

**CAPITAL REGIONAL DISTRICT  
BYLAW NO. 2401**

(As amended by Bylaw Nos. 2663, 2697 and 3300)

*Consolidated version authorized in accordance with Bylaw No. 3014,  
CRD Consolidation Authorization Bylaw No. 1, 2002*

***CAPITAL REGIONAL DISTRICT  
CLEAN AIR BYLAW NO. 1, 1996***

***A Bylaw To Promote Clean Indoor Air By Regulating  
Environmental Tobacco Smoke***

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**CAPITAL REGIONAL DISTRICT**

**BYLAW NO. 2401**

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**A BYLAW TO PROMOTE CLEAN INDOOR AIR BY REGULATING ENVIRONMENTAL TOBACCO SMOKE**

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**W H E R E A S:**

- A. By Supplementary Letters Patent dated May 16, 1974, the powers, duties and obligations of all participating member Municipalities and any other local authorities to perform the function conferred on the Capital Regional District pursuant to Division XI – Community Health were transferred to the exclusive jurisdiction of the Capital Regional District, including, but without limiting the generality of the foregoing, the health powers conferred upon the Council of a municipality by the *Community Charter* S.B.C. 2003, c. 26;
- B. The Board of the Capital Regional District may, by bylaw, pursuant to section 523 of the *Local Government Act*, R.S.B.C. 1996, c. 323, regulate and prohibit for the purposes of maintaining, promoting and preserving public health and maintaining sanitary conditions and undertake any other measures it considers necessary for those purposes;
- C. The Capital Regional District has been granted the additional power to exercise the powers conferred on a council of a municipality under section 8(3)(i) of the *Community Charter*, S.B.C. 2003, c. 26, in accordance with section 14 of the Capital Regional District Regulation, B.C. Reg. 65/90;
- D. Section 9(4) of the *Community Charter*, S.B.C. 2003, c. 26, and the Public Health Bylaws Regulation, B.C. Reg. 42/2004, requires that a bylaw to be adopted under section 2(a) or (b) of B.C. Reg. 42/2004 not be adopted unless the bylaw or a copy of it is first deposited with the Minister of Health and the local government has consulted with the Medical Health Officer responsible for health matters within the Capital Regional District;
- E. A copy of this bylaw has been deposited with the Minister of Health and the Board of the Capital Regional District has consulted with the Medical Health Officer;
- F. Environmental Tobacco Smoke has been designated a Class A carcinogen, similar to benzene and asbestos, by Health Canada and the Environmental Protection Agency of the United States of America, and is a health hazard to the inhabitants of the Capital Regional District;
- G. The Surgeon General of the United States of America has determined that no level of Environmental Tobacco Smoke exposure is safe and scientific research has determined that outdoor areas where smoking occurs contain significant levels of Environmental Tobacco Smoke; and

- H. It is desirable for the purposes of maintaining, promoting and preserving the public health of the inhabitants of the Capital Regional District to prohibit, regulate and impose requirements in relation to smoking in the Capital Regional District.

*(Bylaw 3300)*

**NOW, THEREFORE**, the Board of the Capital Regional District, in open meeting assembled **HEREBY ENACTS AS FOLLOWS**:

## **1. INTERPRETATION**

In this Bylaw:

*"business"* means carrying on a commercial or industrial undertaking of any kind or nature or the provision of a professional, personal or other service and includes an activity carried on by a government, government agency, Crown corporation, educational institution, municipality, regional district, or charitable organization;

*"no-smoking sign"* means a no-smoking sign prescribed by this Bylaw;

*"prominently"* means placed in such a position that the text of the sign or graphic symbol is clearly visible to a person in a school yard or inside a building, structure or vehicle or passenger conveyance, except a private residence;

*"proprietor"* means the person who controls, governs or directs the activity carried on within the building, place or premises referred to in this Bylaw and includes the person actually in charge thereof;  
*(Bylaw 2697)*

*"school yard"* means that portion of the lands of a school as defined in the *School Act* without buildings or structures.

## **2. PROHIBITION**

- (1) No person shall carry or have in his possession a burning cigarette or cigar or a pipe containing burning tobacco, or burn tobacco in any other manner in any school yard or inside any part of a building, structure or vehicle or passenger conveyance, except in a private residence or a private vehicle.
- (2) No proprietor of a business shall permit a person to carry or have in his possession a burning cigarette or pipe containing burning tobacco, or to burn tobacco in any manner in, on, over or upon any part of the business building, structure or vehicle and any area of the business place where either or both food and beverages are served or consumed, or both served and consumed.

*(Bylaw 2697, 3300)*

### 3. POSTING OF SIGNS

A person who carries on a business in the whole or a part of a building, structure or vehicle or passenger conveyance, except in a private residence or a private vehicle, shall prominently display and keep prominently displayed one or more no smoking signs.

### 4. SIGNS

- (1) A no-smoking sign shall state,
  - (a) the phrase "no smoking", or
  - (b) a graphic symbol substantially in the form shown on Schedule "A" hereto, which shall be a minimum of three and one-half (3.5") inches by four and one-half (4.5") inches (9 cm X 1 cm)

and may include

- (c) the words "Capital Regional District Bylaw No.2401 Maximum Penalty \$2,000.00".
- (2) A sign prescribed by former Capital Regional District Bylaws Nos. 1247, 1356, 1440, 1446, 1851 and 2217 is a lawful no-smoking sign for the purpose of this Bylaw.
- (3) No person shall remove, alter, conceal, deface, write upon or destroy any sign posted pursuant to this Bylaw.

### 5. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Bylaw is for any reason held to be invalid by the decision of any Court, the section, subsection, sentence, clause or phrase may be severed from the remaining portion of this Bylaw.

### 6. PENALTY

Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable upon conviction to the penalties prescribed by the *Offence Act*. *(Bylaw 2663)*

### 7. REPEAL

Capital Regional District Bylaw No. 2217 is hereby repealed.

### 8. TITLE

This Bylaw may be cited as the "Capital Regional District Clean Air Bylaw No.1, 1996."

### 9. EFFECTIVE DATE

The effect of this Bylaw is suspended until January 1, 1999 and this Bylaw shall come into force effective January 1, 1999.

READ A FIRST TIME THIS	12th	day of	June,	1996.
READ A SECOND TIME THIS	12th	day of	June,	1996.
READ A THIRD TIME THIS	12th	day of	June,	1996.
APPROVED BY THE MINISTER OF HEALTH THIS	8th	day of	August,	1996.
ADOPTED THIS	14th	day of	August,	1996.

Robert I. Clark, **CHAIRPERSON**

Carmen I. Thiel, **SECRETARY**

**This Bylaw is a copy of *Capital Regional District Clean Air Bylaw No.1, 1996*, consolidated under section 139 of the *Community Charter* and is printed on the authority of the Corporate Secretary of the CRD.**



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***Carmen I. Thiel, Corporate Secretary***

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**SCHEDULE "A"**

The following graphic symbol is prescribed for the purpose of Section 4(1).

