

**Report to
Rapport au:**

**Ottawa Board of Health
Conseil de santé d'Ottawa
7 December 2015 / 7 décembre 2015**

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**Submitted by
Soumis par:**

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**Ward: CITY WIDE / À L'ÉCHELLE DE LA
VILLE**

**File Number: ACS2015-OPH-HPDP-
0006**

SUBJECT: LET'S CLEAR THE AIR 2.0: CONSULTATION PLAN

OBJET: PURIFIONS L'AIR 2.0 : PLAN DE CONSULTATION

REPORT RECOMMENDATIONS

That the Board of Health for the City of Ottawa Health Unit

- 1. Approve City Council's request to the Board, outlined in the motion brought forward by Councillors Qadri and Fleury and approved at the November 25th, 2015 Council meeting, which:**
 - a. Directs staff to review and consult with relevant stakeholders on the potential to expand by-laws to regulate the use of electronic cigarettes and smoking of non-tobacco combustible substances in public places and work places; and**
 - b. Directs staff to report back to the Board of Health with recommendations for the Community and Protective Services Committee and Council in time to be implemented prior to Fall 2016; and**
 - c. Directs staff to work with By-Law & Regulatory Services and Legal Services to review and recommend any required updates to the smoke-free by-laws based on the review listed above, including any operational and enforcement considerations.**
- 2. Approve the proposed consultation plan, as outlined in the report.**

RECOMMANDATIONS DU RAPPORT

Que le Conseil de santé de la circonscription sanitaire de la ville d'Ottawa :

- 1. approuve la demande du Conseil municipal au Conseil de santé, telle que décrite dans la motion présentée par les conseillers Qadri et Fleury et approuvée lors de la réunion du Conseil du 25 novembre 2015 qui vise à :**
 - a. demander au personnel d'examiner et de consulter les intervenants appropriés pour évaluer la possibilité d'élargir les règlements sans fumée de façon à réglementer l'usage de cigarettes électroniques et de substances combustibles autres que le tabac dans les lieux publics et les lieux de travail;**
 - b. demander au personnel de présenter un rapport au Conseil de santé, dans lequel il formule des recommandations à l'intention du Comité des services communautaires et de protection et du Conseil, à temps pour une mise en œuvre à l'automne 2016;**

- c. **demander au personnel de travailler avec les Services des règlements municipaux et les Services juridiques à l'examen et à la formulation d'améliorations aux règlements sans fumée, à la lumière de l'examen susmentionné et en tenant compte des conditions de faisabilité et d'application.**

2. approuve le plan de consultation proposé, décrit dans le présent rapport.

BACKGROUND

In 2012, the City of Ottawa adopted the report entitled [Expanding Smoke-Free Spaces-Let's Clear the Air: A Renewed Strategy for a Smoke-Free Ottawa](#) (ACS2012-COS-EPS-0012), which included recommendations to expand the smoke-free spaces in Ottawa by prohibiting smoking on outdoor restaurant and bar patios and terraces, and on all municipal properties, including parks, playgrounds, beaches, sports fields, and outdoor areas around City facilities. Smoking was also prohibited by by-law in the ByWard and Parkdale Market stands. That same year, the City of Ottawa adopted a progressive expansion to Smoke-Free *Public Places* and *Workplaces By-laws* to protect residents from the harms of exposure to second-hand smoke in outdoor places and by amending the *Parks and Facilities By-law* to prohibit the [smoking of water-pipes and non-tobacco products on municipal property](#) (ACS2012-CMR-LEG-0008).

Current Developments

This past spring the *Making Healthier Choices Act, 2015* (Bill 45) received Royal Assent. Bill 45 included proposed amendments to the *Smoke-Free Ontario Act* (SFOA) and introduced the *Electronic Cigarettes Act* (ECA), to address the potential harms of electronic cigarettes. Pending proclamation of the ECA, there will be age-based restrictions (e.g. the supply and sale of e-cigarettes to anyone under 19 will be prohibited) and a prohibition on the use of e-cigarettes in places where tobacco is prohibited under the SFOA (e.g. all public places, workplaces, workplace vehicles, vehicles with someone under 16, children's playgrounds and outdoor grounds of hospitals). The Province has indicated that these age-based and usage restrictions can be expected to come into force on January 1, 2016. Bill 45, pending proclamation, will also grant Tobacco Enforcement Officers the ability to seize tobacco product from water-pipe bars and test for tobacco. However, the amendments do not address the use of herbal water-pipe products in public places and exposure of second-hand smoke (SHS) in enclosed public places, which is putting people's health at risk.

