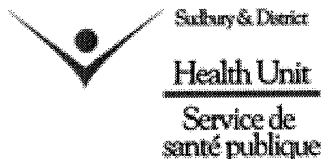
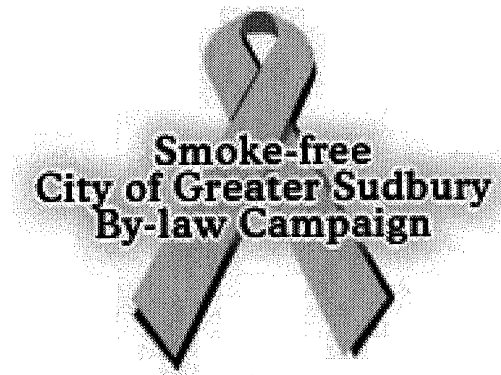


R E P O R T

100% Smoke-Free By-law for the City of Greater Sudbury



Dr. Penny Sutcliffe
Medical Officer of Health

**Report to
City of Greater Sudbury Council**

**SUBJECT: 100% SMOKE-FREE BY-LAW FOR
THE CITY OF GREATER SUDBURY**

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Date of Submission: October 23, 2002

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1.0 EXECUTIVE SUMMARY

100% Smoke-free By-law for the City of Greater Sudbury

Mayor Gordon and Councillors of Greater Sudbury:

At the January 17, 2002 meeting of the City of Greater Sudbury Council, Sudbury & District Medical Officer of Health, Dr. Penny Sutcliffe, made a presentation on 100% smoke-free communities. Council then carried the following motion:

“THAT the Council of the City of Greater Sudbury hereby endorses the work of the Sudbury & District Health Unit in working towards ‘100% smoke-free’ City and encourages their work in this endeavour; AND FURTHER, this Council urges all citizens of the City of Greater Sudbury to observe “No Smoking Week” by butting out.”

With the support of the Sudbury & District Board of Health and under the direction of the Medical Officer of Health, Health Unit staff commissioned a public opinion survey and conducted extensive public and sector consultations on a 100% smoke-free by-law. Verbal and written submissions were invited. The scientific literature was reviewed and relevant experience in other communities was scrutinized. Approximately 3,225 voices were heard in total.

The findings of this work are summarized in the October 23, 2002 report to the Greater Sudbury Council, “100% Smoke-free By-law for the City of Greater Sudbury”.

The overriding conclusion of the health unit’s work is unequivocal. Deciding to create smoke-free public places and workplaces is arguably the most important public health decision that municipal governments have the authority to make. The deadly impact of exposure to second-hand smoke is a public health issue, not a fiscal one.

The Medical Officer of Health of the Sudbury & District Board of Health recommends that the Council of Greater Sudbury:

1. Develop a 100% smoke-free by-law that prohibits smoking in public places and workplaces, including all entranceways, by May 31, 2003 and that phases out existing separately ventilated designated smoking rooms (SVDSRs) in existence as of October 23, 2002, by May 31, 2004; and
2. Implement an enforcement strategy in partnership with the Sudbury & District Board of Health as described in the report; and
3. Implement a public information and business education campaign in partnership with the Sudbury & District Board of Health as described in the report; and
4. Create a multisector task force to determine the local feasibility of creative strategies used in other communities to address the concerns of charitable and non-profit organizations that raise money from bingos.

These recommendations are based on the following 11 findings of the consultation and review process.

1. Second-hand smoke is a health hazard.

The research cannot be disputed. Second-hand smoke is a proven health hazard. There is consensus on this among the most reputable scientific and medical academics and among government agencies. Second-hand smoke causes cancer and other chronic diseases. There is no safe level of exposure to second-hand smoke.

Exposure to second-hand smoke ranks as the third leading preventable cause of death in Canada, following smoking and alcohol use. Three thousand Canadians are killed every year by second-hand smoke. Many victims of second-hand smoke are exposed against their will to carcinogens present in other people's smoke.

The harmful health effects of second-hand smoke were not at issue during the Health Unit's extensive consultation. Supporters of and opponents to a 100% smoke-free by-law as well as smokers and non-smokers alike all agree that second-hand smoke is a health hazard.

2. Separately Ventilated Designated Smoking Rooms (SVDSRs) are costly to install and have not proven to be effective in eliminating the hazards of second-hand smoke.

Designated separately ventilated smoking rooms are not effective. No ventilation system can effectively remove second-hand smoke from the workplace. Ventilation systems do not remove the toxic chemicals in tobacco smoke from the air. They provide no solution to the problem of exposure to second-hand smoke.

Research in this field and knowledge concerning safety standards have increased since Council's first by-law of 1999.

In Canada and the United States, the accepted engineering standard for indoor air quality is provided by the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE). With the increasing research regarding second-hand smoke and legal obligations to ensure safe environments, ASHRAE has rescinded a recommendation that ventilation rates safely accommodate a moderate amount of smoking. It is expected that ASHRAE will make even stricter recommendations in upcoming ventilation standards.

SVDSRs were proposed by several sectors during the Health Unit's consultation process. Proponents of SVDSRs argue that smoking rooms offer smokers a choice while protecting others. The science does not support this argument. Toxins still escape from SVDSRs. The report describes the 20 existing designated rooms within the City of Greater Sudbury, their dates of construction, and whether air quality has been ever tested in these existing SVDSRs.

In addition to being exposed to escaped toxins, workers must also enter these areas as part of their employment. Further, there appears to be no monitoring or enforcement of even existing ventilation requirements.

3. All workers should be protected equally by a municipal by-law.

The current City of Greater Sudbury by-law regulates smoking within designated public places. This by-law does not regulate smoking in workplaces although such a by-law is permitted under the *Municipal Act*.

Up to 25% of a workplace may be designated as a smoking area under the provincial *Smoking in the Workplace Act*, 1990. The *Smoking in the Workplace Act* does not adequately protect workers but expressly states that a municipal by-law will prevail over the Act if the by-law is more restrictive in nature.

There is an uneven patchwork of worker protection within the City of Greater Sudbury under the existing by-law and provincial and federal laws. Workers in federal, provincial and some municipal buildings are already protected from second-hand smoke. But many other workers are not protected and are regularly exposed to the harmful effects of second-hand tobacco smoke. There is no reason why workers in hospitality, mining, entertainment and other sectors should not expect the same health protection rights.

Workers within the hospitality industry are of particular concern. There are 315 restaurants and 163 bars in the City of Greater Sudbury. The thousands of workers in this industry are often young and non-unionized and may be less likely to ask for protection from second-hand smoke. Scientific research shows that non-smoking hospitality workers are at higher risk of negative health effects caused by second-hand smoke than other non-smokers. Bar and tavern employees have higher rates of lung cancer than almost all other occupations. Non-smoking food service workers are 50% more likely to develop lung cancer than other non-smokers.

During sector consultations, it was argued that workers have the choice regarding working in smoke-filled environments. It was also stated that employees could look for work elsewhere. A 100% smoke-free public places and workplaces by-law ensures the same protection for all workers and ensures that workers are not faced with having to choose between their health and their job.

4. By-law restrictions should include entranceways to all public places and workplaces.

Under section 213 of the *Municipal Act*, municipalities are allowed to regulate smoking in any public place with the exception of any public street, road or highway. Section 213 does not require that the public place be indoors or that it be enclosed. A smoking by-law could therefore regulate any outdoor public place.

During the public and sector consultations, arguments were made for the inclusion of entranceways to all public places and workplaces in a smoke-free by-law. To prevent smokers from gathering in entranceways, it was argued that entranceways should be smoke-free.

Currently, establishments regulated under the Ontario Tobacco Control Act (e.g. hospitals, universities, colleges) have restrictions preventing smoking within nine meters of any entranceway.

5. Liabilities related to exposure to second-hand smoke are a reality.

A recent Ontario landmark ruling could set precedent for hospitality workers across Canada. A 57-year-old non-smoker and former waitress diagnosed with lung cancer claimed disability from second-hand smoke in the workplace. It was reported in October 2002 that she was awarded worker's compensation. The ruling is a precedent setting case in establishing second-hand smoke as a workplace hazard. It was even more recently reported that two more Canadians working in the restaurant industry have been awarded compensation after developing cancer from second-hand smoke.

During the public consultations, questions were raised concerning whether a municipality could be held accountable for the protection of the public from the hazards of second-hand smoke, particularly if some municipalities offer inferior protection than others. By providing smoke-free workplaces, municipalities and employers protect themselves from the increasing potential for liability related to exposure to an identified workplace hazard.

6. The "bar is being raised" as more Ontario communities go 100% smoke-free.

When the Regional Municipality of Sudbury passed its smoking by-law in 1999, the Region was a leader in responsible management of second-hand smoke. The standards have changed and a growing number of Ontario municipalities have responded by going 100% smoke-free. The Region of Waterloo, Ottawa-Carleton, and Chatham-Kent are three examples where 100% smoke-free public places and workplaces by-laws have been passed.

