



# 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

No



# 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

No



# 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.

No



# 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.

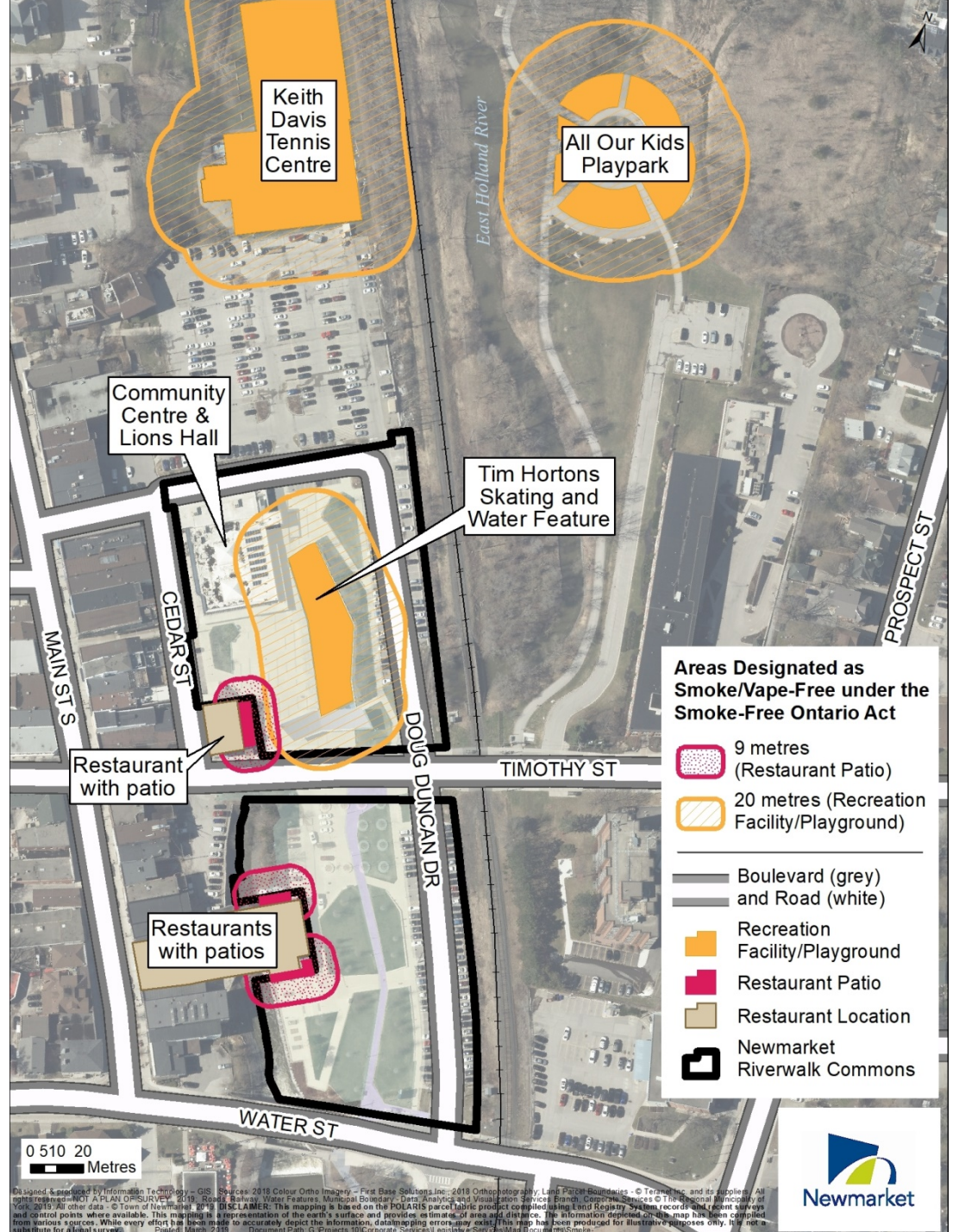


