

**Smoking Bylaw 18-2018****Report Purpose**

To provide information to Council to make a decision on first, second, and third readings of the Smoking Bylaw 18-2018.

**Recommendation**

1. THAT the Smoking Bylaw 18-2018 be given first reading.
2. THAT Bylaw 18-2018 be given second reading.
3. THAT Bylaw 18-2018 be considered for third reading.
4. THAT Bylaw 18-2018 be given third reading.

**Council History**

April 17, 2018 – Priorities Committee was provided with an update on the Smoking Bylaw.

February 6, 2018 – Council approved “THAT Administration prepare a bylaw that would prohibit smoking of tobacco or cannabis as well as vaping in areas not addressed by provincial legislation (such as, but not limited to, playgrounds, sports fields, outdoor recreation facilities, school grounds, outdoor events, outdoor markets and hotel guest rooms); and that a non-statutory public hearing, in accordance with Strathcona County’s public hearing procedures, be held on May 8, 2018 so that Council may consider the proposed bylaw and any related public input.”

**Strategic Plan Priority Areas**

**Economy:** n/a

**Governance:** n/a

**Social:** A bylaw regulating smoking may help support the social outcome of making people feel safe living, gathering, and moving about.

**Culture:** n/a

**Environment:** n/a

**Other Impacts**

**Policy:** n/a

**Legislative/Legal:** The Municipal Government Act, RSA 2000, c M-26 provides that municipalities may pass bylaws for municipal purposes respecting matters such as the safety, health and welfare of people and the protection of people and property (s. 7); Tobacco and Smoking Reduction Act and regulations; Building Code Regulation AR 31/2015. Interdepartmental: Legislative and Legal Services has worked with Enforcement Services; Recreation, Parks and Culture; Intergovernmental Affairs; and Communications on this matter.

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**Summary**

Council directed administration to prepare a bylaw that would prohibit smoking of tobacco or cannabis as well as vaping in areas not addressed by provincial legislation. Administration prepared a draft of the bylaw and presented the draft to the Priorities Committee in April to obtain input prior to presentation at the May 8, 2018 public hearing.

## **Background**

Tobacco is regulated by the province under the Tobacco and Smoking Reduction Act and related regulations. This Act permits municipalities to pass bylaws containing more restrictive provisions than the provincial regime. Possession or consumption of cannabis is currently an offence governed by federal controlled substances legislation. When cannabis ceases to be a controlled substance and becomes a regulated commodity - which is expected to occur before fall of 2018 - both the federal and provincial levels of government will pass enactments to regulate the growing, possession and consumption of cannabis. The province has passed, but not proclaimed, draft legislation that amends the provincial Gaming and Liquor Act, which will be renamed the Gaming, Liquor and Cannabis Act. Section 90.28 of the amending legislation prohibits the smoking of cannabis in any location where tobacco consumption is prohibited by an enactment or bylaw, and on hospital property, school property, child care facility property, playgrounds, sports or playing fields, skateboard or bicycle parks, zoos, outdoor theatres, outdoor pools or splash pads, and at any other location prescribed by future regulations.

## **Proposed Smoking Bylaw**

The proposed bylaw, see Enclosure 1, relies upon the municipality's power to regulate activities and nuisance and therefore, the municipal offence created in the bylaw is not tied to the actual substance smoked or vaped – just the activity of smoking or vaping any substance that could create nuisance (in terms of odour, vapours or emissions) to other persons. Tobacco and the Tobacco and Smoking Reduction Act are referenced, but the offence extends to any substance that is smoked or vaped in a public place.

The proposed bylaw provides for extensive prohibition of smoking within the County. Under the bylaw, smoking or vaping is prohibited in public places. The only exceptions are: off-leash dog parks (except skating rinks that are used as off-leash dog parks in the summer); golf courses; certain outdoor recreation areas; and hotel guest rooms that were already designated as smoking rooms under the Tobacco and Smoking Reduction Act, and that comply with the Alberta Building Code clean air and ventilation regulations.

The Hotel Association advised that there does not seem to be a demand for additional smoking hotel rooms within most municipalities. In light of the current requirements under the Building Code, hoteliers do not consider it worthwhile to install new smoking areas or rooms. Accordingly, the proposed bylaw prevents hotels from developing smoking guest rooms in future, even if the owner was to comply with the Building Code and other legislative requirements.

The proposed bylaw also permits the Chief Commissioner to designate specific areas as non-smoking by installing signage to that effect.

The proposed bylaw requires a 10 metre non-smoking set back from areas where children are more likely to congregate such as playgrounds, spray parks, skate and bicycle parks, pools, skating rinks, and sports fields, and from doorways and air intake areas.

## **Communication Plan**

Provided that the bylaw receives three readings, Administration will make the bylaw available on the County public website and issue a media release.

## **Enclosure**

- 1 Smoking Bylaw 18-2018
- 2 Smoking Bylaw Presentation