As standards change, liability becomes a bigger issue. Greater Sudbury's leadership role is also being challenged by other Northern Ontario municipalities that are vying for recognition as healthy communities.

7. A 100% smoke-free by-law without exemptions creates a level playing field for all businesses and avoids any unfair advantages for some.

Many owners indicated that they were willing to go smoke-free under the conditions of a level playing field. A level playing field means that all geographical areas of the City of Greater Sudbury are under the same no-smoking by-law and all sectors must abide by the same rules. All participants in the consultation process agree that if the by-law was passed, it would be critical that a level playing field be established. Bingo hall operators and bowling proprietors strongly expressed the need for the casino to be smoke-free as well. Allowing for the continued use of SVDSRs would create an uneven playing field. Economic advantages would be created for those businesses that could afford to build them.

8. There is strong public support for 100% smoke-free.

Community support for the implementation of a smoke-free by-law in the City of Greater Sudbury is high. The results of a public opinion poll commissioned in June 2002 revealed widespread support for smoke-free public places and workplaces. Seventy-seven percent of respondents indicated that they would support a by-law that would make all indoor public places 100% smoke-free (meaning no allowances for designated smoking rooms). When participants were asked whether or not they would support a by-law that would make all workplaces 100% smoke-free, 80% of respondents indicated they would support such a by-law. Most people surveyed (86%) said they would not travel outside their community to attend places that did allow smoking.

Of the many written submissions to the Health Unit, the majority were in favour of 100% smoke-free by-law. For example, the Sudbury and District Labour Council, which represents approximately 45 local unions, supports smoke-free workplaces. The details of other submissions are contained in the report.

9. The impact on charities needs to be minimized.

Bingo operator representatives reported that in Sudbury in 2001, more than \$5.4 million was provided by bingo to approximately 200 distinct local charity organizations. Local charities expressed their opposition to 100% smoke-free by-law, arguing that communities with such by-laws have seen significant charity revenue losses.

Research by Health Unit staff indicates that the reality of the effect on charity revenues is complex.

Recent studies conducted by the Registered Gaming Suppliers of Ontario Association and the Ontario Charitable Gaming Association concluded that many of the gaming products offered by charity bingos are outdated. This is due to changing demographics and competition from new gaming options such as casinos, slots, internet gambling, instant win, lotteries and video lottery terminals (VLTs).

Changes in market conditions, have resulted in a significant reduction in the number of players, revenue and returns for the charities. For example, the profit for charities has been cut by more than half province-wide in the last 15 years. The industry is under duress and is undergoing a significant restructuring.

In light of the complex factors affecting bingo operations and bingo charities, communities need to develop strategies to reduce charity dependence on gaming, regardless of smoke-free by-law decisions. As an example, Ottawa's Corporate Services and Economic Development Committee Four-Point Action Plan to address declining charitable bingo revenues is highlighted in the report. This is a comprehensive strategy that could be considered locally.

Workers and charity volunteers need protection from the harmful effects of second-hand smoke as well. Charity groups have been vocal in opposing the proposed by-law, but individuals within these groups have complained to Health Unit staff about the risk of volunteering in smoke-filled venues.

10. The public and all businesses and workplaces need to be educated on the by-law.

Health Unit staff extensively reviewed best practice interventions in communities that have successfully gone 100% smoke-free. Extensive mass media campaigns to educate the public and affected sectors were integral to the successful implementation of their tobacco by-laws.

Local experience with the 1999 by-law also demonstrated the importance of upfront and ongoing education. Public education and sector and employer education is crucial to ensuring voluntary compliance. This education ranges from mass media to individual meetings with employers. The report highlights further details including the recommendation that the Health

Unit and the city partner extensively in this area. It should be emphasized that education measures must begin well in advance of the date the by-law comes into effect.

11. A comprehensive enforcement plan must be in place to ensure compliance with the by-law.

A strong commitment to enforcement is key to successful implementation of a 100% smoke-free by-law. A partnership between the Sudbury & District Health Unit, Health Protection Division and the City of Greater Sudbury, By-law Enforcement Division is critical to ensuring effective enforcement. Discussions have already taken place regarding the need for dedicated, full time By-law Enforcement Officers.

An implementation committee consisting of representatives from the Health Unit, City of Greater Sudbury, City of Greater Sudbury Police Service and Ministry of Labour is recommended.

The report outlines details of the enforcement plan and the establishment of this by-law enforcement implementation committee.

Financial Implications

The Sudbury & District Health Unit and the City of Greater Sudbury commit to contribute resources, both human and fiscal, to ensure the successful implementation and enforcement of the 100% smoke-free by-law. Contributions include:

- The Sudbury & District Health Unit will dedicate enforcement staff to assist with enforcement strategies. In addition, Health Promotion staff will be allocated to assist with the educational, smoking cessation, and mass media strategies. Health Unit staff, in partnership with the City, have applied for funding from Health Canada for the mass media campaign and will continue to seek other external sources of funding.
- The City of Greater Sudbury By-law Enforcement Division will dedicate enforcement staff and continue to allocate by-law educational funds as per the current year. Potential revenues generated from fines for violations related to the by-law could be redirected.

Summary

In May 2003, the City of Greater Sudbury can reduce the risk of exposure to second-hand smoke to its 155,219 citizens by implementing a comprehensive 100% smoke-free by-law in all public places and workplaces. A strong 100% smoke-free by-law creates a level playing field for businesses, minimizes enforcement challenges and protects the health of each and every citizen and worker without exception.

Implementing a 100% smoke-free public places and workplaces by-law will achieve the final phase of creating indoor no-smoking by-laws and put the City of Greater Sudbury on the map as leaders in promoting a healthy, world class community.

**Report to
City of Greater Sudbury Council**

Submitted by :

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SUBJECT: 100% SMOKE-FREE BY-LAW FOR THE CITY OF GREATER SUDBURY

2.0 BACKGROUND

Smoke-free by-laws are designed for one purpose, to protect citizens from the known hazards of second-hand smoke. Creating smoke-free public places and workplaces is the single most important public health intervention that can occur at the municipal level of government.

In September 1999, the City of Greater Sudbury, then the Regional Municipality of Sudbury, passed a region-wide smoke-free by-law. This by-law was implemented in stages with restaurants and billiard halls scheduled to become 100% smoke-free in May 2003. Varying levels of restrictions were included for other public places.

Affected premises and the general public adapted readily to the 1999 by-law as demonstrated by a high rate of voluntary compliance (only 31 charges have being laid to taxi drivers to date).

Three years later, on January 17, 2002 and during National Non-Smoking Week, the Medical Officer of Health for the Sudbury & District Board of Health presented to the City of Greater Sudbury Council on the provincial "Go for Gold" theme. This campaign promotes the creation of gold standard by-laws (100% smoke-free) in all communities across the province. City Council was encouraged to consider new research and trends across the province reflecting the need for 100% smoke-free communities. City Council unanimously passed a motion supporting the Health Unit's work in moving Sudbury toward 100% smoke-free. The Sudbury & District Board of Health passed a similar motion at their February 21, 2002 meeting. They adopted a position in support of 100% smoke-free public places and workplaces within the City of Greater Sudbury by May 2003. They anticipated economic arguments and struck a balance supporting the ongoing operation of separately ventilated designated smoking rooms (SVDSRs) for another year until May 31, 2004. (See Attachment 1 for the City of Greater Sudbury Resolution and the Sudbury & District Board of Health motion).

Between January and October 2002, Sudbury & District Health Unit staff and community partners on the Sudbury Council on Tobacco or Health, Tobacco By-law Working Group conducted a comprehensive community education campaign to raise awareness about hazards of second-hand smoke. Research was conducted into best practice for tobacco control policies and the

experiences of other 100% smoke-free communities were reviewed. A full and open public and sector consultation process was conducted to gather input into the best process for building a 100% smoke-free community.

This report documents the findings from the health unit's work over the past year. Emerging issues are highlighted and discussed and implementation strategies are reviewed. Four key recommendations are made for the consideration of Mayor Gordon and Councillors of Greater Sudbury.

3.0 RATIONALE FOR TAKING ACTION

3.1 Need to Protect the Health of All Citizens

The harmful health effects of second-hand smoke are now well known. An international scientific panel has concluded that second-hand smoke causes cancer, a finding that should end one of the more stubborn controversies in cancer research. Twenty-nine experts convened by the International Agency for Research on Cancer, an agency of the World Health Organization, also concluded smoking causes several types of cancers for which it had not previously been blamed.

