

## E-CIGARETTES UPDATE

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### EXECUTIVE SUMMARY

With the growing popularity and increased use of electronic smoking products known as e-cigarettes, Council directed Administration to review the issue of e-cigarettes, including potential impacts on communities and citizens, and provide recommendations on how to approach the issue as a municipality. Phase 1 of the review, completed in 2014 in collaboration with Alberta Health Services (AHS), included an examination of existing regulations, best practices in other jurisdictions, and research into potential health, nuisance and behavioural impacts. Phase 2 of the review is summarized in this report, and includes results of a citizen survey, research findings, and an overview of the current legislative state in jurisdictions across North America. The citizen survey found that close to half of Calgarians consider e-cigarette vapour a nuisance, with more than 70 per cent against e-cigarette use in indoor public locations such as public buildings, offices, restaurants and stores, as well as in playgrounds (Attachment 1). Further, research refers to a number of compounds of concern in e-cigarette vapour, which can present both a nuisance and potential health issue by reducing indoor air quality and causing respiratory irritation, especially for vulnerable individuals such as those with asthma or respiratory disease. Based on these findings, Administration is recommending an amendment to The City of Calgary Smoking Bylaw 57M92 to prohibit the use of e-cigarettes in public places where tobacco smoking is currently prohibited (Attachment 2).

### ADMINISTRATION RECOMMENDATION(S)

That the SPC on Community and Protective Services recommends that Council

1. Receive this report for information;
2. Give three readings to the proposed bylaw to amend Smoking Bylaw 57M92; and
3. Request that the Mayor send a letter to the Minister of Health advocating for a provincial e-cigarette strategy.

### RECOMMENDATIONS OF THE SPC ON COMMUNITY AND PROTECTIVE SERVICES, DATED 2015 JUNE 09:

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That Council:

1. Receive this report for information;
2. Give three readings to **Proposed Bylaw 27M2015** to amend Smoking Bylaw 57M92; and
3. Request that the Mayor send a letter to the Minister of Health advocating for a provincial e-cigarette strategy.

Opposition to Recommendation 2:

Opposed: S. Chu, J. Stevenson

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Excerpt from the Minutes of the Regular Meeting of the SPC on Community and Protective Services, Held 2015 June 09:

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**“And further, that the distributions and submissions received with respect to Report CPS2015-0387 be attached to the report prior to being forwarded to Council.**

**CARRIED”**

### **PREVIOUS COUNCIL DIRECTION / POLICY**

On 2014 March 31, Council approved Councillor Diane Colley-Urquhart’s Notice of Motion 2014-13 requesting Administration prepare, in respect to e-cigarettes and their potential impacts on communities and citizens, a project scope and work plan that would: a) lead to determining recommendations for Council, including any bylaw changes, as to how this matter could be addressed; b) include consultation and participation among identified key stakeholders, including, but not limited to, Alberta Health Services, and Alberta Health and Wellness; c) identify resource and cost estimates; d) be presented to the 2014 September meeting of the SPC on Community and Protective Services. On 2014 September 22, Council approved Report CPS2014-0663 as amended: 1) Receive this report for information; and 2) Direct Administration to partner with Alberta Health Services (AHS) on a shared approach to the work identified in the attachment, and report back in 2014 December to Council, through the SPC on Community and Protective Services with Phase 1 findings and an AHS/City cost and resource sharing agreement for Phase 2 work.

On 2014 December 15, Council approved Report CPS2014-0862, as follows: 1) Receive this report for information; and 2) Direct Administration to proceed with Phase 2 of the review process in conjunction with Alberta Health Services, reporting back to the SPC on Community & Protective Services by 2015 June with review recommendations.

### **BACKGROUND**

In recent years, the sale and use of electronic cigarettes (e-cigarettes) in Canada has increased significantly. With the absence of federal legislation regulating use of e-cigarettes in Canada, a number of provinces and municipalities have implemented or are considering legislative changes to regulate their use. Municipalities in Alberta have the authority to enact bylaws for municipal purposes respecting safety; health and welfare of people; protection of people and property; as well as nuisances. Accordingly, The City has the jurisdiction to enact a bylaw regulating e-cigarettes and similar devices.

Calgary’s Smoking Bylaw 57M92 regulates smoking. However, that bylaw, while still in effect, has been largely superseded by the provincial *Tobacco and Smoking Reduction Act (TSRA)* and most smoking-related enforcement utilizes the Act rather than the Bylaw. The TSRA prohibits smoking in public places, workplaces, vehicles in which minors are present, public vehicles and within a prescribed distance from a doorway, window, or air intake of a public place or workplace. The TSRA defines smoking as having control over a lit tobacco product, comprised in whole or in part of tobacco, including leaves or any extract of tobacco leaves. This includes cigarettes, cigars, cigarillos, pipe tobacco and tobacco products such as chewing tobacco and snuff. In

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Calgary, Smoking Bylaw 57M92 further restricts smoking in certain outdoor places including Olympic Plaza and within five metres of outdoor recreational areas – specifically pools, skating rinks, playgrounds, skate parks and sports fields. Currently, e-cigarettes are not regulated by either the TSRA or the Smoking Bylaw. Administration is recommending that the Smoking Bylaw be amended so that the same restrictions that currently apply to regular cigarettes will apply to e-cigarettes and similar devices.

