TORONTO

STAFF REPORT
ACTION REQUIRED

Toward a Smoke-Free Toronto: New Opportunities to Strengthen Protection

Date:	September 24, 2012
To:	Board of Health
From:	Medical Officer of Health
Wards:	All

SUMMARY

The City of Toronto has been a provincial leader in tobacco control for more than a decade. Toronto's by-law to protect workers and residents from second-hand smoke (SHS) exposure predates the 2006 enactment of the Smoke-Free Ontario Act (SFOA), which established Ontario as a world leader in tobacco control. Toronto Public Health currently delivers provincially-funded tobacco control programs, which focus on preventing young people from starting to smoke, helping smokers to quit and enforcing provincial legislation that prohibits smoking in areas such as enclosed public spaces and workplaces.

The SFOA created uniform minimum standards of SHS protection across Ontario. However, municipalities are encouraged to adopt more stringent regulations to address gaps in protection. In 2009, the City surpassed the level of protection offered by the SFOA by banning smoking near City playgrounds, wading pools, splash pads and in farms and zoos operated by Parks, Forestry and Recreation Division. However, Torontonians continue to report exposure to SHS, and there is strong public interest and support for Toronto to join other Ontario municipalities in expanding SHS protection to other outdoor spaces, including public building entranceways, bar and restaurant patios and hospital grounds.

This report responds to the Board of Health's request in 2011 for action on tobacco control by recommending potential expansions to existing smoke-free by-laws. It accompanies two other reports being considered by the Board: The Burden of Illness from Tobacco in Toronto, 2012 and Toronto Public Health Tobacco Control Plan- An Update.

RECOMMENDATIONS

The Medical Officer of Health recommends that:

1. the Medical Officer of Health consult with key stakeholders, including relevant City divisions such as Municipal Licensing and Standards and Parks, Forestry and Recreation, business owners and members of the public, on measures to reduce second-hand smoke exposure in places such as patios, public building entrances, sports fields and hospital grounds.

2. the Medical Officer of Health report to the Board of Health in 2013:

   a. on the public and stakeholder consultation findings;
   b. on proposed amendments to the Municipal Code Chapter 709 – Smoking, and other relevant Municipal Code chapters to protect the public from second-hand smoke, in consultation with the City Solicitor; and
   c. on resource implications, timelines, enforcement, and other issues of bylaw implementation.

Financial Impact

There are no direct financial impacts arising from this report.

DECISION HISTORY

On June 28, 1999, the Board of Health considered a report titled A Harmonized Environmental Tobacco Smoke (ETS) By-law for the City of Toronto (http://www.toronto.ca/legdocs/1999/agendas/committees/hl/hl990628/it001.htm). On July 6,7 and 8, 1999, City Council adopted harmonized No Smoking By-law No. 441 (renamed in 2000 to Municipal Code, Chapter 709 - Smoking) to prohibit smoking in all public places and workplaces, to be implemented in three phases in 1999, 2001 and 2004.

On January 16, 2009, the Parks and Environment Committee considered a report by the General Manager, Parks, Forestry and Recreation and the Medical Officer of Health titled Proposed Amendment to Municipal Code, Chapter 608, Parks, to Prohibit Smoking around Playgrounds and Other Areas in City of Toronto Parks (http://www.toronto.ca/legdocs/mmis/2009/pe/bgrd/backgroundfile-17702.pdf). City Council adopted these recommendations on January 27 and 28, 2009.

On March 1, 2011, the Board of Health considered the report titled Toronto Public Health Tobacco Control Plan Update 2011 (http://www.toronto.ca/legdocs/mmis/2011/hl/bgrd/backgroundfile-35976.pdf). The Board of Health requested that the Medical Officer of Health report on actions that the Board of Health could take regarding tobacco control.

ISSUE BACKGROUND

Since 2006, tobacco control in Ontario has been primarily governed by the Smoke-Free Ontario Act (SFOA), which prohibits smoking in enclosed workplaces, enclosed public spaces including covered bar and restaurant patios, anywhere on school property or at public and private child care centres, near entrances of health care facilities and in work vehicles and motor vehicles when children under 16 are present.[1] Once enacted on May 31, 2006, the SFOA established a minimum standard for smoke-free spaces applicable across the province of Ontario, although Ontario municipalities are permitted to strengthen SHS protection through their local by-laws. Where both municipal smoke-free by-laws and the SFOA exist, the provision that is more restrictive prevails.