The panel, including experts from 12 countries, reviewed all significant published evidence related to tobacco smoking and cancer, and its conclusion on the effects of second-hand smoke was unanimous. The panel found that smoking can cause cancer of the stomach, liver, uterine cervix (renal cell carcinoma) and the myeloid leukemia. Those cancers have not previously been definitively linked with smoking. For more information on this study, link to the following website: <http://www.iarc.fr/pageroot/PRELEASES/pr141a.html>

Second-hand smoke exposure is the third leading preventable cause of death in Canada after smoking and alcohol use, killing over 3,000 Canadians annually.¹ Many victims of second-hand smoke are exposed against their will to carcinogens present in other people's smoke. Approximately, 330 non-smokers die from lung cancer due to exposure to second-hand smoke.² Other health problems include Sudden Infant Death Syndrome (SIDS), low-birth weight babies, stroke and emphysema.

Many victims of second-hand smoke are exposed against their will to carcinogens present in other people's smoke. More than one quarter of the Canadian population has medical conditions, which are exacerbated by second-hand smoke including children who have asthma. A United States analysis of over 100 reports on pediatric diseases concluded that children's exposure to tobacco smoke is responsible for approximately 220,000 ear infections in Canadian children, 16,500 tympanostomy tube insertions, 2,100 tonsillectomies and adenoidectomies. It is also responsible for 43,600 cases of bronchitis, 19,000 cases of pneumonia and 13-20 deaths from lower respiratory infections.³

¹OTRU (2002). Protection from second-hand smoke in Ontario – A review of the evidence regarding best practice.

² Public Health and Long-Term Care (2002). Smoke-free By-laws for the City of Ottawa: Final Report and Recommendations, Ottawa, ON.

³ US Dept. of Health & Human Services. Health Effects of Exposure to Environmental Tobacco Smoke, 1999.

Second-hand smoke is the largest source of indoor air pollution and contains a mixture of over 4,000 chemicals – more than 50 of, which are known carcinogens (cancer causing agents). The Ontario Health Survey (1996/97) found that 88% of Sudbury/Manitoulin Districts residents felt that second-hand smoke is harmful to non-smoker's health.⁴ The Ontario Occupational Health and Safety Act lists 15 substances that have no safe level of exposure and six of them are found in tobacco smoke. The U.S. Environmental Protection Agency lists second-hand smoke as a Class A carcinogen, for which there is no safe level of exposure.⁵ (See Attachment 2 for a more detailed look at the health effects of second-hand smoke).

3.2 Protection for All Workers

Currently, the City of Greater Sudbury tobacco by-law regulates the smoking of tobacco within designated public places. The existing by-law does not regulate the smoking of tobacco in workplaces although such a by-law is permitted under the *Municipal Act*.

Up to 25 percent of a workplace may be designated as a smoking area under the provincial, Smoking in the Workplace Act, 1990. The *Smoking in the Workplace Act* does not adequately protect workers but expressly states that a municipal by-law will prevail over the Act if the by-law is more restrictive in nature.

Protection for all workers means that all geographical areas of the City of Greater Sudbury are under the same no-smoking by-law and that exemptions are not granted to any one type of establishment (i.e. restaurants are treated the same as bars).

Workers in federal, provincial and some municipal buildings are already protected from second-hand smoke. But numerous employees within our community are being exposed on a constant basis to the harmful effects of second-hand tobacco smoke. Given that some workers in the City of Greater Sudbury already benefit from smoke-free workplaces, we need to provide the same protection to hospitality, mining and entertainment workers and any other workplaces that are not currently smoke-free.

Of particular concern are workers within the hospitality industry. There are 315 restaurants and 163 bars in the City of Greater Sudbury employing thousands of workers. These workers are often young and non-unionized and are less likely to ask for protection from second-hand smoke. Scientific research shows that non-smoking hospitality workers are at higher risk of negative health effects caused by second-hand smoke than other non-smokers. In bars, second-hand smoke levels are four to six times higher than in offices where smoking is permitted.⁶ Bar and tavern employees have higher rates of lung cancer than almost all other occupations. In fact, non-smoking food service workers are 50% more likely to develop lung cancer than other non-smokers.⁷

⁴ Ontario Health Survey (1996/97). Smoking Behaviour Highlights of the Ontario Health Survey (OHS) 1996/97 for the Sudbury and Manitoulin Districts. Sudbury & District Health Unit. Sudbury, ON.

⁵ OTRU (2002). Protection from second-hand smoke in Ontario – A review of the evidence regarding best practice.

⁶ Siegel, M., MD, MPH. (1992). Involuntary Smoking in the Restaurant Workplace: A Review of Employee Exposure and Health Effects. *JAMA*, 270, 490-493.

⁷ Siegel, M., MD, MPH. Involuntary Smoking in the Restaurant Workplace: A Review of Employee Exposure and Health Effects 1992; 270 *JAMA* (pp. 490-493)

Some workplaces have separately ventilated designated smoking rooms (SVDSRs). SVDSRs are very costly to install. In 1981, the U.S. National Academy of Science released a report entitled *Indoor Pollutants*. It concluded that a “ventilation system capable of completely removing tobacco smoke from the air did not exist”. Today, over 21 years later, this fact remains the same.⁸ Allowing SVDSRs still requires workers to be exposed to second-hand smoke.

Reducing exposure to second-hand smoke is public health issue. Non-smoking workers should be protected from the harmful effects of second-hand smoke. Addressing this public health issue is not about denying smokers their right to smoke. Instead, it is about giving non-smokers the right to cleaner, healthier indoor air.

3.3 Success in Other Jurisdictions

Smoke-free spaces are a growing trend throughout North America. Many American states have taken smoke-free initiatives. For example, the state of Utah does not allow smoking anywhere in its restaurants. Vermont prohibits smoking in all places of public access except in licensed “cabarets.” Californians enjoy clean air in bars and restaurants. New York City introduced legislation in January that strengthens existing ordinances, making all restaurants 100 % smoke-free, a move that has the support of that city's top labour unions.

Hundreds of Canadian municipalities have adopted smoking bylaws, and seven provinces have adopted province-wide laws restricting smoking. Of these jurisdictions, a growing number require restaurants and bars to be smoke-free. Two provinces, Newfoundland and British Columbia, have provincial laws requiring smoke-free restaurants. These come into effect on January 1, 2002 and April 30, 2002 respectively.

In Canada at least 45 municipalities have passed by-laws requiring smoke-free restaurants and 31 of these municipalities have included bars.

In Ontario, the number of municipalities passing 100% smoke-free by-laws is growing. In 2000, the Region of Waterloo implemented 100% smoke-free restaurants, bars and other public places. In 2001, Ottawa also implemented a smoke-free public places and workplaces by-law. Guelph and Peterborough also require completely smoke-free bars and restaurants. In October 2002, Chatam-Kent passed the most progressive 100% smoke-free by-law in the province allowing for no exemptions. All public places and workplaces will be smoke-free by June 2003. Bars, restaurants and bingo halls will all be smoke-free.

On September 1, 2002 the Town of Tecumseh implemented a 100% smoke-free by-law. They are looking forward to the same kind of success that Waterloo has experienced.

At the time of its 1999 smoking by-law, Sudbury was a leader in responsible management of second-hand smoke. The standards have changed and a growing number of Ontario municipalities have responded by going 100% smoke-free. Clearly the City of Greater Sudbury is lagging behind. Implementing the proposed by-law will allow our city to catch up to other municipalities, and move to a leadership role, in Northern Ontario, as well as in the rest of the province.

⁸“ Directed Air Flow Ventilation, Does it Acceptably Control Second-Hand Smoke in Restaurants,” James Repace, August 21, 1999. Repace Associates, Bowie, MD

Smoke-free public places and workplaces are inevitable. Not only must municipalities protect the public from the dangers of second-hand smoke, but also the public is demanding that we do so. Public opinion has changed dramatically on this issue over the past five years. More municipalities are going smoke-free and at a quickening pace.

3.4 Precedent Setting Law Suits

In 1996, the Alberta Workers' Compensation Board recognized second-hand smoke as a workplace hazard when they ruled in favour of four prison guards who claimed that second-hand smoke had aggravated previously existing medical conditions.

A recent Ontario landmark ruling could set precedent for hospitality workers across Canada. A 57-year-old non-smoker and former waitress diagnosed with lung cancer claimed disability from second-hand smoke in the workplace. It was reported in October 2002 that she was awarded worker's compensation. The ruling is precedent setting case in establishing second-hand smoke as a workplace hazard. It was even more recently reported that two more Canadians working in the restaurant industry have been awarded compensation after developing cancer from second-hand smoke.

During the public consultations, questions were raised concerning whether a municipality could be held accountable for the protection of the public from the hazards of second-hand smoke. By providing smoke-free workplaces, municipalities and employers, protect themselves from the increasing potential for liability related to exposure to an identified workplace hazard.