Despite these changes, the SFOA and *Bill 45, Making Healthier Choices Act, 2015* amendments do not regulate smoking of non-tobacco combustible substances. As such, the smoking of non-tobacco combustible substances in public places creates enforcement complexities when determining compliance with Ottawa's smoke-free by-laws and the SFOA. For instance, under the current provincial legislation, there are no restrictions on the smoking of non-tobacco substances, with the use of water-pipes, in workplaces and public places. However, smoking of any combustible substance is prohibited on outdoor City property including City parks and around City facilities, under the City of Ottawa *Parks and Facilities By-law 2004-276*, as amended.

In addition, the use of e-cigarettes in certain public places and workplaces will be regulated under the ECA. E-cigarettes are defined as inhalant-type devices that contain a power source and a heating element designed to heat a substance and produce a vapour intended to be inhaled by the user of the device directly through the mouth. This definition of an e-cigarette will apply to the type of vapourizers that are currently being used in certain public places in Ottawa.

The Ottawa Board of Health has recognized gaps in the provincial regulations, and recently the Chair wrote a letter to the provincial Minister of Health and Long-Term Care recommending that the SFOA be amended to include the smoking non-tobacco combustible substances, including water-pipes and other substances, in indoor and outdoor public spaces (Document 1).

Furthermore, the City of Toronto recently approved a ban on hookah smoking (tobacco and otherwise) in establishments that are licensed by the municipality. In Ontario, 4 municipalities have passed similar bans (Peterborough, Barrie, Orillia and Bradford West Gwillimbury), along with 11 municipalities in British Columbia, including Vancouver. In addition, Alberta, Nova Scotia and Quebec have passed legislation banning hookah smoking or water-pipe use in public spaces.

Health Impacts and Use of Non-Tobacco Combustible Substances

Water-pipe use is gaining popularity among youth and young adults due to the variety of flavoured product and the misperception that it is a "healthier" alternative to cigarette smoking. Ottawa data collected in 2014 shows that approximately 14% of people over the age of 18 in Ottawa have used a water-pipe at some point in their life, with nearly 50% of those aged 18 to 24 reporting that they have tried a water-pipe¹. An increase in ever having used a water-pipe has been seen over the past few years tripling from 3% in 2006 to 10% in 2012 among the Ontario population aged 18 and up². Similar trends have been seen among those in grades 7 to 12. According to the results of the

2012/2013 Youth Smoking Survey, 11% of those in grades 7 to 12 have tried a water-pipe compared to 6% in 2010/2011³. In addition, 18 to 24 year olds are more likely to feel that smoking tobacco water-pipe is safer than smoking cigarettes and that SHS from a water-pipe is less harmful than cigarette SHS. OPH is developing a campaign for young adults on the dangers of water-pipe use.

There is growing evidence of the harmful health effects of herbal water-pipe use and on SHS exposure to workers and to the general public^{4 5 6 7 8}. A 2005 report by the World Health Organization found that a 60 minute water-pipe session may be the same as smoking 100 cigarettes or more (World Health Organization, 2005). Finally, pipe sharing may pose the additional risk of spreading infectious diseases.

DISCUSSION

In an effort to protect children, workers and non-smokers from SHS exposure, de-normalize smoking among youth, support quit attempts, and decrease enforcement complexities, the Board of Health was requested by Council to explore the potential of expanding smoke-free by-laws.

Recommendation 1- Council Motion

On November 25, 2015, Ottawa City Council passed a motion (Document 2) requesting that the Board of Health explore regulating the use of e-cigarettes and smoking of non-tobacco combustible substances, in public places and work places. Staff are recommending that the Board approve Council's request, as per recommendation 1.

Should the Board approve staff's recommendations, staff will review and consult with relevant stakeholders on the potential to expand by-laws to regulate the use of e-cigarettes and smoking of non-tobacco combustible substances in public places and work places. The proposed consultation plan is outlined below. The results of the consultation will inform recommendations on the possibility of prohibiting the smoking of non-tobacco combustible products and the use of e-cigarettes in Ottawa. OPH staff will work with By-law & Regulatory Services and Legal Services to recommend any required updates to the smoke-free by-laws, as well as assess any operational and enforcement considerations. Finally, staff will report back with recommendations in time for these potential amendments to City regulations to be implemented prior to Fall 2016.

Recommendation 2: Proposed Consultation Plan

The main objective of OPH's consultation plan is to ensure that Ottawa residents, businesses and other interested parties have the opportunity to provide input on

regulating the smoking of non-tobacco combustible substances, including herbal water-pipe use, and the use of e-cigarettes in Ottawa.

OPH will seek input from the general public, businesses, community groups, and City of Ottawa departments. The consultation period will begin in early December 2015 and end in February 2016. During this time, the following consultations will take place: public opinion telephone assessment; on-line public opinion assessment; meetings with key businesses and business groups; meetings with interested community groups; and direct consultation with representatives from City of Ottawa departments and other key stakeholders.

