

NO: **R267**

COUNCIL DATE: **December 19, 2016**

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## REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **December 7, 2016**

FROM: **General Manager, Engineering**

FILE: **4900-02**

SUBJECT: **Surrey Public Health Smoking Protection By-law Amendments**

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## RECOMMENDATIONS

The Engineering Department recommends that Council:

1. Approve amendments to *Surrey Public Health Smoking Protection By-law, 2008, No. 16694*, as documented in Appendix "I" to this report; and
2. Authorize the City Clerk to bring forward the necessary amendment Bylaw for the required readings.

## BACKGROUND

Provincial law prohibits smoking inside transit shelters. As of September 1, 2016, the restrictions in the *Tobacco and Vapour Products Control Act* include the following:

- Prohibiting the use of tobacco or vapour products within a fully or substantially enclosed public or workplace building, structure, or vehicle;
- Prohibiting the use of tobacco or vapour products within a prescribed distance from a doorway, window or air intake of an enclosed building or workplace; and
- Prohibiting the use of e-cigarettes, e-substances, and vapour products the same way cigarettes are prohibited.

However, the *Tobacco and Vapour Products Control Act* does not have any specific provisions prohibiting smoking near bus/transit shelters or benches. The *Community Charter* allows local governments to establish more stringent regulations regarding smoking in public places and commercial establishments.

## DISCUSSION

Since the introduction of vapourizers and e-cigarettes, many smokers have switched from conventional cigarettes to vapourizers. The Provincial *Tobacco and Vapour Products Control Act* and *Tobacco and Vapour Products Control Regulation* came into effect on September 1, 2016. The Act prohibits the use of vapourizers, e-cigarettes, e-substances and vapour products in public spaces the same way cigarettes are prohibited.

In June 2015, Calgary City Council passed a Bylaw banning the use of e-cigarettes and vapourizers everywhere the use of tobacco cigarettes were currently banned. Other municipalities may follow suit to incorporate the new provisions of the *Tobacco and Vapour Products Control Act*.

The City has received complaints from transit users of people smoking near bus stops, including bus shelters and benches. The current *Surrey Public Health Smoking Protection By-law, 2008, No. 16694* (the "Smoking Bylaw") does not prohibit smoking near bus stops. The Smoking Bylaw is summarized as follows:

- Prohibits smoking on public transit, including school buses, passenger buses, ferries or rapid transit;
- Prohibits smoking in an enclosed or partially enclosed shelter where people wait to board a vehicle for hire or public transit;
- Prohibits smoking within 7.5 metres measured from a point on the ground directly below any point of any opening into any building, including any door or window that opens or any air intake; and
- Prohibits smoking in a customer service area, or within 7.5 metres of the perimeter of a customer service area.

In order to regulate smoking near City bus stops, there needs to be a measurable distance from a reference point in order for the public to know where smoking is prohibited and for the City to issue violation notices for offences. As of June 15, 2016, the City of North Vancouver amended their Smoking Bylaw to include a measurable distance of 7.5 metres from a transit stop or transit shelter, which allows their enforcement officers to issue violation notices. In addition to the City of North Vancouver, the Capital Regional District, southern tip of Vancouver Island and the southern Gulf Islands have amended their Smoking Bylaw No. 3962 to prohibit smoking within 7 metres of a bus shelter or a bus stop.

The proposed amendments for the City would prohibit the public from smoking within:

- 7.5 metres of an enclosed or partially enclosed shelter;
- 7.5 metres of a bus bench; and
- 7.5 metres of a bus pole.

In addition to the above changes, new definitions have been added to the Smoking Bylaw to prohibit e-cigarettes and vapourizers in the same manner a cigarette is prohibited. These smoking devices will be treated the same as a common cigarette when referring to the Smoking Bylaw regardless of the type of substance being used inside the device.

## **Legal Review**

This report and the related Bylaw amendments have been reviewed by staff of the Legal Services Division and they have no concerns.

## SUSTAINABILITY CONSIDERATIONS

The City is responsible for effective and sustainable design, construction and maintenance of infrastructure assets to provide safe and reliable services to our residents and businesses, while also ensuring the infrastructure meets the demands of future growth and economic development. These actions support the objectives of the City's Sustainability Charter. In particular, these Bylaw amendments relate to the Sustainability Charter theme of Infrastructure. Specifically, these amendments support the following Desired Outcomes:

- Infrastructure Do2: Infrastructure systems provide safe, reliable and affordable services; and
- Infrastructure Do3: Infrastructure systems are designed to protect human health, preserve environmental integrity and be adaptable to climate change impacts.