Since the implementation of the SFOA and accompanying Smoke-Free Ontario Strategy (SFOS), the provincial government notes that Ontario's smoking rates and levels of second-hand smoke (SHS) exposure in several indoor settings have decreased significantly.[2] [3] Nevertheless, tobacco use remains the number one cause of preventable disease and death in Ontario.[4] Moreover, while SHS exposure in bars, restaurants and in vehicles carrying children and youth has decreased since the implementation of the SFOS, exposure in workplaces (indoor and outdoor) has not changed since 2005.[4]

Toronto has a history of enacting progressive by-laws that protect residents from the adverse effects of SHS. Toronto was one of the first Ontario municipalities to prohibit smoking indoors in workplaces and public places in 1999, well before the passage of the SFOA. In 2009, the City amended its Municipal Code to prohibit smoking within nine metres of playground equipment, wading pools, splash pads and in farms and zoos operated by Parks, Forestry and Recreation Division.

In contrast to several other Ontario municipalities, there are currently no by-laws in Toronto that restrict smoking near the entranceways of municipally owned and leased buildings, on uncovered bar and restaurant patios, on or near City-operated sports fields or on hospital grounds. However, there is strong public interest and scientific evidence supporting such prohibitions.

COMMENTS

Despite impressive achievements realized through the implementation of local by-laws and the SFOS, and associated tobacco control programs, tobacco use kills more than 13,000 Ontarians a year,[5] and is responsible for an estimated $7.73 billion annually in health care and lost productivity costs.[6]

In 2010, one in five, or 20% of Ontario adults aged 20 and older were current smokers. Over one in ten (12%) Ontario youth in grades 10 to 12 were current or occasional smokers.[6] In Toronto, 19% of adults were current smokers in 2010. This percentage has remained relatively stable since 2001. In 2011, 9% of Toronto students in grades 7-12 were current smokers, a percentage that has decreased significantly since 1999.[7] More information about smoking prevalence, as well as statistics on the burden of illness associated with tobacco use, are provided in the Board of Health report, The Burden of Illness from Tobacco in Toronto, 2012.

Ontario's public health units are important partners in the implementation of the SFOS. Toronto Public Health receives funding from the Ministry of Health and Long-Term Care (MOHLTC) to deliver public health programs and services and to enforce the SFOA. Municipalities are also encouraged to enact by-laws that expand upon the protection of the SFOA.

Toronto Public Health has reviewed scientific evidence and reviewed actions in other jurisdictions to inform recommendations to improve SHS protection in Toronto. Opportunities have been identified to enhance protection in outdoor spaces, including entrances and exits of municipal buildings, bar and restaurant patios, sports fields and hospital grounds.

Rationale for Expanding Smoke-Free By-laws

Protection from SHS in Outdoor Settings

According to the 2009/10 Canadian Community Health Survey (CCHS), 15 percent of non-smoking Toronto adults were exposed to SHS every day or almost every day in a variety of public places.

Experts indicate that there is no safe level of exposure to SHS.[8] In adults, SHS exposure is associated with several cancers, respiratory illness, heart disease and other adverse health effects. SHS exposure is especially harmful for children, as their lungs are still developing and their respiration rate is higher than that of adults. This puts them at increased risk for sudden infant death syndrome (SIDS), respiratory disease and new-onset asthma. SHS exposure can also exacerbate existing asthma in children.[8]

Research indicates that levels of outdoor tobacco smoke (OTS) exposure can be substantial when people are near active smokers and may even approach levels from smoking indoors.[9] For example, outdoor tobacco smoke levels can be high on bar and restaurant patios and in parks, as there are often multiple smokers in these areas. Wind conditions can also lead to substantial OTS exposure to those downwind of active smokers. [7] Furthermore, smoke can drift indoors from outdoor areas, such as patios and entranceways, to immediately adjacent indoor areas, raising SHS levels in these settings. In particular, bar and restaurant workers as well as building security and door staff risk considerable levels of SHS exposure.[10]

