



## Legislation Text

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TAMRMS#: B06

### **Amendments to the Smoking Bylaw**

Presented by: Marta Caufield, Deputy City Solicitor, Legal & Legislative Services Department

### **RECOMMENDATION(S)**

1. That Bylaw 26/2019, being Amendment 3 to the Smoking Bylaw 1/2004, be read a first time.
2. That Bylaw 26/2019 be read a second time.
3. That unanimous consent be given for consideration of third reading of Bylaw 26/2019.
4. That Bylaw 26/2019 be read a third and final time.

### **PURPOSE OF REPORT**

This report brings forward amendments to the *Smoking Bylaw*.

### **ALIGNMENT TO PRIORITIES IN COUNCIL'S STRATEGIC PLAN**

N/A

### **ALIGNMENT TO LEVELS OF SERVICE DELIVERY**

N/A

### **ALIGNMENT TO COUNCIL DIRECTION OR MANDATORY STATUTORY PROVISION**

On May 13, 2019 the Governance, Priorities and Finance Committee passed the following motions:

#### AR-19-030

That the Governance, Priorities and Finance Committee receive the results of the Smoking Bylaw public survey as information.

That the CAO be instructed to present amendments to the Smoking Bylaw to Council by September 16, 2019 to increase restrictions by banning smoking and vaping in public parks and on trails within parks, and within 10 meters of doorways, without enacting a full prohibition in the community.

That the CAO be instructed to consult with School Boards, Community Services Advisory Committee, Youth Advisory Committee, Senior Advisory Committee, Environment Advisory Committee, Chamber of Commerce and Homeland Housing prior to bringing these amendments to Council.

On November 5, 2018, Council passed the following motion:

AR-18-434

That up to \$15,000 from the Stabilization Reserve fund to support the public participation activity necessary to gain public input into Council's decision-making as it relates to potential future amendments to the Smoking Bylaw be approved.

On September 10, 2018, the GPFC passed the following motions:

AR-18-273

That the Governance, Priorities and Finance Committee recommend to Council that references to "marijuana" in the Smoking Bylaw be changed to "cannabis".

That the Governance, Priorities and Finance Committee recommend to Council that an exemption for traditional pipe ceremonies be added to the Smoking Bylaw.

That the Governance, Priorities and Finance Committee recommend to Council that Administration maintain the status quo with respect to restrictions regarding smoking found in the Smoking Bylaw.

That the Governance, Priorities and Finance Committee recommend to Council that Administration undertake a public survey before enacting a full prohibition on smoking and vaping of all substances in St. Albert and that up to \$15,000 from the Stabilization Reserve Fund be approved to support this public engagement initiative.

At the June 18, 2018 Governance, Priorities and Finance Committee ("GPFC") meeting, Administration was directed as follows:

AR-18-267

That GPFC direct Administration bring back amendments to the Smoking Bylaw that aligns the smoking bylaw with the cannabis bylaw by the September GPFC meeting.

## **BACKGROUND AND DISCUSSION**

On June 18, 2018, the GPFC directed Administration to bring forward amendments to the *Smoking Bylaw* in order to align the *Smoking Bylaw* with the *Cannabis Consumption Bylaw*. GPFC approved a full public prohibition on public consumption of cannabis on August 20, 2018, which was officially passed by Council on September 17, 2018.

On September 10, 2018, Administration brought forward the proposed full public prohibition amendments to the *Smoking Bylaw*, in accordance with the GPFC's direction. During that meeting, GPFC discussed the need for public input related to the *Smoking Bylaw* and potential future amendments, including aligning the *Smoking Bylaw* with the *Cannabis Consumption Bylaw*, which would further prohibit smoking or vaping of tobacco and all substances in the community, as well as updating the definition of "marijuana" to "cannabis" and providing an exemption for traditional pipe ceremonies within the *Smoking Bylaw* itself.

On November 5, 2018, Administration brought forward a request to Council for funding to undertake a survey and gather public input prior to Council making decisions on the *Smoking Bylaw* amendments.

In accordance with GPFC's direction on September 10, 2018, Administration has maintained the status quo with respect to the *Smoking Bylaw*, pending the results of the public survey and any further direction that may be received from GPFC as a result.

On November 5, 2018, the funding for the public participation activities was approved by Council. Administration contracted Leger to conduct the survey with the residents and stakeholders of St. Albert. The survey took place online from March 11, 2019 until April 1, 2019. In total, 2,111 St. Albert residents and stakeholders provided input to inform Council's decision on the potential future amendments to the *Smoking Bylaw*.

