REGIONAL MUNICIPALITY OF OTTAWA-CARLETON REPORT
MUNICIPALITÉ RÉGIONALE D'OTTAWA-CARLETON RAPPORT

Our File/N/Réf.
Your File/V/Réf.

DATE 14 November 1996

TO/DEST. Coordinator
Community Services Committee

FROM/EXP. Medical Officer of Health

SUBJECT/OBJET **NO-SMOKING BY-LAW IN PUBLIC PLACES**

DEPARTMENTAL RECOMMENDATIONS

That the Community Services Committee recommend Council approve:

1. **That area municipal councils within Ottawa-Carleton develop or revise a public places smoking by-law with respect to restaurants, bars and pubs, using the provisions of Option 3 in this report;**

2. **That area municipalities within Ottawa-Carleton develop or revise their public places smoking by-law as necessary with respect to shopping malls, arenas/community centres, bingo halls, billiard halls and bowling alleys, using the provisions in this report;**

3. **That area municipal councils pass a resolution endorsing a regional smoking by-law for public places as stipulated in recommendations 1 and 2.**

EXECUTIVE SUMMARY

In response to the growing support for smoke-free public places, this report outlines municipal by-law options for no-smoking by-laws in public places not covered under the Ontario Tobacco Control Act including restaurants, bars and pubs, shopping malls, arenas and community centres, bingo halls, billiard halls and bowling alleys.

Results of a public opinion poll conducted with 400 Ottawa-Carleton residents about their support for no-smoking by-laws are presented. The majority of people surveyed (64%) support a by-law with 100% smoke-free restaurants. This support increases to 73% when smoking is allowed only in a section that is completely enclosed and separately ventilated to the exterior (Designated Smoking Rooms). The results for other public places are presented.

The harmful effects of involuntary exposure to environmental tobacco smoke (ETS) are reviewed as well as the risks to food service workers. Indoor air ventilation systems for smoking may be based on two types of standards: those designated to maximize comfort; and occupational health based standards whereby the risk of developing lung cancer following exposure to ETS is below the level of one extra cancer death per million persons exposed.

Recommended Content Of Public Places By-laws

Based on health and ventilation standards evidence plus the measure of public support necessary for compliance, the following are recommended:

a) Restaurants, Bars and Pubs

70% non-smoking sections as soon as possible, except for 50% non-smoking in the "bar area" of a restaurant after 9 p.m. By 2000, premises choosing to allow smoking must do so in a properly ventilated and enclosed designated smoking room which is not more than 30% of the seating area. Certain exceptions may apply (see text).

b) Shopping Malls

Food courts and restaurants within the common area of a shopping mall, whether or not the seating area is leased to one or more restaurants, should be smoke-free as soon as possible. Restaurants which abut the common areas of malls should fall under the recommendations in this report for restaurants and bars/pubs.

c) Arenas/Community Centres

Arenas/community centres should be smoke-free as soon as possible with one exception: halls rented out for public events would be subject to the by-law for that type of event.

d) Bingo Halls, Billiard Halls and Bowling Alleys

The non-smoking section should be 50% as soon as possible. With respect to bowling alleys, it is recommended that they be entirely smoke-free when children's bowling occurs. It is also recommended that all premises which choose to allow smoking by 2000 must do so in separately enclosed and ventilated smoking areas with further consultation with bingo, billiard and bowling operators to determine the percentage of smoking space allowable.

Local And Regional By-laws

It is recommended that area municipal councils develop or revise their public places smoking by-law as soon as possible. At the same time, they are requested to pass a resolution endorsing a Regional smoking by-law. When six area municipalities have done so, a Regional by-law will be presented for enactment in order to achieve a level playing field for all businesses and protection for the entire population of the Region.

BACKGROUND

At its meeting on February 26, 1992, Regional Council adopted the following Ottawa-Carleton tobacco use targets in order to reduce the disease, disability and mortality associated with cigarette smoking:

1. 50% decrease in tobacco sales by 2000 with at least a 5% decrease annually;

2. Decreased teen smoking (to 10% prevalence by 2000);

3. Decreased adult smoking (to 15% prevalence by 2000);

4. No tobacco use by pregnant women;

5. 100% smoke-free schools, workplaces and public places by 1995;

6. No sales to minors by 1995.

As a means of reaching these targets, the Health Department and community partners have developed a regional plan with three primary objectives:

1. Reduce tobacco use by minors through prevention and decreasing sales to minors;

2. Reduce involuntary exposure to ETS;

3. Support smoking cessation.

With reference to the second objective, Health Department staff, members of the Ottawa-Carleton Council on Smoking and Health and other interested community members have worked with area municipal councils and officials since 1992 to implement and/or strengthen public place smoking by-laws in order to reduce involuntary exposure to ETS. Such by-laws were passed under authority given by the Ontario Municipal Act. Much has been achieved and this work continues under the authority of the new Ontario Tobacco Control Act.

