



Town of Newmarket
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Memorandum

Follow up to Staff Report 2019-33 Proposed Regulations for Smoking By-law & Questions for Public Consultation

March 25, 2019

Purpose

The purpose of this memorandum is to provide Newmarket Council with further information requested following Committee of the Whole's consideration of staff report 2019-33 Proposed Regulations for Smoking By-law.

Fines

There was discussion regarding the range of potential fines under a new proposed Smoking By-law. There are two ways that the Town could initiate legal proceedings against someone who does not comply with the Smoking By-law. First, the Town could summon an individual to court, and the Justice of the Peace could fine that individual anywhere between \$100 and \$5,000 for their first offence. Second, the Town could apply to the Ministry of the Attorney General's office to create a "set fine" for Newmarket, which would allow Town Enforcement Staff to issue a Provincial Offence Notice (i.e., a ticket) to the person on the spot. Within the York Regional Working Group, there has been discussion regarding what "set fine" should be established, and it is expected that a "set fine" between \$250 and \$350 may be recommended.

Walkway in Downtown Newmarket

There was discussion regarding smoking in the walkway between 217 and 211 Main Street South, which is maintained by the Town. At the time this memorandum was written, staff were still awaiting confirmation as to who owns that specific walkway. It is expected that when staff report with proposed regulations to the Smoking By-law, this matter will be resolved and staff can provide additional information at that time.

Odour By-law

Further to a suggestion at Committee, Staff undertook a review of other area municipalities to review which municipalities have an odour by-law in effect, and the following municipalities responded to advise that they do not have such a by-law in place:

- East Gwillimbury
- Georgina
- King
- Markham
- Richmond Hill
- Bradford West Gwillimbury

Accordingly, staff feel that it is appropriate to repeal Newmarket's Odour By-law as it has proven to be unenforceable due to its subjectivity.

Questions for Public Consultation

The following questions have been drafted for use in the survey and consultation with the public. Staff are considering using an external agency to conduct the survey on behalf of the Town.

1. Are you a resident of Newmarket?
 - Yes
 - No
2. [Age question here] The respondent should be at least 19 years of age.
3. Do you identify as a:
 - Smoker
 - Non-smoker
 - Former smoker
 - Prefer Not to Answer
 - Other
4. Currently Provincial Law allows for cannabis to be smoked anywhere that tobacco can be smoked, except for in vehicles. The Town can further restrict where cannabis and tobacco can be smoked. Do you think that the Town should regulate cannabis on the same basis as tobacco or should it be more or less restrictive?
 - Same basis
 - More restrictive
 - Less restrictive

5. Currently Provincial Law prohibits smoking cannabis or tobacco within 20 metres of a playground, sports field, or recreation facility. However, smoking is generally allowed in parks. On a scale of one to five, with one being strongly oppose and five being strongly support, would you oppose or support a Newmarket by-law to prohibit smoking of tobacco or cannabis on all parks and trails?
 - 1 – Strongly oppose
 - 2 – Oppose
 - 3 – Neither oppose nor support
 - 4 – Support
 - 5 – Strongly support

6. On a scale of one to five, with one being strongly oppose and five being strongly support, would you oppose or support a Newmarket by-law to prohibit smoking of tobacco or cannabis in residential backyards?
 - 1 – Strongly oppose
 - 2 – Oppose
 - 3 – Neither oppose nor support
 - 4 – Support
 - 5 – Strongly support

7. Would your answer to the previous question differ based on whether the by-law addressed cannabis and tobacco differently?
 - Both should be allowed
 - Both should be restricted
 - Cannabis should be restricted and tobacco allowed
 - Tobacco should be restricted and cannabis allowed

8. Do you support business owners being able to establish a designated smoking area for individuals to smoke or vape tobacco or cannabis, or should smoking and vaping tobacco and cannabis be banned on all private properties?
 - Allow designated smoking areas
 - Prohibit smoking on all private properties

9. Would your answer to the previous question differ based on whether the by-law addressed cannabis and tobacco differently?
 - Both should be allowed
 - Both should be restricted
 - Cannabis should be restricted and tobacco allowed
 - Tobacco should be restricted and cannabis allowed

10. Provincial law does not allow the Town to generally prohibit smoking on streets or sidewalks. However, the Town owns a number of other properties where smoking is currently allowed – parks, trails, woodlots, parking lots, etc. On a scale of one to five, with one being strongly oppose and five being strongly support, would you oppose or support a Newmarket by-law to prohibit smoking on all Town-owned property/buildings?
 - 1 – Strongly oppose
 - 2 – Oppose
 - 3 – Neither oppose nor support
 - 4 – Support
 - 5 – Strongly support

11. Smoking tobacco or cannabis is not permitted on or within any public area that is 20 metres from a recreation facility such as the splash pad at Riverwalk Commons. However, public gathering areas beyond the 20 metre limit don't have any such restriction. Knowing this information, do you feel that the Town should further restrict smoking and vaping tobacco and cannabis in the entire Riverwalk Commons area?

Communication Plan

The following is the communication plan for the online and phone survey, which will be launched at the April 3 Community Open House.

Timeline

- Survey from April 3 to April 30.

Potential Communications Tools

- Town Page
- Newmarket Now
- Social Media – Twitter and Facebook
- Website – newmarket.ca (under News and Notices) and at newmarket.ca/cannabis
- Dedicated computer at the Newmarket Public Library, Magna Centre, Municipal Offices
- Council to assist staff in encouraging participation at Ward Meetings or through Ward Communications

Contact

For more information, please contact Kiran Saini, Acting Director of Legislative Services/Town Clerk at ksaini@newmarket.ca