4.0 PROCESS

With the support of the Sudbury & District Board of Health and under the direction of the Medical Officer of Health, health unit staff commissioned a public opinion survey and conducted extensive public and sector consultations on a 100% smoke-free by-law. Verbal and written submissions were invited. The scientific literature was reviewed and relevant experience in other communities was scrutinized. In total approximately 3,225 voices were heard.

Much of this work was completed in collaboration with a working group comprised of community partners (representation from Chamber of Commerce, Labour, Northeastern Ontario Regional Cancer Centre, Mayors Roundtable on Seniors Issues, and health professionals) and called the Sudbury Council on Tobacco or Health, Tobacco By-law Working Group. The Sudbury & District Health Unit, in partnership with the working group conducted, eight sector consultations, one public consultation (200 people), twelve presentations to key agencies within the community as well as nine displays at various community events.

5.0 RESULTS

The following sections summarize the key findings from the public and sector consultations.

5.1 Public Opinion Poll

Community support for the implementation of a 100% smoke-free by-law in the City of Greater Sudbury is high. The results of a commissioned opinion poll revealed widespread support for smoke-free public places and workplaces. The public opinion poll conducted by Veri/Fact in May 2002, surveyed 1060 residents. The poll found that when the survey participants were asked if they would support a by-law that would make all indoor public places 100% smoke-free (meaning no allowances for designated smoking rooms), a majority (77%) of the city's population were in favour. When participants were asked whether or not they would support a by-law that would make all workplaces 100% smoke-free, 80% of respondents indicated they would support such a by-law. Most people surveyed (86%) said they would not travel outside their community to attend places that did allow smoking.

The results indicate that there is strong support for a smoke-free by-law in the City of Greater Sudbury. The telephone survey results are scientifically valid at +/-3% nineteen out of twenty (confidence interval at 95%). The Sudbury & District Health Unit commissioned Veri/Fact in 1997 and the support for smoke-free by-laws has increased. (See Attachment 3 for an executive summary of the Veri/Fact public opinion survey).

5.2 Community Support

The Sudbury & District Health Unit received many endorsements from individuals and agencies. (See Attachment 4 for a complete list of endorsements). Some written objections were also received. (See Attachment 5 for a list of objections)

The Sudbury Council on Tobacco or Health, Tobacco By-law Working Group also launched a post card campaign. To date collected 1,459 postcards in support of 100% smoke-free public places and workplaces have been collected. Also, a dedicated phone line was set up for public input. Two hundred and twenty supportive phone calls were received and 24 non-supportive. To date, 61 supportive faxes were received. (See Attachment 6 for a complete list of faxes). In September 2002, a poll was added to the www.sdhu.com website. Residents could go on-line and vote for smoke-free public places and workplaces. Sixty visits were made to the Sudbury & District Health Unit web page. The web site indicated support for 100% smoke-free by-law at 59 and opposition at 1. Copies of all letters, resolutions, postcards and faxes can be obtained from the Sudbury & District Health Unit.

From April 2002 to October 2002, the Tobacco Action Team of the Sudbury & District Health Unit and members of the Sudbury Council on Tobacco or Health made numerous presentations to many organizations. Many displays were set up throughout the community to educate the public about the proposed changes to the tobacco by-law as well as to gauge community support. A mass media education campaign was launched in April of 2002 and remains on-going to educate City of Greater Sudbury residents about the health effects of second-hand smoke. The Tobacco Action Team has also been working in partnership with the City of Greater Sudbury with its media campaign to promote and educate residents on the existing tobacco by-law. (See Attachment 7 for

an overview of presentations, display opportunities and highlights of the mass media campaign from the Sudbury & District Health Unit and the City of Greater Sudbury).

5.3 Focused Consultations

A series of meetings was held with groups who would be directly affected by the new proposed no-smoking by-law. The purpose of these meetings was to discuss the position statement of the Sudbury & District Board of Health, and to obtain feedback and answer any questions specific to the consultation process. Each consultation included a PowerPoint presentation including the Sudbury & District Board of Health position statement regarding a smoke-free City of Greater Sudbury. (See Attachment 8 for a copy of the Sudbury & District Board of Health position statement).

1. April 25, 2002 Sector Consultation with Bingo Hall Operators

All bingo hall operators within City of Greater Sudbury were invited to a consultation meeting on April 25, 2002. Representatives from each of the four major bingo operations plus one bingo charity executive from each bingo participated. Participants started off by saying they understood the Board of Health position regarding the hazardous health effects of second-hand smoke. However, bingo hall operators voiced serious concerns about the impact a 100% smoke-free by-law would have on both the bingo operations and their affiliated charities. They shared information they had received on several bingo hall closures in communities such as Waterloo and Guelph that have gone smoke-free.

A bound document entitled, "Together we are partners – Charities Municipality Gaming Centre" was provided to health unit staff. The document contains figures and un-audited statements from bingo halls across the province. Bingo hall operators admitted that the racetrack/casinos across the province have resulted in revenue declines of up to 20% and that with the addition of the tobacco by-law they are seeing up to 50% decline in revenues. Bingo hall operators voiced concern for charities whose revenues they claim will decline significantly as they receive a 60% split of net profits.

The operators explained that bingo charities raise over 5.4 million dollars in Sudbury, which is redirected into the community. Bingo hall operators argued that they are different than other businesses as they are driven by attendance and the prize board is set (meaning the amount has to be paid out no matter the attendance). They also claim that 8% of the population plays bingo but of that 8%, 70% of the players are smokers. Finally, the bingo hall operators claim they operated in good faith with the existing by-law and put in the separately ventilated designated smoking rooms (SVDSRs) as specified. They feel they are offering a non-smoking environment with the existing SVDSR's and what they feel is adequate ventilation – smokers are able to smoke and play bingo and non-smokers can sit in a non-smoking environment. They would like to see the by-law restrictions regarding bingo halls remain status quo. (See Attachment 9 for bingo hall position statement).

2. May 22, 2002 Sector Consultation with Restaurant and Billiard Hall Operators

All management of businesses within these sectors was invited to a consultation meeting on May 22, 2002. Six participants from this sector participated in the consultation. The businesses included two restaurants, two roadhouses, and one bar. Concerns were voiced that a 100% smoke-free by-law would have a negative impact on their businesses in terms of sales and ultimately

employment for staff, as smokers would stay at home instead of frequenting their establishments. A claim was made that smokers drink more, spend more money and tip better than non-smokers. Several businesses claim they have information from the Pub and Bar Coalition of Ontario (PUBCO) and other sources indicating that spending in licensed establishments in Ottawa for instance was significantly down post-by-law. Claims were made that in Sudbury the effect on businesses will be greater as the banks will not back businesses here as they do in Ottawa.

Businesses agreed there should be an economic impact study done to look at the effects of the smoking by-law on the business community but felt the Health Unit was biased and should not be the agency looking at such a study. Participants did not support designated smoking rooms due to the cost of installing them plus the fact they may be asked to take them down at some point.

One restaurant owner explained how he had gone smoke-free on his own without the by-law and how positive the experience has been for him, his staff, and the patrons. He explained how customer demand helped him make the decision to go smoke-free and that he is happy that he made that decision.

All participants agreed with the health arguments and that workers' health needs to be protected. Their argument was one of choice – patrons have the choice as to whether they come into the establishment and workers have the choice as to whether they work in a place that allows smoking.

The issue of enforcement was also of concern with questions as to why the Health Unit was no longer enforcing the by-law and that the health inspectors should do it.

A solution offered by this group of participants for regulating smoking in these sectors was that establishments be smoke-free until 8:00 or 9:00 p.m. and then smoking be allowed.

3. May 27, 2002 Sector Consultation with Bowling Alley Operators

All bowling establishments within the City of Greater Sudbury were invited to a consultation meeting on May 27, 2002. Participation by this sector included representation from nine of the ten bowling alleys. Several of the participants indicated they were tired of government telling them how to run their businesses and that they know their customers and their needs the best. Several participants indicated that the vast majority of their bowlers are smokers (upward to 60% in the adult leagues) and that a 100% smoke-free by-law would hurt business. Another participant indicated they had just visited London and a bowling alley that had gone non-smoking and it was the best atmosphere he had ever seen. They went non-smoking 7 years ago before the by-law and they lost business the first year and then actually gained business after that. Another participant indicated that since the by-law passed in 1999, they have seen more kids and families coming in.

Participants explained that their business is different in that if they don't sign up customers in September they lose them for the whole year. Also, it is difficult to schedule breaks for smokers in league bowling, as the non-smokers would then have to wait for them and become frustrated. Several participants admit they are in a declining marketplace. The casino with its large revenue, the big box stores, all have had an impact on their business and therefore they can't afford to lose even 5% of their business. One bowling alley owner claimed to have lost 100 bowlers to the casino. Several participants asked that if the by-law was going to come into effect that we not

leave the SVDSR's in place as bowling alleys will lose business to them. There was concern that casinos can afford to put in a SVDSR for one year.