Please see Annex A for a summary of current local municipal by-laws and provisions of the Ontario Tobacco Control Act. While Ontario's Tobacco Control Act regulates smoking in some public places such as arcades, banks, hairdressing salons, day nurseries, hospitals and laundromats, there are no provisions for restaurants, bars and pubs, arenas, bingo halls, billiard halls and bowling alleys. The Act does allow for the council of a local municipality to pass a public places smoking by-law. Further, a regional municipality may pass a public places by-law if a majority of the councils of the region approve the exercise of such powers. In such a case, the regional by-law supersedes any local by-laws.

Initiatives to date by the Health Department to encourage public places to be smoke-free include surveying all food establishments as to the number of non-smoking seats (Annex B) and the publication of a 100% Smoke-Free Dining Guide in Ottawa-Carleton. In 1995, the average percentage of non-smoking seating per restaurant was 50% with 10% of restaurants having no non-smoking seating and 10% being completely smoke-free. The guide has been very popular and currently lists 120 restaurants which are 100% smoke-free. A decal promoting that restaurants are smoke-free is provided to restaurateurs for the customers benefit. The Department has also undertaken to survey 15 restaurant owners in Ottawa-Carleton who have made the transition to becoming smoke-free. (See the section called "Qualitative Survey of Restaurants in Ottawa-Carleton").

This report contains options for by-laws and recommendations from the Medical Officer of Health for the 11 area municipalities and for a Regional by-law for public places. To support these recommendations, results from a public opinion poll of 400 residents in Ottawa-Carleton are presented as well as findings from the current literature about the health effects of involuntary exposure to ETS and ventilation standards.

HEALTH RISKS OF ETS

ETS (also referred to as second-hand smoke) is a complex mixture of harmful gases, liquids and inhalable particles containing more than 4,000 compounds, over fifty of which are known to cause cancer. ETS consists of mainstream smoke, the smoke inhaled and exhaled by the smoker, and side stream smoke, the smoke released directly from the burning end of a cigarette. Although chemically very similar, undiluted side stream smoke, because it burns at a lower temperature contains higher concentrations of many of the toxic constituents of tobacco smoke. Side stream smoke particles are also smaller than those of mainstream smoke and thus can be inhaled more deeply into the lungs.

ETS results in serious respiratory problems for young children and infants. For example, it is estimated that there are 500 asthmatic children in the Region whose condition is worsened by exposure to ETS. ETS exposure is also a risk factor for new cases of asthma who have not previously displayed symptoms (EPA, 1993). Each year, another 450 children under the age of 18 months suffer pneumonia and bronchitis due to exposure to ETS. (See Annex C).

Unfortunately, the risk extends to the fetus who is affected by both the mother's smoking and ETS she breathes. As a result, another 100 deaths occur due to spontaneous abortion and respiratory disease. Infants regularly exposed to ETS have a two-fold chance of dying from Sudden Infant Death Syndrome (SIDS) (Gidding et al, 1994).

There is good scientific evidence that ETS is a human carcinogen (EPA, 1993) and it is estimated that in Ottawa-Carleton ETS is responsible for approximately ten lung cancer deaths per year in non-smokers. In view of the carcinogenic properties of ETS, Health and Welfare Canada recommended in 1987 in their "Exposure Guidelines for Indoor Air Quality" that any exposure to tobacco smoke in an indoor air environment be avoided (Health and Welfare Canada, 1987). The U.S. National Institute for Occupational Safety and Health (NIOSH) concluded in 1991 that ETS is a potential occupational carcinogen and recommended that the exposures of non-smokers be reduced to the lowest feasible concentration and that all available preventive measures be used to minimise occupational exposure to ETS (NIOSH, 1991). In 1993, the U.S. Environmental Protection Agency (EPA) classified ETS as a "known human carcinogen" or a "Class A carcinogen" (EPA, 1993).

The adverse effects of ETS on cardiovascular health have been well described (Gidding, et al., 1994). It is estimated that 90 cardiovascular deaths per year in Ottawa-Carleton are attributable to exposure to ETS. Exposure to ETS may also trigger immediate reactions in non-smokers such as itchy eyes, runny noses, coughing, wheezing and sore throats.

