



Proposed Regulations for Smoking By-law

Presented to: Committee of the Whole

Presented by: Kiran Saini, Acting Director of
Legislative Services/ Town Clerk

Date: March 18, 2019

Overview

- January 15, 2019 Council directed staff to “prepare amendments or new by-laws as required & return with recommendations as to how smoking and vaping of cannabis in public places should be regulated.”
- York Regional Working Group developing template definitions & considerations.
- External legal opinions received.

Legislative Framework

- Municipal Act, 2001 allows municipalities to adopt by-laws to restrict smoking and vaping in public places & workplaces.
- Smoke-Free Ontario Act, 2017 (“SFOA”) creates a regime for smoking & vaping in the Province.
 - No differentiation between medical & recreational cannabis for the purposes of the SFOA

Newmarket By-laws currently in place

- Smoking By-law:
 - Prohibits smoking in Town-owned buildings, vehicles & smoking while operated Town-owned equipment.
- Odour By-law:
 - Difficult to enforce & prosecute due to subjectivity.
 - Recommend repealing By-law immediately.
- Parks By-law:
 - Smoking prohibited anywhere in Sunnyhill Park, 20 metres surrounding sports surfaces, play structures & entrance/exit of a park.

Public Consultation

- Prior to adopting prohibitory by-laws, Town should engage in public consultation.
- Allows community to provide input.
- Assists staff with developing a “threshold” for tolerance in Newmarket.
- Strengthens validity of any by-laws & supports policy rationale for adopting regulations.



Option 1 – Restricting cannabis use to within a dwelling

- Only allow cannabis consumption in an individual's home.
- Cannot prohibit smoking or vaping cannabis/tobacco on a highway

Yes



No

Everywhere else that isn't a home, sidewalk or road

Option 1 - Benefit

1. For the most part, confines the often “offensive” skunk-like smell to individual homes.

Option 1 - Drawbacks

1. Enforcement would be challenging
2. Not easy to understand from a public education & compliance standpoint
3. Not aligned with how tobacco is currently consumed in Newmarket
4. Cannabis is a legal product
5. Exposes others' to second-hand smoke
6. Limits residents use & enjoyment of own outdoor property

Option 2 – Align with Smoke-Free Ontario Act (“SFOA”)

- Legislation passed in 2017
 - Provisions are fairly restrictive
- Education currently underway by public health agencies
 - Advocating for smoking in unenclosed areas
- SFOA does not differentiate between medicinal & recreational cannabis



Option 2 – SFOA Restrictions

1. Restaurants & bar patios

- Smoking & vaping not permitted on patio or within a 9 metre that is a public area.



2. Vehicles & boats

- Smoking & vaping not permitted if a passenger 15 years or younger is present.



Option 2 – SFOA Restrictions

3. Child care facilities & home child care centres

- Smoking & vaping not permitted on entire property.
- Home child care centres: not permitted at all times indoors or outdoor spaces that children use.



4. Public & private schools

- Smoking & vaping not permitted on entire property.



Option 2 – SFOA Restrictions

5. Playgrounds, Town-owned sports areas, reserved outdoor seating venues, community recreational facilities

- Smoking & vaping not permitted on playgrounds or 20 metres from these areas



Option 2 – SFOA Restrictions

6. Enclosed workplaces & public places

- Smoking & vaping not permitted at all times

7. Sheltered areas

- Smoking & vaping not permitted in outdoor shelters with 2 or more walls & a roof
 - For example: bus shelter



Option 2 – SFOA Restrictions

8. Health &/or long-term care service providers



– Smoking & vaping prohibited:

- On hospital or psychiatric grounds.
- Within 9 metres of entrance/exits of hospital, psychiatric facility, long-term care home or independent health facility.



Required Signage

- Residential long-term care facilities & hospices can have designated smoking area for residents who **live** there.