All participants agreed that if the by-law was going to be passed creating a level playing field for all businesses was a must. Also, implementing the by-law in a warm weather month would be wise. The majority of participants felt that status quo with the existing by-law was their preferred option.

4. June 4, 2002 Sector Consultation with Unions

Twenty-seven unions representing many businesses were invited to a consultation meeting on June 4, 2002. Only two participants attended this consultation – one representing ONA (Ontario Nurses Association) and one representing the Sudbury District Labour Council. Issues raised included the fact that norms are changing and that the community needs to hold a bigger vision with respect to creating smoke-free spaces. One participant talked about how people can no longer smoke on flights or in the airport or in movie theaters and how people have adapted to those changes.

It was pointed out that unionized workers in places like the mine will argue that they already work in dust and carcinogens but do not realize the synergistic effect of being exposed to these workplace contaminants as well as second-hand smoke.

One participant indicated that it is important to point out to workers that some of these chemicals act together and are worse on your health than if you are exposed to one alone. It was pointed out that tobacco industry workers are unionized and the unions will protect them. Participants claim there will be much opposition to the by-law and it would be important to have a good support system in place including smoking cessation programs. Participants agreed with each other that this should be treated as an occupational health and safety concern and that it is an employees right to work in a smoke-free environment. It was also indicated that it would be important to stress the positive economic impact smoke-free policies can have on workplaces. As well, it is a fact that class action lawsuits are becoming more prevalent. Finally, it was recommended that due to poor turnout at this meeting, the Health Unit should present at the Sudbury District Labour Council. On June 27, 2002 a presentation was provided to the Sudbury District Labour council with Council unanimously passing a motion in support of 100% smoke-free.

5. June 4, 2002 Consultation with Casino Management

A meeting was organized between casino management, the Medical Officer of Health and one staff member from the Health Unit's Tobacco Action Team. The management representative voiced concerns that a 100% smoke-free by-law may affect business as their industry tends to attract smokers.

As well, he talked about competition in Sault Ste. Marie and that there would be an unlevel playing field. Presently, the casino claims to accommodate non-smokers the best they can. They recently re-located the smoking area to the other side of the gaming floor but workers continue to be exposed to second-hand smoke. Their position at present was that they would prefer not to be 100% smoke-free but that they will adhere to whatever decision council makes and they will enforce it diligently.

6. June 5, 2002 Sector Consultation with Workplaces/Management

Fifty-nine larger workplaces and their management were invited to a consultation meeting on June 5, 2002. Eight participants participated in this consultation. The workplaces, in attendance included three Long-Term Care Facilities, the Sudbury Regional Hospital, Laurentian University, Inco Ltd. and Brake Parts Service. Several of the long-term care facilities were already looking at restrictions on the hours for smoking as well as policies relating to the protection of personnel who must supervise clients in the SVDSRs. In one facility, respiratory masks are offered to personnel having to enter the smoking areas. Concerns were expressed for the smoking rights of the residents of the hospital, long-term care and retirement homes. These facilities provide residents with a "home-like environment" and should therefore be seen differently than other establishments. As well, the long-term care facilities voiced concern for shifting the problem outdoors and the need to ensure smoking is not allowed near the entranceways. There was a general concern that people should not have to walk through smoke to get into the buildings.

Issues around the difficulty of enforcing a 100% smoke-free establishment were brought forward specifically with respect to underground workers. As well, all workplaces present indicated that there is a need to look at the smoking cessation services and programs available to help people quit. Finally, there were questions as to how the Health Unit plans to educate the general public and suggestions that the messages will need to be repeated many times through a mass media campaign. On September 27, 2002 a follow-up meeting was held with Occupational Health and Safety and Union representatives from INCO. Issues discussed included the need for workplace and community smoking cessation programs, the need for adequate enforcement, and avoidance of employer litigation.

7. June 19, 2002 Sector Consultation with Bar Owners/Operators

All bars and roadhouses were invited to attend a consultation meeting on June 19, 2002. Turn out for this consultation included 8 participants representing 3 local bars, 2 legion branches and the Laurentian University Pub. Participants were opposed to a 100% smoke-free by-law claiming it would have a negative impact on their businesses. They shared anecdotal information from other bar owners in communities that had gone 100% smoke-free indicating that businesses would close down if the by-law were to be passed. The Laurentian University Pub claimed that their business would suffer, as students would simply go to their residences to drink and smoke instead. They also claimed that non-smokers would stay home as well because their friends who smoke would now be staying home.

Concerns were also voiced that they should have the right to run their business the way they choose and they do that based on customer demand. It was suggested that a non-smoking business would close down due to lack of business. SVDSR's were considered a ridiculous option for them because they would have to take them down in 2004. One bar owner claimed he had information from the Brewers Retail in Ottawa showing beer sales were down since passage of the by-law.

8. September 11, 2002 Consultation with Bingo Charities

One hundred and thirty-four charities were invited to a consultation meeting held September 11, 2002. For those charities for which we did not have contact information, ads were placed in three local newspapers advertising the consultation session being held at Tom Davies Square on September 11, 2002.

Approximately 70 charity representatives participated in the consultation session. Participants who spoke did not argue the health risks associated with second-hand smoke but talked about weighing that risk against the risk of charities being hurt as a result of the by-law. Participants were very vocal, claiming economic devastation to their charities should the 100% smoke-free by-law be approved.

Arguments were in favour of maintaining the designated smoking rooms in the bingo halls in order that bingo revenues would not be affected. Participants were quite vocal about the effects of decreased charity revenues on programs in the community such as the breakfast programs, the Food Bank, Festival Boréal and other charities. Participants argued that if they didn't have the bingo charity revenues coming in, many of their programs would have to fold. The Health Unit was asked if they were going to supplement the funds these charities were going to lose, as alternative sources of revenue were quite limited due to competing charities/fundraising initiatives. The position of most of the participants in the room was leaving the bingo halls as they are presently regulated in the by-law.

5.4 Public Consultation

A public consultation on the Sudbury & District Health Unit's position statement and recommendations for 100% smoke-free public places and workplaces by-law was held at Tom Davies Square on October 2, 2002. Staff from the Tobacco Action Team of the Sudbury & District Health Unit organized and staffed the public consultations. There was also considerable media coverage at the time of the session. Seven of the thirteen City of Greater Sudbury's Councillors were also in attendance.

Attendance at the public consultation was approximately 200 people. Participants included members of the public, health care professionals who had a strong interest in the recommendations for a smoke-free by-law, as well as business owners including bar and restaurant owners and bingo operators.

There were 30 delegations that had asked to be on the agenda prior to the event. The majority of the delegations were in favour of smoke-free public places and workplaces. Some indicated that second-hand smoke severely restricted their lifestyle preventing them from going to work or to socialize in most public places. Supporters were adamant that individuals and their families had the right to clean air in all public places and workplaces. Several health professionals spoke passionately about what it was like to have to work with clients who had suffered the ravages of tobacco and second-hand smoke. Several participants spoke on behalf of various health sectors about the health effects and economic toll illnesses related to second-hand smoke have on our health care system and medicare. Participants in favour of the smoke-free by-law recommendations did not see non-smoking sections or SVDSRs as an option as they would continue to put citizens at risk. Some business owners spoke in favour of smoke-free by-laws citing their own businesses as establishments that had already gone smoke-free, ahead of the existing by-law, and were doing very well.

Those participants who spoke in opposition to the by-law were largely bar owners and bingo hall operators who reiterated their concerns about the economic impact the 100% smoke-free by-law would have on their businesses. A representative from PUBCO referred to the health research

related to the hazards of second-hand smoke as “junk science” and suggested ventilation as a reasonable option to allow choice for smokers.

The Director for the Ontario Campaign for Action on Tobacco provided a brief presentation countering PUBCO’s ventilation solution.

One person spoke about the rights of special groups e.g. the elderly and long-term care facility residents.

6.0 DISCUSSION

6.1 Economic Impact to Business

A common concern among businesses is that smoke-free by-laws will cause financial loss. However, study after independent study, based on sales tax receipts confirms that the hospitality industry does not lose business when bars and restaurants go smoke-free.⁹

In addition, studies show that after going smoke free: insurance costs are lower, cleaning costs are reduced, there is less damage to furniture and equipment and there is less risk of fire. It has been documented, however, that businesses that are already in trouble feel the effects immediately following by-law implementation. After a short adjustment period, most businesses get back to their usual level of sales and many even increase sales, based on a whole new market of people who were staying home because they don’t like or can’t tolerate second-hand smoke.

