

Staff Report to Council

Planning and Development

FILE: 4940-20

REPORT DATE: April 09, 2020

MEETING DATE:

June 16, 2020

TO: Mayor and Council

FROM: Anne Berry, Director of Planning and Development

SUBJECT: Smoking Regulation Bylaw

CHIEF ADMINISTRATIVE OFFICER REVIEW/APPROVAL:



RECOMMENDATION(S): THAT Council:

- A. Grant first, second and third readings to Smoking Regulation Bylaw No. 2844, 2020; OR
- B. Other.

PURPOSE

This report introduces a new bylaw to regulate smoking in public places that includes regulation of cannabis, e-cigarettes, vaping and smoking of other non-tobacco products.

☐ Information Report

☒ Decision Report

☐ Direction Report

DISCUSSION

Background:

At the October 16, 2018, regular meeting, Council passed the following motion:

“Direct staff to prepare amendments to the Tobacco Sales and Smoking in Public Places Regulation Bylaw No. 2358, 2008 to include:

A.1 cannabis, e-cigarettes, vaping and smoking of other non-tobacco products;

A.2 prohibition on smoking within 7.5 m of transit shelters and stops;

A.3 prohibition on smoking on City trails, parks, and dikes;

A.4 prohibition on smoking within 10 m of municipal parks including playing fields, sports fields/courts or playgrounds, schools, and child care facilities;

A.5 prohibition on smoking on City streets during outdoor public events;

A.6 prohibition on smoking in places of assembly;

A.7 prohibition on smoking on any business premises to which members of the public are admitted generally or as members of an organization or club;

A.8 exemption for aboriginal cultural activity use of ceremonial tobacco and smoking by actors as part of a stage or theatrical performance;

A.9 some housekeeping, grammar and spelling corrections and new definitions as needed; AND

THAT Council increase the prohibited distance in item A.2 to 10 metres.”

Upon further consideration, staff recommends that a new bylaw be introduced, to more accurately reflect that the type of smoking being regulated is not just tobacco and due to the large volume of amendments required.

Relevant Policy, Bylaw or Legislation:

The *Tobacco and Vapour Products Control Act* regulates the use, sale, and display of tobacco and vapour products provincially. It currently bans smoking and vaping:

- In any fully or substantially enclosed public place or workplace;
- Within a six metre zone around all doorways, air intakes and open windows to any public building and workplaces;
- On all school properties;
- In common areas of hotels, apartment buildings, and condominiums; and,
- In taxis and vehicles for hire.

The *Cannabis Control and Licensing Act* bans cannabis smoking and vaping everywhere tobacco smoking and vaping are prohibited, plus at:

- Playgrounds;
- Sports fields;
- Skate parks;
- Other places where children commonly gather;
- School properties; and

- In vehicles.

Analysis:

The proposed new bylaw includes a prohibition on smoking:

- In buildings, except private dwellings and designated hotel and motel rooms;
- In workplaces;
- Within 10 m of transit shelters and stops;
- On trails, parks, dikes, and outdoor public places;
- On or within 10 m of any City park, including playing fields, sports field/court, playground, school, child care facility, or outdoor public place;
- Within 7.5 m of an entrance to a public building, or any air intake vent or operable window for a public or workplace building;
- In a place of public assembly;
- In a customer service area;
- On a City street during an outdoor public event; and
- On any business premises to which members of the public are generally admitted or as members of an organization or club.

Requirements for “no-smoking” signs are also included.

The definition of smoking now includes tobacco, vaping, and cannabis, where the current bylaw only references tobacco.

These regulations will prevent businesses such as hookah lounges or compassion clubs from operating in the City. Vehicles operating for ride-hailing are considered workplaces and are therefore included in the smoking ban.

If the first three readings of this bylaw are granted, it will be referred to the BC Ministry of Health prior to consideration of adoption, in accordance with the *Community Charter*.

Enforcement of the Provincial regulations for smoking is performed by local Health Authorities. The City will enforce its Smoking Regulation Bylaw as any other City bylaw, through education and bylaw fines if necessary. If this bylaw is given readings, a separate amendment for the Bylaw Notice Enforcement Bylaw will be drafted for Council’s consideration, which will update that bylaw to include the ability to issue fines to enforce the new Smoking Regulation Bylaw.

COUNCIL STRATEGIC PLAN ALIGNMENT

- ☐ Principled Governance ☐ Balanced Economic Prosperity ☐ Corporate Excellence
☒ Community Spirit & Wellbeing ☐ Transportation & Infrastructure Initiatives
☐ Not Applicable

Provide high-quality public health and safety programs and emergency preparedness.

FINANCIAL IMPLICATIONS

- ☒ None ☐ Budget Previously Approved ☐ Referral to Business Planning
☐ Other
-

PUBLIC PARTICIPATION

- ☒ Inform ☐ Consult ☐ Involve ☐ Collaborate ☐ Empower

Comment(s):

The City's website will be updated with the new bylaw, if adopted.

KATZIE FIRST NATION CONSIDERATIONS

Referral ☐ Yes ☒ No

An exemption for aboriginal cultural activity use of ceremonial tobacco has been included in the proposed bylaw.

