

## Smoking and Health Action Foundation Fondation pour la lutte contre le tabac

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### Waterpipe Deputation: Toronto Board of Health

The Smoking and Health Action Foundation (SHAF) is a national, non-profit health organization that conducts evidence-based research on topical issues in tobacco control. SHAF is the sister organization of the Non-Smokers' Rights Association (NSRA), a national tobacco control advocacy organization.

Our organization has been monitoring the issue of waterpipe smoking since 2008. We note that the availability of peer-reviewed research on waterpipe smoking and its health effects has increased dramatically in recent years. We have created a number of resources and have also hosted 2 waterpipe meetings (one Ontario-specific in 2011 and a national one in 2012), bringing together tobacco control and public health organizations, tobacco enforcement officers, environmental health inspectors, Royal Canadian Mounted Police (RCMP), Ontario Ministry of Health and Long-Term Care & Ministry of Finance, universities and Health Canada.

Waterpipe smoking has a history that dates back four centuries. However, the past two decades have seen it grow from a dwindling activity practised predominantly by older Middle Eastern men to become a youth-focused global epidemic. Why and how? The introduction of manufactured flavoured tobacco (Maassel) in the mid-1990s is commonly cited by experts, but other factors include the evolution of the internet and the rise of social media, the intersection between waterpipe's social dimension and thriving café culture, as well as lack of specific regulation. A multitude of mouth-watering shisha flavours combined with YouTube videos featuring hookah tricks like blowing smoke rings, Facebook shisha pages, online forums for sharing flavour "recipes," apps that simulate hookah smoking—today's waterpipe smoking is a meme and a modern and trendy cousin of its original form of use that has been embraced by young people worldwide.

Epidemiological data from various jurisdictions confirm this: waterpipe smoking has become the most popular form of tobacco use among youth in all 17 countries of the Middle East and in other parts of the world is second only to cigarettes. Global surveillance of waterpipe smoking rates, youth and adults, indicates that young people of all cultural backgrounds are at the forefront of this epidemic. The social nature of hookah smoking appears to have found a niche in young people's need for connectivity and social inclusion.

As more becomes known about the dangers of waterpipe (also known as hookah) smoking, both tobacco as well as other "herbal" concoctions, jurisdictions worldwide are responding with prohibitions in public places and workplaces. In Canada, concerns regarding insensitivity to long-standing cultural practices have been voiced in public discussions about the possible explicit inclusion of waterpipes in new smoke-free laws.

Vancouver's smoke-free bylaw was legally challenged under the *Canadian Charter of Rights and Freedoms*, with claims of violations of freedom of conscience and religion, among other things. However, given the toxicity of all second-hand smoke, protection of cultural practices is not a valid argument against public health protection.

In October 2014 the Second International Conference on Waterpipe Smoking Research was held in Qatar, attended by delegates from many countries where hookah smoking is considered traditional. The conference's *Doha Declaration* includes a statement that "existing policies weakly address waterpipe smoking; if they are to be effective in confronting the waterpipe epidemic, policies must be adapted to account for the specificities of waterpipe smoking, and must be evaluated scientifically and regularly for their effectiveness."

The most recent Conference of the Parties to the WHO Framework Convention on Tobacco Control (FCTC) received a report by the Convention Secretariat on the control and prevention of waterpipe smoking. A decision was agreed upon for Parties to step up surveillance efforts and to strengthen their implementation of the FCTC in relation to waterpipe tobacco products through the integration of waterpipe prevention and control in tobacco control measures.

All countries where waterpipe smoking is considered traditional are Parties to the FCTC. Many of those countries have taken measures to prohibit or restrict waterpipe smoking in public places, including:

- United Arab Emirates (2013) – Smoking tobacco, including in a waterpipe, is restricted in restaurants and other public places.
- Turkey (2013) – Use of tobacco products is prohibited in restaurants owned by legal entities and entertainment establishments such as cafes, cafeterias and bars. In 2013 the law was amended such that any kind of hookah or cigarette that does not contain tobacco but imitates a tobacco product is considered a tobacco product.
- Lebanon (2012) – Waterpipe smoking is prohibited in public places, including restaurants and cafés.
- Syria (2010) – Waterpipe smoking is restricted in restaurants and cafés ("public stores").
- Jordan (2008) – Smoking is restricted in public places, including restaurants, although a number of accounts indicate the law has not been well enforced. It has been reported that the government will not renew licenses in 2015 for venues serving waterpipe.
- Saudi Arabia (Mecca & Medina, 2001) – By royal decree, Mecca and Medina were declared tobacco-free in 2001. Waterpipe smoking is prohibited in cafés and restaurants within residential areas and near mosques and schools. Note that Mecca and Medina are Islam's two most sacred places and are revered by more than one fifth of the world's population. The World Health Organization reports that "smoking waterpipes in open cafés is particularly frowned upon by the religious leaders. It is viewed as 'committing the sin in public', challenging good Muslim behaviour and, potentially, promoting smoking behaviour amongst non-smokers." It is reported that Saudi Arabia has since banned smoking, including hookahs, in all government offices and most public places, including restaurants, coffee shops, supermarkets and shopping malls."

In Canada, the loudest opponents to smoke-free waterpipe legislation are business people who have a financial stake in the issue, not religious or cultural organizations. A similar observation has been made in Lebanon. Alberta's *Tobacco and Smoking Reduction Act* prohibits the smoking of tobacco and tobacco-like products in public places and workplaces (this portion not yet proclaimed). A coalition of restaurant owners actively opposed the bill; however, opposition from the province's Middle Eastern/Islamic religious and cultural organizations was notably absent.

Vancouver's smoke-free bylaw was legally challenged under the *Canadian Charter of Rights and Freedoms* by two café owners who claimed, among other things, that the bylaw violated their fundamental freedoms of conscience and religion. They claimed that waterpipe smoking is an important cultural and religious activity in their community, and that the bylaw was an infringement on their religious rights and those of their Muslim and Middle Eastern patrons. The judge rejected their arguments, noting:

- Hookah smoking is not part of any religious ceremony and does not connect Muslims with the divine;
- There is no evidence to support the defendants' claim that their ability to operate their hookah cafés, that permit people to smoke for profit, is a function of their spiritual faith;
- The bylaw does not prevent people from buying waterpipes or shisha to smoke in their own homes, at another person's home, either alone or in a group setting; and
- A ban on hookah smoking in public places and workplaces does not interfere with people's ability to act in accordance with their religious beliefs.

Smoke-free laws that explicitly include waterpipes and the smoking of other weeds or substances are enacted for the health benefit of everyone, regardless of cultural or religious background. The creation of smoke-free spaces is a globally-recognized health promotion best practice. Laws that also prevent the smoking of other weeds or substances level the playing field for all businesses, as did the prevention of smoking cigarettes and other tobacco products.

Although hookah smoking is considered traditional in various parts of the world, public health authorities and researchers agree that it is now a full-fledged global pandemic with young people at the fore. Given the known dangers of smoking and exposure to second-hand smoke (with or without tobacco), arguments in favour of the protection of historical cultural practices, or the protection of business interests, must take a backseat to the more important goal of public health protection.

Based on the research evidence and consultations with stakeholders across Ontario, SHAF has concluded that there is sufficient evidence regarding the health effects of waterpipe smoking to justify a bylaw that prohibits waterpipe smoking in public places and workplaces. Culture is not static. Canada used to have a huge smoking culture and had one of the highest rates of cigarette smoking in the western world. This has been turned around through decades of education and legislation, to the point where we now have one of the lowest smoking rates in the world.

In conclusion, SHAF supports the Board of Health recommendations to prohibit waterpipe use in establishments licensed by the City of Toronto and that Toronto Public Health conduct a comprehensive public education campaign to accompany the implementation of any regulatory change.

**Our specific recommendations are:**

1. That the City of Toronto pass a bylaw prohibiting the smoking of tobacco or other weeds or substances in public places and workplaces, including outside on all bar and restaurant patios to protect health and to maintain a level playing field for all hospitality businesses in the City.
2. That the City of Toronto consider other options to minimize or eliminate youth access to waterpipe smoking, including a retail display ban for smoking-related apparatus and paraphernalia.
3. That Toronto Public Health undertake a public education campaign aimed especially at youth and young adults, using traditional and social media, to address the widespread misconceptions about the health risks of waterpipe smoking.
4. That the Toronto Board of Health urge the federal Minister of Health to amend the *Tobacco Act* and regulations to explicitly include tobacco shisha.