### INVESTIGATION: ALTERNATIVES AND ANALYSIS

Throughout the e-cigarette review process, Administration has collaborated with AHS including utilizing research support and partnering on the development of the citizen survey. This report summarizes Phase 2 of the review, including the results of the e-cigarette survey, an overview of research findings, and an update on existing legislation and policies in other jurisdictions.

#### E-cigarette Citizen Survey Key Findings

A representative online panel survey of 561 Calgarians was conducted on behalf of The City of Calgary and AHS by Harris/Decima Inc., an established public opinion research firm experienced in health research. The survey specifically focused on exploring the awareness, familiarity, attitudes and comfort of Calgarians regarding use of e-cigarettes. The study also included the perceived challenges or benefits related to e-cigarette use, including: as a potential public nuisance, as a smoking cessation agent, and the potential to renormalize smoking behaviours. The findings are summarized below and are described further in Attachment 1.

- **Against Use in Indoor Public Places** – The majority of citizens surveyed are against the use of e-cigarettes in any indoor public place. More than 70 per cent are against e-cigarette use in an office building, public building, restaurant, store, or on public transit. In addition, more than 60 per cent are against e-cigarette use at a sports arena or stadium, and more than 50 per cent are against use inside a bar or pub or on a patio where food and drinks are served.
- **Against Use near Vulnerable Groups** – The majority of Calgarians surveyed are concerned about the risk to vulnerable groups. More than 60 per cent believe e-cigarettes pose a risk for children or for people with health conditions, and more 50 per cent believe e-cigarettes pose a risk for seniors. Additionally, 75 per cent are against e-cigarette use near playgrounds or on public transit, and 84 per cent are against use inside healthcare facilities. Further, 56 per cent agree that e-cigarette use promotes smoking behaviour in children.
- **Nuisance Concerns** – Close to 50 per cent of Calgarians surveyed indicated that being near an e-cigarette user presents a nuisance. Concerns over e-cigarettes are similar to concerns over regular cigarettes (i.e., health risks, air pollution, second-hand smoke, exposure to nicotine, unpleasant odours) and also include concerns that e-cigarettes are untested.
- **Perception of Risk** – Calgarians surveyed are unsure about the relative risk of e-cigarettes compared to regular cigarettes. There is significant disagreement in citizen views on whether e-cigarettes are far less harmful than traditional cigarettes, and there is no consensus on the efficacy of e-cigarettes as a cessation agent.

In addition to the representative online panel survey, ABS also conducted an online “open link” survey on The City’s website to make the survey accessible to all interested Calgarians. A further 1,000 Calgarians including community stakeholders participated in this open link version of the survey. While the findings of the open link survey are not considered representative of the general Calgary population, the results showed the same general patterns as the representative

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panel. In both surveys, the majority of participants were against e-cigarette use in indoor public places, at playgrounds, on public transit, and at healthcare facilities. A number of vape shop businesses also provided input into the open public survey, and while most felt that e-cigarettes are safe, approximately a third saw them as a nuisance for people nearby and were against their use in a public building, on transit, or in a healthcare facility.

### Research Findings Summary

E-cigarettes are often marketed as an alternative to tobacco smoking, with promotional materials typically describing the use of these products as safe. However, according to recent studies, inhalation of e-cigarette vapour may cause short-term respiratory irritation. Reports also indicate that e-cigarettes have not been adequately tested, and the short-term and long-term health impacts of using e-cigarettes are unknown. For example, a 2014 report by the World Health Organization (WHO) expressed caution about potential risks of e-cigarettes and concluded that the existing evidence shows that aerosol from these devices is not only 'water vapour' and that vapour may cause short-term effects including eye and respiratory irritation. As e-cigarettes are a relatively new product, there is a lack of research on the long-term health impacts of inhaling propylene glycol or other ingredients in e-cigarettes as well as the health consequences from second-hand exposure. Further, a report by the American Industrial Hygiene Association (AIHA) concluded e-cigarettes emit airborne contaminants that may be inhaled by nearby users. Due to this risk, the AIHA urges restriction on e-cigarette use indoors, similar to smoking bans, until further research is completed. In addition, the United States Food and Drug Administration (USFDA) is studying the health impacts of e-cigarettes. The USFDA also warns that e-cigarettes containing nicotine can increase addiction among young people.