Reducing Social Exposure to Smoking

SFOA restrictions on indoor smoking have had the unintended consequence of increasing the visibility of smoking in outdoor public spaces. This "social exposure" to smoking normalizes tobacco use behaviour, and can have a powerful influence on the urge to smoke, particularly among children and youth who are tempted to start and current or former smokers who are trying to quit.[5]

Young people are particularly affected by social exposure to SHS.[4] Children and youth are not yet able to fully understand abstract information or appreciate the severity of events that might occur in the future. These attributes, combined with generally good health might lead them to underestimate the health risks associated with tobacco use and give in to social pressures to smoke.[11] In particular, children who grow up with family, friends, peers and role models who smoke are more likely to become smokers themselves.[12] Similarly, research has shown that youth who view their peers or adults smoking in public places are more likely to view smoking as a socially acceptable behaviour. Youth who have a positive social image of smoking tend to be more likely to experiment with tobacco use.[13]

Former smokers are also vulnerable to social smoking cues. Exposure to other smokers has been found to increase the likelihood of a relapse in former smokers, even by individuals who had quit over three months ago.[14] Notably, several studies have associated worksite smoke-free policies with reduced smoking prevalence at those workplaces.[15] Therefore, tobacco control policies and smoking cessation interventions increasingly seek to change social norms around smoking.[16]

Existing Smoke-Free Legislation has Proven Successful, but Gaps in Protection Remain

Ontario's municipalities are often credited with laying the groundwork for the SFOA by enacting smoke-free by-laws in the late 1990s/early 2000s.[6] In 1999, Toronto City Council passed By-law 441-1999, (later renamed City of Toronto Municipal Code Chapter 709-Smoking), which was enacted in three phases: in 1999, smoking was prohibited inside workplaces; in 2001 the prohibition was extended to all restaurants; in 2004 it was further extended to inside bars, bingo halls, casinos and racetracks. Research by the Institute for Clinical Evaluative Sciences and the University of Toronto has associated the implementation of the Toronto smoke-free by-law with significant reductions in hospital admissions attributable to cardiovascular and respiratory conditions between 1996 and 2006 in Toronto.[17] This evidence validates efforts to reduce exposure to SHS through regulation and is consistent with similar findings elsewhere.[18] Appendix A provides a history of smoke-free legislation in the City of Toronto, including in the former municipalities that make up the amalgamated City.

Provincial efforts to protect residents from SHS exposure have primarily targeted indoor areas. The SFOA prohibits smoking in all enclosed public places and workplaces and in vehicles with children present, but only bans outdoor smoking on school property, at public and private child care centres (also known as "day nurseries"), near entrances to healthcare facilities, and on covered patios. Toronto Public Health's Tobacco Enforcement Officers (TEOs) enforce the SFOA prohibitions with the exception of smoking in vehicles with children, which is enforced by police. Enforcement work includes routine compliance checks and investigations following public and institutional complaints.

Several outdoor spaces are left unprotected by current legislation. An Ontario municipality has provincial authority to expand protection from tobacco exposure by the

SFOA as per Section 115(10) of the *Municipal Act, 2001*. Therefore, in 2009, Toronto amended the Municipal Code Chapter 608 - Parks to prohibit smoking near playgrounds, wading pools, splash pads and in farms and zoos operated by the Parks, Forestry & Recreation division.