# ***Jurisdictions in Canada with Waterpipe Bylaws/Legislation<sup>1,2,3</sup>***

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## **Indoors**

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|----------------------------------|-------------------------------|
| 1. Harrison Hot Springs, BC      | (16/06/2014)                  |
| 2. Vancouver, BC (two bylaws)    | (01/09/2010) and (01/10/2014) |
| 3. Williams Lake, BC             | (24/02/2015)                  |
| 4. Red Deer, AB                  | (08/07/2013)                  |
| 5. Barrie, ON (two bylaws)       | (15/08/2011) and (26/08/2013) |
| 6. Bradford West Gwillimbury, ON | (03/09/2013)                  |
| 7. Orillia, ON                   | (10/06/2013)                  |
| 8. Peterborough, ON              | (10/12/2012)                  |
| 9. Quebec                        | (31/05/2008)                  |
| 10. Nova Scotia                  | (20/11/2014)                  |

## **Outdoors**

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|-------------------------------------|-------------------------------|
| 1. Coquitlam, BC                    | (10/08/2010)                  |
| 2. Harrison Hot Springs, BC         | (16/06/2014)                  |
| 3. Kelowna, BC                      | (23/03/2015)                  |
| 4. Langley, BC                      | (19/07/2010)                  |
| 5. Maple Ridge, BC                  | (26/08/2014)                  |
| 6. North Vancouver, District of, BC | (19/04/2010)                  |
| 7. Port Moody, BC                   | (28/10/2008)                  |
| 8. Powell River, BC                 | (20/08/2009)                  |
| 9. Revelstoke, BC                   | (12/03/2013)                  |
| 10. Richmond, BC                    | (14/12/2009)                  |
| 11. Surrey, BC                      | (11/03/2013)                  |
| 12. Tofino, BC                      | (27/04/2010)                  |
| 13. Vancouver, BC (two bylaws)      | (01/09/2010) and (01/10/2014) |
| 14. West Vancouver, BC              | (06/07/2009)                  |
| 15. Williams Lake, BC               | (24/02/2015)                  |
| 16. Alberta                         | (27/11/2013)                  |
| 17. Okotoks, AB                     | (19/08/2013)                  |
| 18. Red Deer, AB                    | (08/07/2013)                  |
| 19. Strathcona County, AB           | (22/09/2009)                  |
| 20. Barrie, ON                      | (26/08/2013)                  |

<sup>1</sup> This list is created from an advanced search of the online NSRA database of smoke-free laws, using "Waterpipe" as the search term under "Products Included." <http://www.nsra-adnf.ca/cms/smoke-free-laws-database.html> Bylaws/laws are only included in this list if they specifically mention hookah or waterpipe. Information is current to March 27, 2015.

<sup>2</sup> Note that the list is counting jurisdictions, not bylaws/legislation. Some municipalities, like Ottawa and Vancouver, have more than one bylaw that prohibit waterpipe smoking in different spaces.

<sup>3</sup> Dates listed reflect either date implemented or date last amended, whichever is most recent.

21. Bradford West Gwillimbury, ON	(03/09/2013)
22. Chatham-Kent, ON	(11/08/2014)
23. Englehart, ON	(23/04/2012)
24. Essex, Town of, ON	(06/10/2014)
25. Hamilton, ON <sup>4</sup>	(09/03/2011)
26. Mississauga, ON	(23/04/2014)
27. Niagara Region, ON	(13/10/2013)
28. Orillia, ON	(10/06/2013)
29. Ottawa, ON (two bylaws)	(27/06/2012)
30. Oxford, ON	(18/11/2013)
31. Peterborough, ON <sup>5</sup>	(10/12/2012)
32. Tecumseh, ON	(08/07/2014)
33. Quebec	(31/05/2008)
34. Nova Scotia	(20/11/2014)
35. Hantsport, NS	(05/11/2013)

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<sup>4</sup> This bylaw is specific to tobacco.

<sup>5</sup> Peterborough's is Ontario's first exemplary and comprehensive waterpipe bylaw - it includes prohibition against smoking in enclosed public and workplaces. Orillia, Barrie and Bradford West Gwillimbury have followed suit with the same definition of waterpipe and also prohibit smoking in enclosed public and workplaces. Most other Ontario waterpipe bylaws apply outdoors or in municipal workplaces only.