

Report CCR-CS-07-14

To: Chair Pringle and Members of the Corporate Services Committee
From: Heather Morrison
Meeting Date: February 11, 2014
Subject: **Smoke Free Outdoor Spaces Update**
Status: Recommendation adopted by Committee as presented February 11, 2014 per Resolution CS27-14; Endorsed by County Council March 4, 2014 per Resolution CC34-14;

Recommendation(s)

WHEREAS Grey County Council passed a resolution at its February 3, 2013 session approving the reconsideration of renewing discussions related to Smoke Free Outdoor Spaces;

AND WHEREAS staff were directed to draft a Smoke Free Outdoor Spaces by-law which included municipally owned and operated buildings and recreational and public spaces and circulate to the lower tier municipalities within Grey County to determine if the triple majority could be achieved as required under Section 115 of the Municipal Act;

AND WHEREAS there was support for the draft by-law from a majority of lower tier municipalities in Grey County;

AND WHEREAS the Province of Ontario has recently announced its desire to introduce amendments to the regulations under the Smoke-Free Ontario Act which would include the prohibition of smoking on playgrounds and sport fields amongst other areas;

AND WHEREAS should the amendments to the Smoke-Free Ontario Act pass, duplication of legislation, fines and enforcement may cause confusion with enforcement officials and the public;

NOW THEREFORE BE IT RESOLVED THAT staff be directed to re-draft the Smoke-Free Outdoor Spaces By-law to prohibit smoking within nine metres of municipally owned or operated buildings;

AND THAT the revised draft by-law be circulated to the lower tier municipalities within Grey County for support/non-support of the proposed by-law in order to determine if triple majority, as required by the Municipal Act, 2001 is achieved.

Background

At the July 2, 2013 session of Grey County Council, a resolution was passed to direct staff to prepare a draft by-law for circulation to the lower tier municipalities in Grey County looking for support or non-support of a county wide smoke free outdoor spaces by-law to determine if a triple majority, as required by the Municipal Act, 2001, could be achieved.

All responses have now been received with the following decisions:

Those in support of draft by-law:

- Town of Hanover
- Municipality of Grey Highlands
- Municipality of Meaford
- Township of Chatsworth
- Township of Southgate
- Town of The Blue Mountains

The City of Owen Sound is in support of the draft by-law with a request that additional items such as the addition of exemptions for special events to be included in the by-law for events such as Summerfolk as well as clarification on items such as whether a boat launch and roads within Harrison Park would be included in the by-law's definition of Recreational Property.

Those not in support of the draft by-law:

- Township of Georgian Bluffs
- Municipality of West Grey

Triple majority is achieved by having the majority of local municipal councils approve the by-law, representing the majority of electors within the County with the final approval being the majority of Grey County Council.

Correspondence has also been received from the Georgian Bay Folk Society requesting that Council consider Summerfolk as an exemption to the smoke free outdoor spaces by-law related to no smoking in a "recreational property" which is currently contained in the draft by-law.

Proposed Provincial Legislation

In November, 2013, the Province issued a media release entitled “Taking Next Steps for a Smoke-Free Ontario”. In this release it states “Ontario will introduce and propose regulatory amendments that, if passed, would strengthen the Smoke-Free Ontario Act (SFOA) by further protecting youth from the harmful effects of tobacco. These changes, if passed, would make it harder for youth to obtain tobacco products, make tobacco products less tempting and further limit exposure to second-hand smoke in public areas.”

If the legislation that is proposed is passed, the Smoke-Free Ontario Act will prohibit smoking in playgrounds, sport fields, hospitals and on restaurant and bar patios among other initiatives. The proposed changes, if passed, are to become effective January 2015.

The County has recently received a request from Grey Bruce Health Services (GBHS) to add these locations to a County by-law until the proposed changes to the Smoke Free Ontario Act are enacted and to assist with enforcement. GBHS has enacted a policy eliminating smoking on hospital grounds effective May 31, 2014, but have no way, at this point, of enforcing the policy. At present, hospitals in Grey County have not been included in any draft by-law, nor in any staff report.

Next Steps

There are a few options to consider with regards to the next steps related to the draft by-law.

