**Agenda - Council – May 25, 2011**

**Report - Standing Policy Committee on Protection and Community Services – May 10, 2011**

**Item No. 2 Outdoor Smoking By-law**

STANDING COMMITTEE RECOMMENDATION:

On May 18, 2011, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection and Community Services, as amended, and submits the following to Council:

1. That the Outdoor Smoking By-law outlined in Appendix A be approved with the following amendments:

   A. That Clause 3(1)(a) be amended by adding the words "subject to Clause 3(3)" to the end thereof.

   B. That Clause 3(1)(c) be amended by adding the words "subject to Clause 3(3)" to the end thereof.

   C. That a new Clause 3(3) be added, namely:

      "3(3) The 30 metres specified in Clauses 3(1)(a) and 3(1)(c) ends at private property."

   D. That Clause 2 be amended by deleting and replacing the definition for "health care facility" as follows:

      **"health care facility"** means

      (a) a hospital designated as such by the *Hospitals Designation Regulation*, Manitoba Regulation 47/93;

      (b) an institution providing health care that is funded by the Winnipeg Regional Health Authority, including any Access Centre, Breast Health Centre, Winnipeg Birth Centre, Klinic, Mount Carmel Clinic and Pan Am Clinic; and

      (c) a personal care home designated as such by the *Personal Care Homes Designation Regulation,* Manitoba Regulation 108/2000;

**Report - Standing Policy Committee on Protection and Community Services – May 10, 2011**

E. That Clause 2 be amended by adding the following new definition:

**"WRHA workplace"** means any building, portion of a building or other location owned or leased by the Winnipeg Regional Health Authority and used as a place of work by one or more employees of the Winnipeg Regional Health Authority.

F. That Clause 3(1)(f) and 3(1)(g) be deleted and replaced with the following:

(f) within 8 metres from an outdoor entrance providing direct access to a health care facility;

(g) within 8 metres from an outdoor entrance providing direct access to a City of Winnipeg workplace;

(h) within 8 metres from an outdoor entrance providing direct access to a WRHA workplace.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

**Report - Standing Policy Committee on Protection and Community Services – May 10, 2011**

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 18, 2011, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection and Community Services with the following amendments:

- Amend Recommendation 1 by adding the following:

D. That Clause 2 be amended by deleting and replacing the definition for "health care facility" as follows:

**"health care facility"** means

(a) a hospital designated as such by the *Hospitals Designation Regulation*, Manitoba Regulation 47/93;

(b) an institution providing health care that is funded by the Winnipeg Regional Health Authority, including any Access Centre, Breast Health Centre, Winnipeg Birth Centre, Klinic, Mount Carmel Clinic and Pan Am Clinic; and

(c) a personal care home designated as such by the *Personal Care Homes Designation Regulation,* Manitoba Regulation 108/2000;

E. That Clause 2 be amended by adding the following new definition:

**"WRHA workplace"** means any building, portion of a building or other location owned or leased by the Winnipeg Regional Health Authority and used as a place of work by one or more employees of the Winnipeg Regional Health Authority.

F. That Clause 3(1)(f) and 3(1)(g) be deleted and replaced with the following:

(f) within 8 metres from an outdoor entrance providing direct access to a health care facility;

(g) within 8 metres from an outdoor entrance providing direct access to a City of Winnipeg workplace;

**Report - Standing Policy Committee on Protection and Community Services – May 10, 2011**

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

(h) within 8 metres from an outdoor entrance providing direct access to a WRHA workplace

Also, on May 18, 2011, the Executive Policy Committee received a communication dated May 16, 2011, from Dr. Sande Harlos, Winnipeg Regional Health Authority proposing amendments to the proposed Outdoor Smoking By-law.

