

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF JUNE 12, 2019

Item 44, Report No. 20, of the Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on June 12, 2019.

44. TECHNICAL AMENDMENTS TO THE SMOKING BY-LAW AND SPECIAL EVENTS BY-LAW (CANNABIS-RELATED)

The Committee of the Whole recommends approval of the recommendation contained in the following report of the Deputy City Manager, Community Services, dated June 4, 2019:

Recommendations

1. That the technical amendments to the Smoking By-law and Special Events By-law, as provided in Attachment 1 of this report, be approved; and
2. That staff be authorized to undertake any other actions required to implement the recommendations of this report, including any consequential amendments to other by-laws.

Committee of the Whole Report

DATE: Tuesday, June 04, 2019

WARD(S): ALL

**TITLE: TECHNICAL AMENDMENTS TO THE SMOKING BY-LAW AND
SPECIAL EVENTS BY-LAW (CANNABIS-RELATED)**

FROM:

Mary Reali, Deputy City Manager, Community Services

ACTION: DECISION

Purpose

The City's current Smoking By-law and Special Events By-law prohibit the use of cannabis under most circumstances. Since the passing of these by-laws, staff have identified an opportunity to provide greater clarity to these restrictions by making a number of minor technical amendments to the City's by-laws.

Report Highlights

- Following the legalization of recreational cannabis, Council decided to opt out of the Province's private retail model.
- This was followed by the adoption by Council of new regulations for smoking and special events in May of 2019. These regulations highly restrict the use of cannabis in public places and as part of special events.
- Since the passing of these by-laws, staff have identified an opportunity to provide greater clarity to these restrictions by making a number of minor technical amendments to the Smoking By-law and Special Events By-law.

Recommendations

1. That the technical amendments to the Smoking By-law and Special Events By-law, as provided in Attachment 1 of this report, be approved; and
2. That staff be authorized to undertake any other actions required to implement the recommendations of this report, including any consequential amendments to other by-laws.

Background

The City of Vaughan has often been at the forefront of regulatory practices, driven mainly by the Term of Council Service Excellence Strategic Plan and the City's By-law Strategy. Underlying the development of many of these City policies, programs and by-laws is the tenet of protecting the health, safety and well-being of the City's residents and visitors alike, while continuing to ensure that Vaughan is a city of choice that upholds the best of Canadian values.

On October 17, 2018, the smoking of recreational cannabis was legalized in Canada with the provinces simultaneously introducing regulatory frameworks to oversee sales and distribution. In January of 2019, City Council decided to opt out of the Province's private retail model for recreational cannabis (along with 76 other Ontario municipalities) and to assert its general opposition to the use of recreational cannabis in and on public places.

On May 14, 2019, the City of Vaughan became the first municipality in York Region to have in force and effect a revamped Smoking By-law that addressed the consumption of recreational cannabis in the City. The By-law was drafted with the intention to largely prohibit the smoking of recreational cannabis in public places, thus mitigating any potential health-related concerns associated with second-hand smoke and other related nuisance issues. The Smoking By-law generally prohibits all smoking, including tobacco, cannabis and the use of vaporizers, in outdoor public places but then provides an exception for the smoking of tobacco and use of vaporizers (but not cannabis) in any designated areas of those same outdoor public places.

The City's Special Event By-law was passed by Council on May 1, 2019 and establishes requirements for conducting special events. Although the By-law does not make explicit mention of cannabis, it does require all applicants to be in compliance with all applicable by-laws, which includes the City's Smoking By-law, and any other applicable law, such as federal regulations on the advertising of cannabis.

Previous Reports/Authority

- [Item No. 1 of Report No. 3](#) of the January 21, 2019 Special Committee of the Whole: *Ontario Recreational Cannabis Legislation*. (Approved by Council on January 21, 2019.)
- [Item No. 11 of Report No. 11](#) of the March 5, 2019 Committee of the Whole: *Alignment of City By-laws with the Smoke-Free Ontario Act*. (Approved by Council on March 19, 2019.)
- [Smoking By-law 074-2019](#) (Approved by Council on May 14, 2019).

- [Item No. 12 of Report No. 11](#) of the March 5, 2019 Committee of the Whole: *Amendments to Special Events By-law No. 045-2018*. (Approved by Council on March 19, 2019.)
- [Special Events By-law 061-2019](#) (Approved by Council on May 1, 2019).

Analysis and Options

In order to better articulate the prohibitions and restrictions in City by-laws on the consumption of recreational cannabis, staff are proposing several technical by-law amendments:

No.	Current regulation	Recommendation	Benefit
1	The Smoking By-law only includes municipally owned and/or operated parks in its definition of <i>Park</i> . Other park lands fall under the definition of <i>Public Place</i> .	Include all park lands, including those under the jurisdiction of other bodies, under the By-law's definition of <i>Park</i> .	This change will make the regulation more intuitive for the public. This change does not have an impact on current restrictions, as the smoking of cannabis is not permitted in <i>Parks</i> or in <i>Public Places</i> .
2	The Smoking By-law includes the definition of a <i>Public Place</i> .	Amend the definition to include any place in or on which a <i>Special Event</i> takes place.	This amendment provides greater clarity for the public and further ensures clarity that smoking of <i>Cannabis</i> is prohibited.
3	The Smoking By-law currently defines <i>Smoke</i> or <i>Smoking</i> so as to include the smoking of tobacco, cannabis or the use of vaporizers.	Clarify that the term, when used generally, includes all three items, but when used in conjunction with any one or two, it shall only include those items mentioned.	This change is simply intended to clarify the term as it is being used in the By-law. It does not change the regulations or their application.
4	The Smoking By-law does not include a definition for <i>Special Event</i> .	Add the definition of <i>Special Event</i> , as	This addition ensures consistency of application between the

