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**TAMRMS#:** B06

## **Bylaw 12/2017 - Smoking Bylaw**

Presented by: Gene Klenke, City Solicitor

### **RECOMMENDATION(S)**

1. That Bylaw 12/2017, being Amendment 1 to Bylaw 1/2004, be read a first time.
2. That the public hearing be adjourned to March 20, 2017.

### **PURPOSE OF REPORT**

As a follow-up to the Agenda Report dated January 9, 2017, the purpose of the report is to outline the proposed amendments to the Smoking Bylaw 1/2004 ("Bylaw") and their corresponding rationale.

### **COUNCIL DIRECTION**

On January 9, 2017, Council passed the following motions:

#### AR-16-492:

That on February 27, 2017, Administration bring forward for first reading a bylaw to amend Bylaw 1/2004 (Smoking Bylaw), with such provisions as described in the January 9, 2017 Agenda Report entitled "Smoking Bylaw Update - Interim Report".

That a non-statutory public hearing be held prior to second reading of a bylaw to amend Bylaw 1/2004.

### **BACKGROUND AND DISCUSSION**

The proposed Bylaw amendments and respective rationale are more particularly described in the attachment entitled "Smoking Bylaw Amendment Recommendations". In summary, the proposed Bylaw amendments include:

- the addition of Electronic Smoking Devices, their prohibition and potential exemptions from such prohibition;
- the prohibition of smoking within five metres of any outdoor recreational facilities open to the public, including playgrounds, outdoor pools, seasonal skating rinks, skate parks, and sports fields; and

- the removal of all sections which are no longer operative by virtue of the provisions of the *Tobacco and Smoking Reduction Act* and *Tobacco and Smoking Reduction Regulation* (collectively, the “Legislation”).

Further to discussions at the January 9, 2017 Council meeting:

- a blanket prohibition on smoking in parks and on the Red Willow Trail System has not been included as a proposed amendment. The prohibition instead would apply to active recreational areas within parks;
- an adjustment has been made to the Bylaw to regulate marijuana use in the same manner as other smoking activity, in anticipation of the legalization (or non-criminalization) of marijuana products; and
- Administration understands that the primary purpose and intent behind the Smoking Bylaw is to address the health-related concerns associated with the detrimental effects of second-hand smoke. We have found no definitive studies on the effects of the second-hand smoke generated by Electronic Smoking Devices. Neither the provincial or federal governments have attempted to regulate Electronic Smoking Devices and their use, however, the City of Edmonton, the City of Calgary, and a number of other municipalities in the province have chosen to regulate the use of Electronic Smoking Devices in the same manner as conventional smoking activities. In the absence of evidence that Electronic Smoking Devices emit harmful second-hand smoke, Council may choose to direct the removal of regulations pertaining to Electronic Smoking Devices from Bylaw 12/2017, until such time as reliable research is available.

## **STAKEHOLDER COMMUNICATIONS OR ENGAGEMENT**

As noted, staff have reviewed the comparator bylaws to ascertain any trends or best practices that may exist within Alberta.

The public hearing for February 27, 2017 was advertised in the St. Albert Gazette on February 11, 2017 and February 18, 2017.

## **IMPLICATIONS OF RECOMMENDATION(S)**

**Financial:** The current fine for a violation of the Bylaw is \$250.00. Upon conviction, the court may substitute such penalties as it deems appropriate. There are no changes being proposed to these provisions.

**Legal / Risk:** None of note at this time.

**Program or Service:** None of note at this time.

**Organizational:** Though changes to the Bylaw may result in an increased expectation to enforce,

thereby requiring allocation of staff resources, a public information campaign aimed at achieving compliance may proceed any enforcement initiative.

## ALTERNATIVES AND IMPLICATIONS CONSIDERED

If Council does not wish to support the recommendations, the following alternatives or additions could be considered:

1. Do nothing, though some bylaw redundancies would continue to exist by operation of the Legislation.
2. That the Bylaw be amended in accordance with specific direction provided by City Council.
3. That the public hearing be closed and Bylaw 12/2017 be given all three readings.

## STRATEGIC CONNECTIONS

a) City of St. Albert Strategic Plan (Policy C-CG-02)

Pillars of Sustainability

Social - We are a friendly and inclusive community of passionate equals, where everyone feels a sense of belonging. We believe that community starts with the person next door.

Natural Environment - We protect, embrace and treasure our deeply-rooted connections with the natural environment through championing environmental action.

b) Long Term Plans (e.g. MDP, Social Master Plan, Cultural Master Plan, etc.)

- N/A

c) Corporate Objectives (See Corporate Business Plan)

- Exercise strong fiscal management

d) Council Policies, Bylaws or Federal/Provincial statutes

- *Smoking Bylaw 1/2004*
- *Tobacco and Smoking Reduction Act*
- *Tobacco and Smoking Reduction Regulation*

e) Other Plans or Initiatives (Business Plans, Implementation Strategies, etc.)

- N/A

Report Date: February 27, 2017

Author(s): Gene Klenke, City Solicitor

Committee/Department: City Manager's Office

General Manager: n/a

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