Option 1

The first option would be to bring the draft by-law to Grey County Council for its consideration as it is in its current state, meaning that there would be no exemptions for special events or inclusion of hospitals included in the by-law. Based on staff's calculations, there is enough support to achieve two portions of the three required to achieve a triple majority with those lower tiers acknowledging support of the draft by-law as is. The final majority would rest with Grey County Council.

Option 2

The second option would be to re-draft the by-law allowing for exemptions for special events and inclusion of hospitals to be included and providing further clarification on other items raised by the City of Owen Sound. Because this change would have a substantial change to a portion of the intent of the by-law, the revised draft by-law would need to again be circulated to the lower tier municipalities within Grey County for their

consideration in order to determine whether portions of the triple majority would be achieved.

Option 3

Option three would see placing the county-wide smoke-free outdoor spaces issue on hold pending the introduction of provincial legislation covering most areas contained within Grey County's draft by-law and then readdressing the issue at that time should the amendments either not go through or not include the items the County is considering.

Option 4

The final option, and staff's recommended option, includes the County re-drafting the by-law, to prohibit smoking within a nine metre distance from entrances or exits of owned or operated municipal buildings which is currently not contained in the proposed amendments to the Smoke-Free Outdoor Spaces Act. This re-draft would simply contain owned or operated municipal buildings and eliminate references to recreational and public properties as these types of properties are proposed to be contained within the amendments to the Smoke-Free Ontario Act.

Rationale

If the County chooses to pass a by-law including recreational and public properties and the Province also makes amendments to the Smoke-Free Outdoor Spaces Act to include these areas as well, there may be confusion by the public and law enforcement agencies on how violations would be enforced as well as under which legislation to enforce it, similar to the experience in Grey County in 2002 with the passing of By-law 3942-02 being a by-law to regulate smoking in indoor public places and workplaces and then the introduction of the Smoke-Free Ontario Act in 2006. Several businesses within Grey County still have both the county and provincial signage posted in their places of business causing confusion to the general public.

As well, there is consideration of the costs associated with signage relative to the potential passage of this by-law. Should Council pass the draft Smoke-Free Outdoor Spaces by-law as it currently stands including municipally owned and operated buildings as well as recreational and public spaces, signage will be required to be installed. Although some of those costs may be borne by the Grey Bruce Health Unit, there may be additional costs to each municipality. There may also be costs associated with any municipal enforcement of the by-law should it be extended beyond municipal buildings.

Staff supports option four in that it continues to proceed with the possible implementation of a Smoke-Free Outdoor Spaces by-law which will continue to provide a movement towards becoming smoke-free. It also supports the province in making outdoor recreational and public spaces a provincial issue and if the proposed amendments pass, would provide consistency to the public as well as law enforcement officials.

Financial / Staffing / Legal / Information Technology

Considerations

Signage would still be required if the county were to pass the by-law for municipally owned and operated buildings, but would be substantially less than if recreational and public properties were included. The Grey Bruce Health Unit did, in 2012; offer to provide some financial assistance towards the cost of signage.

There may be legal costs associated with the review of the by-law to ensure wording and set fines are appropriate.

There is also strong community support for the County to move forward in this regard, given the numerous letters received from various organizations supporting smoke-free environments although it is acknowledged that these letters were submitted prior to the announcement by the Province of its intent to pass legislation.

There are no IT considerations related to this report.

Link to Strategic Goals / Priorities

The implementation of a smoke free outdoor space by-law would assist in strategic goal 2.8 related to the development and implementation of a corporate wellness program that promotes active living, disease prevention/management and healthy workplace initiatives for county employees. It would allow for county staff to enter and exit their workplace without having to incur the effects of second hand smoke and the nine metre setback at municipal workplaces is supported by the County's Health and Safety Manager. The county's three long term care facilities already have this requirement under the SFOA.

The continued elimination of smoking areas within the County will also assist with the implementation of strategic goal 2.3 as a strategy that seeks to reduce substance and alcohol abuse, and that promotes healthy living and physical activity amongst county residents.

Attachments

[CCR-CS-07-13 Smoke Free Outdoor Spaces](#)

[Draft By-Law 48XX-13 Smoke Free Outdoor Spaces](#)

Respectfully submitted by,

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Director Sign Off: *Sharon Vokes*