No.	Current regulation	Recommendation	Benefit
		defined in the Special Events By-law.	Smoking By-law and the Special Events By-law.
5	The Smoking By-law only allows the smoking of tobacco and vaporizers in designated areas of outdoor <i>Public Places</i> (it does not extend this permission to cannabis). It also permits the smoking of medical cannabis, in accordance with federal regulations.	Have an explicit prohibition on the smoking of cannabis on any <i>Public Place</i> , as defined.	This change will not have an impact on current restrictions; it will make the current prohibition explicit and therefore more transparent to the public.
6	The Smoking By-law makes reference to federal regulation SOR/2016-230 or its successor. This regulation has been repealed.	Update the reference to the federal regulation currently in force, i.e., Part 14 of Cannabis Regulations (SOR/2018-144).	Since, the reference is also to any successor legislation, there is no material impact; however, it keeps the By-law up-to-date and therefore more relevant to the public.
7	The Smoking By-law currently does not have a higher authority clause.	Add a provision stating that where the Smoking By-law is in conflict with any other by-law, the more restrictive provision(s) shall apply.	This change will ensure that the City's highest regulatory standards are being applied.
8	The Special Event By-law does not define Chief Building Official.	Add a definition for Chief Building Official.	This change is intended to assist in the identification of those required to be circulated for special event applications.

No.	Current regulation	Recommendation	Benefit
9	The Special Events By-law requires that all events comply with applicable law; however, there is no specific mention of cannabis in the By-law.	Add a provision explicitly prohibiting special events in which cannabis is consumed or promoted in any way.	Although, restrictions on smoking can currently be applied through the Smoking By-law, including the restrictions on cannabis in the Special Event By-law will make the regulation more transparent for event applicants.
10	The permit issuance provisions of the Special Events By-law require that applications be circulated to the <i>Chief of Police</i> , the <i>Chief Fire Official</i> and the <i>Medical Officer of Health</i> and that the opposition from any of them be mandatory grounds for the refusal of a special event permit.	It is proposed that the City's Chief Building Official be included as a required circulation and that his or her opposition also be considered mandatory grounds for the refusal of the special event permit.	The Chief Building Official comments on the both the zoning and the safety elements of structures used at events (e.g., stages, event tents). This change helps to further ensure the safety of the public at special events.
11	There is an incorrect reference within the Special Events By-law, citing the decision of the Director, respecting the denial, suspension or revocation of a permit as final.	Amend the reference to reflect the correct section, i.e. section 4.0(15) instead of section 4.0(14).	This change eliminates a potentially confusing reference.

Financial Impact

There are no anticipated financial impacts as a result of the recommendations of this report.

Broader Regional Impacts/Considerations

The recommendations in this report do not materially change the current restrictions on

the consumption of recreational cannabis in Vaughan. Staff continue to work with other York Region municipalities, as part of the Regional Working Group, to ensure the greatest regulatory consistency.

Conclusion

In accordance with Vaughan Council's strategic priorities of *Active, Safe and Diverse Communities* and *Good Governance*, the proposed amendments will provide greater clarity to the public with respect to the City's restrictions on the consumption of cannabis in public places, including parks, and with respect to special events requiring a permit from the City. The City's regulations are not only intended to protect the health, safety and well-being of its residents and visitors, but also to promote its community standards and social values.

For more information, please contact: Gus Michaels, Director of By-law and Compliance, Licensing and Permit Services, ext. 8735

Attachment

1. Proposed Amendments

Prepared by

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Proposed Amendments

1. Amend the definition of Park in the Smoking By-law to read as follows:

“Park” means any land within the boundaries that are under the jurisdiction of the City of Vaughan, including any land covered by water, and all portions thereof that is or hereafter may be established, dedicated, set apart or made available for use as public open space, including any and all buildings, structures, facilities, erections, and improvements located in or on such land, and including all such lands under the control of other levels of government, including their agencies, boards and commissions;

2. Amend the definition of Public Place in the Smoking By-law to read as follows:

“Public Place” includes *Property* to which the public has access as of right or invitation, express or implied, regardless of whether it is owned by a public or private entity, and also includes any motor vehicle located on such *Property* or in any place open to public view, including any place in or on which a *Special Event* takes place, but excludes public highways;

3. Amend the definition of Smoke or Smoking in the Smoking By-law to read as follows:

“Smoke or Smoking” includes the holding or carrying of a lighted cigar, cigarette, pipe, *Electronic Cigarette*, electronic vaporizer or any other lighted, heated or otherwise activated smoking or vaporizing equipment, that contains any *Tobacco*, *Cannabis* or other substance or product, but the term shall apply to only one or more of these products or items when they are explicitly identified;

4. Add the definition of Special Event in the Smoking By-law as follows:

“Special Event” has the same meaning as in the Special Events By-law.

5. Add section 4.0(1.1) to the Smoking By-law, as follows:

No person shall *Smoke Cannabis* in a *Public Place*.

6. Replace subsection 2.0(2)(a) of the Smoking By-law with the following:

with Part 14 of the *Cannabis Regulations*, SOR/2018-144 or its successor legislation;

7. Add section 2.0(5) as follows:

Where there is a conflict between this and any other by-law of the City, the more restrictive provisions shall apply.

8. Add the following definition to the Special Events By-law:

“Chief Building Official” means the Chief Building Official for the City of Vaughan and his or her designate;

9. Add subsection 5.0(1)(d) as follows:

include the consumption or promotion of cannabis in any form.

10. Amend section 4.0(17) of the Special Events By-law to include the Chief Building Official.

11. Amend section 4.0(19) of the Special Events By-law to refer to section 4.0(15) instead of 4.0(14).