Option 2 – SFOA Restrictions

9. Smoking & vaping is prohibited in common indoor areas of condos, apartment building, college/university residences.
10. Hotels, motels & inns
 - Smoking & vaping in enclosed guest rooms is **permitted in designated rooms**
 - Not permitted around playgrounds

No



Option 2 - Benefits

1. Public Health Agencies already conducting education
2. Signs already in place
 - Installed at all Newmarket playgrounds, workplaces
3. SFOA applies across Ontario
 - Consistency
 - Motion from Aurora Council
 - Increased likelihood of voluntary compliance
 - Enforcement conducted by Town & York Region Public Health



Option 2 - Drawback

1. Community may feel additional restrictions are necessary.

Option 3 – SFOA alignment with additional restrictions

- Provides greater regulations around areas within the Town that may be considered sensitive.

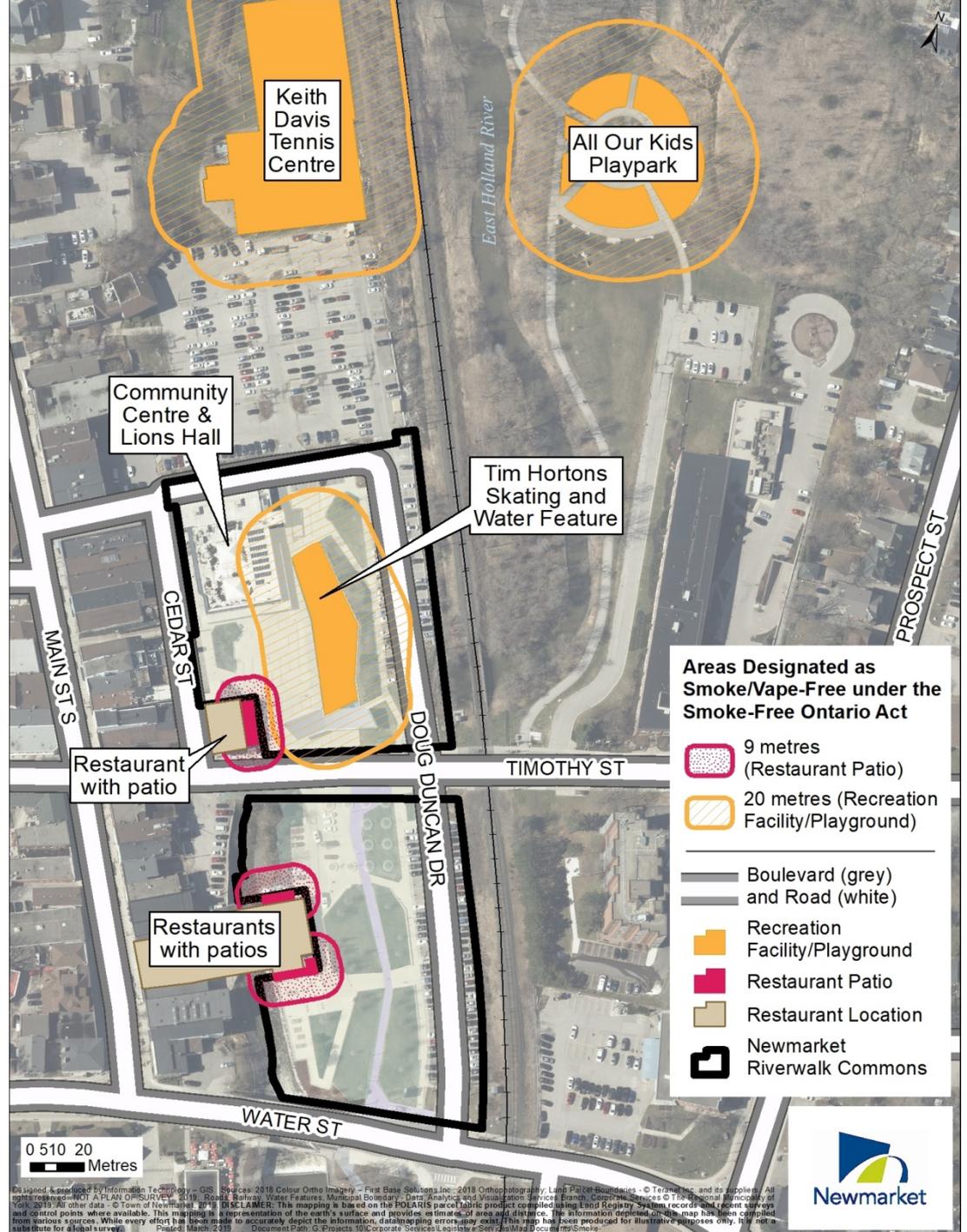


1. Riverwalk Commons

- Significant events & festivals
 - Events catered towards young children
1. Designate the area in its entirety as no smoking & vaping; **or**
 2. Designate a “smoking & vaping area”