Exposure to ETS poses a particular risk of harm to food service workers. In fact, restaurant employees are the occupational group most heavily exposed to ETS and most likely to suffer adverse health effects (Siegal, 1996). Levels of ETS in restaurants that allow smoking are approximately 1.6 to 2 times higher than levels in offices that allow smoking. Moreover, levels of ETS in bars that allow smoking are 4 to 6 times higher than in offices that allow smoking (Siegal, 1993). The level of exposure increases the risk of lung cancer among food-service workers by 50% compared to the general population. A non-smoking bartender in a poorly ventilated bar may breathe as much benzo(a)pyrene and carbon monoxide in eight hours as if he or she had smoked the equivalent of 36 cigarettes (Marconi et al.,1995). The risk of developing cancer for a non-smoking waiter or waitress with a duration of exposure of 40 hours per week over a lifetime has been estimated to be approximately 2,700 per million and the risk of heart disease, ten times that of lung cancer, at 27,000 per million (Health and Welfare Canada, 1987; personal communication with Dr. James Repace, 1996). The cancer risk is well above that often used for controlling carcinogens in the workplace, (one extra cancer death per million persons exposed). (See Annex D for more information on ETS and Service Industry employees).

A formal study of the health risks for non-smoking patrons exposed to ETS in restaurants has not been completed to date. However, the risks can be extrapolated from the above calculated risks for restaurant employees, (details available upon request). In the United States, it has been estimated that the average working man, (not an employee of a restaurant or bar), spends 0.4 hours per day in a restaurant or bar as a customer while the average woman spends less time, about 0.2 hours per day in these establishments. The average male, therefore, spends approximately 2.8 hours per week in a restaurant or bar which is 0.07 of the time for a waiter or waitress, (personal communication with Dr. James Repace, 1996). The estimated risk of

developing lung cancer for such males is 180 per million and for heart disease is 1,800 per million. For females, the corresponding risks are 100 per million for developing lung cancer and 1,000 per million for heart disease. The above cancer estimates are above the accepted occupational cancer risk and signify an urgent need to reduce further or eliminate exposure of the general public to ETS.

VENTILATION STANDARDS

ETS is a major cause of indoor air pollution. Restricting smoking to designated areas in restaurants using common ventilation systems reduces peak levels of smoke and provides greater comfort to non-smokers but does not prevent the diffusion of ETS in the restaurant. Studies have shown that the level of ETS in non-smoking areas of food establishments can be 40% lower for the carcinogenic respirable suspended particulates and 30-65% lower for nicotine, (Lambert et al, 1993) (Abernathy et al, 1996).

Indoor air ventilation systems for smoking areas may be based on two types of standards:

1. Those designed to maximize comfort or limit irritation to patrons;

2. Occupational health based standards whereby the risk of developing cancer (e.g. lung cancer) following exposure to a carcinogen (such as ETS) is below the level of one extra cancer death per million nonsmokers exposed for a working lifetime of 40 years.

Existing ventilation systems in restaurants may be designed to provide a comfortable level of exposure to ETS and may be based on indoor air ventilation standards set by the American Society of Heating, Refrigeration and Air-conditioning Engineers (ASHRAE standard 62-89). ASHRAE ventilation standards cannot be relied upon to achieve a “safe” level of health. They are designed only to limit dissatisfaction with tobacco odour to a maximum of 20% for visitors (smokers and non-smokers) to a building where smoking occurs.

Air cleaning devices can reduce but not eliminate ETS particles in room air, are not effective in removing gases (which contain most of the irritants) and cannot remove tar particles to a level of cancer risk considered acceptable (Lambert, et al., 1993). Dr. James Repace, an expert in the area of ETS and ventilation (formerly with the U.S. EPA) concluded that the only way to maintain indoor air quality is to control the source of pollutants. For ETS, this means restricting smoking to separately ventilated smoking areas or banning smoking entirely. Establishing a physically distinct smoking area in a building is a source control option provided it is separately ventilated and under negative pressure relative to the non-smoking area. Negative pressure alone has been found to be unreliable in eliminating ETS in non-smoking areas of buildings. The recommended volume of outdoor air supplied should be 10 litres/second per occupant for dining rooms, and 15 litres/second for bars, where not everyone is smoking. For smoking lounges, 30 litres/second per occupant are required. Bars where everyone is smoking are essentially smoking lounges. The cost of installing a separate ventilation system can be highly variable depending on the structure of the facility and was estimated by a heating, ventilating and air-conditioning contractor in Ottawa-Carleton, to be approximately $10,000--$15,000. Structural modifications to enclose the smoking area would incur further costs in the range of $3,000. Installation costs for new buildings are expected to be lower.

Although an enclosed, separately ventilated area provides protection to non-smoking customers, food service employees continue to be exposed to the hazards of ETS. With separately ventilated and enclosed designated smoking areas, exposure of employees to ETS will be reduced in comparison to existing ventilation systems. However, only a complete ban of smoking in restaurants and bars eliminates the risk of adverse health effects to employees.