SIGN-OFFS

Written by:

Allison Dominelli,
Development Services Technician

Reviewed by:

Alex Wallace,
Manager of Community Development

ATTACHMENT(S):

A. Draft Smoking Regulation Bylaw No. 2844, 2020

CITY OF PITT MEADOWS
SMOKING REGULATION BYLAW
Bylaw No. 2844, 2020

Attachment A

A bylaw to regulate smoking in public places

WHEREAS the Council of the City of Pitt Meadows is authorized to enact a bylaw pursuant to the Community Charter to regulate, prohibit and impose requirements in relation to public health, public places, and the protection and enhancement of the wellbeing of its community;

AND WHEREAS it is desirable for the health, safety and welfare of the inhabitants of the City of Pitt Meadows to regulate and prohibit smoking in public places;

NOW THEREFORE the Council of the City of Pitt Meadows enacts the following:

PART I – INTERPRETATION

Citation/Title

1. This Bylaw may be cited as the "Smoking Regulation Bylaw No. 2844, 2020"

Definitions

2. In this bylaw:
 - a) "City" means the City of Pitt Meadows;
 - b) "Customer service area" means a partially enclosed or unenclosed area, including any balcony, patio, yard area, or sidewalk that is part of or connected to a business or use in a building or premises that includes the service of food or beverages to persons for consumption in that area;
 - c) "Operator" includes any person who owns, controls, manages, supervises, or operates a business or other use which occupies a building, structure, vehicle or place, and in respect of common areas, includes a strata corporation or cooperative association and also means a person who drives a vehicle for hire;
 - d) "Outdoor public event" means any public or private exhibition, market, festival, parade, fair, concert, show, carnival or athletic event held outdoors on public property;
 - e) "Outdoor public place" means any outdoor area that is open to the public or to which the public is customarily admitted or invited and is used for the assembly of persons, including for education, worship, entertainment, recreation, business or amusement;

- f) "Park" means any real property owned or occupied by the City for the purpose of pleasure, recreation or community use by the public, including, but not limited to dedicated parks, open space and conservation areas;
- g) "Place of public assembly" means a building or structure used for the assembly of persons for the purpose of education, worship, entertainment, recreation, business or amusement, but does not include a place where a private social function is being held and is a place to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry;
- h) "Public building" means a building or structure on real property owned or occupied by a public body;
- i) "Regional" means Metro Vancouver;
- j) "Smoke" or "smoking" includes inhaling, exhaling, burning, holding or otherwise have control over a lighted or activated cigarette, cigar, pipe, e-cigarette, hookah pipe, vapour producing product or other smoking equipment or product that burns tobacco, cannabis, or other plant, substance or material;
- k) "Substantially enclosed structure" means a building, structure, vehicle or any other place having a roof or other covering where more than 50% of the wall space is enclosed by any material that does not permit air to flow easily through it and is a place to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry; or is a prescribed place under the *Tobacco and Vapour Products Control Act* (BC), as amended;
- l) "Transit stop" means a sign posted location where public transit vehicles stop to pick up riders, and distances from a transit stop shall be measured from the sign that identifies the transit stop location;
- m) "Transit shelter" means a building or other structure located on City property or right-of-way and constructed near a transit stop

PART II – REGULATIONS

Prohibition and Exceptions

- 3. A person must not smoke:
 - a) in a building or substantially enclosed structure, except in:
 - i) a private dwelling unit including any balcony or patio accessible therefrom and immediately adjacent to, including a dwelling unit in which an owner or occupier also carries on a business with no other workers present, or
 - ii) a hotel or motel room or suite designated for smoking;

- b) in a workplace;
 - c) within 10 m of any transit shelter or transit stop;
 - d) on any City or regional trail, dike, or outdoor public place;
 - e) on or within 10 m of a City park, including playing fields, sports field/court, playground, school, child care facility, or outdoor public place;
 - f) within 7.5 m of an entrance to a public building, or an air intake vent or operable window for a public or workplace building;
 - g) in a place of public assembly;
 - h) in a customer service area;
 - i) on a City street during an outdoor public event; or
 - j) in or on a business premise to which members of the public are admitted generally or as members of an organization or club.
4. An operator of a business or place of public assembly will not permit a person to smoke within a building, substantially enclosed structure, vehicle, or business place occupied by the business or use.
5. This bylaw does not apply to:
- a) ceremonial use of tobacco in relation to an indigenous cultural activity; or
 - b) smoking by an actor as part of a stage or theatrical performance to which the public is invited.

Signs

6. The operator of any structure, vehicle, business, or place of public assembly where smoking is not permitted must post at least one sign, in accordance with the sign requirements displayed in Schedule A, in the following locations:
- a) at each doorway and air intake in a building, business, place of public assembly or substantially enclosed structure;
 - b) at the main entrance(s) to an outdoor public place; and
 - c) on the dashboard or passenger window of a vehicle.
7. A no smoking sign will state:
- a) the phrase “no smoking”; or
 - b) a graphic symbol, substantially in the form shown in Schedule A, of at least 6 cm in diameter.

Offence and Penalty

8. A person who contravenes a provision of this bylaw is guilty of an offence and is liable on summary conviction to a fine of not more than \$10,000.
9. Each violation of this Bylaw and day that an offence against this bylaw continues or exists shall be deemed to be a separate and distinct offence.

Schedules

10. The following Schedule is attached to, and forms part of, this Bylaw:
 - a) Schedule A – No Smoking Sign

Repeal

11. Tobacco Sales and Smoking in Public Places Regulation Bylaw No. 2358, 2008 and its amendments are hereby repealed.

READ a FIRST, SECOND, and THIRD time on [DATE].

DEPOSITED WITH THE MINISTRY OF HEALTH on [DATE].

ADOPTED on [DATE].

Bill Dingwall
Mayor

Kate Barchard
Corporate Officer

Schedule A – No Smoking Sign