A recent study of the American Medical Association found that smoke-free restaurant by-laws in three American states and six major cities had no adverse effect on tourist business, and may have actually increased it. One year after a smoking ban was in place in restaurants and bars in Victoria, B.C., business trends confirmed a public opinion survey that found the public was frequenting these places as often or more often. For example, the B.C. Liquor Distribution Branch found an increase in hospitality beverage sales in the Capital Regional District in the first nine months after the by-law came into effect as compared to the same period the previous year. The B.C. Workers’ Compensation Board found an increase in the number of persons hired by the hospitality industry after by-law implementation as captured by increased premiums paid the WCB by this sector.¹⁰

More recent are the lessons of smoke free by-law implementation in the Region of Waterloo in January 2000. Although there are no formal reports available on the impact to their businesses, it appears that fewer businesses closed in 2000 than in 1999. As well, it is important to note that the Ontario Court of Appeals dismissed two court actions directed against their Regional Municipality of Waterloo. One suit challenged the right of the Region to pass the by-law while the other centered on 145 plaintiffs who raised the issue of economic loss. Both suits were dismissed.

⁹ Public Health and Long-Term Care (2001). Smoke-Free By-laws For The City of Ottawa: Final Report and Recommendations. Ottawa, ON.

¹⁰ Public Health and Long-Term Care (2001). Smoke-Free By-laws For The City of Ottawa: Final Report and Recommendations. Ottawa, ON.

Waterloo's experience with Oktoberfest is another example of their success. This annual fall celebration attracts tens of thousands of visitors to the region, and includes the operation of a number of large Fest halls where beer and German food are served. These establishments, which traditionally allowed smoking, were smoke-free for the first time in 2001 and only five charges related to smoking were laid throughout the entire event. The event was completed with virtually no negative publicity and many compliments from both participants and hall operators. Oktoberfest executive director Larry Blundell recently told the Ottawa Sun: "All the doom and gloom reported about this ban hasn't really happened. It's healthy and it's workable".

The City of Ottawa engaged KPMG, a financial advisory service, to provide assistance in the ongoing monitoring of the economic and health impacts of no smoking legislation enacted on August 01, 2001. The first of a series of quarterly reports indicated an increase in employment in the accommodation and food services industry (6.5%). This result is surprising as total employment in the Ottawa area fell, yet employment in the accommodation and food services industry grew over the period the new by-law went into effect. By June 2001, the number of licensed and unlicensed restaurants increased (3.6%) and the number of bars, nightclubs and taverns had grown (6.5% in 6 months). In May 2002, a City of Ottawa staff report noted that 82 new bars and restaurants had opened since Ottawa went 100% smoke-free. (See Attachment 10 executive summary for the KPMG first quarter results).

KPMG carried out their second quarter survey during the months of March, April and May of 2002 to focus exclusively on bars and pubs in Ottawa to determine if they were adversely affected by the no-smoking by-law as PUBCO felt that the study was limiting. PUBCO agreed to encourage owners and managers to participate in the study. Despite extensive efforts, KPMG was unable to obtain enough data to produce statistically valid results. Extensive and repeated efforts were made by KPMG staff to obtain the cooperation of each establishment in obtaining the necessary data. It was explained to businesses that the failure to participate in the study could result in the study producing no results, and therefore, no opportunity to demonstrate and economic impact of the smoking by-law, if such an impact exists. If PUBCO's allegations of economic losses from the by-law were true, it follows that these establishments should have been eager to participate in proving any losses. Whatever the reason for not participating, the only conclusion that can be drawn is that the establishments are unable or unwilling to provide information to substantiate these claims. (See Attachment 11 an explanation for the unavailable second quarter results).

Fear has been expressed by several businesses about the loss of business to other communities should this proposed by-law be adopted. We know from the recent public consultations as well as the findings from the Veri/Fact public opinion poll that the large majority of people prefer smoke-free and will not travel outside the City of Greater Sudbury to smoke.

6.2 Effect on Charities

Bingo charities fear significant revenue losses because of the high smoking rates among their bingo clients. They have learned of a negative impact on businesses in the other areas such as Waterloo and are claiming the 100% smoke-free by-laws are responsible for these losses. Charities send volunteers to bingo halls for fundraising purposes and depend on the money they raise there to sustain their activities.

A recent study in 2000, jointly carried out by the Registered Gaming Suppliers of Ontario Association and the Ontario Charitable Gaming Association, concluded that many of the gaming products offered by charity bingo have become outdated. This is due to changing demographics and competition from new gaming options like casinos, slots, internet gambling, instant win, lotteries and video lottery terminals (VLTs).

As a result of these changes in market conditions, there has also been a significant reduction in the number of players, revenue and hence returns for the charities. For example, the profit for charities has been cut by more than half province-wide in the last fifteen years. The industry is under duress and is undergoing a significant restructuring.¹¹

Other Ontario municipalities have recently addressed the problem of declining charity bingo revenues. The General Committee of the City of Mississauga received a report on June 7, 2000, which concluded that competition from slots had been responsible for a decrease of up to 35% in charity profits over the previous year. The report also concluded that policies of the AGCO were a significant constraint on innovation by the bingo industry compared to other gaming options.¹²

York Region Council adopted a report on January 24, 2002, which analyzed the impact of that municipality's new no-smoking by-law, and concluded that, while the new by-law might have had some initial impact, it was competition from a variety of new gaming activities which had reduced profit for charities.¹³

Local bingo hall operators have provided information on bingo hall closures in areas such as Waterloo and Ottawa, which have gone smoke-free. The Regional Municipality of Waterloo Health Department is aware of two bingo halls that have closed, one of which was located in an area of major re-development and the building where the bingo was located was scheduled for demolition. Several other factors besides the no-smoking by-law may have contributed to problems for bingos, such as the opening of Brantford Casino and Mohawk Raceway Slots, which allow smoking. As well, casinos are known to do a better marketing job to attract patrons, providing transportation, meals and other discounts.

In light of the complex factors affecting bingo operations and bingo charities, communities such as Ottawa have addressed the issue of declining charitable bingo revenues by adopting a four-point plan for action with the aim of reducing charity dependence on declining revenues from bingo. (See Attachment 12 for copy of Ottawa's 4 point plan). This is a comprehensive strategy, which could be considered locally.

It is important to remember that workers and charity volunteers need protection from the harmful effects of second-hand smoke as well. Charity groups have been vocal in opposing the proposed by-law, but individuals within these groups have complained to Health Unit staff about the risk of volunteering in smoke-filled venues.

¹¹Corporate Services Department (2002). Ontario's Declining Charitable Bingo Revenues: A Four Point Action Plan For Ottawa. Ottawa, ON.

¹²Corporate Services Department (2002). Ontario's Declining Charitable Bingo Revenues: A Four Point Action Plan For Ottawa. Ottawa, ON.

¹³Corporate Services Department (2002). Ontario's Declining Charitable Bingo Revenues: A Four Point Action Plan For Ottawa. Ottawa, ON.

6.3 Level Playing Field

A level playing field means that all geographical areas of the City of Greater Sudbury are under the same no-smoking by-law and all sectors must abide by the same rules. All participants in the consultation process agree that if the by-law was passed, it would be critical that a level playing field be established. Bingo hall operators and bowling proprietors strongly expressed the need for the casino to also be smoke-free. Also, many owners indicated that they were willing to go smoke-free under the conditions of a level playing field. Allowing for the continued use of SVDSRs would create an uneven playing field. Economic advantages would be created for those businesses that could afford to build them.

6.4 Separately Designated Smoking Rooms/Ventilation

There has been much debate between the tobacco industry, the hospitality industry and the health care sector on the merits of ventilation as a solution to smoking by-laws in controlling second-hand smoke in indoor environments. In Ontario, the hospitality industry believes and promotes that ventilation technology can create smoke-free indoor air without resorting to separately ventilated designated smoking rooms.¹⁴

On the other hand, the current position of the health care sector is that the only way to effectively protect workers and the public against exposure to second-hand smoke is through the implementation of 100% smoke-free by-laws.¹⁵

A separately designated smoking room (SVDSR) is defined as an enclosed room where smoking is permitted that has a separate ventilation system from the one in use by the smoke-free area of the establishment. The second-hand smoke generated inside of the SVDSR must be 100% exhausted to the outdoors. The ventilation system must be designed so that no second-hand smoke is permitted to leak from the SVDSR into the smoke-free area of the establishment. If second-hand smoke does leak into the smoke-free area and can be proven, the SVDSR cannot be approved. If the SVDSR has been previously approved, then the approval shall be rescinded.¹⁶

However, one must consider the following. Even if the ventilation system of a SVDSR was made to be totally separate, ETS would travel into the smoke-free area due to the movement of serving staff, maintenance staff and customers in and out of the SVDSR. According to Professor Roberta Ferrence, director of the Ontario Tobacco Research Unit “the most advanced ventilation techniques can reduce ETS by up to 90%, but even with this drastic reduction, the remaining 10% is still 2,000 times greater than what would be considered acceptable”. Ventilation systems lose effectiveness if not cleaned regularly (at least weekly in smoky places) and as a result, they may be over-exposing workers and patrons to the very substances they were meant to collect. Ventilation systems may dilute tobacco smoke but they do not clean the air of the toxic substances in second-hand smoke.¹⁷

¹⁴ Ontario Campaign for Action on Tobacco (1998). *Clearing the Air: Ventilation and second-hand Smoke*. Toronto, ON.

