federal Level

- Cannabis Act, 2018
  Controls the production, distribution, sale and possession of cannabis across Canada

Provincial

- Cannabis Statute Law Amendment Act, 2018
  Regulates the use and sale of cannabis and vapour products in Ontario
- Smoke-Free Ontario Act, 2017
  Regulates minimum requirements to protect the public from exposure to second hand smoke and exposure to second hand vapour
Regional

- **Proposed No Smoking and Vaping in Outdoor Public Places and Workplaces By-law**
  Strengthens protections for smoke-free outdoor areas where the public or employees go, such as commercial properties, parks, conservation areas, beaches, parks, trails and outdoor festivals and events

**Key Provisions of the Proposed By-law**

The proposed By-law prohibits the smoking of lighted tobacco, lighted cannabis or any substance used for smoking and prohibit the use of vapour products (e.g., electronic cigarettes) in Prohibited Places.

Specifically, the proposed by-law prohibits smoking and vaping as follows:

No person shall Smoke or Vape, regardless of whether or not a notice is posted that Smoking or Vaping is prohibited, in the following places:

- Outdoor Public Place;
- Outdoor Municipal Property; or
- Outdoor Construction Site.

No person shall Smoke or Vape within nine meters, regardless of whether or not a notice is posted that Smoking or Vaping is prohibited, of any:

- Indoor Public Place; or
- Indoor Workplace.

**Health Benefits - Protection from Second-Hand Smoke and Vapour**

The proposed By-law aims to provide residents further protection from second-hand smoke exposure (tobacco and cannabis) and vapour exposure. Smoke-free outdoor spaces support healthy and safe communities through:

- Protecting all people, including those most vulnerable (e.g., seniors, children, those with chronic heart and lung disease) from exposure to second-hand smoke;
- Providing supportive environments for people who want to quit smoking;
- Discouraging youth smoking initiation through denormalization of smoking and vaping behaviours; and
- Reducing tobacco, e-cigarette and cannabis related litter in outdoor spaces.

**Communication Strategy & Enforcement**

The requirements of the By-law will be communicated through various strategies which will include posted signage, social media and traditional communication methods. Staff of
the Region will produce the signage and communication materials for use on Regional and local municipal property.

Given the expanded scope of the proposed By-law, the Region has requested an additional temporary tobacco enforcement inspector. Currently, five Regional inspectors are mandated to enforce the Smoke-Free Ontario Act, 2017 which includes secondary school inspections, retail educational visits and test shopping and responding to complaints. They also enforce the Peel Waterpipe Smoking By-law and the current Peel Outdoor Smoking By-law. An additional 24-month contract staff position has been approved for 24 months to support By-law implementation as most people comply voluntarily when by-law expectations are communicated effectively.

Enforcement of the By-law will continue to be on a complaint basis and each municipality is expected to enforce on their municipal properties; the Region will enforce on all other Prohibited Places. Progressive enforcement focused on bringing people into compliance through education and awareness will be utilized first.

Impact on the Town

In general by-laws are often self-enforcing when communicated effectively, as most people comply when expectations are understood. Since the enactment of Peel’s Outdoor Smoking By-law 20-2013, the Town has not enforced any complaints related to smoking in unauthorized areas. However, it is important to note that such complaints under the former By-law were investigated by the Region’s Health Inspectors.

Town staff are supportive of the new measures within the proposed By-law as they are one of the most comprehensive within Ontario when it comes to prohibiting smoking and vaping of tobacco, cannabis and other substances. The main concerns are going to lie in managing the publics expectations of enforcement. At this time, the Town does not have the resources to respond to complaints of this nature. Staff that have participated in the Working Group at the Region have been expressing this concern and requesting that the Region’s Health Inspectors continue to respond to complaints made within the Town as they currently do.

In addition, it will take staff time to install new signage at all parks, facilities, update current rental contracts to capture the changes and educate and train staff on the new By-law.

FINANCIAL IMPLICATIONS

At this time there are no immediate financial implications associated with this report. However, if the Region does not provide enforcement support, depending on the amount of complaints received, there may be a need to retain an Officer to respond to complaints. Such requests will be captured in a future budget cycle for councils consideration.

COUNCIL WORK PLAN

Connected Community
ATTACHMENTS

Schedule A: Letter from the Region of Peel regarding a By-law to Prohibit Smoking and Vaping in Outdoor Public Places and Workplaces