

2. NO SMOKING BYLAWS IN PUBLIC PLACES AND WORKPLACES

COMMITTEE RECOMMENDATIONS

That Council

1. Support the recent amendments made by the cities of Nepean, Kanata and Ottawa to their no-smoking in public places bylaw which are attached to this report.
2. Approve recommendations for the implementation of municipal no-smoking bylaws for public places:
 - a) Approve that billiard halls and bowling centres be smoke-free by May 31, 2001, except in a fully-enclosed, separately ventilated designated smoking room (DSR) comprising not more than 30% of useable floor space.
 - b) Approve that bingo halls be smoke-free by May 31, 2001 except in a DSR comprising not more than 40% of useable floor space and not to include the caller, bingo sales counter or snack bar.
 - c) Approve that shopping malls, stadiums, elevators, escalators or stairways, places of public assembly (including public areas of casinos and racetracks), reception areas, school buses, taxis, arenas and recreational facilities and private rentals of municipal buildings, be smoke-free by May 31, 2001.
 - d) Approve that all restaurants and bars be smoke-free by May 31, 2001.
 - e) Approve that all DSR's be required to have a sign posted that warns the public of the health hazards of second-hand smoke, that persons under the age of 19 (including as a patron or employee) not be permitted to enter and that employees have the right to refuse to work in a DSR.
3. Approve that all workplaces immediately be smoke-free with the option of a DSR which can only be used for the sole purpose of smoking.
4. Approve that Community Services Committee recommend Council direct the Health Department to prepare a report with recommendations on no-smoking

bylaws for public places and workplaces for the first agenda of the new Council of the new City of Ottawa.

DOCUMENTATION

1. Medical Officer of Health report dated 20 June 2000 is immediately attached.
2. Extract of Draft Minute, Community Services Committee, 6 July 2000, will be distributed prior to Council and will include a record of the vote.

DATE 20 June 2000

TO/DEST. Coordinator
Community Services Committee

FROM/EXP. Medical Officer of Health

SUBJECT/OBJET **NO-SMOKING BYLAWS IN PUBLIC PLACES AND
WORKPLACES**

DEPARTMENTAL RECOMMENDATIONS

1. That Community Services Committee recommend Council support the recent amendments made by the cities of Nepean, Kanata, Ottawa and Gloucester to their no-smoking in public places bylaw which are attached to this report.
2. That Community Services Committee recommend Council approve recommendations for the implementation of municipal no-smoking bylaws for public places:
 - a) That restaurants, billiard halls and bowling centres be smoke-free by May 31, 2001, except in a fully-enclosed, separately ventilated designated smoking room (DSR) comprising not more than 30% of useable floor space.
 - b) That bingo halls be smoke-free by May 31, 2001 except in a DSR comprising not more than 70% of useable floor space and not to include the caller, bingo sales counter or snack bar.
 - c) That shopping malls, stadiums, elevators, escalators or stairways, places of public assembly (including public areas of casinos and racetracks), reception areas, school buses, taxis, arenas and recreational facilities and private rentals of municipal buildings, be smoke-free by May 31, 2001.
 - d) (i) That bars (defined as an establishment licensed by the Alcohol and Gaming Commission of Ontario where persons under the age of 19 are not permitted to enter, either as a patron or as an employee) be smoke-free every day before 8:00 p.m. as of May 31, 2001 except in a DSR comprising not more than 30% of useable floor space; and

- (ii) Effective January 1, 2003 bars be smoke-free except in a DSR comprising not more than 30% of useable floor space; and
 - (iii) Be obliged to post signs at their entrance(s) that identify the current smoking policy in the bar and that reports that the bar will be smoke-free during the day by 2001 and smoke-free at all times by 2003.
- e) That all DSR's be required to have a sign posted that warns the public of the health hazards of second-hand smoke, that persons under the age of 19 (including as a patron or employee) not be permitted to enter and that employees have the right to refuse to work in a DSR.
3. That all workplaces immediately be smoke-free with the option of a DSR which can only be used for the sole purpose of smoking.
4. That Community Services Committee recommend Council direct the Health Department to prepare a report with recommendations on no-smoking bylaws for public places and workplaces for the first agenda of the new Council of the new City of Ottawa.

BACKGROUND

Public Places

The *Ontario Tobacco Control Act (OTCA)* gives authority to local municipalities to pass no-smoking bylaws in public places and in workplaces. Furthermore, a regional municipality may pass no-smoking bylaws in public places and in workplaces if the majority of the local municipalities approve the exercise of such powers. This authority was requested by the Region of Ottawa-Carleton from the local municipalities on two separate occasions, for workplaces in 1995 and for public places in 1997. Both of these attempts were unsuccessful in gaining the approval of the majority of the local municipalities. Please refer to Annex A for a historical overview of no-smoking bylaws in Ottawa-Carleton.

The *OTCA* already regulates no-smoking in schools and school property, day nurseries, retail establishments, financial institutions, self-serve laundries, transit shelters or stations, hairdressing establishments and barber shops and video and amusement arcades. In addition, smoking is restricted to designated areas under the *OTCA* in hospitals, psychiatric facilities, nursing homes, homes for special care, charitable institutions, homes for the aged and rest homes, colleges, universities, private vocational schools and other institutions of post secondary education as well as common areas of enclosed shopping malls.

Local municipalities in Ottawa-Carleton currently have a patch-work of regulations as they apply to the remaining public places of restaurants, bars, bingo and billiard halls, bowling centres, shopping malls, community centres, and other public places and workplaces. Casinos and raceways are a configuration of a number of types of public places and have not been specifically regulated in local municipal no-smoking bylaws to date. Taxis in Ottawa, Nepean, and Gloucester are currently regulated such that they are smoke-free except by mutual consent of the driver and passenger(s).

