

Bylaw 18891 - Amendment to the Public Places Bylaw 14614 Shisha and Waterpipe Smoking

Engagement with Stakeholders

Purpose

The purpose of this bylaw is to amend the Public Places Bylaw to regulate the public consumption of tobacco-like products, such as shisha, and the use of water pipes in alignment with tobacco and cannabis regulations.

The report also shares stakeholder and public engagement results regarding an appropriate coming into force date, and various restrictions that can be implemented immediately prior to Bylaw 18891 coming into force.

Readings

Bylaw 18891 is ready for third reading.

Position of Administration

Administration supports this Bylaw.

Previous Council/Committee Action

At the July 16, 2019, City Council meeting, Bylaw 18891 received first and second readings and was lost on consideration for third reading.

At the June 26, 2019, Community and Public Services Committee meeting, the following motion was passed:

That Bylaw 18891 be referred to Administration for revisions to prohibit indoor shisha smoking, effective July 1, 2020, and return to a future City Council meeting.

At the October 9/10, 2018, City Council meeting, the following motion was passed:

1. That subsequent to first reading, Bylaw 18571 be referred back to Administration to conduct engagement with stakeholders and the public regarding an appropriate coming into force date, with the Bylaw to return in the second quarter 2019.
2. That, concurrent with Bylaw 18571 returning for second and third reading, Administration provide a report with options and any necessary bylaw amendments for restrictions that can be implemented immediately prior to Bylaw 18571 coming into force.

Report Summary

In October 2018, City Council directed Administration to conduct further engagement regarding a proposed bylaw amendment to prohibit shisha consumption indoors. Administration engaged with business owners, health groups, and the public about discontinuing indoor use of shisha and water pipes. Stakeholders advised on implementation timeframes, short term restrictions, transition, education, and enforcement measures.

Administration is recommending January 1, 2021, as the implementation date for full restrictions on consuming shisha indoors. As an interim measure, several restrictions for current shisha establishments are identified as part of the 18-month transition and compliance strategy. The restrictions address the need to balance the protection of youth, increase public education, and ensure business continuity.

Report

In July 2018, Community and Public Services Committee directed Administration to prepare amendments to the Public Places Bylaw. The amendments were to prohibit the use of shisha and waterpipe smoking in public and commercial spaces, and near entrances and children's amenities. The updates would bring the bylaw in general alignment with the regulation of tobacco and cannabis smoking.

In October 2018, City Council gave first reading to Bylaw 18571, which would have regulated the consumption of shisha and use of water pipes to mirror the cannabis and tobacco regulations. At that time, City Council directed Administration to engage stakeholders and the public on an appropriate coming into force date and other restrictions prior to giving Bylaw 18571 further readings.

On November 22, 2018, City Council passed housekeeping amendments to the Public Places Bylaw affecting the smoking provisions. While these amendments did not affect how tobacco and cannabis are regulated, the changes included in that bylaw make giving further readings to Bylaw 18571 ineffective because it proposes amendments to provisions that no longer align with the current Public Places Bylaw.

Administration recommends that Bylaw 18571 not receive any additional readings, and that Bylaw 18891 (Attachment 1) be considered for three readings. Bylaw 18891 achieves the same intent as Bylaw 18571 with regard to shisha consumption indoors.

Stakeholder Engagement

Administration conducted engagement sessions with business owners, health groups, and the public to seek feedback on the time frame for implementation of restrictions of indoor use of shisha and water pipes in Edmonton. Stakeholders were also asked about short-term restrictions, transition, education, and enforcement measures.

Business owners unanimously supported a longer term (four to five year) transition plan to recover costs associated with operating or starting a business and moving to a new non-shisha/water pipe business model. Business owners cited heating and ventilation costs, business loans, and staff employment as their main areas of concern related to a quicker transition. Business owners noted that possible outcomes of these restrictions could lead to financial hardship and potential bankruptcy. Business owners also raised the idea of compensation and/or reimbursement for investments in equipment and supplies.

