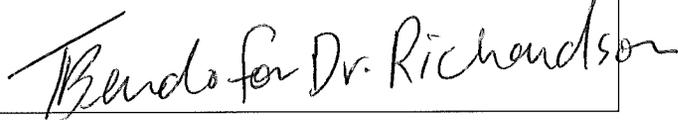


Hamilton

INFORMATION UPDATE

TO: Mayor and Members Board of Health	WARD(S) AFFECTED: CITY WIDE
DATE: February 27, 2013	
SUBJECT: Enforcement of Smoking By-law No.11-080 (City Wide)	
SUBMITTED BY: Elizabeth Richardson, MD, MHSc, FRCPC Medical Officer of Health Public Health Services Department	SIGNATURE: 

This update is submitted in follow-up to Councillor Johnson's inquiry at the February 12, 2013 GIC Public Health Services' Budget presentation regarding the ability of "other" City of Hamilton Enforcement officers (Animal Control and/or Municipal Law Enforcement) to enforce City of Hamilton By-law No.11-080 Prohibiting Smoking within City Parks and Recreation properties.

In 2008, the Board of Health directed Public Health Services (PHS) to review City of Hamilton Smoking By-law 02-054 to assess the feasibility of implementing tobacco-free parks, playgrounds and beaches in the City of Hamilton. In February 2011, By-law No.11-080 Prohibiting Smoking within City Parks and Recreational Properties was passed by the Board of Health and subsequently City Council.

PHS reviewed enforcement models utilized by other municipalities for smoke-free outdoor space by-laws during the initial stages of the by-law development process. In addition, Municipal Law Enforcement, Parking & By-law Services at the City of Hamilton was consulted. The table below outlines the differing enforcement models for smoke-free parks and recreation spaces, for a select number of municipalities in Ontario.

OUR Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

OUR Mission: WE provide quality public service that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Values: Accountability, Cost Consciousness, Equity, Excellence, Honesty, Innovation, Leadership, Respect and Teamwork

Table 1: Enforcement Models for Smoke-Free Outdoor Space By-laws

Location	Smoking Prohibitions	Enforcement Agency				Funding Source
		Public Health Services	By-law Services	Police	Other	
Barrie	All City facilities, parks, playgrounds, sports fields	X*	X	X	Recreation staff*	Municipal
Halton	Within 9 metres of municipal buildings, indoor swimming pools, arenas, recreation centres	X		X		Municipal & Provincial
Hamilton	Parks & playgrounds, sports fields, recreation centres, arenas, beach	X		X		Municipal (Police enforcement time within normal duties) & Provincial
Ingersoll	Within 9 metres of town buildings, splash pads, playground equipment, sports fields, arenas, community centres		X	X		Municipal
Orangeville	Parks, trails, recreational fields, municipal parking lots, recreation centres, town buildings	X	X	X		Municipal & Provincial
Ottawa	City parks and beaches, restaurant and		X			Municipal

	bar patios, sports fields, all municipal property, markets					
Peterborough	Within 9 metres of playgrounds, beaches, wading pools, splash pads, sport fields, skateboard parks, City buildings	X				Provincial
Toronto	Within 9 metres of public playgrounds, splash pads and wading pools			X	Parks, Forestry & Recreation Division By-law Officers	Municipal
Vaughn	All City property, within 9 metres of public entrance/ window of buildings, wading pools, splash pads, skate parks, sports fields, playgrounds, courts		X	X	RCMP	Municipal & Federal
Woodstock	Within 30 metres of playground equipment in municipal public park, within 15 metres of recreation field in municipal public park, downtown sidewalk cafes, within 9 metres of municipal buildings	X		X		Municipal & Potential Provincial

*Municipal Recreation Staff work with local police to enforce the Trespass to Property Act in cases of non-compliance with smoking by-law

During the consultation with Municipal Law Enforcement, Parking and By-law Services at the City of Hamilton; their recommendation was to hire additional staff using municipal dollars, equivalent to 2.0 FTE enforcement officers and one part-time support staff for By-law No.11-080. At that time, there was not capacity to enforce additional by-law within current staffing levels. PHS' commitment throughout the by-law development process was that the enforcement strategy remains revenue neutral. Therefore, the decision was made that PHS' Tobacco Enforcement Officers (TEO) would be the primary enforcement agents for the by-law, as these positions are 100% funded by the province. As a result, there would be no impact on the municipal levy. By-law No.11-080, as it is currently written allows for enforcement of the by-law by a TEO or Police Officer. PHS' TEO are also responsible for enforcing the provincial Smoke-Free Ontario Act.

In addition to being revenue neutral, there is also value in having tobacco enforcement integrated with other tobacco control programs and services contributing to the delivery of comprehensive tobacco control programming. Ontario's Public Health Units receive funding to implement a wide variety of tobacco control activities that represent internationally recognized best practices in comprehensive tobacco control. A comprehensive tobacco control program combines educational, clinical, regulatory, economic and social strategies for cessation, prevention and protection. Research has documented the effectiveness of this approach. Tobacco Control Programs within Public Health Units have a mandate and a specific set of deliverables which are defined in annual funding agreements with the Ontario Ministry of Health and Long-Term Care.

Furthermore, as part of the Public Health Unit Accountability Agreements with the Ministry of Health and Long-Term Care a series of Performance Indicators, including indicators for tobacco control, are measured and reported annually. In addition, PHS is responsible for carrying out the Ontario Public Health Standards, which support local by-law development and require the Board of Health to enforce the Smoke-Free Ontario Act. Ministry of Health and Long-Term Care tobacco compliance protocols dictate how inspections and enforcement are carried out with regards to smoke-free workplaces and public places, as well as tobacco vendor inspections and enforcement.

Relevant Consultation:

City Manager's Office, Legal Services and Planning and Economic Development, Municipal Law Enforcement were consulted in order to prepare this update.