# 1. Riverwalk Commons

- 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

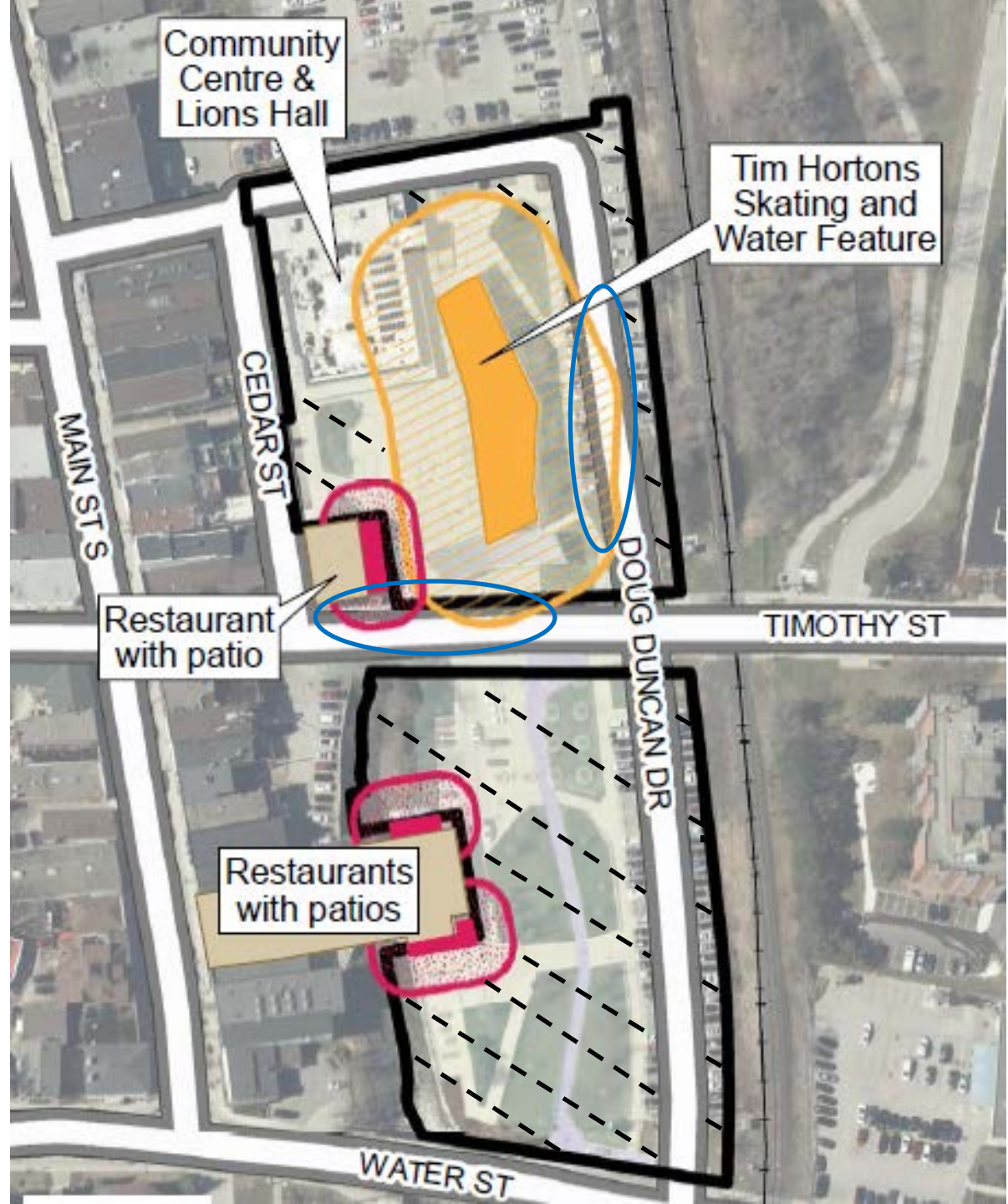
- Black area = Riverwalk Commons
- Yellow & pink area = No smoking or vaping (SFOA)
- Grey & white = sidewalks & roads (In general, cannot prohibit smoking or vaping)





