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SMOKE-FREE ONTARIO ACT IMPLICATIONS ON CONTROLLED SMOKING AREAS IN REGIONAL LTC FACILITIES

The Health and Emergency Medical Services Committee recommends the adoption of the recommendation contained in the following report, April 24, 2006, from the Commissioner of Community Services, Housing and Health Services:

1. RECOMMENDATION

It is recommended that:

1. Council authorize the use of $90,000 in capital reserve funds to renovate the existing controlled smoking areas at the Regional Health Centres to bring them into compliance with the new requirements in the *Smoke-Free Ontario Act* (SFOA).

2. PURPOSE

The purpose of this report is to provide Council with an overview of the impact of SFOA as it relates to the Regional Health Centres and receive approval to use capital reserve funds to renovate the controlled smoking areas in the Long Term Care (LTC) facilities located at the Health Centres to bring them into compliance with the Act.

3. BACKGROUND

The SFOA will come into force on May 31, 2006 and will replace the current *Tobacco Control Act*, 1994 (TCA). It will prohibit smoking in all enclosed workplaces and enclosed public places in Ontario, strengthen measures to ensure only those 19 years of age and older can buy cigarettes, phase out the display of tobacco products, with a complete ban beginning May 31, 2008 and prescribe new requirements for controlled smoking areas in residential care facilities.

On March 1, 2006, *Ontario Regulation 48/06* under the SFOA was released. This Regulation further defines the requirements of the SFOA.

4. ANALYSIS AND OPTIONS

4.1 Smoke-Free Ontario Act

The SFOA, which will replace the current TCA, prohibits smoking in all enclosed workplaces and enclosed public places in Ontario, strengthen measures to ensure only

those 19 years of age and older can buy cigarettes, and phase out the display of tobacco products, with a complete ban beginning May 31, 2008.

The SFOA does not extend the ban on smoking to private dwellings, with the exception of private home day cares within the meaning of the *Day Nurseries Act.* The SFOA also applies to residential care facilities but is permissive of smoking in designated controlled smoking areas subject to compliance with stringent new requirements.

4.2 Requirements of Residential Care Facilities

LTC facilities operated by the Region and which are located at the Health Centres fall under the definition of residential care facilities as prescribed by the legislation.

Operators of residential care facilities have the option of permitting smoking, but only in a controlled smoking area. The Region's current No-Smoking By-Law exempts these types of premises, and the TCA has different requirements for various types of residential care facilities.

The SFOA standardizes the requirements for these premises and, among other things, requires that an approved controlled smoking area will:

- Restrict smoking only to residents of the facility.
- Not require employees to enter against their will.
- Be fully enclosed.
- Meet very stringent ventilation and maintenance criteria.

Operators must make applications to the Ministry of Health Promotion by June 30, 2006 to operate a controlled smoking area and will have until December 31, 2006 to meet requirements for these areas. The Ministry of Health Promotion is responsible for reviewing and approving the plans and technical documentation for a controlled smoking area application.

The SFOA and the Regulations list specific places and areas where smoking is prohibited, these include any area within a nine-metre radius surrounding any entrance or exit of public or private hospitals, psychiatric facilities or residential care facilities. There is also a provision that requires the operator of a hospital or a residential care facility to set aside an indoor area, separate from any area where smoking is otherwise permitted, for the use of tobacco for traditional Aboriginal cultural or spiritual purposes, if requested by an Aboriginal person.

4.3 Rationale for Upgrading Controlled Smoking Areas

Other citizens of private residences/dwellings have the right to smoke in their homes. As a consequence of significance illness/disability some citizens are forced to make a LTC facility their home, usually during the latter stages of their lives. Although residents of LTC facilities/homes have the right, under the legislation, to smoke in their home, they

can only do so if the operator of the facility provides a controlled smoking room that is in compliance with the requirements of the SFOA.

While this report does not advocate smoking in LTC facilities, it does address the current rights of the residents under the facilities' care. The LTC facilities are home to the permanent residents. Most of these residents have already suffered momentous loss in their lives; they have significant dependencies and are afflicted with multiple chronic/terminal illnesses. On average, 30% of the residents will be palliative in any given year. Smoking at this stage of their lives/illnesses will have limited affect on their prognosis. Smoking for those clients, however, is a quality of life issue and brings some level of enjoyment/pleasure to those individuals.

