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YORK REGION NO-SMOKING BY-LAW PHASE III IMPLEMENTATION UPDATE

The Health and Emergency Medical Services Committee recommends that:

- 1. A further report be prepared for consideration by the Health and Emergency Medical Services Committee regarding enforcement activities**
- 2. That the recommendation contained in the following report, October 22, 2004, from the Commissioner of Health Services be received.**

1. RECOMMENDATION

It is recommended that:

1. Health and Emergency Medical Services Committee and Regional Council receive the York Region No-Smoking By-Law Phase III Implementation Update report for information.

2. PURPOSE

The purpose of this report is to provide Health and Emergency Medical Services Committee and Regional Council with an update on the implementation of Phase III of the York Region No-Smoking By-Law (the “by-law”). Plans for implementation of this phase were tabled in a report to Health and Emergency Medical Services Committee and Regional Council in April 2004.

3. BACKGROUND

The Regional Municipality of York passed a by-law regulating the smoking of tobacco in public places and workplaces in York Region on October 26, 2000. The by-law was implemented using a phased-in approach:

- As of January 26, 2001 (Phase I), all workplaces became 100% smoke-free.
- As of June 1, 2001 (Phase II), places used for the sale and service of food and/or drinks such as restaurants and banquet halls, and places used for bowling, skating, curling and similar uses, became 100% smoke-free or built a completely enclosed and separately ventilated designated smoking room (DSR) no larger than 25% of the occupiable public space that met the by-law requirements. Bingo halls have the option to construct a DSR that does not exceed 50% of the occupiable public space.
- On June 1, 2004 (Phase III), all public places used for the sale and service of food and/or drinks that are licensed to serve alcohol such as bars, taverns, adult entertainment lounges and nightclubs, and public places used for playing billiards and games of chance including bingo halls and casinos were required to be 100% smoke-free or construct a completely enclosed and separately ventilated DSR that does not exceed 25% of acceptable public space, with the exception of bingo halls at 50%.

York Region's Phase III implementation date was consistent with that of the City of Toronto and the Regional Municipalities of Peel and Durham.

4. ANALYSIS AND OPTIONS

4.1 Promotion Campaign

A combination of education and media communication strategies addressing Phase III of the by-law requirements commenced in the winter of 2003 and were available in both Chinese and Italian languages for both proprietors and the general public. The following are the activities and results completed by the June 1, 2004 implementation date:

- Nineteen community education sessions across nine area municipalities were attended by 300 people.
- Three internal education sessions were attended by 200 York Region employees.
- One municipal education session was attended by 60 employees.
- Nine shopping mall displays reached approximately 1,200 people.
- Letters were mailed and information kits delivered to the approximate 250 business owners/operators of public places licensed to serve alcohol which were directly affected by Phase III.
- An integrated media campaign including interior transit advertising on 183 buses, ads on 4 radio stations, messaging and postcard inserts in York Region newspapers and municipal recreation guide advertisements directly reached over 250,000 people and were potentially viewed or heard by thousands more.
- York Region was a partner in the GTA combined launch of Phase III smoke-free environments at Union Station in May 2004, with the York Regional Chair as spokesperson, accompanied by the Health and Emergency Medical Services Committee Chair, and the Commissioner of Health Services and Medical Officer of Health.

4.2 Enforcement

Tobacco control officers inspected all of the approximately 250 premises directly affected by Phase III of the by-law between June 1 and September 17, 2004. From the beginning of Phase III on June 1, 2004 to September 17, 2004, 109 charges have been laid. Of these charges, 99 were laid on 24 different premises and 10 were laid on patrons. This represents a proprietors' compliance rate of 91% which has been mirrored by similarly high compliance rates throughout the GTA. The comprehensive promotion campaign potentially contributed to these results, as did the phasing-in of the by-law in York Region over several years.