Public health advocates supported a more immediate implementation date. They identified concerns related to ongoing health risks and the impact of second-hand smoke on youth, adult patrons and employees. They also referred to the restrictions against smoking tobacco indoors in place since 2013 and that shisha is considered by many as fruit-flavoured tobacco and no safer than other tobacco products. Health advocates noted the existing provincial ban on smoking indoors in public places has likely fueled the increased number of indoor shisha smoking businesses because shisha lounges do not require a separate business licence. A 2015 economic impact study from Toronto suggested no net economic impact to businesses from instituting a shisha smoking ban.

Survey and Input Results

Administration conducted a survey of stakeholders and the public to gather feedback on the proposed timelines for implementation. The survey received 3,179 responses.

Implementation Timeline	Support
Four to five years	8 percent
Other / None of the above	23 percent
Immediate	33 percent

18 months	36 percent
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Engaged stakeholder groups supported the idea of additional restrictions on businesses before the new restrictions on shisha smoking come into effect. The restrictions include:

1. prohibiting persons under the age of 18 from smoking shisha
2. increasing education and awareness efforts including the display of external signs at business entrances
3. increasing the penalties for non-compliance to interim regulations

City Council may wish to consider additional options relating to the use of shisha during any potential transition period. For example, business owners that had a predominance of food services expressed the desire to maintain family and youth patrons during the day, while shisha smoking would not be permitted. This would require that specific times after which minors would be prohibited be established or that dedicated smoking rooms be allowed. Both options would require additional amendments to the bylaw to establish public signage requirements and bylaw offences to ensure compliance and accountability.

Public input on the above options showed 54 percent of survey respondents support minors being allowed in an establishment until a specific time when shisha would be allowed. Conversely, 38 percent of survey respondents indicated that minors should not be allowed on premises that allow the consumption of shisha at any time.

In respect to a designated smoking area within an establishment, 42 percent said they agreed to a fully separated and enclosed designated herbal shisha smoking area and 40 percent said they did not agree to a business creating a separate designated smoking area.

Bylaw Force and Effect Date

Administration considered the timelines presented by stakeholders, including the four to five year suggestion from industry and the more immediate time frame from health advocates. While both timeframes likely have some level of patron or economic impact and increased health risks to customers and workers, Administration recommends an 18-month time frame as a reasonable middle ground.

Proposed Bylaw Amendment

Administration is recommending that the following restrictions be introduced immediately as interim mitigations:

1. No one under the age of 18 is permitted within a premise where smoking of shisha is permitted.

2. Any business that offers shisha must have clearly visible signage indicating the nature of their smoking establishment and that minors are not allowed.
3. Fines for contravening the interim regulations:
 - a. \$250 no signage
 - b. \$500 allowing minors

Additional Potential Options

4. Adding a minor-prohibited time frame or alternatively, allowing a designated enclosed smoking room.
5. Industry representatives recently forwarded an additional option for Council consideration. The option to maintain the status quo, on any current regulations, and implement an end date for indoor shisha consumption to one year.

Public Awareness

Administration will develop an education and awareness campaign detailing the new regulations, the date of implementation, and any other required public information. In particular, new applicants for business licences that may have a shisha/water pipe use element would be advised that a ban on shisha smoking is forthcoming.

Corporate Outcomes and Performance Management

Corporate Outcome(s): Edmonton is a safe city			
Outcome(s)	Measure(s)	Result(s)	Target(s)
Ensure tobacco-like product education, awareness and compliance programs are effective	Overall complaints for violations.	To be determined	To be determined.

Public Engagement

Administration conducted three engagement sessions and a survey between November 2018 and March 2019. Two of the engagement sessions were with business owners, including hookah/shisha bar and restaurant owners. The third engagement session involved representatives from a number of social agencies and government organizations. The public engagement survey took place through the Edmonton Insight Community and was completed by 3,179 respondents.

Budget/Financial Implications

Education and enforcement costs will be captured in existing operational budgets. Administration does not anticipate the need for any additional funds to support the implementation of these bylaw changes.

Attachment

1. Bylaw 18891

Others Reviewing this Report

- C. Owen, Deputy City Manager, Communications and Engagement
- S. McCabe, Deputy City Manager, Urban Form and Corporate Strategic Development
- B. Andriachuk, City Solicitor, Office of the City Manager