



Corporate NO: R179

Report COUNCIL DATE: July 23, 2001

Regular Council			
TO:	Mayor & Council	DATE:	July 19, 2001
FROM:	City Solicitor	FILE:	0023-14448 0023-12993
SUBJECT:	Amendments to Surrey Smoking Regulation By-law, 1996, No. 12993(the "Smoking By-law")		

RECOMMENDATION

1. Council consider the information provided in the report.
2. Council amend the Smoking By-law to allow smoking on outdoor patios and approved designated smoking rooms.

BACKGROUND

Council adopted the By-law on June 23, 1997, whereby smoking was prohibited as stated in Section 2(a) through (k) of the Smoking By-law. Exceptions were made with respect to liquor outlets and restaurants (designated to smoking areas) until December 31, 1999.

The City of Surrey, together with other GVRD municipalities, had incorporated 100% smoke-free premises for all establishments effective January 1, 2000. With the introduction and implementation of WCB secondhand smoke regulations on January 1, 2000, these regulations became province-wide and, therefore, some cities and municipalities no longer felt the need to amend or implement a smoking by-law. On March 22, 2000, the B.C. Supreme Court declared the "hospitality industry" sunset clause provision of the WCB regulations null and void. When the proposed WCB regulations were first presented to stakeholders for review and comment, there was no indication that the exemption given to the hospitality industry to allow smoking in licensed establishments would contain a "sunset clause". This clause removed the exemption at a future date and prohibited smoking in the hospitality industry, contrary to what was presented to the stakeholders. The Court

found that this was unlawful, prompting the WCB to review and reconsider their regulations as they apply to the workplace and the public. These reviews have now been completed and changes have now been made to the WCB regulations.

On September 10, 2001, the Workers' Compensation Board (WCB) Environmental Tobacco Smoke (ETS) Regulation restricting smoking in licensed establishments to "designated smoking rooms" will come into effect throughout the Province. Licensees will be able to permit patrons to consume liquor in a room that meets all the requirements of a designated smoking room under the WCB Regulation. To be eligible, the licensee's establishment must be located within an area of the province where local by-laws do not prohibit smoking within these designated areas.

DISCUSSION

Since March 22, 2001 By-law and Licensing Services has received in excess of 120 complaints regarding liquor establishments not complying with our current Smoking By-law. Some of these complaints were the result of confusion surrounding the status of WCB regulations, together with lack of knowledge of the Surrey Smoking By-law. By-law and Licensing Services continues to review and follow-up on complaints to pursue non-compliant establishments. Business owners have been advised through letters and personal contact that the majority of our licensed businesses have complied. There are some establishments within Surrey about which complaints continue to be received regarding their non-compliance with the Smoking By-law. We have not proceeded with prosecution of these establishments at this time, pending the proposed changes to the WCB Regulation.

The City of Vancouver and the Municipality of Delta have amended their by-laws to allow smoking within designated smoking rooms and outdoor patios. Other cities and municipalities are considering these amendments. The proposed amendments to the Smoking By-law will allow liquor establishments and restaurants within Surrey to provide a designated smoking room.

A number of licensed establishments have applied for and received approval for outdoor patio licenses under their current liquor licenses. The main purpose of these applications will be to provide their patrons an outdoor smoking area where alcohol may be consumed.

CONCLUSION

It is recommended that Council adopt the proposed amendments to the Smoking By-law to allow smoking in designated smoking rooms and outdoor patios.

CRAIG MacFARLANE

City Solicitor

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