¹⁵ MacCom Systems Ltd. (2001). *Engineering Analysis of Designated Smoking Rooms*. Ottawa, Canada

¹⁶ MacCom Systems Ltd. (2001). *Engineering Analysis of Designated Smoking Rooms*. Ottawa, Canada

¹⁷ Simcoe County District Health Unit (2001). *Protecting the health of the public from environmental tobacco smoke: Establishing no-smoking bylaws in Simcoe County*. Simcoe County, ON.

In Canada and the United States, the accepted engineering standard for indoor air quality is provided by ASHRAE (American Society of Heating, Refrigeration and Air Conditioning Engineers). With the increasing research regarding ETS and the legal obligations of providing safe environments, ASHRAE has removed a recommendation that ventilation rates accommodate a moderate amount of smoking. It is expected that ASHRAE will make even stricter recommendations in upcoming ventilation standards as they are closely monitoring the ETS issue.

During the consultative process with many of the City of Greater Sudbury businesses, the push towards the continued use of existing ventilation systems was recommended as a solution to the proposed changes to the tobacco by-law. There are currently 20 SVDSRs in the City of Greater Sudbury (5 restaurants/donut shops, 3 bingo halls, 1 funeral home and 11 long-term care facilities). (See Attachment 13 for a complete list of SVDSRs, date of construction and whether the air quality has been tested).

It is of extreme importance to note that only one establishment Tim Horton's – Kingsway location performed air quality testing. They are now smoke-free. Inspections and testing must be performed to ensure systems are being utilized properly which has not been occurring in Sudbury. Some businesses (particularly the Bingo industry), invested a great deal of money to relocate and renovate existing buildings to construct SVDSRs. They believe that these steps were taken in good faith to comply with the existing 1999 tobacco by-law. In fact, the existing tobacco by-law allows for the construction of SVDSRs as an option for businesses, but does not require businesses to do so. (See Attachment 14 for a copy of the 1999 Smoking By-law).

Some Long-term Care Facilities such as Extendicare York and Village Finlandia who have DSRs are very supportive of the Sudbury & District Health Unit's position on a 100% Smoke-Free City of Greater Sudbury. With the increasing research on the effects of second-hand smoke and the inability of ventilation systems to clear the air of toxins, they too would like to fully protect their residents, staff and visitors from second-hand smoke and are currently working towards making their establishments smoke-free by removing their SVDSRs. Village Finlandia is taking things one-step further by also making their property smoke-free by January 2003.

The dangers of second-hand smoke exposure are not eliminated through the use of SVDSRs, ventilation or air cleaners. SVDSRs should not be an option in a smoke-free by-law that is aimed at eliminating environmental tobacco smoke and its toxins. SVDSRs need to be phased out as soon as possible. Reducing exposure to second-hand smoke is a public health issue. Non-smokers need to be protected from the harmful effects of second-hand smoke.

6.5 Entranceways

Under section 213 of the *Municipal Act*, municipalities are allowed to regulate smoking in any public place with the exception of any public street, road or highway. Section 213 does not require that the public place be indoors or that it be enclosed. A smoking by-law could therefore regulate in any outdoor public place.

During the public and sector consultations arguments were made for the inclusion of entranceways to all public places and workplaces in a smoke-free by-law. It was argued that entranceways should be smoke-free as more people will smoke outdoors.

Currently, establishments regulated under the Ontario Tobacco Control Act (e.g., hospitals, universities, colleges) have restrictions preventing smoking within nine meters of any entranceway.

6.6 Long-Term Care Facilities/Rights of Seniors

Smoking in nursing homes, homes for the aged and rest homes are regulated under the Ontario Tobacco Control Act (OTCA) and are not covered by this proposed by-law. The OTCA permits a designated smoking room for the seniors in these residences, as they are not permitted to smoke anywhere else.

The existing City of Greater Sudbury by-law prohibits smoking in common lounges of multiple dwelling apartment buildings. Seniors, as all residents of these types of buildings, are permitted to smoke in their private residences i.e. their apartments or condominiums. It is only the common areas, to which all residents have access, where smoking is prohibited. Every person deserves access to activities and events in their buildings, including exercise programs, card-playing, conversation, and residents' meetings. This is a vulnerable group when it comes to health, as many seniors suffer from existing conditions such as heart disease that are aggravated by second-hand smoke.

Pioneer Manor strongly supports the position taken by the Sudbury & District Health Unit for a 100% by-law in the workplace. However, they consider themselves not only a workplace but a home to 342 residents. Should the City of Greater Sudbury move towards a 100% smoke-free by-law, they recommend that provisions be made within the by-law to permit long term care facility operators to designate smoking areas for residents' use. Pioneer Manor believes that restricting residents from smoking may infringe upon their rights to individuality and dignity as well as the increased safety risks of residents smoking in their rooms. To date, we have only received such recommendations from Pioneer Manor. (See Attachment 15 from Pioneer Manor) In fact, several other long-term care facilities have voiced support for the removal of SVDSRs within a 100% smoke-free by-law. By January 2003, Village Finlandia will be smoke-free including the property.

6.7 Private Clubs

Private clubs that have employees will be subject to the provisions of the proposed work-place by-law. There would be no provisions in a public places by-law dealing with private clubs since they are not facilities to which the general public are invited. Some City of Greater Sudbury businesses suggested that they would become a private club if the proposed changes to the by-law occur. The protocol in becoming a private club was discussed with these individuals. Once it was realized that private clubs are non-profit, there appeared to no longer be an option for some business. (See Attachment 16, protocol for private clubs).

7.0 SUCCESSFUL IMPLEMENTATION OF THE BY-LAW

7.1 Communicating to the Public and Business Sector

Health Unit staff extensively reviewed best practice interventions in communities such as Waterloo and Ottawa, which have successfully gone 100% smoke-free. In these communities an

extensive mass media campaign to educate the public and affected sectors was an integral part of the successful implementation of their tobacco by-laws.

In addition, review of reports completed following the implementation of the existing City of Greater Sudbury by-law and its enforcement clearly demonstrated that voluntary compliance was easily gained through ongoing education and mass media intervention.

To effectively implement a new smoke-free public places and workplaces by-law for the City of Greater Sudbury by May 31, 2003, this educational campaign needs to be enacted as soon as possible to allow for adequate time for public and businesses to be informed, in advance of the by-law's effective date.

The Sudbury & District Health Unit in partnership with the City of Greater Sudbury will implement a comprehensive communication/mass media campaign to begin immediately following approval of the by-law. This mass media campaign would include:

1. Public Awareness Media Campaigns

A bilingual mass media campaign will be developed and launched, including radio ads, bus signs, billboards and a household mail-out. This mass media campaign will build on the current second-hand smoke prevention initiatives in the City of Greater Sudbury. It will aim to increase awareness of the community at large on the need for protection from second-hand smoke and encourage them to support the by-law. As well, the mass media campaign will be implemented to inform the public of the new by-law, its requirements and the implementation date.

2. Business Owner/Employer Education

This will begin as soon as the by-law has received approval by City Council. It entails a mailed package to all affected businesses and workplaces outlining the by-law, the reasons for creation of the by-law, the penalties for non-compliance by patrons and owners or their managers and staff and initial signage and promotion materials. Where needed, the mailed package will be followed up by a personal visit by a by-law enforcement/educational officer who will review the by-law's conditions and give any possible assistance to the owner(s) and staff. In addition, workshops and information sessions for business owners and employers will be offered. The education will continue until the implementation date.

The Sudbury & District Health Unit, in conjunction with the Sudbury Council on Tobacco or Health Tobacco By-law Working Group recently submitted a proposal for funding to Health Canada in the amount of \$155, 800. The proposal was submitted under the Federal Tobacco Control Strategy Mass Media Project Initiative to support a by-law mass media/education campaign with the goal of educating all business sectors/workplaces and the general public on the 100% smoke-free by-law for the City of Greater Sudbury.

Other sources of funding will be explored with provincial organizations such as the Media Network, the Ontario Tobacco-Free Network and the Ontario Campaign for Action on Tobacco.