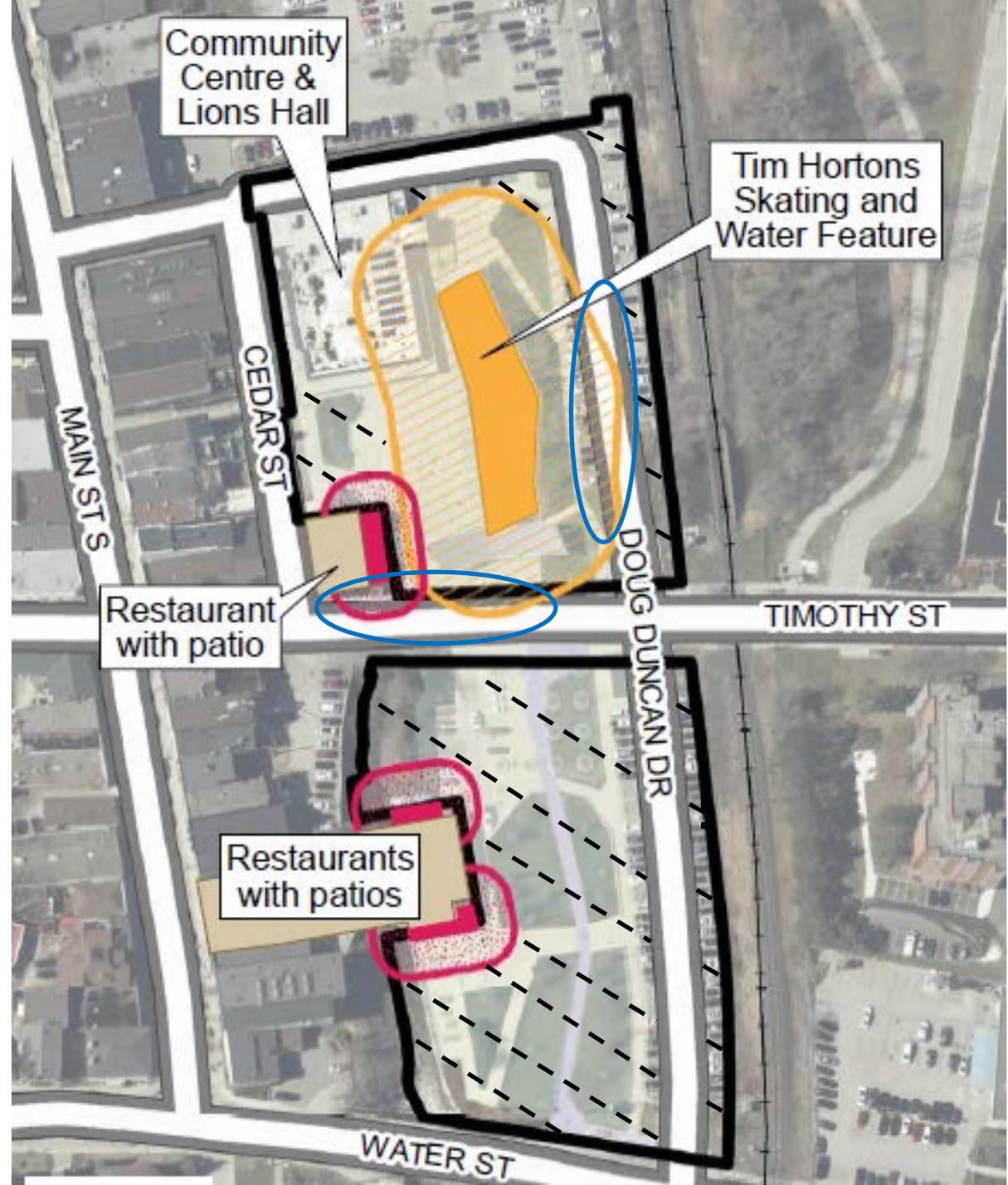
Riverwalk Commons Area Map

- Black area = Riverwalk Commons
- Yellow & pink area = No smoking or vaping (SFOA)
- Grey & white = sidewalks & roads (In general, cannot prohibit smoking or vaping)