Regional Council has made strong recommendations for no-smoking bylaws in the past. This term of Council made recommendations for no-smoking bylaws for bingo and billiard halls and bowling centres on 12 August 1998. The previous term of Regional Council made recommendations for restaurants, bars and pubs, shopping malls and arenas/community centres on 22 January 1997, and for workplaces on 24 May 1995. Please refer to Annex B for a copy of the recommendations approved by Regional Council.

The Health Department has worked with individual municipalities to strengthen their respective no-smoking bylaws. In December 1999, Councils of the cities of Nepean and Kanata voted unanimously to support a strengthened no-smoking in public places bylaw. On February 2, 2000, the City of Ottawa Council approved amendments that strengthened their no-smoking in public places bylaw. On June 19, 2000, the Township of Rideau approved a motion to support a no-smoking bylaw in public places like the cities of Nepean and Kanata. It expected that the bylaw will be passed this summer. On June 27, 2000 the Council of the City of Gloucester voted unanimously to pass a no-smoking bylaw in public places like the cities of Nepean and Kanata. Recent changes to no-smoking in public places bylaws of the local municipalities can be found in Annex C.

The Region has been very active in encouraging no-smoking bylaws at the lower tier level and in advocating for a unified region-wide no-smoking bylaw in all public places and workplaces. Recommendation #1 will support recent no-smoking bylaw changes made by the cities of Ottawa, Nepean and Kanata. Furthermore, a separate Recommendation #2 from Regional Council will support strong harmonized no-smoking bylaws in the new City of Ottawa for public places that will protect citizens from the harmful effects of exposure to second-hand smoke. In addition, the City of Ottawa has requested that Regional Council take a position on decisions taken with respect to its no-smoking in public places bylaw on February 2, 2000. No-smoking bylaws of the former local municipalities as of December 31, 2000 will be deemed to be the bylaw of the new City of Ottawa and will remain in force as to the municipal area to which it applied until it expires or is repealed or amended to provide otherwise. Recommendation #4 is made to encourage strongly that no-smoking bylaws of the new City of Ottawa be harmonized early in the new year to avoid an unlevel playing field for business owners and to ensure that there are no further delays in protecting the public from exposure to second-hand smoke.

Workplaces

The cities of Ottawa, Nepean and Kanata have excellent no-smoking in the workplace bylaws. These bylaws prohibit smoking in the workplace except in areas that are enclosed and separately ventilated to the exterior and are used for the sole purpose of smoking. The City of Ottawa amended their smoking in the workplace bylaw on February 2, 2000 to prohibit smoking in the common areas of multi-residential buildings, shelters and drop-in centres including tenant lounges and amenity areas, reception areas, foyers, hallways, elevators, stairways, lobbies, laundry rooms and parking garages. This regulation is already in effect in Nepean and Kanata. A no-smoking in the workplace bylaw should specifically state that the no-smoking policy applies to all employees and employers even when the employer is the sole occupant of that workplace. This eliminates the possibility of exposure to second-hand smoke to worksites who share the same building and ventilation system.

Workplaces in the remaining municipalities fall under the provincial *Smoking in the Workplace Act* which is extremely weak and does not guarantee protection from exposure to second-hand smoke. This *Act* which falls under the Ministry of Labour's jurisdiction states that all employers must have a policy related to smoking in their workplace and allows the provision of designating 25% of the total floor space for smoking without enclosing the space and providing separate ventilation. Therefore, Recommendation #3 is needed to create universal protection for all workers and to support a harmonized no-smoking in the workplace bylaw for the new City of Ottawa.

There are many benefits to a no-smoking in the workplace bylaw over and beyond the protection it provides to employees. In research published in the May, 2000 of the American Journal of Public Health, a comprehensive survey of 500 California cities and counties with anti-smoking ordinances demonstrates that policies that prohibit smoking in the workplace can help employees quit smoking. According to the survey, more than 26% of smokers who are prohibited from smoking at work had quit in the past six months, compared with about 19% of smokers in communities without smoke-free bylaws.

OTHER JURISDICTIONS WITH NO-SMOKING PUBLIC PLACES BYLAWS

Smoke-free public places are a growing trend across North America and are fast becoming the norm. In the United States, smoke-free restaurants are mandatory in Utah, California, Vermont, Maine, as well as in many parts of Massachusetts. All bars in California prohibit smoking as well as in many parts of Massachusetts. In Canada, at least 41 municipalities have bylaws requiring smoke-free restaurants and at least 25 Canadian municipalities have bylaws requiring smoke-free bars. In Quebec, it is now provincial law that all restaurants must set aside 60% of the seating for no-smoking. Refer to Annex D for a list of smoke-free jurisdictions in Canada and in the United States.

HEALTH RISKS OF SECOND-HAND SMOKE

Second-hand smoke is a complex mixture of harmful gases, liquids and inhalable particles. It contains 5 regulated hazardous air pollutants, 47 compounds regulated as hazardous waste and banned from landfill sites and at least 100 poisonous compounds⁷. Second-hand smoke also contains 4,000 chemicals; among them benzene, formaldehyde and arsenic. Since more than 43 of these chemicals are known to cause cancer in humans, the U.S. Protection Agency (EPA), has classified second-hand smoke as a "Class A" carcinogen, for which there is no safe level of exposure. Second-hand smoke 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 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.