Actions in Other Jurisdictions

Numerous municipalities in Ontario have enacted legislation banning smoking in outdoor areas, including bar and restaurant patios, building doorways and other openings, hospital grounds, parks, sports fields, playgrounds and beaches. The experience of these municipalities indicates that, in many of these settings, smoke-free by-laws are usually easy to implement and non-contentious. Enforcement is rarely necessary, as smoking regulations tend to be self-enforcing.[19]

The experience of Woodstock, Ontario, which in 2008 passed outdoor smoking restrictions on sidewalk café patios, transit stops and shelters, municipal entranceways and entranceways to select private businesses, suggests that such prohibitions can be well supported by residents and have a positive impact on smoking cessation attempts. An evaluation conducted one year after by-law implementation found that 71% of smokers and 93% of non-smokers surveyed supported or strongly supported the by-law, while 82% of smokers and 96% of non-smokers agreed or strongly agreed that it was good for the health of children. Furthermore, 15% of the smokers sampled responded that the smoking prohibitions made them more likely to quit, while 30% reported that it helped them to reduce the number of cigarettes they smoked.[20]

A list of municipalities that prohibit smoking in various outdoor spaces is included in Appendix B. More specific information on municipalities that have restricted smoking near building entranceways, on bar and restaurant patios, sports fields and hospital grounds is detailed in the following section.

Opportunities to Strengthen Protection

Based on an initial review of actions in other jurisdictions, public support, complaints data and scientific evidence, Toronto Public Health has identified four outdoor areas for possible by-law expansion at this time: public building entrances and exits, uncovered bar and restaurant patios, sports fields and hospital grounds. The following section summarizes the rationale for these recommendations, as well as information about relevant municipal by-laws in other jurisdictions.

Public Building Entrances and Exits

Air-monitoring studies at building entrances and exits have found high levels of outdoor tobacco smoke compared to background levels. Exposure at building entrances often occurs repeatedly on a daily basis, as entrances are difficult to avoid by non-smokers.[21] Notably, a study conducted near 28 building entrances in Toronto found that the average outdoor level of fine particulate matter ($PM_{2.5}$; air pollutant particles with a diameter of 2.5 microns or less that are a marker of exposure to SHS) with at least 5 lit cigarettes present was 2.5 times greater than the average background level.[22] Outdoor tobacco smoke can also blow or drift indoors through doorways, windows or air intakes, causing

indoor SHS exposure.[10] Currently in Ontario, the only entranceways where smoking is prohibited under the SFOA are those at health care facilities and at schools and child care centres (where properties are entirely smoke-free).

Four Canadian provinces and territories have enhanced protection by making workplace entrances smoke-free: Alberta, British Columbia, Nunavut and Yukon. At least 35 Ontario municipalities prohibit smoking near municipal buildings, usually within nine metres of the entrance or exit, which is consistent with the nine metre no-smoking zone established in the SFOA for entrances and exits of health care facilities. These include Halton Region, Ottawa, Peterborough and Vaughan. The definition of a municipal building varies by municipality, but it often includes municipally owned, leased, occupied or operated buildings. Furthermore, most municipalities restrict smoking not only at building entrances and exits, but at air intakes and operable windows as well.

Only four municipalities restrict smoking near entrances to all workplaces or public places: Huron Shores, Sioux Lookout, Smiths Falls and Thunder Bay. In two additional municipalities, Woodstock and North Bay, private businesses can apply to make their entranceway smoke-free and enforced under the by-law. The prescribed distance from these entrances tends to be smaller than that given for smoking bans near municipal buildings, ranging from 2 to 5 metres.

In Toronto, City-operated long-term care homes have smoke-free entranceways under the prohibitions of the SFOA which relate to health care facilities. Similarly, the premises of City-operated child care centres must be smoke-free under the SFOA prohibitions affecting day nurseries and private home day care. Currently the only other circumstance where smoking is prohibited near entranceways to city facilities is if the entrance/exit is covered or has walls. A Toronto Transit Commission (TTC) by-law prohibits smoking on all TTC property including outdoor areas at transit stations. An employee policy restricts smoking by TTC employees within a 10 metre distance of doors, building entrances, windows and ventilation systems. Some Community Health Centres in Toronto also promote smoke-free entranceway and grounds policies, such as South Riverdale Community Health Centre and AccessPoint on Danforth.