## CONCLUSION

Based on the above discussion, it is recommended that Council:

- Approve amendments to *Surrey Public Health Smoking Protection By-law, 2008, No. 16694*, as documented in Appendix "I" to this report; and
- Authorize the City Clerk to bring forward the necessary amendment Bylaw for the required readings.

Fraser Smith, P.Eng., MBA  
General Manager, Engineering

JB/IT/clr

Appendix "I" - Proposed Amendments to *Surrey Public Health Smoking Protection By-law, 2008, No. 16694*

Appendix "II"- *Surrey Public Health Smoking Protection Bylaw, 2008, No. 16694, Amendment Bylaw, 2016, No. 19042*

**Proposed Amendments to Surrey Public Health Smoking Protection By-law, 1998,  
No. 16994, as amended (the “By-law”)**

That the By-law be further amended as follows:

1. In Section 1, immediately following the term “In this By-law:”, insert a new term and definition as follows:

**“activated e-cigarette”** means an e-cigarette in which an e-substance is being vapourized;

2. In Section 1, immediately following the definition “customer service area”, insert new terms and definitions as follows:

**“e-cigarette”** means the following:

- (a) a product or device, whether or not it resembles a cigarette, containing an electronic or battery-powered heating element capable of vapourizing an e-substance for inhalation or release into the air;
- (b) a product or device similar in nature or use to a product or device described in clause (a);

**“e-substance”** means a solid, liquid or gas that, on being heated, produces a vapour for use in an e-cigarette, regardless of whether the solid, liquid or gas contains nicotine;

3. In Section 1, immediately following the definition “responsible person”, replace the definition “smoke” or “smoking” as follows:

**“smoke”** or **“smoking”** means to inhale, exhale, burn or carry:

- (a) a lighted cigarette, cigar, pipe, hookah pipe or other lighted smoking equipment that burns tobacco or other weed or substances; or
- (b) an activated e-cigarette; and

4. By adding a new Section 2.1(d.1) as follows:

(d.1) within seven and one-half metres of the perimeter of an enclosed or partially enclosed shelter where people wait to board a vehicle for hire or public transit;

5. By adding a new Section 2.1(d.2) as follows:

(d.2) within seven and one-half metres of a bench where people wait to board public transit, measured from any point at the base of the bench;

6. By adding a new Section 2.1(d.3) as follows:

(d.3) within seven and one-half metres of a pole indicating a stopping place for a public transit bus, measured from the base of the pole parallel to the roadway;

## APPENDIX “II”

CITY OF SURREY  
BYLAW NO. 19042

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

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The Council of the City of Surrey ENACT AS FOLLOWS:

1. "Surrey Public Health Smoking Protection By-law, 2008, No. 16694", as amended is hereby further amended as follows:
    - a. Section 1 is amended as follows:
      - i. Insert the following new definition immediately before the definition of "**building**":  
  
"**activated e-cigarette**" means an e-cigarette in which an e-substance is being vapourized;"
      - ii. Insert the following new definitions immediately after the definition of "customer service area":  
  
"**e-cigarette**" means the following:
        - (c) a product or device, whether or not it resembles a cigarette, containing an electronic or battery-powered heating element capable of vapourizing an e-substance for inhalation or release into the air;
        - (d) a product or device similar in nature or use to a product or device described in clause (a);
- "e-substance"** means a solid, liquid or gas that, on being heated, produces a vapour for use in an e-cigarette, regardless of whether the solid, liquid or gas contains nicotine;"

- iii. Delete the definition of "**smoke**" or "**smoking**" in its entirety and replace it with the following:

"**smoke**" or "**smoking**" means to inhale, exhale, burn or carry:

- (c) a lighted cigarette, cigar, pipe, hookah pipe or other lighted smoking equipment that burns tobacco or other weed or substances; or
  - (d) an activated e-cigarette; and"
- b. Insert the following new sub-sections to Section 2.1(d) as follows:
- (d.1) within seven and one-half metres of the perimeter of an enclosed or partially enclosed shelter where people wait to board a vehicle for hire or public transit;
  - (d.2) within seven and one-half metres of a bench where people wait to board public transit, measured from any point at the base of the bench;
  - (d.3) within seven and one-half metres of a pole indicating a stopping place for a public transit bus, measured from the base of the pole parallel to the roadway;
2. This Bylaw shall be cited for all purposes as "Surrey Public Health Smoking Protection Bylaw, 2008, No. 16694, Amendment Bylaw, 2016, No. 19042".

PASSED FIRST READING on the    th day of    , 2016.

PASSED SECOND READING on the    th day of    , 2016.

PASSED THIRD READING on the    th day of    , 2016.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the    day of    , 2016.

\_\_\_\_\_MAYOR

\_\_\_\_\_CLERK