



Report to: General Committee

Meeting Date: September 16, 2019

SUBJECT: Proposed Amendments to Cannabis By-Law
PREPARED BY: Michael Killingsworth, Deputy Clerk, By-law Enforcement,
Licensing & Regulatory Services, Extension 2127

RECOMMENDATION:

1. That the report entitled “Proposed Amendments to Cannabis By-Law” be received; and,
2. That By-Law 2018-135 “*A By-law to prohibit the smoking or vaporizing of recreational cannabis in public places in the City of Markham*” be amended as attached as Appendix “A”.

PURPOSE:

The purpose of this report is to recommend amendments to By-Law 2018-135 (Cannabis By-Law) as required by section 115 of the Municipal Act, 2001.

BACKGROUND:

On October 16, 2018, Council enacted By-Law 2018-135, being “A By-law to prohibit the smoking or vaporizing of recreational cannabis in public places in the City of Markham” (the “By-Law”).

Bill 57, An Act to Enact, Amend and Repeal Various Statutes, received Royal Assent on December 6, 2018. Bill 57 amended section 115 of the Municipal Act, 2001 (the “Act”). This section related to by-laws that prohibited or regulated the smoking of tobacco. Section 115 was amended to include the smoking of cannabis. This amendment confirms the authority of municipalities to regulate or prohibit cannabis smoking in public places. However, since subsection 115(3) of the Act excludes highways, this amendment also removes the pre-existing municipal authority to prohibit cannabis smoking on public highways (including sidewalks). Consequently, the current By-law must be amended to remove the prohibition against smoking cannabis on roads, sidewalks, and municipal boulevards which is set out at section 3.1 (e) of the By-Law.

OPTIONS/ DISCUSSION:

Staff are recommending the following amendments to the By-law currently in place:

1. Clarify the definition of “Public Place” to include shelters or enclosed spaces on a public highway and to exclude roads, sidewalks, and municipal boulevards to accord with the recent amendment to section 115(3) of the Act.
2. Add the definition of “Smoke or Smoking” to assist in the enforcement of the By-law and prosecutions.
3. Delete clause 3.1 (e) with reference to roads, sidewalks, and boulevards.

4. Delete the word “recreational” from the title of By-law 2018-135.

FINANCIAL CONSIDERATIONS

Not applicable

HUMAN RESOURCES CONSIDERATIONS

Not applicable

ALIGNMENT WITH STRATEGIC PRIORITIES

Not applicable

BUSINESS UNITS CONSULTED AND AFFECTED

Legal Services has been consulted in the preparation of this report.

RECOMMENDED BY:

Kimberley Kitteringham
City Clerk

Trinela Cane
Commissioner, Corporate Services

ATTACHMENTS:

Appendix “A” – Amendment to By-Law 2018-135 (Cannabis By-Law)