PUBLIC ATTITUDES TOWARDS SMOKING IN PUBLIC PLACES

A systematic consultation with the residents of Ottawa-Carleton was accomplished through the commissioning of an Angus-Reid public opinion poll. Between September 9th and September 12th, 1996, 400 telephone interviews were conducted in the official language of the respondent's choice. A clear majority (62%) supported an inclusive by-law requiring all public places to be 100% smoke-free (see Annex E for more details). The reasons given for supporting the by-law were primarily health related and included concerns about the health effects of second hand smoke and the aggravation of respiratory conditions such as allergies and asthma.

To examine the levels of public support for 100% smoke-free public places among specific locations, opinion was gathered for 15 types of locations that residents might frequent. There was majority support for banning smoking in 13 types of locations: private daycares (89%), reception areas (85%), non-public workplaces (80%), arena/recreation centres (80%), lobbies/common areas (78%), food courts (72%), doughnut shops (66%), bowling alleys (64%), restaurants and cafés (64%), bingo halls (56%), casinos (55%), pubs (53%), pool halls (51%), racetracks (49%) and bars or lounges (49%).

The opinion poll also examined the effect of such a by-law upon the patronage of the local hospitality industry. For all respondents there was no effect on intended patronage as a result of a 100% smoke-free by-law. Among patrons going out once or twice a week, however, a net positive change in patronage was found for establishments primarily involved in serving food. Also reported was a decline in the patronage of pubs, bars and lounges among these more frequent or 'regular' patrons.

Respondents also had the opportunity to provide their support or opposition to a by-law option that would require smoking to be limited to a section that is completely enclosed and separately ventilated to the exterior of the building. Nearly three-quarters (73%) of respondents supported separately enclosed and separately ventilated smoking areas for restaurants (48% strongly and 25% somewhat) and two-thirds (66%) supported this option for bars and pubs (38% strongly and 28% somewhat).

Over the past 16 months, a series of opinion polls conducted in Vancouver, Toronto and most recently in Ottawa-Carleton have established a consistent pattern of approximately two-thirds support for 100% smoke-free public places. (See Annex F for details). Among this majority of supporters, health reasons figure predominantly in their support for a by-law. Among the minority of those opposed to the by-law, 'choice' and 'rights' statements were mentioned as the reasons. All three polls had similar finding in regard to changes in patronage with there being no net change among the patronage of all respondents. For a sub-group of regular patrons, who went to establishments once or twice a week, smoke-free public places would likely increase the

patronage of establishments that primarily provided meals, and decrease the patronage of establishments primarily involved in gaming or alcohol sales.

QUALITATIVE SURVEY OF RESTAURANTS IN OTTAWA-CARLETON

In Ottawa-Carleton the proportion of smoke-free restaurants doubled from 5% of all restaurants in 1993 to 10% in 1995. While this trend is encouraging, 83% of all restaurant seating currently available to the public is in restaurants that permit some level of smoking (Hotte, 1996). To better understand the impacts of a by-law mandating restaurants to become smoke-free, the experience of 15 restaurants voluntarily making the transition was examined. Semi-structured interviews were conducted in-person with restaurateurs to examine their transition to being smoke-free.

Preliminary analysis among 'quick-service' types of restaurants revealed that restaurants viewed the transition in terms of direct product enhancement by improved quality of the food served, particularly for restaurants where the food was available in the dining space as was the case for a pasta bar, salad places, ice cream focused restaurants and doughnut shops. Product enhancement was also affected indirectly through an improved ambience for customers and slight reductions in cleaning costs. The most significant finding from restaurateurs had to do with the observed availability of tables and resulting economic impacts. Once the transition to being 100% smoke-free was made, several owners observed that during peak hours tables became available sooner than before due to the absence of smoking and that during off-peak hours there appeared to be fewer people lingering in their establishments. The net result of this across nearly all restaurateurs interviewed was that the transition to being smoke-free produced no change in their business or had a positive influence on their sales. Finally, when restaurateurs were asked how they felt regarding a regulated versus a voluntary approach to creating smoke-free restaurants, they were opposed to any government regulation of their business. It should be noted that this attitude is in contrast with their current compliance with many existing labour, safety and food preparation regulations which are clearly in the public interest.

OPTIONS FOR SMOKING BY-LAWS IN RESTAURANTS, BARS AND PUBS

There are approximately 1,600 food premises in Ottawa-Carleton. They include bars, pubs and other entertainment facilities. There are an estimated 500 food premises that do not have a liquor license, 1,000 with a license but not a conventional bar where customers sit or stand to drink and eat, and 100 with a license and a conventional bar.

Several options for no-smoking by-laws were investigated and are summarized below. The following points should be viewed as general principles when reviewing the options:

- Involuntary exposure to ETS should be reduced as quickly as possible;
- Persons voluntarily exposing themselves to ETS should be aware of the health risks in order to make an informed decision;
- Any by-law must rely primarily on voluntary compliance and therefore have general support from those affected by the by-law;
- The Health Department would like to work with its community health partners and the Ontario Restaurant Association (Ottawa Region) to promote and provide smoking cessation

programs for food service workers;

- Food and bar service workers should have the right to be able to refuse work in a smoking area without reprisal, whether codified in a by-law or not.