Second-hand smoke is a public health challenge of staggering proportions. Exposure to second-hand smoke has been linked to a variety of adverse health outcomes. These health effects include low birthweight, Sudden Infant Death Syndrome, acute lower respiratory tract infections in children (e.g. bronchitis and pneumonia), asthma induction and exacerbation in children, chronic respiratory symptoms in children, eye and nasal irritation in adults, middle ear infections in children, lung cancer, nasal sinus

cancer, and heart disease⁵. See Annex E for a list of the health effects associated with exposure to second-hand smoke.

It is estimated that in Ottawa-Carleton 10 deaths from lung cancer and 90 deaths from heart disease occur in otherwise healthy non-smokers every year from exposure to second-hand smoke¹. Twelve percent of children in Ontario have asthma. A school based survey of students aged 5-19 years, found that despite the fact that 55 % of children with asthma reported that tobacco smoke brought on or made their asthma worse, 48% of them reported being regularly being exposed to second-hand smoke³.

Workers in the hospitality sector are typically exposed to high levels of second-hand smoke in their workplace and are at significantly higher risk than the rest of the population of developing lung cancer. Levels of second-hand smoke in restaurants that allow smoking are approximately 1.6 to 2 times higher than levels in offices that allow smoking. Moreover, levels of second-hand smoke in bars that allow smoking are 4 to 6 times higher than in offices that allow smoking⁶. The level of exposure increases the risk of lung cancer among food-service workers by 50% as compared to the general population. Many workers in the hospitality sector are young, students, and do not have a bargaining unit working on their behalf to protect their health.

VENTILATION

Second-hand smoke is a major cause of indoor air pollution. No ventilation system has been shown to remove the health risk of being exposed to second-hand smoke. The Ontario Restaurant Association and The Greater Toronto Hotel Association commissioned a study called, "Toronto Environmental Tobacco Smoke (ETS) Air Monitoring Project". It was requested of Health Canada that the study be reviewed to assess whether this ventilation system was capable of ensuring air quality in a smoking section that is equivalent to air quality in a smoke-free public place. Health Canada has declined to conduct this assessment. Furthermore, the Windsor-Essex County Health Unit asked James Repace, a leading expert on second-hand smoke and health physicist to review this study and he has concluded that the proposed ventilation system does not remove the hazardous components of second-hand smoke in restaurants or other indoor spaces. Repace also concludes that ventilation technology cannot control second-hand smoke to within acceptable levels of risk for lung cancer, asthma, heart disease or stroke induced by second-hand smoke exposure. Smoke-free hospitality venues are the only solution capable of reducing second-hand smoke risks to zero⁸. Annex F contains a review of the issue of ventilation as it applies to exposure to second-hand smoke.

ECONOMIC CONSEQUENCES

A recent study in the Journal of the American Medical Association found that smoke-free restaurant bylaws in three American states and six major cities had no adverse effect on tourist business, and may have actually increased it². One year after a smoking ban was put in place in restaurants and bars in Victoria, BC, business trends confirmed a public opinion survey which found that the public was going out to these places as often or more often. For example, the BC Liquor Distribution Branch found an increase in hospitality adult beverage sales in the Capital Regional District in the first nine months after the bylaw came into effect as compared to the same period the previous year. The BC Workers Compensation Board found an increase in the number of persons hired by the hospitality industry after

the bylaw was implemented as captured in increase premiums paid to the Workers' Compensation Board by this business sector in the first nine months of 1999 as compared to the same time period as 1998. There was also a decrease in the number of food establishment closures from 271 in 1998 to 189 in 1999, based upon Capital Health Region food establishment operating permits issue.

Restaurant owners often find that after becoming smoke-free, they attract more families and fewer lingers, resulting in higher sales. This phenomenon is known as "from ashtrays to highchairs." Many of the big-chain restaurants, donut shops and coffee shops have already banned smoking without deleterious effects. The Region's publication 100% Smoke-Free Dining in Ottawa-Carleton contains approximately 270 restaurants.

Smoking bans offer many other advantages to owners of public places - health benefits for their workers and patrons, (particularly for pregnant women and children), less vulnerability to legal action from workers harmed by second-hand smoke, decreased waiting times for patrons with the abolition of smoking sections, and fewer maintenance costs.

THREE OPTIONS FOR NO-SMOKING BYLAWS IN PUBLIC PLACES AND FACTORS FOR CONSIDERATION

No-smoking bylaws can vary in their degree of protection they provide to workers and to the public. The gold standard in terms of protection from exposure to second-hand smoke is 100% smoke-free in all public places on May 31, 2001 with no option of DSR's. The Region of Waterloo (population of 400,000) which includes 3 urban and 4 rural areas, implemented such a no-smoking bylaw on January 1, 2000. Despite some pressure to re-open the bylaw and weaken it, Regional Council of Waterloo has kept the bylaw intact while adding several strong amendments including dropping an economic hardship clause and adding a clause by which owners/managers of premises are responsible for ensuring compliance of the bylaw. Fines can be issued to both patrons and owners who do not comply with this bylaw. In this bylaw, bars do not get a phase-in period to become smoke-free.

The second option, the silver standard, requires all public places to be smoke-free with the option of owners having a DSR. This option represents the amendments passed by the Cities of Nepean and Kanata last December, which go into effect May 31, 2001. All establishments including a bar, pub, tavern or restaurants are treated uniformly. Operators have the option to build a DSR. DSR's must not comprise more than 30 per cent of the floor space except for bingo halls where the maximum amount of floor space for the DSR is 70 per cent.