In addition, many private owners and property managers enforce smoke-free entrance way policies at other buildings in Toronto. For example, in 2007, Sherway Gardens became the first shopping centre in Ontario to create a property-wide smoke-free environment through its Breathe Green initiative. Under Cadillac Fairview's smoke-free entranceway initiative, smoking is prohibited within nine metres of main entrances to two of its shopping centres in Toronto: the Eaton Centre and Fairview Mall. As a requirement of Leadership in Energy Efficiency and Design (LEED) certification, smoking should be prohibited near entranceways, outdoor air intakes and operable windows of these buildings.[23] For example, smoking within 7.5 metres of entrances is prohibited at LEED-certified properties such as First Canadian Place, Hudson's Bay Centre and Bell Trinity Square.

Public and stakeholder consultation is needed to determine which public buildings in Toronto would be subject to smoke-free entranceway restrictions under an expanded smoking by-law. However, possible locations include those frequented by children, youth and young adults, such as indoor playgrounds, post secondary school campuses, movie theatres and shopping centres; municipally owned and leased buildings; and health facilities not targeted by current legislation such as pharmacies, medical clinics and community health centres.

Bar and Restaurant Patios

Under the SFOA, bar and restaurant owners are only required to prohibit smoking on patios that are entirely or partially covered by a roof. Owners may choose however to voluntarily apply no-smoking policies on patios. TEOs report numerous challenges enforcing the SFOA prohibition on covered patios, as the definition of a roof is open to interpretation by both TEOs and establishment owners. Furthermore, outdoor bar and restaurant patios can receive high levels of tobacco smoke, putting patrons and staff at considerable risk of SHS exposure.[4]

Research indicates that most bar and restaurant operators will only make outdoor environments smoke-free when they are legally required to do so. For example, a 2007 University of Waterloo study of owners of bars or restaurants with patios in Ontario, including Toronto, showed that rather than going smoke-free when the SFOA was passed, many owners of establishments with covered patios preferred to achieve compliance by making structural alterations, such as removing the patio's roof, where possible.[24] Only about 5% of Ontario owners in this study chose to voluntarily make their uncovered patios smoke-free. These researchers found that only about one quarter (26%) of patios in their Toronto sample voluntarily went smoke-free after enactment of the SFOA. [13]

Four Canadian provinces and territories have made both covered and uncovered patios smoke-free: Alberta, Newfoundland and Labrador, Nova Scotia and Yukon. In Ontario, seven municipalities currently restrict smoking on bar and restaurant patios including Kingston, Thunder Bay and Ottawa.

Sports Fields

The SFOA prohibits smoking on all school grounds which include playgrounds, play structures and school sports fields. In contrast, smoking is permitted in all areas of Toronto's public parks, trails and beaches, except by playgrounds, wading pools, splash pads, and in farms and zoos operated by Parks, Forestry and Recreation Division which became smoke-free in 2009. Toronto Public Health was instrumental in advocating for a smoke-free policy covering venues at the Ontario Summer Games held in Toronto in August 2012[25] and in making similar recommendations for the Pan/Parapan American Games as discussed in the report, Toronto Public Health Tobacco Control Plan- An Update.

The most compelling rationales for banning smoking in outdoor recreation areas relate to child and youth protection from SHS and the importance of role modelling a smoke-free

lifestyle. Children have higher respiration rates than adults, particularly when active. This puts them at increased risk for adverse respiratory effects and other negative health consequences.[4] As mentioned above, children and youth who are exposed to smoking are also at risk of taking up smoking themselves. Images of people smoking in public places normalize smoking in the minds of children and youth.[11] Smoking near sports fields may be particularly insidious, as coaches, parents and others involved in recreational activities often serve as youth role models.[4] These role models are often an important influence on a child's decision to smoke.[12]

At least 31 Ontario municipalities now prohibit smoking near sports fields and spectator areas, including Barrie, Hamilton, Ottawa, Peterborough and Vaughan. Nine of these municipalities prohibit smoking in all park areas, including sports fields. Support for smoke-free sports fields and other areas in City parks is growing rapidly: eight municipalities enacted such bylaws in 2012. The City of Kingston is also in the process of amending its smoke-free by-laws to include outdoor recreational areas.