Option 1:
100% Smoke-Free

In the U.S., over 200 municipalities plus the states of California, Utah, Vermont and Maryland have complete smoking bans in restaurants. California's ban extends to bars January 1, 1997. Twenty-eight U.S. municipalities have passed both smoke-free restaurant and bar by-laws. In Canada, the City of Vancouver prohibits smoking in restaurants but allows it in a portion of bars. The Greater Toronto Area Tobacco Reduction Working Group, (consisting of staff from eight public health units), recommended in August, 1996 that GTA municipalities enact by-laws to implement 100% smoke-free policies in restaurants, entertainment facilities and all other public places and workplaces to take effect January 1, 1997. They base this recommendation on two conclusions:

1. The scientific and medical evidence strongly supports action to eliminate exposure to second-hand smoke in public and work places without delay;

2. There is no credible evidence which supports the fear of negative economic impacts from such policies.

a) Benefits

- All members of the public and all employees are protected from ETS;
- Fewer people will start to smoke (US Surgeon General, 1992);
- Smokers have an additional incentive to quit (US Surgeon General, 1992);
- The by-law attracts full public attention to the ETS issue, thus supporting education about its health effects;
- The by-law could include an economic hardship clause whereby operators could apply for an exemption if they can provide sufficient evidence to prove that smoking restrictions have had significant adverse effects on their business. The proof of burden would be placed on the operator to demonstrate the loss of business and that the by-law is the cause of this loss;
- 64% of survey respondents supported a by-law that makes restaurants 100% smoke-free. When broken down by non-smokers and smokers, 76% of non-smokers and 35% of smokers support 100% smoke-free restaurants. 63% of non-smokers and 15% of smokers support smoke-free bars;
- There are no new ventilation or construction costs.

b) Limitations

- The option does not address the economic impact issue expressed by restaurateurs and other business stakeholders;
- Requirements in neighbouring municipalities may differ;
- It may be perceived as too intrusive, thus decreasing the overall public support needed for compliance with the by-law.

Some limitations could be addressed by delaying the implementation date to the year 2000. This would provide more time for the business sector and the general public to prepare. There would be more time for education programs and it would increase the chances of having a level playing field with neighbouring communities.

Option 2:
Non-Smoking Until 9 p.m. And 100% Smoke-Free By 2000

The City of North York passed a by-law for public places and workplaces at its meeting held on October 30, 1996. Effective January 1, 2000, smoking will be prohibited in all workplaces and public places. Effective January 1, 1997, all restaurants and bars will become smoke-free until 9 p.m. and between 9 p.m. and closing, a minimum of 75% of the seating area will be designated no-smoking. This by-law also applies to all other public establishments that children may frequent.

To be consistent with other Ottawa-Carleton options, the non-smoking area after 9 p.m. would be 70%.

a) Benefits

- All members of the public and all employees are protected from ETS by 2000;
- All members of the public and all employees are protected from ETS prior to 9 p.m. starting January 1, 1997;
- Customers can make an informed choice about smoking and no-smoking areas after 9 p.m.;
- There are no new ventilation or construction costs.

b) Limitations

- Non-smoking areas may not be truly smoke-free after 9 p.m. until 2000;
- Employees working in smoking areas after 9 p.m. will still be exposed to ETS;
- There is no incentive to improve ventilation;
- The public may not be ready to support smoke-free bars by 2000, therefore, increasing the chances of there being a delay in implementing 100% smoke-free restaurants and bars.

Option 3:
70% Non-smoking Sections Now; Smoking Restricted
To Separately Enclosed And Ventilated Rooms By 2000

This option calls for 70% non-smoking sections as soon as possible. 70% is similar to the percentage of non-smokers in Ottawa-Carleton and is similar to by-laws in Kanata (70%) and Gloucester (75% as of January, 1997). For the "bar area" of a restaurant, bar or pub, there would be 50% non-smoking after 9 p.m. in keeping with the increased proportion of smoking bar customers after 9 p.m. This makes it easier for the manager to implement the by-law effectively.

By the year 2000, all premises which choose to allow smoking must do so in a designated smoking room (DSR) which is not more than 30% of the seating area. The DSR must normally meet three criteria:

1. Ventilation at 30 litres of outdoor air per second per occupant, normally supplied by transfer air, (ASHRAE Standard 62-1989 for smoking lounge comfort);

2. Containment of ETS within the smoking area;

3. Local mechanical exhaust to the outdoors with no recirculation to non-smoking areas of the building or re-entrainment.