STANDING COMMITTEE RECOMMENDATION:

On May 10, 2011, the Standing Policy Committee on Protection and Community Services concurred in the recommendation of the Winnipeg Public Service, with the following amendment:

1. That the Outdoor Smoking By-law outlined in Appendix A be approved with the following amendments:

   A. That Clause 3(1)(a) be amended by adding the words "subject to Clause 3(3)" to the end thereof.

   B. That Clause 3(1)(c) be amended by adding the words "subject to Clause 3(3)" to the end thereof.

   C. That a new Clause 3(3) be added, namely:

      "3(3) The 30 metres specified in Clauses 3(1)(a) and 3(1)(c) ends at private property,

and submitted the matter to the Executive Policy Committee and Council.

**Report - Standing Policy Committee on Protection and Community Services – May 10, 2011**

DECISION MAKING HISTORY (continued):

STANDING COMMITTEE RECOMMENDATION (continued):

On April 4, 2011 the Standing Policy Committee on Protection and Community Services passed the following motion:

WHEREAS there is a growing a societal demand to more broadly ban smoking in outdoor areas particularly ones that children frequent, the City of Winnipeg has received a request from the Winnipeg Youth Soccer Association to restrict smoking near their fields;

AND WHEREAS Environmental Tobacco Smoke is a known Class A carcinogen for which there is no safe level of exposure, and that scientific studies confirm that negative health consequences can result from even short exposures that include increased risk of cardiovascular and respiratory disease. Additionally, relatively transient exposures to ETS can trigger an asthma attack in someone with chronic respiratory conditions;

AND WHEREAS the City of Winnipeg has taken a leadership role in banning smoking in indoor places, and has policies to prohibit smoking at City-owned outdoor facilities such as wading pools and swimming pools, and within 8 metres (25 feet) of City workplace doorways and entrances;

AND WHEREAS many cities including Vancouver, Toronto, and Halifax have enacted by-laws in the past 2 years that prohibit smoking on or near sport fields or playgrounds;

AND WHEREAS the Province of Manitoba has accepted a policy mandate and jurisdiction regarding smoking bans in public places by enacting *The Non-Smokers Health Protection Act* and by enacting amendments to *The Highway Traffic Act* in July 2010 to prohibit smoking in vehicles where children under 16 years of age are present;

AND WHEREAS the City of Winnipeg through Council decision on February 23, 2011, has actively encouraged the Province of Manitoba, through regular consultations, to consider legislative changes in order to more broadly ban smoking in outdoor areas that may adversely impact the health and comfort of the public;

AND WHEREAS the City has requested a timely response within 30 days prior to the commencement of the 2011 soccer season;

AND WHEREAS the Province of Manitoba has not acceded to the City of Winnipeg's request to implement provincial regulations;

**Report - Standing Policy Committee on Protection and Community Services – May 10, 2011**

DECISION MAKING HISTORY (continued):

STANDING COMMITTEE RECOMMENDATION (continued):

THEREFORE BE IT RESOLVED THAT the Winnipeg Public Service be directed to prepare a by-law that bans smoking from the sidelines on City of Winnipeg athletic fields during youth events (including City of Winnipeg and community centre hockey pens), on playgrounds, and on the premises of Winnipeg primary schools; middle schools; secondary schools; and health care facilities, to be submitted to the Standing Policy Committee on Protection and Community Services in the next 30 days.

Further on April 4, 2010, the Standing Policy Committee on Protection and Community Services received submissions with respect to smoking in soccer fields from the following:

- Dr. Sande Harlos, Winnipeg Regional Health Authority submitted a communication dated April 1, 2011
- Murray Gibson, Manitoba Tobacco Reduction Alliance Inc. (MANTRA) submitted a communication dated March 31, 2011

# ADMINISTRATIVE REPORT

**Title:** **Outdoor Smoking By-law**

**Critical Path:** **Standing Policy Committee on Protection and Community Services → Executive Policy Committee → Council**

## AUTHORIZATION

| Author | Department Head | CFO | CAO |
|---|---|---|---|
| K. Knudsen | C. Wightman | N/A | M Ruta<br>A/CAO |

## RECOMMENDATIONS

1. That Council approves the attached draft Outdoor Smoking By-law.
2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

## REASON FOR THE REPORT

- On April 4, 2011, the Standing Policy Committee on Protection and Community Services directed that the Winnipeg Public Service prepare a by-law that bans smoking from the sidelines on City of Winnipeg athletic fields during youth events (including City of Winnipeg and community centre hockey pens), on playgrounds and on the premises of Winnipeg primary schools; middle schools; secondary schools and health care facilities to be submitted to the Standing Policy Committee on Protection and Community Services in the next 30 days.

