

NO: **R251**

COUNCIL DATE: **December 10, 2012**

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **November 28, 2012**

FROM: **City Solicitor**

FILE: **3900-20-16694**

SUBJECT: **Amendment to Surrey Public Health Smoking Protection By-law, 2008,
No. 16694 – Surrey Memorial Hospital and Jim Pattison Outpatient Centre**

RECOMMENDATION

The Legal Services Division recommends that Council:

1. Receive this report as information;
2. Approve amendments as documented in Appendix "A" of this report to the Surrey Public Health Smoking Protection By-law, 2008, No. 16694 (the "By-law"), which if adopted will act to prohibit smoking anywhere in the Surrey Memorial Hospital or on the lot that contains the Hospital and anywhere in the Jim Pattison Outpatient Care and Surgery Centre or the lot that contains the Centre, except in areas designated for smoking;
3. Direct the City Clerk to forward a copy of this report and the proposed Amendment By-law to the Medical Health Officer for approval prior to it being brought forward to Council for the necessary readings and adoption; and
4. Direct staff to forward as information a copy of this report and the proposed Amendment By-law to the Provincial Minister of Health.

INTENT

The intent of this report is to bring forward for Council's consideration amendments to the Surrey Public Health Smoking Protection By-law, 2008, No. 16694 (the "By-law"). These amendments, if adopted, would make it an offence for individuals to smoke at the Surrey Memorial Hospital and at the Jim Pattison Outpatient Care and Surgery Centre and allow for the imposition penalties on persons who violate such restrictions.

BACKGROUND

Currently, the By-law prohibits smoking in the following places:

- in a building, subject to certain exemptions;
- in a vehicle for hire;
- on public transit;

- in an enclosed or partially enclosed shelter where people wait for a vehicle-for-hire or public transit;
- in a vehicle when any other occupant of the vehicle is under 19 years of age;
- within 7.5 metres of any opening to any building;
- in an area where food or alcoholic drinks are served; and
- within 7.5 metres of the perimeter of an area where food or alcoholic drinks are served.

The Fraser Health Authority has been in discussions with the City regarding the prohibition of smoking at the Surrey Memorial Hospital and at the Jim Pattison Outpatient Care and Surgery Centre. Members of the public and representatives of the Fraser Health Authority have expressed concerns about individuals smoking at these facilities, particularly outside these facilities. The FHA has requested that the City under its authority prohibit smoking on the entire premises of these facilities whether indoors or not. The FHA will also be enforcing a no smoking policy on its premises. As such, it will likely only be requiring the assistance of the City in enforcing the By-law where its staff is unable to effectively do so.

DISCUSSION

The health risks associated with smoking and second hand smoke are well known. Such risks are exacerbated when hospital patients are exposed to smoking.

Staff has developed amendments to the By-law to address the concerns of the Fraser Health Authority regarding smoking at the Surrey Memorial Hospital and at the Jim Pattison Outpatient Care and Surgery Centre. The amendments if adopted prohibit smoking anywhere on the legally defined lot of these two locations, including outdoor areas irrespective of their use or distance to the opening of a building. Smoking would no longer be permitted in areas such as parking lots or other open areas even if these areas are more than 7.5 metres from a building.

The Fraser Health Authority concurs with the proposed amendments but has indicated that it may need to allow smoking for some patients. As such, the only exception to the proposed smoking prohibition is where an area is designated for smoking by the Fraser Health Authority. Such an area must comply with all other requirements of the By-law.

A local government enacting or amending a by-law related to public health, such as the amendments recommended in this report, is subject to the restrictions and conditions of the Public Health Bylaws Regulation (B.C. Reg. 42/2004) of the *Community Charter*. With respect to the proposed By-law amendments, Council may not adopt them without first formally consulting with the medical health officer or regional health board and forwarding a copy of the proposed amendment By-law to the Minister of Health as information.

CONCLUSION

Based on the above discussion, the Legal Services Division recommends that Council:

- Approve amendments as documented in Appendix "A" of this report to the Surrey Public Health Smoking Protection By-law, 2008, No. 16694 (the "By-law"), which if adopted will act to prohibit smoking anywhere in the Surrey Memorial Hospital or on the lot that contains the Hospital and anywhere in the Jim Pattison Outpatient Care and Surgery Centre or the lot that contains the Centre, except in areas designated for smoking;
- Direct the City Clerk to forward a copy of this report and the proposed Amendment By-law to the Medical Health Officer for approval prior to it being brought forward to Council for the necessary readings and adoption; and
- Direct staff to forward as information a copy of this report and the proposed Amendment By-law to the Provincial Minister of Health.

CRAIG MacFARLANE
City Solicitor

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Appendix "A": Proposed Amending By-law Related to Surrey Public Health Smoking Protection By-law, 2008, No. 16694

APPENDIX "A"

CITY OF SURREY

BY-LAW NO. _____

A by-law to amend the provisions of "Surrey Public Health Smoking Protection By-law, 2008, No. 16694"
.....

The Council of the City of Surrey, in open meeting assembled, ENACTS AS FOLLOWS:

1. "Surrey Public Health Smoking Protection By-law, 2008, No. 16694", is hereby amended as follows:

a. Section 1.2 – Definitions be amended by adding the following new definition of "lot" after "customer service":

"lot" means land designated as a separate and distinct parcel on a legally recorded subdivision plan or description filed in the records of the Land Title Office.

b. By adding new Section 2.1(f.1) immediately after Section 2.1(f) as follows:

(f.1) anywhere on the lot or within a building occupied by the Surrey Memorial Hospital or on a lot or within a building occupied by the Jim Pattison Outpatient Care and Surgery Centre, except in an area designated and posted for such purpose by the Fraser Health Authority and which complies with all other provisions of this By-law;

2. This By-law shall be cited for all purposes as "Surrey Public Health Smoking Protection By-law, 2008, No. 16694, Amendment By-law, 2012, No. _____".

PASSED FIRST READING on the ____ day of _____, 2012.

PASSED SECOND READING on the ____ day of _____, 2012.

PASSED THIRD READING on the ____ day of _____, 2012.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the ____ day of _____, 2012.

_____MAYOR

_____CLERK