The third option, the bronze standard requires all public places to be smoke-free on May 31, 2001, with the option of DSR's and a phase-in period for bars. Bars would be smoke-free every day before 8 p.m. as of May 31, 2001 except in a DSR. Effective January 1, 2003, bars would be smoke-free except in a DSR. Signs would be required at their entrance(s) that identifies the current smoking policy in the bar and that reports that the bar will be smoke-free during the day by 2001 and smoke-free at all times by 2003. This option is effectively the City of Ottawa's bylaw with the following changes:

1. That the allowance that permits smoking in restaurants after 8 p.m. when live entertainment is being provided and there are no persons under the age of 19 be removed. Defining what "live

entertainment” constitutes would prove to be difficult and would increase the demands needed to administer the bylaw. Furthermore, children and families would be entering these premises the next day and be exposed to second-hand smoke from the previous evening’s residue.

2. That DSR’s would be required to have a sign posted that warns the public of the health hazards of second-hand smoke, that persons under the age of 19 (including as a patron or employee) not be permitted to enter and that employees have the right to refuse to work in a DSR. There is a health concern for children who have little choice but to follow their parents or caregivers into rooms that provide no protection from second-hand smoke. Also, the public needs to be informed about the health hazards of entering a DSR and workers should have the right to refuse to work in a DSR. DSR’s create other problems. Although they do provide a choice for consumers, they have the potential of creating an unlevel playing field for some business owners who’s premises are too small to build or is too costly to build and maintain.
3. That taxis be smoke-free at all times. The current City of Ottawa, Nepean and Gloucester no-smoking bylaws currently regulate taxis such that they are smoke-free except by mutual consent of the driver and passenger(s). Given the small enclosed space this represents, it is recommended that this policy be changed so that taxis be smoke-free at all times.
4. That the public areas of casinos/raceways be smoke-free, that restaurant portions of the casino be treated as such and that areas of the casino that restrict access to those under the age of 19 be treated like a bar. Casinos and raceways are not included as categories of public places in current city bylaws. They are a configuration of a number of different types of public places and each should be treated accordingly, whether they be places of public assembly, restaurants or bars, as to the specific regulations of the proposed bylaw.
5. That the phase-in time for bars be moved up by 5 months from May 31, 2003 to January 1, 2003. This will reduce the time bar workers continue to be exposed to second-hand smoke. It will also reduce the unlevel playing field created between restaurants and bars. Eighteen months is sufficient time to prepare the general public and owners for these changes given the public opinion polls conducted in Ottawa-Carleton. Ontario communities such as the Region of Waterloo, Peterborough and Guelph already have smoke-free bars.

The Health Department recommends the bronze standard in recognition that the no-smoking bylaw must go into effect quickly (May 31, 2001) and that it evolves over 18 months to the next level where smoking is permitted only in DSR’s. Our position is that this represents a major improvement over the current situation, and allows businesses and the general public enough time to prepare for further improvements. It is also consistent with a high level of public support.

PUBLIC CONSULATION

Because the non-smoking majority is becoming increasingly aware of the dangers and less tolerant of second-hand smoke, there is increasing demand for strengthened restrictions. An opinion poll done by Opinion Search Inc. for the Region of Ottawa-Carleton, in 1999 found that 72% of people in Ottawa-Carleton support smoke-free restaurants and 66% support smoke-free bars with allowances for DSR’s. The Region of Ottawa-Carleton Health Department placed a questionnaire in community newspapers at the end of 1999, asking readers whether they avoid various establishments because of second-hand smoke. Seventy-seven per cent said they avoid restaurants, at least sometimes. For bars, that number was 71%.

As the medical evidence about the serious health impacts of second-hand smoke has become irrefutable, so has the public's increasing support for smoke-free public places and workplaces. Polls conducted by and reviewed by the Ontario Tobacco Research Unit during the past several years have shown the following:

- Public support for smoke-free office and industrial workplaces remains in the 85%-95% range. Support for smoke-free restaurants has exceeded 70% province-wide in some polls. While there is less support for smoke-free bars, a majority of survey respondents have supported such a move, and research indicates non-smokers avoid smoky bars and bar-restaurants. Economic data is substantiating this fact in areas that have enacted smoke-free bylaws.
- General acceptance in the media and at municipal council debates is that the trend toward smoke-free, has increased. The relative lack of controversy and conflict during last summer's passage of 100% smoke-free restaurant and bar bylaws in the new City of Toronto and the Region of Peel, compared to a previous effort in the old City of Toronto in 1996-7, is a case in point.

During the fall of 1999, the Cities of Ottawa, Nepean and Kanata undertook a joint public consultation process with the view to strengthen their no-smoking bylaws in public places. The Region's Health Department was invited to participate with the three cities in the process, which is described in Annex G.

The Ottawa Chapter of the Ontario Restaurant Hotel & Motel Association (ORHMA) has maintained the position that there should be one bylaw for all 11 municipalities in Ottawa-Carleton and the new City of Ottawa. They also have requested that DSR's be permitted. The City of Ottawa bylaw amendment of February 2, 2000 would be acceptable to the ORHMA, Ottawa Chapter as the region-wide bylaw. It should be noted that they would be opposed to a no-smoking bylaw that had shorter timelines than May 31, 2001 or that makes further no-smoking restrictions. The Ottawa-Carleton Council on Smoking and Health and many other health organizations have stated that they want all public places and workplaces smoke-free May 31, 2001 without DSR's.

Notification for this meeting has gone out to all stakeholders including to owners of restaurants, bars, bingo and billiard halls and bowling centres. Business and health groups were also notified.