Hospital Grounds

The SFOA prohibits smoking within a nine metre radius of any entrance or exit of a public or private hospital, psychiatric facility or long-term care home in Ontario. Smoking is permitted on other areas of hospital grounds. However, many hospitals have implemented 100 percent smoke-free grounds policies which are enforced by hospital security staff. The goal of these policies is to reduce SHS exposure by patients, visitors and staff while de-normalizing smoking behaviour and promoting smoking cessation in healthcare settings in Toronto.

Toronto TEOs report challenges enforcing SFOA legislation at hospitals with smoke-free grounds policies. To avoid contradicting their internal 100 percent smoke-free grounds policies, hospitals will often remove their no smoking signs that were placed nine metres from entrance and exit ways to define legislated smoke free areas. Removal of these signs creates challenges for both the hospital and TEOs in determining whether the SFOA nine metre restriction is being contravened.

Hospitals also report numerous enforcement challenges with smoke-free grounds policies. These policies are often breached by patients who are attached to medical equipment that makes it difficult or unsafe for them to leave the property or, by hospital or Toronto EMS staff who have limited time for breaks. A Canadian study of the experiences of hospital smoke-free policies at two general hospitals (in Alberta and Manitoba) indicates that challenges with noncompliance and safety issues with patients leaving hospital property to smoke are ongoing concerns for hospital administration, staff and inpatients.[26] Toronto Public Health encourages hospitals to complement smoke-free grounds policies with inpatient treatment for nicotine withdrawal, cessation support for staff and patients and other tobacco control programming, but sufficient supports are not always made available.

Due to the challenges listed above, numerous hospitals have requested policy implementation support from Toronto Public Health, as well as municipal action to

strengthen their bans. In Ontario, only four municipalities have expanded their by-laws to make hospital grounds fully smoke-free, making this a relatively new area for by-law expansion.

Public Support for Expanded Smoke-Free Areas

The Toronto Health Survey is a regular component of Toronto Public Health's surveillance and assessment work. The survey, which is conducted by telephone on regular basis, includes a tobacco module with questions about support or opposition for smoke-free public spaces. Data from the 2011 survey indicates that approximately 86% of Toronto residents would support a local by-law mandating smoke-free doorways to public places such as shopping malls, arenas, restaurants, bars and places of entertainment, and making doorways to public and private workplaces smoke-free. About 74% of respondents would support a by-law that prohibits smoking on all outdoor public patios where food and drinks are sold. Approximately 83% of respondents would support a by-law making outdoor public sports fields and spectator areas smoke-free. These findings parallel those from province-wide surveys. In May 2011, an Ipsos Reid poll found that 89% of Ontario residents would support a smoking prohibition in areas where children are playing and 82% would support a prohibition of smoking on restaurant patios and entryways.[27]

Another measure of public support for increased smoking prohibitions are complaints and inquiries received by TEOs. TPH receives inquiries about smoking near public buildings, on uncovered patios and on hospital grounds. Under the current provincial and municipal legislation, there is no basis to require people who are smoking to relocate away from these areas.

Overall, there is strong evidence, public support and precedents set by other municipalities for an expansion of existing smoke-free legislation in Toronto. Toronto should explore opportunities to better protect its residents from the detrimental effects of second hand smoke and social exposure to smoking.

Conclusion

Since updating the Board of Health on the Tobacco Control Plan in March 2011, Toronto Public Health has continued its tobacco control work in the areas of prevention, protection and cessation. However, gaps in protection from SHS exposure in outdoor spaces have become evident. Furthermore, other municipalities have recently surpassed Toronto in terms of smoke-free by-law enactment that expands on the protections legislated under the SFOA. In particular, opportunities exist to reduce SHS exposure near public building entranceways, on uncovered bar and restaurant patios, sports fields and hospital grounds. In order to better protect Toronto's residents from the detrimental effects of SHS, the Medical Officer of Health recommends that Toronto Public Health conduct public and stakeholder consultation to identify measures to expand protection from SHS in Toronto. The Medical Officer of Health will also work with the City Solicitor to identify appropriate by-law amendments to the Municipal Code to further restrict outdoor smoking in Toronto.

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SIGNATURE

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Medical Officer of Health

ATTACHMENTS

Appendix A- Smoke-Free Legislation in Toronto
Appendix B- Smoke-Free By-laws

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