Exceptions could be granted if air testing of the non-smoking area demonstrated less than 7.5 nanograms of nicotine per cubic metre of air, (8-hour time-weighted average). This risk level corresponds to a 1 per million excess risk of contracting lung cancer, which is a customary risk level chosen for carcinogen control in the workplace. This level is considerably lower than the typical 1,000-1,600 nanogram per cubic metre concentrations reported in surveys of the non-smoking sections of restaurants, (Lambert et al, 1993; Abernathy et al, 1996). Testing would be performed under the direction of the Health Department at the expense of the food premise operator. Periodic re-testing and recertification would be necessary.

DSR's would be required for new restaurants, restaurants that perform major renovations and restaurants that apply for a new liquor licence or transfer of liquor licences that truly reflect a change in ownership. If none of these conditions applied, then this requirement would come into effect by January 1, 2000. Restaurants could apply for up to a 2 year extension if they demonstrate extreme economic hardship during 1997-99 to the satisfaction of the by-law control officials.

Health warning signs regarding risks to children and adults would be required in smoking areas and washrooms now plus DSR's as they come into existence.

All employees would be warned in writing by the Health Department about the risks of working in a smoking area and encouraged to refuse work in such areas if they are concerned.

a) Benefits

- Customers can make an informed choice between non-smoking and smoking areas;
- It increases the non-smoking area from 50 to at least 70% in some municipalities as soon as possible;
- By 2000, non-smoking areas will be truly smoke-free and smoking areas will be ventilated to ASHRAE comfort standards;
- 73% of survey respondents supported the allowing of smoking only in a section that is completely enclosed and separately ventilated to the exterior. When broken down by non-smokers and smokers, 75% of non-smokers and 71% of smokers support this option for restaurants. For bars and pubs, 73% of non-smokers and 50% of smokers are supportive;
- Restaurants demonstrating extreme economic hardship could have delayed implementation;
- There will be protection for employees who do not work in smoking areas.

b) Limitations

- Non-smoking areas may not be truly smoke-free until 2000;
- Children sitting in smoking areas will still be exposed to ETS;
- Construction and ventilation costs will be necessary for most restaurants. Larger businesses may be better able to handle the expense by 2000;
- Employees working in smoking areas will still be exposed to ETS.

Option 4:
Ontario Restaurant Association (Ottawa Region) Position

Staff met with the current and past presidents of the Ontario Restaurant Association--Ottawa Region (ORA). ORA supports a Regional by-law, assuming that the goals of protecting employees and non-smoking guests from second hand smoke can be achieved without negatively impacting member businesses. (See Annex G). A 70% non-smoking area requirement by January 2, 1999 would be feasible and have high compliance. For "bar areas," a 50% requirement would be in effect after 9 p.m. for reasons cited under Option 3. If non-smoking ratios were to change thereafter, any by-law changes should require 6 of 11 area municipalities to approve the change.

Starting in 1997, non-smoking areas should be ventilated to an agreeable standard (probably the ASHRAE standard) beginning with new restaurants, restaurants that perform major renovations, and restaurants that apply for a new liquor licence or transfer of liquor licences that truly reflect a change in ownership. If none of these conditions apply, then this requirement would come into effect in five years.

Negative signage concerning the dangers of smoking should be confined to washrooms but positive signage could be used in non-smoking areas. Workers should have the right to refuse work in a smoking area. ORA is interested in working the Health Department to promote smoking cessation programs for restaurant workers.

a) Benefits

- This option is supported by the ORA with approximately 400 members;
- Customers can make an informed choice between non-smoking and smoking areas;
- By 2002, non-smoking areas will be smoke-free if there is a mutually agreeable ventilation standard;
- Acknowledging the increased proportion of bar customers smoking after 9 P.M. makes enforcement by the manager easier;
- There will be protection for employees who do not work in smoking areas.

b) Limitations

- The non-smoking area will not increase from 50 to at least 70% in some municipalities until 1999;
- Non-smoking areas may not be truly smoke-free until 2002;
- It may be difficult in practice to ventilate the non-smoking area adequately unless the smoking area is ventilated according to the terms of a designated smoking room , (see Option 3 above);
- There is no specified ventilation standard for the smoking area;
- Children sitting in smoking areas will still be exposed to ETS;
- Construction and ventilation costs will be necessary for most restaurants. Larger businesses may be better able to handle the expense by 2002;
- Employees working in smoking areas will still be exposed to ETS.

Option 5:
Non-Smoking In Restaurants With Smoking In Part Of The Bar Area

This option is included in the New York City, Vancouver and California State laws/by-laws. In Ontario, there is no legal definition of a restaurant versus a bar or pub as all these premises are required to serve food. The Health Department treats all three as one category of food premise. Recently, a British Columbia judge was asked to repeal a ban on smoking in restaurants in Vancouver since it still allows smoking in parts of bars and hence does not apply equally to all eating and drinking establishments in the city.

a) Benefits

- This option may decrease ETS in the non-smoking restaurant area;
- Allowing smoking the bar area will be more acceptable to some smokers;
- There are no new ventilation or construction costs.

b) Limitations

- It provides neither a truly smoke-free non-smoking area nor a smoking area ventilated to ASHRAE comfort standards;
- It discriminates against the approximately 1000 restaurants that have a liquor license but not a conventional bar versus the approximately 100 that do have a conventional

bar.