FINANCIAL IMPLICATIONS

A public education campaign targeted to business owners and the general public is required to inform, promote and ensure compliance of the new no-smoking bylaw. It is recommended that this public education campaign consist of a media awareness campaign and specific packages developed and delivered to the various categories of premises included in the bylaw. Estimates from the Region of Waterloo (pop. 400,000), who implemented a smoke-free bylaw in all public places on January 1, 2000, spent \$268,000 on a public education campaign that included 2 mailings to every household and other initiatives such as media advertising. It is recommended that \$200,000 be spent on a similar campaign in Ottawa-Carleton over the next 2 years. In addition, the cost for enforcement is estimated to be \$300,000. Six bylaw officers will be required for two six month periods, first in 2001 and then again in 2002/2003, to visit every premise affected for bylaw education and enforcement. The Health

Department is preparing business cases and proposals from several funding sources including federal, provincial and the new City of Ottawa. The cost required to implement this campaign pales in comparison to the costs to the health care system associated with the diseases caused by tobacco. The health care costs for the lung cancer and heart disease deaths caused by second-hand smoke alone in Ottawa-Carleton per year is estimated at \$1,792,530. This does not include the cost of diseases such as asthma, middle-ear infections in children and others caused by second-hand smoke nor does it include the health care costs for the person who smokes.

Approved by
Robert Cushman, MD, FRCPC
Medical Officer of Health

REFERENCES

¹ Estimates for lung cancer based on Canadian estimates at Health Canada; Estimates for heart disease based on K. Steenland at U.S. National Institute of Occupational Health and Safety; JAMA 1992; 267:94-99.

² Glanz, S. and Charlesworth, A. Tourism and Hotel Revenues before and after passage of Smoke-Free Restaurant Ordinances. JAMA, 1999; 281(20): (1911-1918).

³ Health Canada, Childhood Asthma in Sentinel Health Units, 1996-97.

⁴ Lambert WE, Samet JM, Spengler, JD. Environmental Tobacco Smoke Concentrations in No-Smoking and Smoking Sections of Restaurants. American Journal of Public Health 1999; 83: (1339-1341).

⁵ National Cancer Institute, Health Effects of Exposure to Environmental Tobacco Smoke: The Report of the California Environmental Protection Agency. Smoking and Tobacco Monograph no. 10, 1999.

⁶ Siegal, MS. Involuntary Smoking in the Restaurant Workplace: A Review of Employees Exposure and Health Effects. JAMA 1992; 270(4): 490-493.

⁷ Repace, J. Interview with James Repace by Phillippe Boucher in Rendez-Vous, April 26, 2000.

⁸ Repace, J. ORA Proposed Ventilation Solution... A Lot of Hot Air. Prepared for the Windsor-Essex County Health Unit, 1999.

⁹ US Surgeon General. Reducing the Health Consequences of Smoking. (Report) US Surgeon General, 1992.

HISTORICAL OVERVIEW OF NO-SMOKING BYLAW DEVELOPMENT IN OTTAWA-CARLETON

- 1976 *City of Ottawa*: No-smoking in public places bylaw
- 1983 *Cities of Nepean & Kanata*: No-Smoking in public places bylaw
- 1992/93 *Cities of Ottawa, Kanata & Nepean*: 50% No-smoking sections in restaurants
- 1992 *City of Ottawa*: No-smoking in the workplace bylaw
- 1994 *City of Gloucester*: No-smoking in restaurants at 50%, goes to 75% in 1997
- 1994 *City of Ottawa*: No-smoking in outdoor stadiums
- 1994 *Ontario Tobacco Control Act*: schools, arcades, hair salons, banks, laundromats, retail establishments, etc. are smoke-free across Ontario
- 1995 *West Carleton*: No-smoking in restaurants at 30%, goes to 40% in 1997
- 1996 Angus Reid Survey
- 1995 Regional Council recommendations for no-smoking in workplaces bylaw.
Request that local municipalities give authority for bylaw to Regional Council (5 of the 11 approve).
- 1997 *Cities of Ottawa, Nepean, and Kanata*: No-smoking in restaurants goes from 50% to 70%, and no-smoking in common areas of shopping malls
Cities of Nepean, and Kanata: No-Smoking in the workplace bylaw
- 1997 Health Department conducts public consultations with owners of restaurants, bars, bingo, bowling, billiard and health groups
Regional Council recommendations for public places (restaurants, bars, shopping malls)
Request that local municipalities give authority for no-smoking in public places bylaw to Regional Council (1 of the 11 approves)
- 1998 Regional Council recommendations for bingo, billiards, and bowling
- FALL Joint public consultation process by cities of Ottawa, Nepean, and Kanata
- 1999 For no-smoking bylaw in public places; Health Department invited to participate
Health Department social marketing campaign on second-hand smoke
Opinion Search survey
- DEC Nepean and Kanata Councils vote unanimously to make restaurants,
1999 Bars, bingo, billiard and bowling areas smoke-free by May 31, 2001 (with option of DSR)
- FEB City of Ottawa Council votes to make restaurants, bingo, billiard and
2000 bowling areas smoke-free on May 31, 2001 (with option of DSR)
Bars (defined as must be 19-year-old to enter), smoke-free till 8 p.m., May 31, 2001 and smoke-free all the time after May 31, 2003
Restaurants with “live entertainment” after 8 p.m. and no children - regulated like
a bar
- June 19 Township of Rideau directs that staff draft a no-smoking in public places bylaw
like the cities of Nepean and Kanata

- June 27 City of Gloucester Council passes no-smoking bylaw in public places like Nepean and Kanata

**SUMMARY OF DEPARTMENTAL RECOMMENDATIONS AND COUNCIL
APPROVALS OF NO-SMOKING BYLAWS**

The following was approved on May 24, 1995:

SMOKING IN THE WORKPLACE BY-LAW

That the Community Services Committee and Regional Council approve the following:

1. That Regional Council request that all eleven municipal councils within Ottawa-Carleton endorse the following resolution:

That this council approve the exercise of the powers provided for in section 213 of the Municipal Act [as recently amended by the Tobacco Control Act, 1994] by the Regional Municipality of Ottawa-Carleton for the sole purpose of enacting a Regional by-law to regulate the smoking of tobacco in all workplaces.

