



SUBJECT: Regional Waterpipe Smoking By-law

TO: Corporate Services, Strategy, Risk & Accountability Cttee.

FROM: Office of the City Clerk

Report Number: CL-01-22

Wards Affected: All

File Numbers: NA

Date to Committee: January 10, 2022

Date to Council: January 18, 2022

Recommendation:

Whereas on October 20, 2021 Halton Regional Council approved Report MO-05-21 – Halton Region Waterpipe Smoking By-law and enacted By-law 41-21, to Regulate Waterpipe Smoking in the Regional Municipality of Halton; and

Whereas pursuant to the Municipal Act, 2001, S.O. 2001, c.25, Section 115, (5) when a smoking in public places by-law from an upper tier municipality is passed, a majority of councils of all its lower municipalities must pass a resolution giving their consent, representing a majority of all electors in the upper tier municipality.

Therefore, be it resolved that the Council for the Corporation of the City of Burlington consents to the passage and implementation of Halton Region By-law 41-21, to Regulate Waterpipe Smoking in the Regional Municipality of Halton; and

That a copy of this resolution be sent to the municipal clerks of Halton Region, Town of Oakville, Town of Milton, and the Town of Halton Hills to provide notice of giving consent to Halton Region By-law 41-21.

PURPOSE:

Vision to Focus Alignment:

- Building more citizen engagement, community health and culture

Background and Discussion:

In Ontario, municipalities are granted authority under section 11 of the *Municipal Act, 2001*, S.O. 2001, c.25 (the Act) to enact by-laws respecting the health, safety and well-being of individuals within its jurisdiction. Section 115 of the Act permits municipalities to prohibit or regulate the smoking of tobacco or cannabis in public places and workplaces.

On October 20, 2021 Halton Region enacted a By-law for waterpipe smoking in public places. Correspondence from Halton Region was issued on October 20, 2021 (attached as Appendix A) and distributed to Council as part of the Council Information Package on October 22, 2021.

This report is before council as there is a requirement under the Act (section 115, subsection 5) relating to the passage of a by-law regarding smoking in public places, outlining actions that must be taken by lower-tier municipalities. Subsection 5 outlines the following process:

115 (5) A by-law passed by an upper-tier municipality under this section shall not come into force unless,

- (a) a majority of all votes on the council of the upper-tier municipality are cast in its favour; and
- (b) after the by-law is passed, a majority of the councils of all its lower-tier municipalities have passed resolutions giving their consent to the by-law; and
- (c) the total number of electors in the lower-tier municipalities that pass the resolution under clause (b) form a majority of all the electors in the upper-tier municipality.

Pursuant to Section 115 of the Act, resolutions from Halton Region's the lower tier municipalities are required providing consent to the by-law, which must also represent the majority of electors in the Region resulting in a Triple Majority. To facilitate this process, a recommendation is presented for the City of Burlington Council to approve and give their consent to the by-law. This matter is procedural in nature only. Enforcement of this by-law will be completed by Region of Halton Public Health staff so there will be no incremental workload impact to the City of Burlington By-Law Enforcement. Should Council approve the recommendation, correspondence notification that the city has issued consent will be provided to all municipal clerks within the Region of Halton.

Financial Matters:

Not applicable.

Other Resource Impacts

Not applicable.

Climate Implications

Not applicable.

Engagement Matters:

The attached report from Halton Region outlines the consultation that occurred.

Conclusion:

This report is procedural in nature and has been written in accordance with the Act section 115 (5). Should Council approve the recommendation, the Office of the City Clerk will ensure that the necessary notifications are issued.

Respectfully submitted,

Kevin Arjoon

City Clerk

905-335-7600 ext. 7702

Appendices:

- A. Correspondence dated October 20, 2021, Halton Region notifying of Regional Resolution, and attaching Report MO-05-21 – Halton Region Waterpipe Smoking By-law

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.