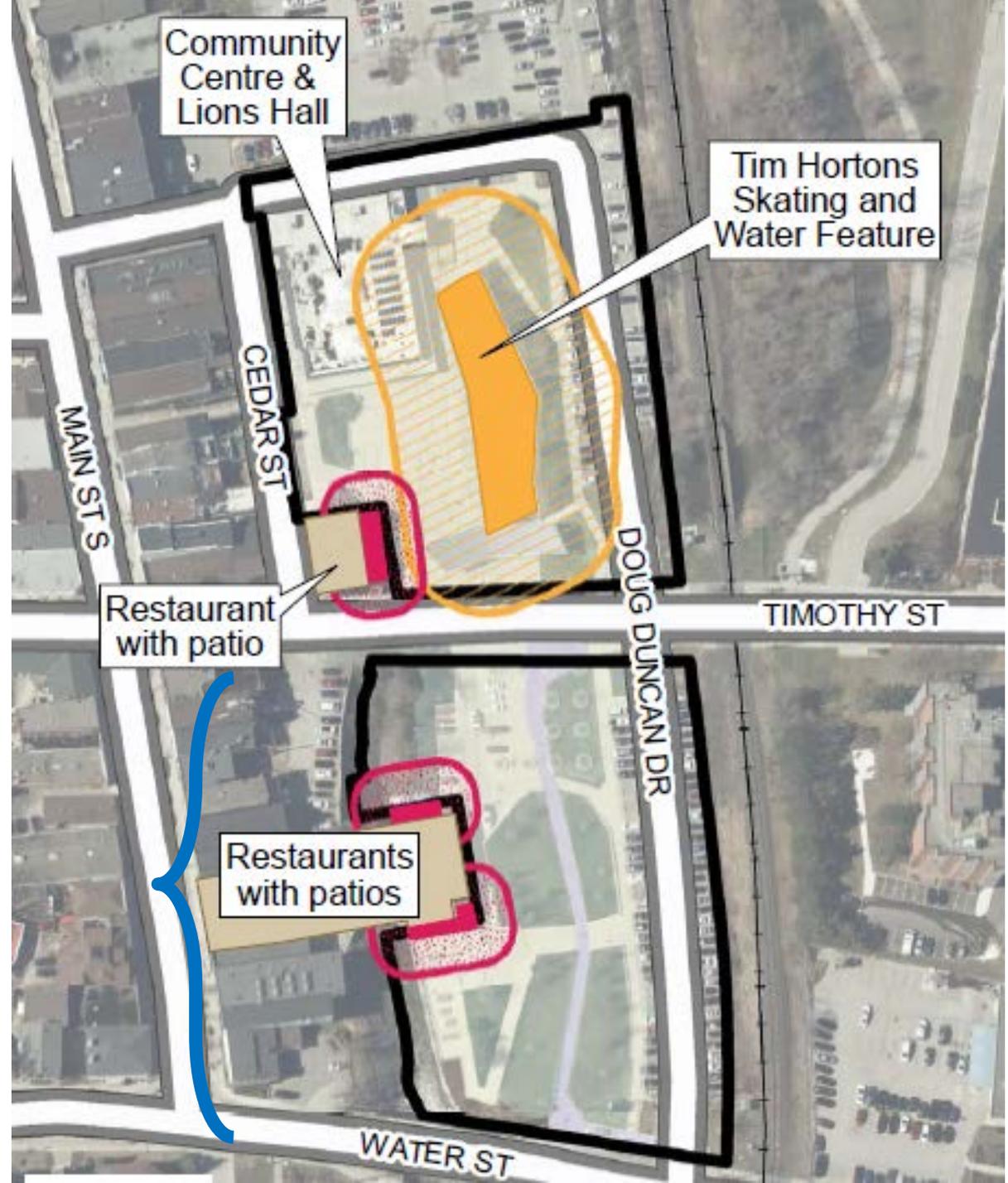
Riverwalk Commons Map

- Option to prohibit no smoking & vaping in entire area
- Smoking & vaping would still be permitted on sidewalks along Doug Duncan Dr. & Timothy St.
 - Exceptions circled in blue



Riverwalk Commons Map

- Potential for designated smoking & vaping area in southern vicinity.



2. Town-owned parks & trails

- SFOA currently prohibits smoking & vaping in sports areas & playgrounds.
- Smoking **tobacco** is currently prohibited:
 - Anywhere in Sunnyhill Park
 - Within 20 metre radius surrounding the edge of all parks
 - Within 20 metre radius of all park entrance & exits

3. Town-owned Facilities

Facility Name	Community Recreational Facility?
Art Ferguson Clubhouse	No
Central York Fire Services Stations 4-1 & 4-2	No
Elman W. Campbell Museum	No
Global Pet Food Dog Park	No
Gorman Outdoor Pool	Yes
Hollingsworth Arena	Yes
Magna Centre	Yes
Municipal Offices	No
Mulock Estate	No
Newmarket Community Centre & Lions Hall	No
Newmarket Youth Centre & Sk8 Park	Yes
Robert N. Shelton Operations Centre	No
Newmarket Public Library	No
Old Town Hall	No
Ray Twinney Recreation Complex	Yes
Seniors' Meeting Place	No
Stickwood Walker Farmhouse	No

3. Town-owned Facilities

- Community recreational facilities already have a 20 metre smoking & vaping prohibition as per the SFOA.
- Option to adopt no smoking or vaping regulations for facilities that **do not** qualify as “community recreational facilities” to prohibit smoking & vaping on outdoor grounds.