A. General Public Consultation Plan

Community Readiness Assessment

OPH will gauge public support on prohibiting the use of non-tobacco combustible substances and the use of e-cigarettes, including herbal water-pipe product and marijuana in public places, workplaces and outdoor patios via telephone survey.

Public Consultation

OPH will post a survey at Ottawa.ca and Ottawa.ca/health to obtain additional public input. The on-line survey will be promoted through social media channels and OPH's website. Ottawa residents can also call the Ottawa Public Information Line (OPHIL) and provide input to public health nurses that will record the public's comments on the matter.

B. Businesses and Community Groups Consultation Plan

Expanding Ottawa's smoke-free regulations may have implications for certain groups. As a result, OPH will communicate directly with all identified community groups and businesses listed below. They include:

- Vapour lounge owners
- Water-pipe establishment owners
- Executive Directors of the Business Improvement Associations
- Members and President of the Ottawa Chapter of the Ontario Restaurant, Hotel and Motel Association

In addition, community groups in the health and social services sectors will also be contacted. They include:

- Addiction Treatment Agencies such as Rideauwood Addictions and Family Services and Maison Fraternité
- Ottawa-Carleton Pharmacists Association
- Academy of Medicine Ottawa
- Champlain Local Health Integration Network
- Youth Services Bureau
- Ottawa Council on Smoking and Health
- Community Health and Resource Centres
- Canadian Mental Health Association
- Canadian Centre on Substance Misuse
- Canadian Cancer Society

City of Ottawa Departments and other Key Stakeholders

OPH will work with internal City of Ottawa departments and other key stakeholders to explore the feasibility of expanding Ottawa's smoke-free regulations and to quantify implementation, enforcement resources and legal implications. OPH will work closely with By-Law Regulatory & Services; Licensing and Permits; Legal Services; Ottawa Police Service; the Economic Development Office; Ottawa Community Housing; Parks, Recreation and Cultural Services; and Service Ottawa, specifically the 3-1-1 contact centre.

NEXT STEPS

Upon the Board's approval, OPH will implement the consultation plan and report on progress.

RURAL IMPLICATIONS

There are no rural implications associated with this report.

CONSULTATION

By-Law & Regulatory Services, Legal Services and Ottawa Police Service were consulted in preparation of this report.

LEGAL IMPLICATIONS

There are no legal impediments to implementing the recommendations in this report.

Municipalities are authorized under paragraph six of section 10(2) of the *Municipal Act, 2001* to adopt by-laws for the "health, safety and well-being of persons".

The City of Ottawa may therefore rely on this broad legislated authority to enact a by-law that prohibits or regulates the smoking of non-tobacco combustible substances in Ottawa, provided that the by-law is for the “health, safety, and well being of persons”. Although the City may have the authority to introduce a by-law, the City would also need to ensure any proposed by-law meets other applicable legal requirements including in particular that the by-law does not conflict with Provincial and Federal laws.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications associated with this report.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

ACCESSIBILITY IMPACTS

There are no accessibility implications associated with this report.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

DISPOSITION

Once approved by the Board, OPH will complete the proposed consultative work and present a subsequent report to the Board of Health.

SUPPORTING DOCUMENTS

Document 1 - Ottawa Board of Health Letter to Minister Eric Hoskins regarding Amending the *Smoke-Free Ontario Act* dated November 5, 2015

Document 2 - City Council motion, brought forward by Councillors Qadri and Fleury, and approved at the November 25th, 2015 Council meeting

REFERENCES

1. 2014 Ottawa data from the Rapid Risk Factor Surveillance (RRFSS)
2. Canadian Tobacco Use Monitoring Survey (2006, 2011, 2012)
3. Youth Smoking Survey (2010/2011, 2012/2013)
4. Shihadeh, A., et al. Does switching to a tobacco-free waterpipe product reduce toxicant intake? A crossover study comparing CO, NO, PAH, volatile aldehydes, “tar” and nicotine yields. *Food and Chemical Toxicology*, 2012.
5. Blank, M., et al. Acute effects of waterpipe tobacco smoking: A double-blind, placebo-control study. *Drug and Alcohol Dependence*, 2012.
6. Cobb, C., et al. Acute toxicant exposure and cardiac autonomic dysfunction from smoking a single narghile waterpipe with tobacco and with a “healthy” tobacco-free alternative. *Toxicology Letters*, 2012.
7. Zhang, B., et al. Enter at your own risk: a multimethod study of air quality and biological measures in Canadian waterpipe cafes. *Tobacco Control*, 2013.
8. Hammal, F., et al. Herbal’ but potentially hazardous: an analysis of the constituents and smoke emissions of tobacco-free waterpipe products and the air quality in the cafés where they are served. *Tobacco Control*, 2014.