The survey findings were presented to GPFC on May 13, 2019. As a result of the survey findings, GPFC directed Administration to bring back amendments to the *Smoking Bylaw* which increase restrictions on smoking and vaping within the community without enacting a full prohibition. The proposed amendments are presented here for Council's consideration.

#### Current Smoking Bylaw

The current *Smoking Bylaw*, attached, prohibits smoking and vaping of all substances in the locations provided:

- at or in any City-owned structural facility;
- within a building;
- on the grounds of an outdoor public event, except in an area reserved for smoking and vaping;
- on a patio;
- inside a public transportation vehicle;
- within 5 metres of a doorway, window, or air intake of a building, an outdoor pool, or a playground; and
- within 5 metres of a seasonal skating rink, skate park, or sports field while it is being used for its intended purpose.

In accordance with direction received from GPFC on September 10, 2018, the status quo with respect to the *Smoking Bylaw* has been maintained; however, GPFC has recommended that all references to "marihuana" in the *Smoking Bylaw* be changed to "cannabis" and that an exemption for traditional pipe ceremonies is added to the *Smoking Bylaw* as well. These amendments are included in the proposed changes being presented to Council today.

#### Smoking Bylaw Amendments

Administration has amended the *Smoking Bylaw* in accordance with GPFC's direction from September 10, 2018 and May 13, 2019. These changes are outlined in the redlined *Smoking Bylaw*, attached, as well as the Amending Bylaw 26/2019, attached. In summary, the changes that are proposed are:

1. References to "marijuana" have been changed to "cannabis" to align with the modern nomenclature;
2. An exemption for traditional pipe ceremonies has been added, which includes the addition of a new definition for a "traditional pipe ceremony";
3. The definition of "smoking" has been updated to align with provincial definitions and to capture

both smoking and vaping;

4. Smoking and vaping have been banned in parks and on trails within parks, which was achieved with the addition of a new, broad definition for “park”; and

The setback distance from doorways has been changed from 5 metres to 10 metres, while leaving the current setback distance of 5 metres from windows and air intakes intact.

## **STAKEHOLDER COMMUNICATIONS OR ENGAGEMENT**

Administration was directed to conduct additional consultations with community stakeholders, specifically, the school boards, the Community Services Advisory Committee, the Youth Advisory Committee, the Seniors’ Advisory Committee, the Environment Advisory Committee, the Chamber of Commerce and Homeland Housing (the “Stakeholders”) prior to bringing the proposed bylaw amendments to Council.

Administration created a package, attached, which was distributed to all the Stakeholders. This package included background information about the topic and why Council was seeking feedback, along with maps showing what the implications of increasing the 5 metre setback from doorways to 10 metres would be.

Additionally, two Administration representatives attended three Committee meetings to present the information, collect input, and answer questions. In general, the Stakeholders were supportive of the proposed amendment with some caution provided for Council’s consideration: ability to enforce the bylaw, increase in littering, and potentially negative impact on bars/restaurants.

The attachment titled “Additional Stakeholder Feedback” provides a summary of the comments received from the Stakeholders regarding the proposed amendments to the *Smoking Bylaw*.

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

### Financial:

Adding new bylaw regulations such as this is an increase in service to the community and as a result it may have financial implications should staff or other resources be added to enforce the legislation.

### Legal / Risk:

Council has the legislated authority, in accordance with sections 3 and 7 of the *Municipal Government Act*, to enact the proposed changes to the *Smoking Bylaw*.

### Program or Service:

There may be impacts to programs and services delivered to the community. In particular, municipal enforcement services will have enhanced bylaw regulations to enforce, which may result in the need to re-prioritize resources depending on Council and/or resident expectations on enforcement.

### Organizational:

None at this time.

## **ALTERNATIVES AND IMPLICATIONS CONSIDERED**

If Council does not wish to support the recommendation, the following alternatives could be considered:

Alternative 1. Council could choose to do nothing. This would mean that the status quo would remain. Choosing this option would result in minimal to no impact on Administration.

Alternative 2. Council could choose to make further or additional or different amendments to the *Smoking Bylaw*, whether they be more restrictive or more permissive. This would mean that Administration would bring forward a new *Smoking Bylaw* for Council's consideration. Choosing this option would result in a minor to medium impact on resources, depending on the direction given by Council (specifically depending on the complexity of the bylaw amendments, as well as the impact of the changes).

Report Date: September 3, 2019

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