



CANNABIS LEGISLATION, SMOKE FREE ONTARIO ACT AND BARRIE'S PROPOSED SMOKING REGULATIONS.

HOW DO THEY ALL FIT TOGETHER?

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Cannabis Legislation – Overview

- On September 25, 2018, the Province introduced Bill 36, the *Cannabis Statute Law Amendment Act, 2018*. This legislation introduces controls to safeguard young people and combat the criminal market, as well as amendments to a number of pieces of legislation.
- The *Smoke-Free Ontario Act, 2017* and the *Cannabis Act, 2017* were also amended to clarify where the smoking and vaping of medical and recreational cannabis is permitted as well as where it is prohibited, such as in enclosed public places and enclosed workplaces, vehicles and boats. The maximum fine, provincially, for using cannabis in a prohibited place would be \$1,000 for a first offence, and \$5,000 for a subsequent offence, the same fines that apply to smoking tobacco or using an electronic cigarette in a prohibited place.
- Generally, public consumption of cannabis is permitted under Provincial legislation. However, it is regulated the same as smoking traditional tobacco products through the *Cannabis Act* and the *Smoke Free Ontario Act*.
- One exception to the prohibitions relates to Medicinal Cannabis, the legislation does not permit municipalities to completely prohibit the use of Medicinal Cannabis. However it is staff's view that the City may regulate where any cannabis product can be used.

Smoke Free Ontario Legislation – Overview

Smoke Free Ontario Act (2017) adopted October 17, 2018:

Regulates tobacco smoking, e-cigarettes and vaping of various products and now includes cannabis. Highlights of regulations that impact municipalities directly are listed below:

New provincial “Smoking” regulations / setbacks in public locations:

- Within 9 metres of a Patio associated with a Food Service location. Meaning, persons would not be permitted any longer to stand just outside the fencing of an outdoor patio to smoke, they must be 9 metres away from the perimeter of the patio.
- Within 20 metres of a playground including outdoor fitness equipment
- Within 20 metres of a sports field including spectator areas
- On the property of or within 20 metres of a community recreational centre
- Within 20 metres of any outdoor recreational programming location where the programming is the primary use of the location
- On the property or within a 20 metre radius of a school including private schools

Smoking regulations in workplaces or private property where public is invited:

- No smoking or vaping is permitted in any enclosed work place
- No smoking or vaping is permitted within or upon the property of Hospitals, clinics etc.
- No smoking or vaping is permitted within enclosed long term care facilities with some exceptions (residential units)
- No smoking or vaping is permitted within enclosed public places, including but not limited to common hallways, laundry facilities located in multi-residential buildings, malls etc.

It should be noted that in our discussions with Health Unit staff, they have indicated that they will be focusing on educating and monitoring the business community to ensure the new provisions are being met.

Municipal Act – Overview

The *Municipal Act, 2001*:

The Municipal Act generally allows municipalities to enact by-laws that will govern municipal issues, those by-laws may address things such as health, safety and overall well-being of persons. The Municipal Act expands certain types of regulations more specifically such as Business Licensing, Smoking and Signs just to name a few.

Section 115 of the Municipal Act speaks specifically to by-laws related to smoking. It sets out general parameters:

- A municipality may regulate or prohibit smoking within workplaces, public places
- Define where smoking is permitted, define “public place” for the purpose of the by-law
- Require a person who owns, occupies or operates a place to which the by-law applies to post signs setting out such information relating to the smoking of tobacco or cannabis as is required by the by-law
- Set out parameters for signage

Restriction within the Municipal Act:

- (3) A by-law under this section shall not apply to a highway but may apply to public transportation vehicles and taxicabs on a highway. 2001, c. 25, s. 115 (3).

Division of Powers

Federal

- Production
- Advertising + Packaging
- Criminal Offences
- Possession Limits
- Impaired Driving
- Age Limit
- Medical Cannabis
- Taxation
- Home Cultivation
- Corp. Governance
- Security
- Education + Public Health
- Seed-to-sale tracking

Provincial

- Distribution
 - Retail Model and Rules
 - Public Consumption (SFOA)
 - Impaired Driving
 - Education + Public Health
 - Taxation
 - Workplace Safety
 - Possession Limits
 - Age Limit
 - Home Cultivation
 - Enforcement – dispensaries are prohibited
- To date - Edibles of any sort are not authorized

Municipal

- Smoking / Public Consumption
- Recommendation for Retail Locations to AGCO
- Assist with Education + Public Health
- Licensing of production facilities only
- Building Code
- Municipal Workplace Safety
- Home cultivation complaints
- Enforcement of municipal regulations

Proposed New Smoking Regulations

Barrie's current smoking regulations:

- Our Current regulations are separated into two by-laws, one governs Outdoor locations owned by the City such as parks and recreational facilities, the other governs smoking within a workplace or private property public place i.e. businesses.
- Generally, our current regulations comply with or in most cases are more restrictive than the Smoke Free Ontario Act 2017 however some changes are required to parks and related setbacks.

Proposed Changes:

- Removal of some previously permitted designated smoking areas within our parks to meet new setbacks
- Include the new required setback from food service patios as directed by the Smoke Free Ontario Act 2017

The Smoke Free Ontario Act (2017) and the Municipal Act do not allow municipalities to prohibit the smoking of Cannabis or other products on any “highway”. The “Highway” is defined as the municipal road allowance which includes municipal sidewalks, boulevards and the travelled portion of the road.

Municipalities are able to REGULATE but not PROHIBIT the act of smoking on a “highway” as defined above

Conclusion

Should this Committee wish recommend to General Committee an enhancement to the regulations proposed in Staff Report LCS009-19.

We would ask that you consider the follow wording in your recommendation:

That staff include the following prohibition:

- That smoking be prohibited within a 2 metres radius surrounding any point on the perimeter of any structural building face containing an entrance or exit of any business, workplace or public place where the public is invited whether by invitation or implied and whether or not a fee is paid.
- That the 2 metre radius be measured from the outer most point on the building structure containing an entrance or exit from the building.
- That the owner, operator proprietor or other person in charge of the building be responsible to erect signage depicting the regulations as set out in the by-law.