7.2 Enforcement

Key to successful implementation of the by-law is a strong commitment to enforcement. The City of Greater Sudbury By-law Enforcement Division will be the lead agency with respect to enforcing the 100% smoke-free by-law. A partnership between the Sudbury & District Health Unit

Health Protection Division and the City of Greater Sudbury By-law Enforcement Division has been developed to ensure dedicated, full time By-law Enforcement Officers to enforce the by-law. In addition, the Sudbury Regional Police have agreed to identify a police officer to participate on the by-law enforcement committee and will provide support staff where needed to deal with non-compliant establishments. The Ministry of Labour will also be asked to assist with widespread enforcement measures within workplaces.

A by-law enforcement implementation committee will be established immediately upon passage of the 100% smoke-free by-law. This committee will be responsible for monitoring/overseeing process issues related to the educating and enforcement strategies so as to coordinate and maximize enforcement efforts.

The City By-law Enforcement Division will commit dedicated enforcement responsible for monitoring compliance and enforcement of by-law including laying charges. In addition, two educational officers will assist with the educational component including delivering of educational materials to all affected businesses. They may also be available to act as witnesses in certain circumstances with non-compliant establishments.

The Sudbury & District Health Unit will also dedicate enforcement staff. Both the City and the Health Unit staff will work together under the leadership of the City. The Sudbury and & District Health Unit Health Inspectors will assist with the distribution of educational materials to affected establishments and will also act as witnesses in compliance visits where necessary. Health Promotion staff from the Health Unit will continue to work with City staff in the development and implementation of mass media campaign materials and ads to ensure the education of all affected sectors and the general public is wide-spread and comprehensive in nature.

Public Health and By-law Enforcement will also work together to ensure a database is created to record all interactions with business. This database will provide accurate records for reporting to the provincial government, to the courts and to City Council as required.

Enforcement of the by-law will include three staged components: education, warning and charging. It will begin with an education component as described under the communication strategy. This education will begin immediately upon passage of the by-law and will continue until the May 31, 2003 implementation date. Following this education period, there will be a period of time post by-law implementation where businesses will be given warnings for non-compliance. The warning period will commence on the date of implementation of the by-law (May 31, 2003). By-law Enforcement Officers will make routine inspections of establishments and will issue courtesy warnings to patrons, staff, or owners who are not complying. The warnings carry no penalties and are meant as a means of further education. During the warning period, every effort will be undertaken to eliminate confusion. By the time the charging period comes into effect, most establishments will already be in compliance.

The final and permanent component is the charging period. During which time the By-law Enforcement Officers will issue regular Provincial Offence Notice tickets. The tickets will carry the specified by-law charge and an out-of-court cost, which allows the recipient to plead guilty without the need to go to court in accordance with the accepted practice already in use. There will be no more courtesy warnings in the charging period regardless of prior warnings.

The enforcement strategy is designed to ensure voluntary compliance and eliminate as much resistance as is possible thereby preventing confrontations. The database will supply a statistical analysis of actions taken, provide an accurate picture of issues arising, identify problem establishments and stand as a document supporting prosecutions, should they arise.

Following the passage of the by-law by Council an application will be made to the Chief Justice of Ontario requesting official short form wordings (the wording to be used on the actual charges on the Provincial Offence Notices) along with the amounts for the set fines on the tickets. The ticket fines should range between \$200-\$300. The maximum fine for any by-law offence is \$5,000.

7.3 Increased Need For Smoking Cessation Programs

Cessation programs are integral to the implementation of no-smoking regulations in workplaces and public places. It is expected that the demand for quit-smoking courses will increase after the by-law is in place. The Sudbury & District Health Unit and partners in the community have formed a task group to address the variety and types of smoking cessation services offered in our community, to develop a comprehensive tobacco cessation framework and to identify gaps in cessation services and resources for the Sudbury and area. The task group has forwarded a proposal to the Ontario Tobacco-Free Network (OTN) requesting funding for \$2000. The task group has successfully secured \$5,000 to move forward with this initiative. (See Attachment 17 for a copy of the OTN proposal). According to a recent study, totally smoke-free workplaces are associated with increased quit rates and fewer cigarettes smoked per day per continuing smoker.¹⁸ Depending on the community demand the Sudbury & District Health Unit will commit to investigating ways to increase the number of smoking cessation opportunities offered in our community.

7.4 Evaluation

The Sudbury & District Health Unit will work in partnership with the City of Greater Sudbury to develop and implement routine and ongoing surveys to monitor compliance and public opinion. Public, workplace and business understanding of the by-law and effectiveness of public awareness campaigns will be assessed.

7.5 Financial Implications

The Sudbury & District Health Unit and the City of Greater Sudbury commit to contribute resources, both monetary and fiscal, to ensure the successful implementation and enforcement of the 100% smoke-free by-law. Contributions include:

- The Sudbury & District Health Unit will dedicate enforcement staff to assist with enforcement strategies. In addition, Health Promotion staff will be allocated to assist with the educational, smoking cessation, and mass media strategies. Health Unit staff, in partnership with the City, have applied for funding from Health Canada for the mass media campaign and will continue to seek other external sources of funding.

¹⁸ Glantz, A. S. & Fichtenberg, C. M. (2002). Effects of smoke-free workplaces on smoking behaviour: systematic review. Center for Tobacco Control Research and Education, Institute for Health Policy Studies, Cardiovascular Research Institute of California, San Francisco, CA 94143, USA.

- The City of Greater Sudbury By-law Enforcement Division will dedicate enforcement staff and continue to allocate by-law educational funds as per the current year. Fine revenues will be directed to assist in offsetting the cost of enforcement and prosecution of offenses.

7.6 By-laws

The City of Greater Sudbury is not breaking new ground. Other municipalities have developed 100% smoke-free by-laws. Attachment 18 contains examples of other communities' 100% smoke-free public places and workplace by-laws.

8.0 SUMMARY

In May 2003, the City of Greater Sudbury can reduce the risk of exposure to second-hand smoke to its 155,219 citizens by implementing a comprehensive 100% smoke-free by-law in all public places and workplaces. A strong 100% smoke-free by-law creates a level playing field for businesses, minimizes enforcement challenges and protects the health of each and every citizen and worker without exception.

Implementing a 100% smoke-free public places and workplaces by-law will achieve the final phase of creating indoor no-smoking by-laws and put the City of Greater Sudbury on the map as leaders in promoting a healthy, world class community.

9.0 REPORT RECOMMENDATIONS

The overriding conclusion of the health unit's work is unequivocal. Deciding to create smoke-free public places and workplaces is the arguably the most important public health decision that municipal governments have the authority to make. The deadly impact of exposure to second-hand smoke is a public health issue, not a fiscal one.

The Medical Officer of Health of the Sudbury & District Board of Health recommends that the Council of Greater Sudbury:

1. Develop a 100% smoke-free by-law prohibiting smoking in public places and workplaces, including all entranceways, by May 31, 2003 and phasing out of existing separately ventilated designated smoking rooms in existence as of October 23, 2002, by May 31, 2004; and
2. Implement an enforcement strategy in partnership with the Sudbury & District Board of Health and as described in the report; and
3. Implement a public information and business education campaign in partnership with the Sudbury & District Board of Health as described in the report; and
4. Create a multisector task force to determine the local feasibility of creative strategies used in other communities to address the concerns of charitable and non-profit organizations that raise money from bingos.

References

Corporate Services department (2002). Ontario's Declining Charitable Bingo Revenues: A Four Point Action Plan For Ottawa. Ottawa, ON.

Glantz, A. S. & Fichtenberg, C. M. (2002). Effects of smoke-free workplaces on smoking behaviour: Systematic review. Center for Tobacco Control Research and Education, Institute for Health Policy Studies, Cardiovascular Research Institute of California, San Francisco, CA 94143, USA.

MacCom Systems Ltd. (2001). Engineering Analysis of Designated Smoking Rooms. Ottawa, ON.

Ontario Campaign for Action on Tobacco (1998). Clearing the Air: Ventilation and Second-hand Smoke. Toronto, ON.

Ontario Health Survey (1996/97). Smoking Behaviour Highlights of the Ontario Health Survey (OHS) 1996/97 for the Sudbury and Manitoulin Districts. Sudbury & District Health Unit, Sudbury, ON.

Public Health and Long-Term Care (2001). Smoke-Free By-laws For the City of Ottawa: Final report and Recommendations. Ottawa, ON.

Repace, J. (1999). Directed Air Flow Ventilation. Does it Acceptably Control Second-hand Smoke in Restaurants. Repace Associates, Bowie, MD.

Siegel, M., MD, MPH. (199). Involuntary Smoking in the Restaurant Workplace: A Review of Employee Exposure and Health Effects. JAMA, 270, 490-493.

Simcoe County District Health Unit (2001). Protecting the health of the public from environmental tobacco smoke: Establishing no-smoking bylaws in Simcoe County. Simcoe County, ON.

US Dept. of Health & Human Services (1999). Health Effects of Exposure to Environmental Tobacco Smoke.