

SUBJECT Expanding the definition of “*smoke and smoking*” in the “*Capital Regional District Clean Air Bylaw 3962*”

ISSUE

Recommendation from the Chief Medical Health Officer, based on medical evidence and recent legislative amendments by the Province of British Columbia, to expand the definitions of “*smoke and smoking*” and “*burn and burning*” in the “*Capital Regional District Clean Air Bylaw 3962*”.

BACKGROUND

The Capital Regional District (CRD) is a national leader in health protection. Smoking regulations in the CRD have served to protect and improve health outcomes for all populations through the prevention of exposure to byproducts of smoking tobacco.

The current CRD bylaw is built on a strong foundation that commenced in 1996 with the banning of tobacco smoking on school grounds which was expanded in 1999 to include CRD indoor workplaces. This was followed by a further expansion of the bylaw to include outdoor commercial patios where food and beverages were consumed and in 2015 the “*Capital Regional District Clean Air Bylaw 3962*” extended to include outdoor public spaces such as parks, playgrounds and playing fields.

The CRD is being called upon to demonstrate continued leadership in addressing emerging and significant health risks to the public related to the exposure to emissions from e-cigarettes, cannabis, and hookah that could undermine previous achievements in population health and healthy public policy. The CRD Clean Air Bylaw not only requires amendments to bring it into alignment with recent changes to provincial legislation, but may benefit from addressing the potential risks resulting from federal legalization of cannabis.

As of September 1, 2016 the province of British Columbia updated laws governing tobacco and vapour products. The *Tobacco Control Act* and Regulation were replaced with the *Tobacco and Vapour Products Control Act* and Regulation. The scope of the new legislation expanded to include e-cigarettes and vapour products. Under the new legislation, an electronic cigarette is defined as a “product or device...containing an electronic or battery-powered heating element capable of vapourizing an e-substance for inhalation or release into the air”. An e-substance is defined as “a solid, liquid or gas that, on being heated, produces a vapour for use in an e-cigarette, regardless of whether the solids, liquid or gas contains nicotine”. All e-substances are included under the new legislation regardless of whether or not the e-substance contains nicotine. Tobacco and e-cigarettes are subject to the same restrictions provincially in relation to the minimum distance of six metres where smoking and e-cigarette vapour is permitted from a doorway, window, or air intake of an indoor workplace, as well as within a workplace.

The impending legalization of cannabis presents additional risks of public exposure to cannabis smoke and vapour. The federal government has committed to implementing *Bill C-45*, the *Cannabis Act*, by July 2018, which aims to control and regulate the production and sale of

cannabis in Canada. This legislation would delegate the responsibility for regulating where cannabis is consumed to the provinces and territories; however, municipalities would also likely play a role through enforcement of smoking restriction by-laws.

A further recent development is increased marketing of “heat-not-burn” tobacco products internationally. With these products, tobacco is heated, rather than burned, to produce aerosol containing nicotine and other chemicals that are inhaled by users. There is evidence that these products can release a large number of chemical compounds into the airspace around the user (O’Connell, 2015 & Forster, 2015).

Exposure to second-hand smoke, aerosol and vapour from tobacco, e-cigarettes, cannabis, and hookah represents a risk to the health of the public. Emissions from these products have been shown to contain psychoactive substances, as well as chemicals that are potentially carcinogenic or otherwise harmful to health (Balbe et al., 2014, Cone et al., 2015, Goniewicz & Lee, 2015, Hammal et al 2015, Moir et al., 2008, Ogunwale et al., 2017, Zhang, Haju, Kaufman, Muir & Ferrence, 2013). Scientific evidence abounds on the deleterious effects of tobacco; however, the literature has also demonstrated short and long term hazardous health effects associated with cannabis and hookah smoking, particularly among vulnerable individuals such as adolescents and pregnant women (Strulovici-Barel et al., 2016, Volkow et al., 2014 & Gunn et al. 2016). Studies have also demonstrated psychoactive cannabinoids can be absorbed from exposure to second hand cannabis smoke (Herrmann et al., 2015 & Wang et al., 2016(a)). Research is ongoing in relation to the long-term health impacts of e-cigarette use; however, it is accepted that sufficient evidence exists to indicate that long-term use of e-cigarettes is likely to pose direct health risks (Benowitz & Burbank, 2016, Heart and Stroke, 2016 & U.S. Department of Health and Human Services, 2016).