2. That, upon the passage of the resolution set out in Recommendation No. 1, Regional Council direct its staff to consult with the relevant staff from area municipalities and to prepare, in draft form, a Regional by-law regulating the smoking of tobacco in all workplaces in Ottawa-Carleton, and that such a by-law be no less restrictive than any of the existing smoking in the workplace bylaws currently in effect in Ottawa-Carleton; and,
3. That the draft by-law then be circulated to all eleven area municipal councils for their comments and endorsement prior to enactment by Regional Council.

The following was approved on January 22, 1997:

NO-SMOKING BY-LAW IN PUBLIC PLACES

That the Community Services Committee recommend Council approve:

1. That 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 municipalities within Ottawa-Carleton develop or revise their public places smoking by-law as necessary with respect to shopping malls, arenas/community centres, bingo and billiard halls and bowling alleys, using the provisions in this report;
3. That municipal councils pass a resolution endorsing a regional smoking by-law for public places as stipulated in recommendations 1 and 2.

Recommended Content of Public Places Bylaws

a) Restaurants, Bars and Pubs

70% non-smoking section 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.

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 Hall, 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.

The following was approved on August 12, 1998:

NO-SMOKING BY-LAW IN BINGO HALLS, BILLIARD HALLS AND BOWLING CENTRES

That Community Services Committee recommend that Council approve the following recommendations (listed on pages 6 and 7) for area municipal councils within Ottawa-Carleton to use in developing or revising their public places smoking bylaws as necessary with respect to bingo halls, billiard halls and bowling centres.

RECOMMENDATIONS

I. Bingo Halls

A. *For now:*

1. At least 50% no-smoking seating unless there already exists an enclosed, separately ventilated no-smoking room.
2. Services such as food counters (or food service delivery to the no-smoking section), obtaining bingo cards and washroom facilities be accessible with as little exposure to second-hand smoke as possible.
3. Bingo callers be in a smoke-free area.

B. *By two years after the passage of a municipal by-law:*

1. The operator may decide (based on client profile) the percentage of non-smoking seats, with a minimum requirement of 10% of seats, to be in an enclosed, separately ventilated and smoke-free room.

II. Billiard Halls

A. *For now:*

1. At least 50% no-smoking section unless there already exists an enclosed and separately ventilated no-smoking room.

B. *By two years after the passage of a municipal by-law:*

1. The operator may decide (based on client profile) the percentage of tables, with a minimum requirement of 10% of tables, to be in an enclosed, separately ventilated and smoke-free room. This option would apply to premises with 10 tables or more only. Premises with fewer than 10 tables would continue to provide a 50% no-smoking section.

III. Bowling Centres

A. *For now:*

1. Smoking be limited to 70% of the area behind the counters that separate the common area from the players' section.
2. No-smoking at the rental counter, snack counter or washrooms.
3. Enclosed restaurant sections to be regulated by the existing by-law for restaurants.
4. No-smoking anywhere in the bowling alley when organized children or youth bowling is occurring.

B. *By two years after the passage of a municipal by-law:*

1. No-smoking except in a designated smoking area which is enclosed and separately ventilated. It must be located such that the public are not required to travel through it to gain access to common facilities, including, but not limited to the players' section, washrooms, rental counters and take-away snack counters. This would apply to premises with at least 8 lanes. Smaller premises would follow recommendations under "For now".

IV. Enclosed Restaurants within Bingo, Billiard and Bowling Establishments

- A. **Enclosed restaurants continue to be regulated as per by-law regulations for restaurants.**

**CHANGES TO THE NO-SMOKING BYLAWS
IN PUBLIC PLACES IN THE LOCAL MUNICIPALITIES**

Kanata and Nepean:

- Smoking to be prohibited in restaurants, bars, billiard and bingo halls and bowling alleys, with an allowance for fully-enclosed and separately-ventilated areas. These DSR's cannot be greater than 30 per cent of the useable floor space, except for bingo halls, where the smoking area cannot exceed 70 per cent. The bylaws take effect on **World No-Tobacco Day, May 31, 2001**.

Ottawa:

- Restaurants, billiard halls (that do not meet the bar definition), bowling alleys and bingo halls must be smoke-free at all times by **May 31, 2001**, except in fully-enclosed, separately-ventilated, DSR's comprising not more than 30 per cent of the useable floor space (70 per cent for bingo halls).
- The smoking regulation will not be enforced in restaurants during live entertainment after 8 p.m. to which persons under 19 are not admitted until **May 31, 2003**, after which time the regulation will be enforceable at all times.
- Bars must be smoke-free every day until 8 p.m. by **May 31, 2001**, except in fully-enclosed, separately-ventilated, DSR's comprising not more than 30 per cent of the useable floor space.
- Bars will have no restrictions on smoking from 8 p.m. to closing until **May 31, 2003**, at which time they must become smoke-free at all times except in DSR's.
- Bars are defined as an establishment licensed by the Alcohol and Gaming Commission of Ontario where persons under the age of 19 are not permitted to enter, either as a patron or as an employee.
- The City of Ottawa Council has requested that the approval of the foregoing smoking regulations be subject to Regional Council stating its position on the matter. If Regional Council approves the Ottawa decisions, Ottawa City Council will enact a strengthened public places bylaw. If Regional Council does not approve, that position will be reported to Ottawa Council before enactment of a strengthened bylaw.