 - Restrict within a certain distance from the buildings (e.g., 9 metres or 20 metres) **or** prohibit on the entire exterior property.

Other Considerations

- Medical cannabis
 - Do municipalities have the authority to restrict beyond the SFOA?
- Smoking & vaping **cannot** be regulated on highways (municipal boulevards)
- Designated Smoking Areas
 - Promotes compliance by making an area available to tobacco & cannabis consumers

Other Considerations

- Other Substances
 - Does Council wish to restrict other smoked or vaped products?
- Alignment of regulations in Town
 - ✓ Creates less confusion for the public
 - ✓ Potential for increased compliance
 - ✓ Assists with enforcement

Budget Impact

- Depending on the regulations adopted by Council, additional signage would result in a budget impact.
- Preliminary estimate of signage in parks is approximately \$28,000
 - Each sign costs \$100

Complaints in 2018

Town

- 3 complaints related to smoking/vaping cannabis on private property
- Complaints expected to increase in warmer months

York Region Public Health

- 22 complaints all related to tobacco in Newmarket (none related to cannabis)

Next Steps

1. Council repeal Odour By-law due to enforcement & prosecution challenges.
2. Council to select an option & provide direction to staff to proceed with public consultation.
3. Present amendments to Smoking By-law in April/May.
4. Conduct public educations on adopted By-law.

Thank you
Questions?