

Focus On: By-law development as a health promotion strategy



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Introduction

According to the Association of Municipalities of Ontario¹ there are 444 municipalities in Ontario. These municipalities are governed by the *Ontario Municipal Act*, under the Ministry of Municipal Affairs, which provides the administrative structure for municipal governance.

Individual municipalities are entitled to pass by-laws when there is a need to improve or protect the general welfare of the community and when there is no relevant provincial or federal legislation in place, or when the municipality wants to strengthen existing provincial legislation.²

By-laws can increase health-enhancing environments and decrease health-threatening environments by creating supportive physical and social environments that enable people to have opportunities to make healthy choices.³ For example, some Ontario municipalities, such as the City of London⁴ and the Municipality of South Bruce⁵ have passed by-laws to create smoke-free outdoor recreation spaces to limit the exposure of young children to second-hand tobacco smoke.

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Health promotion and by-law development

According to the World Health Organization⁶, health promotion is the process of enabling people to increase control over, and to improve their well-being. The Core Competencies for Public Health in Canada⁷ indicate that health promotion involves strengthening the skills and capabilities of individuals, and also changing social, environmental, political, and economic conditions that impact public and individual health. Health promotion practitioners can support these fundamental aspects of health promotion through by-law development.

By-laws can be healthy public policies

The Ottawa Charter for Health Promotion⁶ includes “building healthy public policy” as an important part of a comprehensive health promotion strategy. Healthy public policies are characterized by an explicit concern for health and equity. In other words, healthy public policy development includes an awareness of the possible negative impacts of policy decisions in all sectors, not just health. Healthy public policy is intended to create a supportive physical and social environment that provides the opportunity for people to lead healthy lives.⁶ By-laws have the capacity to enable healthy public policy. By-laws may also address other Ottawa Charter strategies such as: create supportive environments, strengthen community actions, develop personal skills, and reorient health services.

For example, by-laws that promote healthy behaviours (e.g., limiting alcohol consumption, promoting physical activity, or preventing injury) can create supportive environments which make it more difficult for people to make unhealthy choices and provide opportunities for people to make healthier choices. Some by-laws have the potential to influence access to health services (e.g., transit by-laws, zoning by-laws) and affect the development of personal skills (e.g., helping people to refrain from engaging in unhealthy behaviours). The process of developing a municipal by-law may also strengthen community action because by-law development usually includes community stakeholders and residents working together in partnership.

Why support by-law development?

Researchers have found that educating people about healthy lifestyles is, by itself, insufficient. The built environment must be designed to allow people the opportunity to engage in healthy behaviours.⁸ Municipal by-laws also have the advantage of being long-lasting and able to withstand changes in municipal decision-makers.⁹

By-laws have the potential to address policies and actions outside the health sector.¹⁰ Most departments within a municipal government (e.g., transportation, public works) do not consider health issues their primary concern; however, by-laws supported by a municipality can enhance or hinder opportunities for healthy behaviours. For example, a planning department could enact zoning by-laws to control urban sprawl, protect natural green spaces, and increase and integrate multi-modal transportation networks. This, in turn, may create opportunities for residents to access green spaces and engage in alternative-modes of transportation.¹¹ Conversely, a planning department could enact zoning by-laws that limit connectivity between land-uses for pedestrians and cyclists, thus limiting the opportunities for health enhancing choices such as walking or cycling.

It is important to note that zoning by-laws can be a significant healthy living barrier. For example, the Active Healthy Kids Canada Report Card on Physical Activity for Children and Youth in 2008¹² reported that 96 per cent of Canadian municipalities had at least one by-law discouraging physical activity or free play such as restrictions on skateboarding, street hockey or cycling.

By-law development is also an opportunity to increase access to the key determinants of health

such as income, education, housing, and employment. Household income continues to be one of the best predictors of future health status.¹³ More income equals better health, less income equals worse health.¹³ For example, public transit by-laws outline the conditions in which public transit services will be provided, including the fee structure. Considering that the majority of transit users in small municipalities earn a low income, the fare price listed could negatively affect their health, as a high fare means less money for rent or food. This example shows that a health promotion approach to by-law development can affect social and economic factors that influence health and illness.

Eight steps for developing a municipal by-law

The Health Promotion Capacity Building Team at Public Health Ontario¹⁴ has developed a roadmap for by-law development – Eight steps for developing a municipal by-law. It is called a roadmap because it functions like any map that illustrates your current location and guides you to your ultimate destination. Although the roadmap is presented as a linear process, you may find yourself at different points on the map at any time. Depending on your situation, you can start at any point in the process, or go back one or more steps if additional work is required. You may also cycle through the stages more than once. It is also important to note that allocation of effort is not equal across the different steps, but is based on your specific situation.