Gloucester

- The City of Gloucester passes a no-smoking bylaw in public places on June 27, 2000 like the cities of Nepean and Kanata.

Township of Rideau

- Council directs staff to draft a no-smoking bylaw in public places on June 19, 2000 with a view to recognize the standard the City of Nepean and Kanata have established.

NO SMOKING BYLAWS IN CANADA AND THE UNITED STATESBritish Columbia

Victoria 100% smoke-free bars, restaurants as of January 1, 1999.

Vancouver 100% smoke-free restaurants on May 31 1996.

28 additional municipalities in BC have smoke-free restaurants.

9 additional municipalities have smoke-free bars.

The Workers Compensation Board is currently undergoing a public consultation process to introduce no smoking in all provincial workplaces that would include restaurants and bars.

Alberta

5 municipalities have smoke-free restaurants as of January 1, 2000.

Ontario

Region of Waterloo (includes cities of Waterloo, Kitchener, Cambridge, and Townships of Wilmont, Wellesley, Woolwich and North Dumfries) As of January 1, 2000, smoke-free in all public places including restaurants and bars.

Toronto Restaurants will be smoke-free June 1, 2001. Bars will follow on June 1, 2004.

Peterborough and Guelph Restaurants and bars are smoke-free as of January 1, 2000.

Windsor All restaurants smoke-free on May 31, 1999.

Mississauga, Brampton and Caledon Restaurants will become smoke-free on June 1, 2001 and bars on June 1, 2004.

Hamilton, Dundas, Flamborough and Ancaster Restaurants are smoke-free May 31, 2000.

Nepean and Kanata Restaurants and Bars will be smoke-free on May 31, 2001.

Ottawa Restaurants will become smoke-free on May 31, 2001 and bars May 31, 2003.

Several other Ontario municipalities have set target dates for implementing smoke-free restaurants and bars.

Quebec

As of December 17, 1999, the Quebec Tobacco Act will take effect. This will include no smoking in daycare centres, schools and other community centres where children frequent. Workplaces will be smoke-free with allowances for DSR's to be built in the next few years. Restaurants will provide a 60% no smoking section. New restaurants and ones which are doing major renovations will be smoke-free or have a DSR. Otherwise they have 10 years to comply. There are no restrictions on bars, bingo halls and casinos.

United States

In the United States smoke-free restaurants are mandatory in the states of Utah, California, Vermont, Maine, as well as in many parts of Massachusetts. All bars in California prohibit smoking as well as in many parts of Massachusetts. Restaurants in New York City must be smoke-free except for those seating fewer than 36 people.

**HEALTH EFFECTS ASSOCIATED WITH EXPOSURE TO ENVIRONMENTAL
TOBACCO SMOKE¹**

Effects Causally Associated with ETS Exposure

Developmental Effects

Fetal Growth: Low birthweight or small for gestational age
Sudden Infant Death Syndrome (SIDS)

Respiratory Effects

Acute lower respiratory tract infections in children(e.g. bronchitis and pneumonia)
Asthma induction and exacerbation in children
Chronic respiratory symptoms in children
Eye and nasal irritation in adults
Middle ear infections in children

Carcinogenic Effects

Lung Cancer
Nasal Sinus Cancer

Cardiovascular Effects

Heart disease mortality
Acute and chronic heart disease morbidity

Effects with Suggestive Evidence of a Causal Association with ETS Exposure

Developmental Effects

Spontaneous abortion
Adverse impact on cognition and behaviour

Respiratory Effects

Exacerbation of cystic fibrosis
Decreased pulmonary function

Carcinogenic Effects

Cervical cancer

¹National Cancer Institute, *Health Effects of Exposure to Environmental Tobacco Smoke: The Report of the California Environmental Protection Agency. Smoking and Tobacco Control*

Monograph no. 10, Table ES.1. Bethesda, MD. U.S. Department of Health and Human Services, National Institutes of Health, National Cancer Institute, NIH Pub. No. 99-4645, 1999.

VENTILATION AND SECOND-HAND SMOKE

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 second-hand smoke) is below the level of one extra cancer death per million non-smokers exposed for a working lifetime of 40 years.

Existing ventilation systems in restaurants may be designed to provide a comfortable level of exposure to second-hand smoke 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 second-hand smoke 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 acceptable⁴.