Option 6:
Phase In By Gradually Increasing The Non-Smoking Area

This approach gradually increases the percentage of the non-smoking area. An example is 70% non-smoking in restaurants now, increasing to 80% in 1998, 90% in 1999 and smoke-free by 2000.

a) Benefits

- All members of the public and employees will be protected from ETS by 2000;
- This may be viewed as having less adverse impact on business, if customer requests for smoking areas continue to decrease;
- There are no new ventilation or construction costs.

b) Limitations

- As long as smoking is permitted and ventilation is not improved, ETS will travel throughout the typical restaurant. Non-smoking areas will not be truly-smoke free until the smoke-free target date;
- As customers will not have a choice between non-smoking and smoking areas in the future, some restaurants may well ask for extensions or revisions of the by-law before the smoke-free target date;
- The by-law becomes more difficult to enforce when the percentage of the area reserved for smoking is less than the percentage of smoking parties;
- There can be confusion among the public as to what percentage is in effect when it changes frequently;
- There is little incentive to invest in ventilation if the rules change frequently.

Rationale For Recommending Option 3

Considering all six options for restaurants, bars and pubs, (see Table 1 below), Option 1 does not appear to have sufficient public support needed for compliance with the by-law. Options 2, 5 and 6 do not improve ventilation and Options 2 and 5 may not have sufficient public support by 2000 for compliance with 100% smoke-free premises. Option 2 is better than Option 3 in that it gives full protection to children and employees from ETS until 9 p.m. Option 4's requirement for ventilation of the non-smoking area will be met in most cases only by constructing an enclosed, separately ventilated smoking area. Option 3 is likely to have the public support needed for compliance, offers restaurateurs and the public a choice, provides non-smoking areas which are truly smoke-free by 2000, and smoking areas which are ventilated to comfort standards. Health warning signs regarding risks to children and adults would be required in smoking areas. All employees would be warned by the Health Department about the risks of working in a smoking area and encouraged to refuse work in such areas if they are concerned.

TABLE 1

	OPTION 1	OPTION 2	OPTION 3	OPTION 4	OPTION 5	OPTION 6
% non-smoking in restaurant	100%	100% before 9 p.m.; 70% after 9 p.m.; 100% in 2000	70% as soon as possible	70% by 1999	100%	70% as soon as possible; 100% in 2000
% non-smoking in bar area after 9 p.m.	100%	100% before 9 p.m.; 70% after 9 p.m.; 100% in 2000	50% after 9 p.m.	50% after 9 p.m.	% to be determined	70% as soon as possible; 100% in 2000
Ventilation	No requirement	No requirement	Designated smoking room by 2000	Non-smoking area to agreeable standard	No requirement	No requirement
Enclosed, separately ventilated smoking area	No	No	By 2000	No	No	No
Exception if acceptable testing of non-smoking area	Not applicable	Not applicable	Yes	Yes	Not applicable	Not applicable

OTHER PUBLIC PLACES

Other public places not covered by the Ontario Tobacco Control Act include shopping malls, arenas/community centres, bingo halls, billiard halls and bowling alleys.

Shopping Malls

Food courts and restaurants within the common area of a shopping mall, whether or not the seating area is leased to one or more restaurants, should be smoke-free as soon as possible. 83% of non-smoking and 50% of smoking survey respondents support this. Restaurants which abut the common areas of malls should fall under the recommendations in this report for restaurants and bars/pubs. This is consistent with the City of Ottawa's by-law amendment which comes into effect January 1, 1997.

Arenas/Community Centres

Arenas/community centres should be smoke-free as soon as possible with one exception: community halls rented out for public events such as meals, bingo, etc., would be subject to the by-law for that type of event. For private events, the by-law would not apply. 84% of non-smoking and 71% of smoking survey respondents support smoke-free arenas and recreation centres.

Bingo Halls, Billiard Halls and Bowling Alleys

The non-smoking section should be 50% as soon as possible. This is consistent with by-laws in Gloucester, Kanata, Nepean and Ottawa. Kanata has in their by-law a gradual phase-in for no-smoking such that the percentage of no-smoking will go to 75%, January 1, 1998 and for bowling alleys and billiard halls to 100% smoke-free by the year 2000. With respect to bowling alleys, it is recommended that they be entirely smoke-free when children's bowling occurs. It is also recommended that all premises which choose to allow smoking by 2000 must do so in separately enclosed and ventilated smoking areas, with further consultation with bingo, billiard and bowling operators to determine the percentage of smoking space allowable. 74% of non-smoking and 62% of smoking survey respondents support bingo hall smoking only in an enclosed, separately ventilated section. For billiards, the figures are 73% of non-smokers and 57% of smokers. For bowling, the figures are 74% of non-smokers and 63% of smokers. An economic hardship clause could apply.

