

CITY OF VANCOUVER

ADMINISTRATIVE REPORT



Report Date: December 11, 2007
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TO: Standing Committee on City Services and Budgets

FROM: Regional Director Health Protection, Vancouver Coastal Health

SUBJECT: Application of Health By-law Smoke-Free Provisions to Hookah Bars and Cigar Lounges

RECOMMENDATION

THAT Council amend the Health By-law by deleting Sections 2.2(a)iv and 2.2(a) v of Health By-law #9535 to remove the temporary exemptions for pre-existing cigar lounges and hookah parlours, bringing the City's indoor smoking provisions into line with the recently announced Provincial Smoking regulation.

GENERAL MANAGER'S COMMENTS

The General Manager recommends approval of the foregoing.

CITY MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

COUNCIL POLICY

On September 20, 2007 Council adopted the following motion with respect to new smoke-free provisions of the Health By-law:

B. THAT Council enact an abridged health by-law, generally as set out in Appendix A, that eliminates health regulations duplicated in provincial or other municipal

legislation or suitable for inclusion in more appropriate by-laws; except that 1) Council does not support section 2.2b and, 2) Council retain 2.2(a)iii but allow the existing hookah and cigar lounges to be exempted until further advice from staff.

PURPOSE

The purpose of this report is to provide Council with further advice on the provisions of the provincial Tobacco Control regulations with respect to prohibition of indoor smoking, and to propose the deletion of the two limited exemptions for existing hookah and cigar lounges.

DISCUSSION

On November 27th, 2007 the provincial government passed an Order-in-Council amending the Tobacco Control Regulation (effective March 31, 2008) to incorporate limitations on the promotion and sale of tobacco products and to ban smoking in all indoor public places and workplaces. The government elected not to prohibit smoking on patios of restaurants and liquor establishments at this time, but did indicate that local governments could enact more stringent smoke-free regulations (as City Council has chosen to do) to include a ban on patio smoking. The province also opted for a narrower buffer zone of 3 metres at entryways, openable windows and air intakes, compared to the 6 metres that Council adopted on the advice of staff. The province has also included provision for exemptions for residents of community care facilities, assisted living residences or hospitals, allowing them to smoke in "indoor smoking rooms". In this instance, the City by-law would be more stringent, as there is no provision for any indoor smoking rooms in these circumstances.

In writing this report back to Council, staff inquired of the Ministry of Health as to the intent and impact of the provincial regulation with respect to the two areas currently under limited exemptions in the Health By-law - existing hookah and cigar lounges. The clear interpretation, reinforced by wording in the Q & A section of the Ministry website, is that smoking of tobacco or tobacco products within enclosed or substantially enclosed premises is prohibited. In fact, the Ministry website states as follows:

"Q. There is a hookah bar in my neighbourhood. How will this affect that local business?

A. Hookah bars will not be allowed to use tobacco or tobacco blends within enclosed or substantially enclosed bars."

The bottom line is that the indoor smoking prohibition (both provincially and in the City by-law) is meant to apply to all indoor public places/work places and the province has not accepted the argument for exemptions on a "cultural" basis or the rationale provided to Council by the owners of cigar lounges in the City for an exemption.

The current limited exemption contained in the revised Health By-law is more permissive than the provincial regulation, and the provincial regulation would supercede our by-law. Staff therefore recommends that the limited exemptions be removed from the Health By-law to avoid any further confusion or doubts.

City operations may expect to be impacted by the new provincial prohibition on sale of tobacco products in a building owned or leased by a public body (the City or Park Board) used primarily for athletic or recreational purposes.

COMMUNICATIONS PLAN:

VCH staff are working with City staff to prepare and distribute a comprehensive information package for the impacted industries and the general public which will explain the application of both the City's Health By-law smoking prohibitions and the overlapping provincial regulations. This information will begin to be available in late 2007, early 2008 with active enforcement of the by-law and the provincial regulations to commence concurrently after March 31, 2008.

Staff have included the four or five impacted businesses on the notification list for this report.

FINANCIAL IMPLICATIONS

There may be minor financial implications arising from the enactment of the provincial regulations in respect of loss of tobacco sales revenue from civic facilities.

CONCLUSION

Adoption of the proposed amendments will harmonize the Health By-law provisions with the provincial Tobacco Control regulations with respect to all indoor smoking, by eliminating the interim limited exemptions for hookah and cigar lounges.

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