How to develop a municipal by-law

Step	Instruction	Application: Developing a By-Law Governing Smoke-Free Outdoor Spaces
Step 1: Identify and Analyze the Problem	<p>Identify and analyze the problem by asking:</p> <ul style="list-style-type: none"> • What is the problem? • Who is most affected by the problem? • What is the origin of the problem? • What factors in the community affect the problem such as attitudes, values, beliefs, perceptions, economic, or political factors? <p>The overall aim of this step is to gather enough information to assess whether the problem can be addressed by developing a by-law.</p>	<p>Gather information to identify the population most affected by exposure to tobacco smoke at municipally-owned recreational settings (who is most affected).</p> <p>Confirm the absence of a local, provincial or federal law that prohibits smoking in outdoor public places (cause of the problem).</p> <p>Decide whether developing a by-law governing smoke-free outdoor spaces could be a possible solution.</p>
Step 2: Develop and Assess By-law Options	<p>Identify by-law options and assess whether they may address the problem identified by:</p> <ul style="list-style-type: none"> • visiting municipal websites to learn about the types of by-laws that exist, • searching the literature to see how others have used by-law development to address the problem, and • reviewing existing by-laws for your own and neighbouring communities to see whether any of them address the problem. <p>This background information could strengthen the case for by-law development.</p>	<p>Review municipal by-laws governing smoke-free outdoor spaces with a focus on municipal recreational spaces.</p> <p>Search for relevant academic studies.</p>

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Step 3: Assess Readiness for By-law Development	Assess the readiness of community stakeholders (e.g., residents, community organizations, municipal decision-makers) to support the by-law options. Methods may include surveys or key informant interviews. The overall purpose of this step is to help you narrow your focus to just one or two by-law options.	Conduct a survey of recreation and sports program participants/parents and of municipal parks and recreation staff to understand their readiness to support a by-law for smoke-free outdoor spaces.
Step 4: Identify and Understand Municipal Decision-Makers and Influencers	Step 4 is about taking the time to clearly identify and understand your municipal decision-makers. This includes elected officials, civil servants and those in the community who could influence your municipal decision-makers and influencers. This will help you build support for your chosen by-law option (step five) and also help you prioritize efforts to move your by-law process forward.	<p>Search municipal council minutes and the municipal website to determine what department, and what position within the department, has responsibilities related to implementing a by-law.</p> <p>Examples of information this might reveal include:</p> <ul style="list-style-type: none"> • existence of a Parks and Recreation Committee, • name of the committee Chair, • the Parks and Rec Master Plan is being revised, • names of staff involved in this review, and • a sports association has recently made a deputation to council to create a by-law for smoke-free outdoor spaces.
Step 5: Build Support for the By-law	Now is the time to mobilize support beyond your organization and create a partnership/network to help create the by-law. This step is about reaching out to community stakeholders to impart knowledge about the problem, present by-law development as a solution, explore where there is alignment between their work/mandate and invite them to engage in developing the by-law.	Write a briefing based on the information gathered to date, including why there is a need for the municipality to enact a by-law for smoke-free outdoor spaces. Send a copy to the municipal decision-makers and influencers identified, inviting them to engage in a dialogue about the problem.
Step 6: Draft the By-law	This step is the writing process. This process may include drafting a new by-law or revising a current by-law. A by-law is a legal document and, as such, there is a prescribed way it must be written. Compare the language and outline of your draft to similar by-laws that have been enacted.	Draft/finalize a by-law for smoke-free outdoor spaces.
Step 7: Facilitate Adoption and Implementation of the By-law	The purpose of this step is to encourage the uptake of the by-law by municipal council. Many municipalities have procedural requirements that must be followed in order to enact a by-law. The municipal clerk is the most knowledgeable about these procedures. Once the by-law has been enacted by the municipality, it is important to ensure there is a communication plan to educate people about the new by-law.	<p>Contact the municipal clerk to learn about the procedural requirements for enacting by-laws.</p> <p>Work with your partners to design a plan to meet these requirements.</p> <p>Work with the municipality to develop a communication plan once the by-law is passed.</p>
Step 8: Monitor and Evaluate the By-law	The purpose of this step is to ensure that the by-law is being implemented as intended, and is having the intended impact on the problem it was designed to address.	Conduct an evaluation of the implementation process. After six months conduct an outcome evaluation to examine the impact of the by-law. Communicate the findings to community stakeholders.

Conclusion

Public health professionals and others interested in increasing the number of healthy public policies in Ontario should consider municipal by-law development as an important health promotion strategy.

Resources

To learn more about how municipalities function and some of the issues faced by municipal decision-makers, visit:

- **Association of Municipalities in Ontario**
- **Association of Municipal Managers, Clerks and Treasurers of Ontario**
- **Ministry of Municipal Affairs and Housing**
- **Canadian Federation of Municipalities**

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