## IMPLICATIONS OF THE RECOMMENDATIONS

- The attached draft Outdoor Smoking By-law (Appendix A) prohibits smoking within 30 metres of the playing surface of an athletic field or a hockey rink during an organized athletic event involving individuals under the age of 18; on playgrounds; on the premises of primary schools, middle schools and secondary schools; and on the grounds of and within 8 metres from the entrance to a health care facility.

- The draft By-law also incorporates existing City of Winnipeg administrative protocols relative to smoking and, as such, prohibits smoking within 30 metres of a swimming pool, wading pool, spray pad or spray park owned or operated by the City of Winnipeg as well as within 8 metres from the entrance to a City of Winnipeg workplace.

- The By-law will be effective immediately upon Council approval.

## HISTORY

- On May 3, 2010 the Standing Policy Committee on Protection and Community Services granted the request form the Winnipeg Youth Soccer Association to ban smoking 50 metres from the sidelines on soccer fields, and submitted the matter to the Executive Policy Committee and Council.

- Further, on May 3, 2010, the Standing Policy Committee on Protection and Community Services referred to the Winnipeg Public Service consideration of a smoking ban on all athletic fields where youth programming is being offered.

- At its meeting of May 12, 2010 the Executive Policy Committee referred the recommendation of the Standing Policy Committee on Protection and Community Services to the Winnipeg Public Service for report back in 60 days.

- On July 14, 2010, the Executive Policy Committee laid the matter over for 60 days in order for the Winnipeg Public Service to report back as requested by Committee on May12, 2010.

- On December 8, 2010, the Executive Policy Committee laid the matter over for up to 60 days in order for the Winnipeg Public Service to report back as requested by Committee on May 12, 2010.

- On January 31, 2011, the Standing Policy Committee on Protection and Community Services concurred in the recommendation of the Winnipeg Public Service, with the following amendment: 'add the following words: "and the Province of Manitoba be requested to respond back within 60 days."' and forwarded to the Executive Policy Committee and Council.

- On February 16, 2011, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection and Community Services, with the following amendments:

    1. That the January 31, 2011 recommendation of the Standing Policy Committee on Protection and Community Services be concurred in with an amendment to change the requested report back timeline from 60 days to 30 days;
    2. That the May 3, 2010 recommendation from the Standing Policy Committee on Protection and Community Services to grant the request from the Winnipeg Youth Soccer Association to ban smoking 50 metres from the sidelines on soccer fields be filed and submitted the matter to Council.

- On February 23, 2011, Council concurred in the recommendation of the Standing Policy Committee on Protection and Community Services, as amended and adopted the following:
    1. That given the Province of Manitoba has accepted the policy mandate and jurisdiction regarding smoking bans in public places, the City of Winnipeg actively encourage the Province of Manitoba, through regular consultations, to consider legislative changes in order to more broadly ban smoking in outdoor areas that may adversely impact the health and comfort of the public, including at all outdoor athletic fields where youth programming occurs, and the Province of Manitoba be requested to respond back within 30 days in writing.
    2. That the May 3, 2010 recommendation from the Standing Policy Committee on Protection and Community Services to grant the request from the Winnipeg Youth Soccer Association to ban smoking 50 metres from the sidelines on soccer fields be filed.
    3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

## FINANCIAL IMPACT

**Financial Impact Statement** **Date:** May 5, 2011

**Project Name:**

**Outdoor Smoking By-law**

**COMMENTS:**

There are no financial implications associated with this report.

**Original Signed by:**
Cindy Fernandes, CMA
Manager of Finance & Administration

## CONSULTATION

**In preparing this report there was consultation with:**

Dr. Sande Harlos, Winnipeg Regional Health Authority
Legal Services Department

## SUBMITTED BY

Department: Community Services
Division: Strategic Services
Prepared by: K. Knudsen
Date: May 5th, 2011
File No.