**BENEFITS AND LIMITATIONS OF 3 OPTIONS FOR NO-SMOKING BYLAWS IN
PUBLIC PLACES**

Gold Standard - 100% Smoke-Free in all Public Places with no DSR's

a) Benefits

- All members of the public and all employees are protected from second-hand smoke;
- Fewer people will start to smoke⁹;
- Smokers have an additional incentive to quit⁹;
- The bylaw attracts full public attention to the second-hand smoke issue, thus supporting education about its health effects;
- A 1999 Opinion Search survey conducted for the Health Department showed that 64% of respondents support a bylaw that makes restaurants 100% smoke-free. This mirrors the results found in the 1996 Angus Reid survey. For a pub, 59% support 100% smoke-free and this figure is 47% for a bar.
- There are no new ventilation or construction costs, creating an equal playing field for all operators.
- Health groups including the Ottawa-Carleton Council on Smoking and Health support this standard.

b) Limitations

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

Silver Standard - 100% Smoke-Free with Option of DSR's

a) Benefits

- Most of the public and all employees are protected from second-hand smoke by 2001;
- Customers can make an informed choice about smoking and no-smoking;
- Fewer people will start to smoke⁹;
- Smokers have an additional incentive to quit⁹;
- The bylaw attracts some public attention to the second-hand smoke issue, thus supporting education about its health effects;
- The Opinion Search survey conducted in 1999, showed that 72% of respondents favour smoke-free restaurants with the option of a DSR. For bingo halls the support is 74%, for bowling centres 70%, for billiard halls 68% and for bars 66%.

b) Limitations

- Employees working in DSR's will still be exposed to second-hand smoke at levels higher than in a room with a smoking and no-smoking section;
- Children may have to enter DSR's with their parents or caregivers. The levels of second-hand smoke may be higher in these rooms than in a restaurant with a smoking and no-smoking section;
- Creates unlevel playing field for business owners who are unable to build a DSR due to cost or size of the premise;
- Requirements in neighbouring municipalities/regions may differ.

Bronze Standard - 100% Smoke-Free with Phase-in for Bars and Option of DSR's

a) Benefits

- same benefits as with the silver standard;
- bylaw changes represent significant improvement over what exists now in the 11 local municipalities and allows business and the general public time to prepare for further improvements in 1 year.

b) Limitations

- Same limitations as with the silver standard;
- Creates unlevel playing field for 18 months for restaurants that are primarily family-type restaurants during the day but cater to a bar clientele at night;
- bar workers are exposed to second-hand smoke for an additional 18 months versus those workers in restaurants.

**PUBLIC CONSULTATION CONDUCTED BY THE CITIES OF OTTAWA, NEPEAN AND
KANATA**

Methodology

In September, 1999, the Department of Urban Planning and Public works mailed notice of smoking by-law review and an invitation to comment to approximately 1600 restaurants, bars, billiard halls, bowling alleys and bingo halls. During the same month, it invited comment from the City's Business Improvement Areas, merchant groups and Community Associations.

To exchange information and receive comment, meetings were held with bingo hall operators and charity sponsor associations, with the Ontario Restaurant Hotel & Motel Association, Ottawa Chapter. To engage the general public, in the discussion, one widely advertised public meeting was hosted by the three cities and the Region of Ottawa-Carleton Health Department in October; that meeting attracted about one hundred people with most of the speakers representing health organizations. A meeting was held with the Ottawa-Carleton Council on Smoking and Health and other health sector stakeholders

Further meetings were held with the ORHMA and with individual business owners and operators who had expressed keen interest in the review from the outset.

The recommendations of the final report and notice of the Standing Committee meeting were mailed to about 1500 stakeholders including affected businesses, health groups and members of the public who commented to staff during the review and whose names and addresses were known to the Department.

Results as Reported from Ottawa

The Department received 30 comments from the general public; 65% urged smoke-free public places as soon as possible to protect their health and the health of their children; 35% opposed further government intervention, characterizing it as unnecessary intrusive and an infringement on rights and freedom of choice.

On behalf of its 600 local restaurant and bar members, the ORHMA (Ottawa Chapter) expressed its opposition to strengthened regulations, preferring that the matter be considered by the new municipal government once it is in place.

The Department received 36 comments from individual business owners/operators representing 60 businesses. Of those, 95% opposed further intervention by municipal government with the following constituting the most frequently expressed opinions: there should be no action taken until municipal restructuring is complete so that a level playing field across the Region is assured; adults should be free to choose where they want to work and play; the existing regulation is working well to satisfy all clientele; there are no complaints from customers - if there were, business would change to cater to the market; building designated smoking rooms is costly and cannot be accommodated by smaller

restaurants which results in inequity; government should make smoking illegal instead of burdening businesses with smoking regulations; and there will be job losses as places that cater to smoking clientele are forced out of business. The remaining 6% of business respondents expressed support for strengthened regulations as long as sufficient enforcement resources are assigned to ensure compliance by all establishments.

Health advocacy groups, including the Ottawa-Carleton Council on Smoking and Health, the Canadian Cancer Society, Cancer Care Ontario (Eastern), Ottawa Regional Cancer Centre, the Lung Association, and Physicians for a Smoke-Free Canada support the strongest possible smoking regulations as soon as possible to protect workers and non-smoking patrons. Designated smoking rooms are generally opposed on the basis that smoke from those rooms will migrate into non-smoking areas as doors open and close to allow access and exit, and employees assigned to work in those rooms will not be protected from second-hand smoke.

Results as Reported from Nepean

Determining the level of acceptance and feasibility of the various regulatory options posed a challenge because the response rate from the stakeholders was significantly low. In fact only 6 submissions were received from Nepean based businesses which included a letter from each of the bingo halls and two of their licensees.

In response to the general question as to which regulatory option was preferred, 95% (295) of the respondents expressed support for 100% smoke-free public places. 231 of the 295 were received through three petitions submitted by the Canadian Cancer Society, University of Ottawa Heart Institute, and the Dental Hygienists of Ottawa-Carleton. Of the remaining respondents, 3% (12) opposed any new regulations and the other 2% (8) were in support of additional restrictions on the condition that it be implemented across the region and/or province. Comments were also made from members of the ORMA that decisions concerning smoking in public places be deferred until restructuring of local government has occurred.