4.3 Private Clubs

York Region exempts a "Private Club" from the application of the by-law, providing the private club meets all of the criteria outlined in the by-law. York Region does not permit a private club to have dual status as both a private club, to which the by-law does not apply, and a public place, to which the by-law applies. The surrounding GTA jurisdictions of the City of Toronto and the Regional Municipality of Durham have

similar exemptions in their by-laws. In the Regional Municipality of Peel the by-law itself is silent on private clubs, but an operational framework endorsed by Peel Regional Council exists which outlines private club criteria similar to the GTA partners. In addition to the inconsistent language surrounding private clubs in no-smoking by-laws in the GTA, there have been inconsistent practices in the GTA as it relates to whether or not to permit dual status. The York Region Health Services Department demonstrated leadership by convening a meeting with GTA partners to address this issue on October 12, 2004. It is hoped that the promised forthcoming provincial smoke-free legislation will standardize the provisions for private clubs across Ontario.

4.4 Designated Smoking Rooms (DSRs) in York Region

In anticipation of the implementation of Phase III of the York Region No-Smoking By-law, thirty-one York Region proprietors submitted applications for DSRs since January 1, 2004. Sixteen of those applications were submitted after June 1, 2004. As of August 20, 2004, 145 DSR applications were received since the enactment of the by-law January 26, 2001. Of the 145 applications received a total of 25 have Part I approval only, 102 have Part II approval, seven remain with no status at this time and 11 DSR applications had been discontinued due to the closing of the premise or proprietor removal of the room.

A Part I approval involves the review of the engineering drawings and approval of the occupancy load. Part II approval involves an on-site inspection and review of the air balance reports.

The 102 premises with approved DSRs represent less than 1% of the hospitality establishments in York Region that could possibly build a DSR. As of September 30, 2004, two of York Region's three bingo halls have approved DSRs. The third has applied, but has not been approved, as of September 30, 2004.

Health Services Department staff monitoring the compliance within these DSRs report more than 75% of these DSRs are failing to maintain the requirements under the by-law after they have been constructed and approved. The majority of these failures are due to poor maintenance, insufficient air supply and exhaust, overcrowding, failing to keep the DSR doors closed when in use and failing to turn ventilation systems on when the DSR is in use.

There is some indication that the provincial government is giving serious consideration to the issues surrounding DSRs. In this vein, Health Services Department staff are participating in a DSR simulation test being conducted by the Ontario Campaign for Action on Tobacco. The purpose of this test is to provide the provincial government with pertinent DSR function information as it prepares to introduce its smoke-free legislation this fall.

4.5 Relationship to Vision 2026

The implementation of Phase III of the York Region No-Smoking By-Law supports Vision 2026 by making York Region a cleaner, safer, and healthier environment for those who live, work and visit here.

5. FINANCIAL IMPLICATIONS

As previously outlined in the April 15, 2004, report to Health and Emergency Medical Services Committee, the total budgeted costs related to the implementation of Phase III of the York Region No-Smoking By-Law for the period January 1, 2003 to December 31, 2004, are \$444,686. These costs are eligible for 50% provincial funding and, therefore, the net tax levy impact for the two-year period is \$222,343. The Constitutional Challenge is not eligible for provincial funding and is currently estimated at \$200,000.

6. LOCAL MUNICIPAL IMPACT

All municipalities benefit from the implementation of Phase III of the York Region No-Smoking By-Law and the high compliance rate, as the businesses affected exist throughout the nine municipalities. York Region residents and visitors alike can enjoy the health benefits derived from not being exposed to second-hand smoke in public places.

7. CONCLUSION

York Region Health Services Department's recognized leadership in promoting and achieving a public smoke-free environment continues through the course of implementing and enforcing Phase III of the By-law.

While the proprietor compliance rate is high, issues related to DSRs and private clubs continue to present challenges. It is anticipated that province-wide smoke-free legislation will work towards the elimination of discrepancies in these areas.

The Senior Management Group has reviewed this report.