

# Staff Report to Council

Planning and Development

FILE: 4940-20

REPORT DATE: October 19, 2020

MEETING DATE: November 17, 2020

TO: Mayor and Council

FROM: Anne Berry, Director of Planning and Development

SUBJECT: Smoking Regulation Bylaw No. 2844, 2020 and Bylaw Notice  
Enforcement Amendment Bylaw No. 2871, 2020

CHIEF ADMINISTRATIVE OFFICER REVIEW/APPROVAL:



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RECOMMENDATION(S): THAT Council:

- A. Rescind third reading of Smoking Regulation Bylaw No. 2844, 2020;  
AND
- B. Approve amendments to Smoking Bylaw No. 2844, 2020 to update  
the no smoking sign in Schedule A, as per recommendation from  
Fraser Health Authority; AND
- C. Grant third reading to Smoking Regulation Bylaw No. 2844, 2020 as  
amended; AND
- D. Grant first, second and third readings to Bylaw Notice Enforcement  
Amendment Bylaw No. 2871, 2020; OR
- E. Other.

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## PURPOSE

To update the proposed Smoking Regulation Bylaw to incorporate a recommendation from Fraser Health Authority and introduce an amendment to the Bylaw Notice Enforcement Bylaw so that the City can enforce the new Smoking Regulation Bylaw.

☐ Information Report

☒ Decision Report

☐ Direction Report

## DISCUSSION

### **Background:**

At the June 16, 2020 meeting, Council granted first, second and third reading to the new Smoking Regulation Bylaw No. 2844, 2020. Per the *Community Charter*, the bylaw was referred to the B.C. Ministry of Health before consideration of adoption. The B.C. Ministry of Health delegates approval of such bylaws to the local Health Authority, in this case, the Fraser Health Authority.

To enforce the new Smoking Regulation Bylaw, it must be listed in the Bylaw Notice Enforcement Bylaw No. 2439, 2009, and include specific fine amounts for certain infractions.

### **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.

The City's Bylaw Notice Enforcement Bylaw No. 2439, 2009, lists the existing Tobacco Sales and Smoking in Public Places Regulation Bylaw No. 2358, 2008, and includes the fines for infractions. An update to the Bylaw Notice Enforcement Bylaw is proposed to remove references to the Tobacco Sales and Smoking in Public Places Regulation Bylaw (being repealed) and to include the new Smoking Regulation Bylaw and associated fines.

### Analysis:

The new Smoking Regulation Bylaw was referred to Fraser Health Authority. It was approved, with one recommendation made about the “no-smoking” sign contained in Schedule A of the bylaw.

The initial draft of the bylaw included this sign:



Fraser Health recommends using the sign below, which includes symbols for no vaping and no cannabis, in addition to no smoking.



As such, staff recommend rescinding the third reading to Smoking Regulation Bylaw No. 2844, 2020, and granting third reading, as amended, to incorporate the sign that Fraser Health recommends.

For the update to the Bylaw Notice Enforcement Bylaw, staff recommends the following fines and amounts:

Infraction	Discounted Penalty	Full Penalty
	• paid within 14 days	• paid after 14 days
Smoke in a prohibited place	\$160	\$200
Permit person to smoke in a prohibited place	\$160	\$200
Fail to display smoking prohibition sign	\$160	\$200

These fees were determined by researching other municipalities of similar size. The amount is based on the average cost.

### **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

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### **FINANCIAL IMPLICATIONS**

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

Revenues generated by fines are anticipated to be minimal and are budgeted based on historic 3-year averages.

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### **PUBLIC PARTICIPATION**

- ☒ Inform   ☐ Consult   ☐ Involve   ☐ Collaborate   ☐ Empower

Comment(s):

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

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### **KATZIE FIRST NATION CONSIDERATIONS**

Referral   ☐ Yes   ☒ No

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

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### **SIGN-OFFS**

**Written by:**

Allison Dominelli,  
Development Services Technician

**Reviewed by:**

Alex Wallace,  
Manager of Community Development

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**ATTACHMENT(S):**

- A. Email from Fraser Health Authority
- B. Draft Smoking Regulation Bylaw No. 2844, 2020
- C. Draft Bylaw Notice Enforcement Amendment Bylaw No. 2871, 2020

## Attachment A: Email from Fraser Health Authority

Hi Allison,

Thank you for your patience as our Fraser Health team and Medical Health Officer reviewed this bylaw.

Overall they said it looks great and are happy with the changes you have made! The one recommendation is to do with the sign in schedule A. It should also indicate no vaping, no **smoking** cannabis. We recommend using the below sign instead:



Let me know if you have any follow up questions or concerns.

Thanks,  
Emily

**Emily Hunn, MSc**  
Community Health Specialist-Pitt Meadows  
Healthy Living/Healthier Communities

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

Attachment B

A bylaw to regulate smoking in public places

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**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 June 16, 2020.

**DEPOSITED WITH THE MINISTRY OF HEALTH** on [DATE].

**ADOPTED** on [DATE].

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Bill Dingwall  
Mayor

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Kate Barchard  
Corporate Officer

Schedule A – No Smoking Sign



**CITY OF PITT MEADOWS**  
**BYLAW NOTICE ENFORCEMENT BYLAW**  
**Bylaw No. 2871, 2020**

A bylaw to amend a portion of Bylaw Notice Enforcement Bylaw No. 2439, 2009

**WHEREAS** it is deemed expedient to amend Bylaw Notice Enforcement Bylaw No. 2439, 2009;

**NOW THEREFORE** the Council of the City of Pitt Meadows enacts as follows:

1. This Bylaw may be cited as the "Bylaw Notice Enforcement Amendment Bylaw No. 2871, 2020".
2. Schedule A of Bylaw Notice Enforcement Bylaw No. 2439, 2009 is amended by deleting the section titled 'Tobacco Sales and Smoking in Public Places Regulation Bylaw No. 2358, 2008', and replacing it with the following title and table:

**Smoking Regulation Bylaw No. 2844, 2020**

DESCRIPTION	SECTION NO. IN BYLAW	DISCOUNTED PENALTY IN \$ (Within 14 days)	FULL PENALTY IN \$ (After 14 days)	COMPLIANCE AGREEMENT DISCOUNT
Smoke in prohibited place	3	160	200	n/a
Permit person to smoke in prohibited place	4	160	200	n/a
Fail to smoking prohibition display sign	6	160	200	n/a

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

**ADOPTED** on [DATE].

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 Bill Dingwall, Mayor

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 Kate Barchard, Corporate Officer