Within Canada, Health Canada and AHS advise Canadians not to purchase or use electronic smoking products as these products have not been fully evaluated for safety, quality and efficacy as a cessation agent. In 2014, the federal government initiated a study on the potential risks and benefits of e-cigarettes, which led to the release of the report, "Vaping: Toward a Regulatory Framework for E-cigarettes" by the House of Commons Standing Committee on Health in 2015 March. The report recommends federal funding for additional research on health effects, measures guarding against use by children, banning in public places, clear labelling, and public consultation with respect to a new legislative framework. The report describes a number of possible frameworks for regulating e-cigarettes at the federal level; however, no timeline or implementation plan has been presented. In addition, a number of concerns have been raised by health advocacy organizations. For example, the Canadian Cancer Society reports that while they recognize the potential benefit that e-cigarettes may provide to users trying to quit smoking, there are serious concerns that the proliferation of e-cigarette use in public spaces has the potential to undermine current tobacco reduction efforts. The Canadian Heart and Stroke Foundation reports that no formal safety requirements exist regarding e-cigarette product development, ingredient disclosure, or information on nicotine levels and risk of use. In October 2014, a Canadian manufacturer of e-cigarette liquid recalled 5,000 bottles when a routine chemical analysis found diacetyl, which is linked to respiratory disease. Not all e-cigarette companies belong to industry associations that require routine testing, and so some contaminated products may reach consumers. At the provincial level, the AHS 2014 Strategic Brief on Electronic Smoking Products indicates that e-cigarettes are not emission-free and the vapour could affect the health of users and those around them. AHS has also reported that a

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number of studies have found compounds of concern in e-cigarette vapour, and has indicated that vulnerable individuals such as those with asthma or respiratory disease may experience adverse effects when exposed to the vapour.

Phase 2 research findings also identified that over 170 jurisdictions in the U.S. have regulated e-cigarette use and more than a dozen municipalities in Canada now prohibit e-cigarette use in indoor public places and certain outdoor areas. In addition, in the past year the Province of Nova Scotia has enacted Bill 60 which prohibits the use of e-cigarettes in indoor public places where tobacco smoking is prohibited, effective 2015 May 31. Attachment 3 provides an overview of jurisdictions that have existing e-cigarette legislation in Canada and highlights several of the U.S. states and municipalities that regulate use.

In summary, research has identified compounds of concern in e-cigarette vapour which can be both an irritant and a potential health issue. Citizen survey results further indicate that many Calgarians consider vapour produced by e-cigarettes to be a nuisance, which can impact the enjoyment and comfort for people in public places. A growing number of jurisdictions in Canada are also prohibiting e-cigarette use in public places. Based on these findings, Administration recommends an amendment to The City of Calgary Smoking Bylaw #57M92 to prohibit the use of e-cigarettes in public places where tobacco smoking is currently prohibited. The attached draft bylaw amendment would prohibit e-cigarette use in the same places as regular cigarettes are currently prohibited: public premises; workplaces and public vehicles; within 5 metres of an outdoor pool; outdoor skating rink; playground, skate park or sports field; within 5 metres of a doorway, window or air intake of a public place or workplace; and in Olympic Plaza. The amendment also includes specified penalties for using an e-cigarette in prohibited places.

Administration is also recommending that The City advocate for a provincial e-cigarette strategy, through a letter from the Mayor to the Minister of Health, as a means of encouraging further coordination between jurisdictions.

### **Stakeholder Engagement, Research and Communication**

Administration collaborated with AHS, consulted with the Canadian Cancer Society, and invited other stakeholder groups such as community associations, vape shops, local restaurant food service businesses, and recreation and sporting groups to participate in the open e-cigarette survey. Administration also conducted a review of research on e-cigarettes and legislation in other jurisdictions, including consulting with the Ontario Tobacco Research Unit.

### **Strategic Alignment**

This report aligns with Council's Priorities for 2015-2018:

*"Provide great public spaces and public realm improvements across the city to foster opportunity for well used public spaces and places for citizen connections and urban vitality," and "Lead by example and manage regulatory risks to protect public health and the environment."*

### **Social, Environmental, Economic (External)**

The review of e-cigarettes addressed potential social and environmental implications, including nuisance-related issues. The review addresses the concerns of Calgarians regarding the enjoyment and comfort of public places.

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### Financial Capacity

#### Current and Future Operating Budget:

As partners in the e-cigarette review, ABS and AHS adopted a cost sharing model for Phase 2 of the review. This included a contribution of \$12,000 from ABS and \$12,000 in funds donated to AHS from two research trust funds towards the public consultation survey. This includes funding for the online survey, associated data analysis, and reports on survey findings. This cost-sharing model also included input from the AHS Medical Officer of Health and access to dedicated AHS research support.

#### Current and Future Capital Budget:

Not applicable

### Risk Assessment

The e-cigarette work plan process mitigated potential project risks through the implementation of a stakeholder consultation process, including a survey of citizens and stakeholders.

#### Reason for Recommendation

Based on research findings, and to address citizen concerns regarding the nuisance effects of e-cigarettes, Administration recommends an amendment to The City of Calgary Smoking Bylaw #57M92 to prohibit the use of e-cigarettes in public places where tobacco smoking is currently prohibited.

### ATTACHMENT(S)

1. Summary of e-cigarette survey
2. **Proposed Bylaw 27M2015**
3. Overview of existing e-cigarette legislation
4. **Public Submissions**