

**REPORT TO PLANNING, TRANSPORTATION AND PROTECTIVE SERVICES COMMITTEE
MEETING OF WEDNESDAY, APRIL 24, 2013**

SUBJECT **Expanding the Parameters of the Clean Air Bylaw**

BACKGROUND

In response to requests from the Town of Sidney Council and the City of Victoria, the Planning, Transportation and Protective Services Committee directed staff to consult with the public health office of the Vancouver Island Health Authority (VIHA) and bring a report forward regarding a possible smoking ban in public parks, beaches, public spaces and playgrounds, and extending the current three metre buffer near doorways, open windows, and air intakes. This included clarifying what constitutes a public park, enforcement challenges, fire risks, and options pertaining to the Capital Regional District's (CRD) role in banning smoking.

The CRD has the exclusive authority under its *Health Letters Patent* powers and the *Local Government Act* to enact and enforce public health bylaws governing activities within the Region such as smoking. This authority applies to municipal, electoral area, provincial and federal parks; public beaches; and, private beach areas below the high-water mark. Municipalities within the Region do not have the authority because the CRD has been granted exclusive jurisdiction.

A legal opinion obtained confirms that the Clean Air Bylaw cannot be used to restrict smoking for the purpose of public safety because that is not done for public health reasons; for example, to mitigate the risk of fires. Municipalities within the Region can enact their own public safety bylaws governing smoking in municipal parks and other public spaces. Four municipalities have banned smoking in public parks and/or public spaces under authorities granted to local Fire Chiefs, and enforcement of these bylaws is a municipal responsibility. The CRD can enact public safety bylaws governing smoking in parks and public spaces under direct CRD jurisdiction.

ALTERNATIVES

1. That staff be directed to draft a comprehensive amendment of the Clean Air Bylaw and an implementation strategy to:
 - a. Ban smoking within the Region in parks, public playgrounds, public squares and beaches; and,
 - b. Extend the current buffer zone for smoking from three metres to seven metres.
2. Take no action.

IMPLICATIONS

Alternative 1:

Based on the attached report commissioned from VIHA's Chief Medical Health Officer (see Appendix "A"), positive outcomes of enacting the proposed amendments will include: reducing the exposure of the public to second-hand smoke, with the primary intended benefactors being children and youth; positive role modeling to children and youth in public settings; and, reducing the potential poisoning of small children and pets from ingesting discarded cigarettes. For example, the VIHA report points out that discarded cigarettes are the most littered item in the world and, cigarette filters can take up to 10 years to break down.

From a financial implications standpoint, there would be costs associated with the following: additional signage; potential additional enforcement; public education and awareness programs; and, legal fees related to drafting the Bylaw amendments. Current enforcement of public health

bylaws is the responsibility of VIHA, with CRD Bylaw enforcement staff involved on a cost recovery charge to VIHA as part of their regular patrols or on a complaint basis. Where municipal public safety bylaws already ban smoking, no additional enforcement costs are anticipated.

Alternative 2:

Not amending the Clean Air Bylaw would avoid additional costs. However, this Alternative would disregard the recommendations of VIHA's Chief Medical Health Officer and is inconsistent with the request of municipalities to expand the parameters of the Bylaw.

CONCLUSION

There is public and local government support to expand the CRD Bylaw to prohibit smoking in outdoor public places such as parks, public playgrounds, public squares and beaches (these will be defined in the Bylaw), and to extend the three metre buffer zone for smoking near doorways, open windows and air intakes. Enacting the proposed amendments will generally make public areas more appealing and less toxic to children and pets. The scope of this increased ban on smoking is consistent with bylaws now in place in at least fourteen other jurisdictions in British Columbia. By expanding the CRD Clean Air Bylaw there will be a variety of positive outcomes, with some additional costs.

RECOMMENDATION:

That the Planning, Transportation and Protective Services Committee recommend to the Capital Regional District Board

1. That staff be directed to draft a comprehensive amendment of the Clean Air Bylaw and an implementation strategy to:
 - a. Ban smoking within the Region in parks, public playgrounds, public squares and beaches; and,
 - b. Extend the current buffer zone for smoking from three metres to seven metres.

****ORIGINAL SIGNED****

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Attachment: 1