Appendix A

## APPENDIX A

**THE CITY OF WINNIPEG**

**BY-LAW NO.**

A By-law of THE CITY OF WINNIPEG to prohibit smoking in certain outdoor locations

**WHEREAS** section 134 of *The City of Winnipeg Charter* provides that Council may pass by-laws respecting health hazards and the health and well-being of people, and further provides that such by-laws may include provisions respecting the sale, use, consumption, possession or disposal of substances that may constitute a health hazard;

**AND WHEREAS** tobacco smoke is a known Class A carcinogen for which there is no safe level of exposure and scientific studies confirm that negative health consequences, including an increased risk of cardiovascular and respiratory disease, can result from even short exposures;

**NOW THEREFORE THE CITY OF WINNIPEG**, in Council assembled, enacts as follows:

**Title**

**1** This By-law may be cited as the Outdoor Smoking By-law.

**Definitions**

**2** In this By-law

**"athletic field"** means any outdoor space used for organized athletic or sporting activities that is:

(a) owned by the City of Winnipeg; or

(b) operated by the City of Winnipeg or a community centre;

and includes a soccer pitch, baseball or softball diamond, and football field;

**"City of Winnipeg workplace"** means any building, portion of a building or other location owned or leased by the City of Winnipeg and used as a place of work by one or more employees of the City of Winnipeg;

**"community centre"** means a member of the General Council of Winnipeg Community Centres;

**"health care facility"** means

(d) a hospital;

(e) an institution providing primary health care that is funded by the Winnipeg Regional Health Authority, including any Access Centre, Klinic, Mount Carmel Clinic and Pan Am Clinic; and

(f) a personal care home designated as such by regulations enacted under *The Health Services Insurance Act*, C.C.S.C. H-35;

**"hockey rink"** means an outdoor ice surface designed for playing hockey or for recreational skating that is owned by the City of Winnipeg or is operated by the City of Winnipeg or a community centre;

**"playground"** means any outdoor space owned or operated by the City of Winnipeg that has been set aside for public use by young children, and includes places that contains swings, slides, see-saws, climbing apparatuses, or similar equipment;

**"premises"** means the parcel of land on which a health care facility is situated and includes any contiguous parcels owned or leased by the health care facility;

**"smoking"** has the same meaning as in *The Non-Smokers Health Protection Act, C.C.S.M. c. N-92*;

**"youth event"** means an organized athletic or sporting event in which individuals under the age of 18 are participating;

**Prohibition**

**3(1)** No person shall smoke:

(a) within 30 metres of the playing surface of an athletic field or a hockey rink during a youth event;

(b) on a playground;

(c) within 30 metres of a swimming pool, wading pool, spray pad or spray park owned or operated by the City of Winnipeg;

(d) on the premises of a primary school, middle school or secondary school, whether a public school or a private school, as those terms are defined in *The Education Administration Act*, C.C.S.M. c. E-10;

(e) subject to subsection (2), on the premises of a health care facility;

(f) within 8 metres from the entrance to a health care facility;

(g) within 8 metres from the entrance to City of Winnipeg workplace.

**3(2)** Clause (1)(e) does not apply to residents of a personal care home who smoke in an outdoor area that:

(a) has been designated by the administration of a personal care home as a smoking area for residents of the personal care home and is clearly marked as such; and

(b) is at least 8 metres from any entranceway to a building, window that is capable of being opened, or air intake.

**Penalties**

**4** A person who contravenes section 3 is guilty of an offence and is liable on summary conviction

(a) for a first offence, to a fine of not less than $100 and not more than $500;

(b) for a second offence, to a fine of not less than $200 and not more than $700; and

(c) for a third or subsequent offence, to a fine of not less than $300 and not more than $1000.

**DONE AND PASSED**, this day of , 2011.

_____
Mayor

_____
City Clerk

Approved as to content:

_____
Director of Community Services

Approved as to form:

_____
For Director of Legal Services/City Solicitor