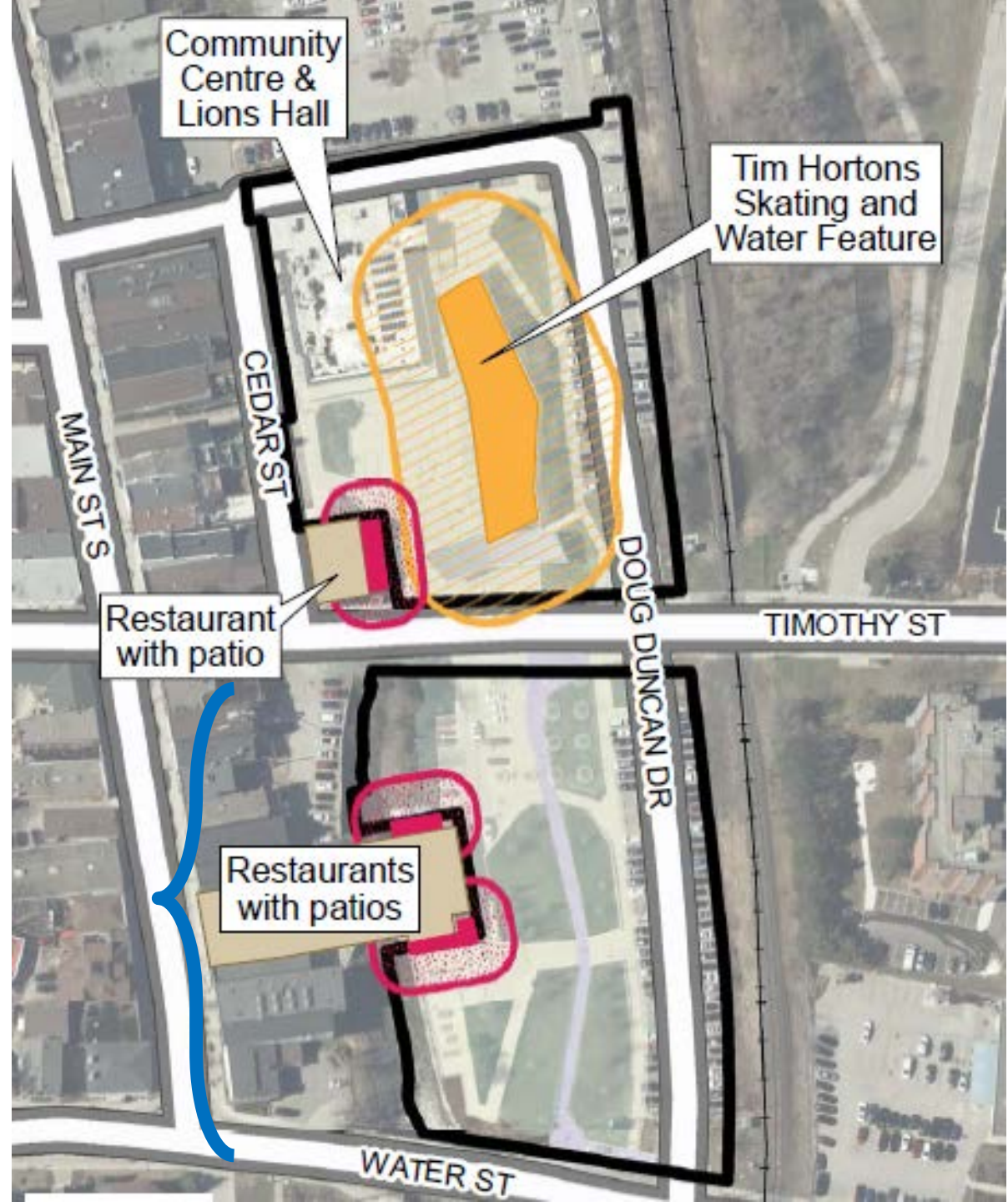
# Riverwalk Commons Map

- 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?**