Renovating the existing controlled smoking spaces will enable the Centres to continue to provide a controlled smoking area for residents in their home.

4.4 Regional Long Term Care Facilities

The Maple and Newmarket Health Centres were designed as a multi-use health care facilities and accommodate different types of programs; a long term care facility, health related outreach clinics, health and social service agency offices and program areas and day program facilities/centres. The Newmarket Health Centre also has a supportive housing apartment building that is connected to the facility.

These areas of the Centre are categorized as different occupancy classifications under the Ontario Building Code, with separate design standards, permissible uses and ventilation systems. Both the Newmarket and Maple Health Centres each have one existing designated controlled smoking area in the LTC facilities which comply with the current requirements of the TCA but are not in full compliance with the requirements of the SFOA. Smoking is not permitted in any other areas of the Centres with the exception of the supportive housing apartments which are designated as private residences/dwellings under the legislation.

4.4.1 SFOA Compliance Issues

A consultant was retained to analyze the current controlled smoking areas in the Centres and has found that they are compliant with the following requirements of the new Act:

- Current controlled smoking areas restrict smoking only to residents of the facility, who are assessed as being able to safely smoke without staff supervision.
- Employees are not required to enter against their will.
- Controlled smoking areas are fully enclosed.

The controlled smoking areas, however, do not meet the following requirements:

- Ventilation systems – exhaust rate is adequate but the location of exhaust terminal vents do not meet code and must be relocated.
- Entry vestibule – this is a new condition that establishes a requirement that a controlled smoking area must include an entry vestibule that is a minimum of

1.8 m wide x 2.4 m long. The current controlled smoking areas do not have entry vestibules.

- Ventilation maintenance and inspection criteria – requires quarterly and annual air flow inspections and certification.

4.4.2 SFOA Compliance Cost

To bring the existing controlled smoking areas in the Centres into compliance with the new SFOA requirements will cost approximately $90,000. Given the timing of the release of this new legislation it was not possible to project or incorporate these costs into the 2006 LTC Budget.

4.5 Relationship to Vision 2026

Renovating the controlled smoking areas in the LTC facilities supports the Vision 2026 goal of Engaged Communities and a Responsive Region by meeting the needs of these residents.

5. FINANCIAL IMPLICATIONS

A breakdown of the estimated costs, inclusive of taxes, for the renovations to the existing controlled smoking rooms is outlined below.

Table 1
Estimated Cost of Construction/Renovations

		Estimated Costs
Construction/Renovations:		
Architectural/Structural (Ceilings, walls, fire separations, doors, hardware and painting)	$26,000	
Mechanical	24,000	
Electrical	10,000	
Roofing	8,000	$68,000
Consulting Fees:		
Architectural	$ 5,000	
Mechanical/Electrical	8,000	13,000
Permits		3,000
Contingency		6,000
TOTAL		**$90,000***

* Estimated costs are inclusive of taxes.

These costs are not provided for in the approved 2006 LTC Budget and would require approval from Regional Council to utilize capital reserve funds to finance the renovations.

6. LOCAL MUNICIPAL IMPACT

All citizens admitted to a Regional LTC facility/home who chose to smoke and can do so safely will benefit from the creation and maintenance of controlled smoking areas in the facilities and will retain the right and ability to smoke in their own home.

7. CONCLUSION

The SFOA also applies to residential care facilities but is permissive of smoking in controlled smoking areas subject to compliance with stringent new requirements. Operators of residential care facilities have the option of permitting smoking, but only in a controlled smoking area.

Operators must make applications to the Ministry of Health Promotion by June 30, 2006 to operate a controlled smoking area and will have until December 31, 2006 to meet requirements for these areas. The cost for the Regional LTC facilities to comply with the new requirements under legislation is approximately $90,000, inclusive of taxes. Approval by Council to utilize capital reserve funds for the required renovations will enable the Centres to continue to maintain controlled smoking areas for the residents of these facilities. Thereby enabling those clients to retain the same rights as other citizens have in their own homes.

The Senior Management Group has reviewed this report.