LOCAL AND REGIONAL PUBLIC PLACES BY-LAWS

Under the authority of the Ontario Tobacco Control Act, local municipalities and regional municipalities have the power to enact by-laws for smoking in public places and in workplaces. In the case of a regional by-law, the majority of the local municipalities must agree.

The Regional Municipality of Waterloo is the first to have passed a Regional by-law which will make all public and private facilities smoke-free by January 1, 2000. The exemption to this is bingo halls, which can be 75% smoking until January 1, 2000, and 50% smoking thereafter.

Benefits Of A Regional By-law

- It provides the same level of protection for all members of the public;
- A level playing field for business exists;
- Supported by Ontario Restaurant Association (Ottawa Region) if the by-law's content is acceptable to the ORA;
- There is one uniform by-law for the public to follow rather than potentially 11 local municipal by-laws;
- Enforcement can be done by the Region or voluntarily assumed by the area municipalities.

Limitations

- It would not go into effect until 6 of the 11 area municipalities agree to a by-law.

On balance, it is recommended that area municipal councils develop or revise their public places smoking by-law as soon as possible and that they endorse a Regional smoking by-law. When six area municipalities have done so, a Regional by-law will be presented for enactment.

ECONOMIC IMPACT

The potential effect on business is an important consideration when considering smoking by-laws. The restaurant industry is not unified in its response to such by-laws (The Conference Board of Canada, 1996). While some restaurateurs have called for a total ban on smoking in restaurants, others want the market place to decide. Much of the industry's concern about smoking restrictions is based on the fear that it will lead to a loss in sales.

According to Dr. Michael Siegel of the U.S. Centers for Disease Control, the only valid method to determine the impact of smoking by-laws is to perform a systematic econometric analysis of restaurant sales based actual sales tax revenue. To date in the U.S., four such studies have been done, all finding no significant effect of restaurant smoking bans on restaurant businesses (Glantz and Smith, 1994), (Taylor Consulting Group, 1993), (Maroney et al, 1994), and (Huang, 1994). For example, in San Luis Obispo, California, an independent consulting firm concluded that the City's smoke-free restaurant and bar ordinance had no measurable impact on restaurant and bar sales as measured by sales tax revenues. Furthermore, sales in neighbouring cities did not increase when the ban was instituted in San Luis Obispo, (Taylor Consulting Group, 1993).

While these studies have been conducted in the U.S., little Canadian data exist. Because of the lack of Canadian-based information on the impact of smoking restrictions on businesses, The Conference Board of Canada was commissioned to examine the economics of going smoke-free. The study consisted of case studies of 16 restaurants that adopted a smoke-free policy. A validation survey of another 50 converted restaurants was conducted to determine whether their experience was similar to that of the case study restaurants. Results do not support the fear that going smoke-free would be detrimental overall for business. About 80% of the case studies and validation survey restaurants experienced a successful conversion. About 74% of the case study restaurants and over half of the validation survey restaurants did not experience an adverse impact on sales. Most of those reporting indicated that other benefits increased customer and employee satisfaction. Attracting a new customer base resulted in the restaurant being pleased with their decision to go smoke-free. (See Annex H for more details of this survey).

PUBLIC CONSULTATION

For details of the public opinion poll, please see the section on Public Attitudes and Annexes E and F.

Staff met with the current and past presidents of the Ontario Restaurant Association (Ottawa Region). Option 4 summarizes the result of this consultation.

The Ottawa-Carleton Council on Smoking and Health is in support of 100% smoke-free public places by the year 2000.

When area municipal councils develop or revise public places smoking by-laws, it would be advisable for them to consult with owners of affected premises as well as with local business groups and community associations.

Finally, it is intended that further consultation take place with bingo hall, billiard hall and bowling alley operators to determine the minimum spaced required for designated smoking rooms.

FINANCIAL IMPLICATIONS

There is no cost to the Region if area municipalities develop or revise their own public places smoking by-laws. If area municipal councils pass a resolution endorsing a Regional by-law, this issue will be revisited once local officials have had an opportunity to examine any costs that may occur in enforcing such a by-law. It is anticipated that such costs would include an extensive public education campaign and mailing to affected premises. During the first year, after enactment of a Regional by-law, emphasis would be placed on working closely with business operators and assisting them to achieve compliance.

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CONCLUSION

This report is respectfully submitted.

Approved by
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DM/sf

Attach. (8)