



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Licensing and By-law Services Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	March 21, 2017
<b>SUBJECT/REPORT NO:</b>	Business Licensing By-law 07-170 – Amendments to the Tobacco Retailers (Schedule 27) (PED17044) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Monica Ciriello (905) 546-2424 Ext. 6656 Ken Leendertse (905) 546-2424 Ext. 3059
<b>SUBMITTED BY:</b>	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That the draft By-law attached as Appendix “A” to Report PED17044, which amends Business Licensing By-law 07-170 by replacing the Tobacco Retailers (Schedule 27) and which has been prepared in a form satisfactory to the City Solicitor, be approved;
- (b) That a new fee of \$60 for inspections of retail establishments that sell e-cigarettes exclusively or in addition to tobacco be approved, and that the User Fees and Charges By-law be amended accordingly.

**EXECUTIVE SUMMARY**

The Provincial government has passed the *Electronic Cigarettes Act, 2015 (“ECA”)* regulating the sale, promotion and use of e-cigarettes in Ontario. This Report proposes changes to the Business Licensing By-law 07-170 (“Licensing By-law”) Tobacco Retailers (Schedule 27) to align it with the new Provincial legislation. Currently, not all of the provisions of the *ECA* with respect to the sale and display of electronic cigarettes are in force. Consequently, Schedule 27 has been drafted to account for this. In addition, changes have been made to clarify requirements under the Schedule.

***Alternatives for Consideration – N/A***

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** If an establishment chooses to sell electronic cigarettes, then the retailer will be required to pay for an inspection fee of \$60 per year. This new fee applies to retailers who sell only electronic cigarettes or retailers who sell both electronic cigarettes and tobacco.

**Staffing:** N/A

**Legal:** N/A

## **HISTORICAL BACKGROUND**

The *Municipal Act, 2001* provides Council with the authority to regulate any business, wholly or in part, carried out within its jurisdiction, including the authority to license. The justifications for licensing certain types of businesses generally relate to the health and safety of the community, consumer protection and nuisance control.

The January 1, 2016 enactment of the *ECA* by the Provincial Government is the catalyst for the changes proposed to Tobacco Retailers (Schedule 27).

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

N/A

## **RELEVANT CONSULTATION**

Public Health Services  
Legal Services

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

After reviewing Tobacco Retailers (Schedule 27) in light of the *ECA*, which focuses on regulating e-cigarettes, it was determined that updating was required.

The *ECA* regulates the sale of electronic cigarettes in Ontario. Regulations governing the display, promotion and use of e-cigarettes in Ontario are anticipated to take effect later in 2017. The regulations apply to all devices and / or their components, regardless of whether or not the vapour produced contains nicotine.

**SUBJECT: Business Licensing By-law 07-170 – Amendments to the Tobacco Retailers (Schedule 27) (City Wide) (PED17044) – Page 3 of 3**

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As of January 1, 2016, the *ECA* implemented the following prohibitions:

- The sale and supply of e-cigarettes to anyone less than 19 years of age;
- The sale and supply of e-cigarettes to any person who appears to be less than 25 years old without asking for identification;
- The use of false identification to purchase an e-cigarette;
- The sale of e-cigarettes in retail settings if prescribed signs are not posted;
- The sale of e-cigarettes in vending machines; and,
- An employer from retaliating against an employee because the employee has acted in accordance with the *Act*.

Public Health Services is responsible implementing and ensuring compliance with the *ECA* and is required to inspect businesses within the City that sell e-cigarettes exclusively or in addition to tobacco.

Schedule 27 has been updated and its requirements consolidated. Requirements with respect to waste disposal have been removed as they are covered by the City's Yard Maintenance By-law 10-118.

#### **ALTERNATIVES FOR CONSIDERATION**

N/A

#### **ALIGNMENT TO THE 2016-2025 STRATEGIC PLAN**

##### **Community Engagement and Participation**

*Hamilton* has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

##### **Economic Prosperity and Growth**

*Hamilton* has a prosperous and diverse local economy where people have opportunities to grow and develop.

##### **Our People and Performance**

*Hamiltonians* have a high level of trust and confidence in their City government.

#### **APPENDICES AND SCHEDULES ATTACHED**

- Appendix A: Tobacco and Electronic Cigarette Retailers Businesses By-law
- Appendix B: Canadian Cancer Society Review of Municipal Licensing Costs for Tobacco Retailers

MC:KL:cab