There is strong evidence that e-cigarette use by adolescents and young adults is associated with cigarette smoking intention, initiation, and use (Hammond, Reid, Cole & Leatherdale, 2017, Soneji et al. 2017, Wang, Wang, Cao, Wang & Hu, 2016(b), Zhong, Cao, Gong, Fei & Wang, 2016). Additionally, existing evidence demonstrates an association between e-cigarette use and the use of other tobacco products (U.S. Department of Health and Human Services, 2016). Despite the detrimental health effects established in the literature, adolescents and adults tend to perceive emerging tobacco products, such as e-cigarettes, heat-not-burn, and hookah, as well as cannabis, as safer than smoking tobacco (Hammal et al., 2016, Leventhal et al., 2015, Nguyen, 2017, Noland et al., 2016, Roditis & Halpern-Felsher, 2015, Sanders-Jackson et al., 2015). There is a public health concern related to the potential for cannabis and e-cigarette use to renormalize smoking and undermine the accomplishments of tobacco control efforts to date.

Current literature affirms that improvements to the health of populations can occur when exposure to fine particulates and harmful chemicals are reduced and/or eliminated through population level policies (Frazer et al., 2016). To ensure persons of all ages are protected from the potential immediate and long term health consequences related to second-hand emissions, it is imperative that the scope of regulatory measures is expanded to include tobacco, e-cigarettes, cannabis, and hookah. There is a growing municipal, regional, and national demand for regulation of tobacco, cannabis, and emerging tobacco products. Many jurisdictions in Canada have enacted legislation that reflects evidence-based research and thus restrict the use of e-

cigarettes, cannabis, and/or hookah. For example, in 2007, the city of Vancouver passed a bylaw that expanded the definition of smoke to include “burning a cigarette or cigar, or burning a substance using a pipe, hookah pipe, lighted smoking device or electronic smoking device” with burning defined as “to produce smoke, vapour or other substances that can be inhaled”.

CONCLUSION

Based on scientific studies and reports, the Medical Health Officer strongly recommends the CRD expands the Clean Air Bylaw to broaden the definitions of “smoke” and “smoking” and “burn” and “burning”. Expansion of the bylaw will result in improved health outcomes for all populations and build on previous achievements in population health and healthy public policy. The CRD’s continued commitment and leadership will be demonstrated by addressing emerging and significant health risks to the public related to the exposure to emissions from e-cigarettes, heat-not-burn, cannabis, and hookah.

RECOMMENDATIONS

Proposed amendments to the Recital Clauses

Environmental smoke whether from tobacco, cannabis, heated vapour or the burning of other substances can contain Class A carcinogens similar to benzene and asbestos, contain fine particles that can be inhaled deep into the lungs causing harm both locally and in other parts of the body, and is a health hazard to the inhabitants of the Capital Regional District;

It is generally recognized by scientific and medical communities that there is no safe level of smoke exposure and that whether the smoking occurs indoors or outdoors exposure to significant levels of Environmental Smoke can occur;

Proposed amendments to the Clean Air Bylaw provisions

“burn” or “burning” means to produce smoke, vapour, aerosol or other substances that can be inhaled;

“smoke” or “smoking” includes burning a cigarette or cigar, or burning or heating any substance using a pipe, hookah pipe, lighted smoking device or vapourizing device;

(1) No person shall carry or have in his possession a burning cigarette or cigar containing tobacco or another substance or a pipe containing burning tobacco or another substance, or burn tobacco or another substance with a hookah pipe, lighted smoking device or vapourizing device: . . .

(2) No responsible person shall permit a person to carry or have in his possession a burning cigarette or cigar containing tobacco or another substance or a pipe containing burning

tobacco or another substance or burn tobacco or another substance using a hookah pipe, lighted smoking device or vapouring smoking device: . . .

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D: Municipal Bylaw Examples	
1. Maple Ridge, British Columbia	
2. Vancouver, British Columbia	
3. Chilliwack, British Columbia	
4. Williams Lake, British Columbia	
5. Kelowna, British Columbia	
6. Summary of Jurisdictions in Canada with legislation prohibiting [Non-Smokers Rights Association]:	
<ul style="list-style-type: none"> • Electronic cigarettes [up to March 31, 2016] • Other Weeds [up to January 1, 2016] • Waterpipe [up to March 31, 2016] 	
7. Province of British Columbia summary of legislative changes with regards to vapour products as of September 1, 2016	

