

**REPORT TO PLANNING TRANSPORTATION AND PROTECTIVE SERVICES COMMITTEE
MEETING OF WEDNESDAY, SEPTEMBER 25, 2013**

SUBJECT EXPANDING THE PARAMETERS OF THE CLEAN AIR BYLAW

BACKGROUND

On May 8, 2013 the Capital Regional District (CRD) Board considered proposed amendments to the Clean Air Bylaw to increase the scope of the ban on tobacco smoking within the Region. The Board did not approve those recommendations, but directed staff to return to the Planning, Transportation and Protective Services Committee with a broader range of options to amend the Bylaw. This staff report and Appendix A provide a range of options and approaches for Committee consideration.

Legal Considerations

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 entire Region, such as smoking. Municipalities in the Region have authority to enact bylaws governing smoking in municipal parks and other public spaces for public safety but not public health reasons. Banning smoking for a class of activity such as playgrounds and playing fields should be applied in a consistent manner across the region; otherwise it would create different regulations for the same type of activity or class of use.

Public Health Considerations

The attached submission and summary of medical and academic research (Appendix B) was commissioned from the Vancouver Island Health Authority (VIHA) Chief Medical Health Officer. It provides public health rationale of the positive outcomes of restricting smoking of tobacco in public places, which includes: 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.

Options and Analysis

Staff has worked with VIHA's Public Health Office and CRD legal counsel to develop options and evaluation criteria for Committee consideration, summarized in table format in Appendix A. Each option is described and evaluated based on implications for public health, cost, enforcement and roles of the CRD and member municipalities. In addition to these criteria, a Glossary of Definitions has also been included in Appendix A to assist in clarifying for both legal and practical purposes the scope of each option. CRD legal counsel has also recommended a number of other 'house-keeping' amendments to the Clean Air Bylaw. These are included in Appendix A as well.

The options developed and analyses provided were informed by public health and legal considerations, previous Board and Committee discussions and direction to staff as well as the general tenet that the greatest public benefit of banning smoking is in those areas of most intensive recreation activity and public use. Based on the foregoing, the options considered and analysis of those options excluded foreshore beaches from consideration due to the considerable amount of beach area in the Region and the challenges of clearly defining for the public and enforcement officials those areas that would be exempt from the Bylaw.

Rural areas of Regional parks were not included due to their remoteness and the limited number of users. None of the options apply to provincial or federal parks for similar reasons. Further, these jurisdictions can act on their own authority to ban smoking for public health purposes.

The following objectives were used to assess and rank each option:

- emphasize the mitigation of health risks from second-hand smoke for vulnerable populations, such as children; and,
- limit the expanded ban on smoking to higher use and activity areas, particularly those areas frequented by children.

In consideration of these objectives, the ranking of the options seeks to achieve a balance between (a) comprehensive and equitable application throughout the Region of any expanded ban, and (b) practical enforceability. Legal and jurisdictional authorities are also important considerations.

ALTERNATIVES

That the Planning Transportation and Protective Services Committee recommend that the Board:

1. Direct staff to draft an amendment of the Clean Air Bylaw and an implementation plan to:
 - a. Ban smoking within the Region in: all public playgrounds and public playing fields; designated public spaces in municipalities; designated areas within Regional parks; all areas of Electoral Area community parks; and, all municipal parks;
 - b. Extend the current buffer zone for smoking from three metres to seven metres; and,
 - c. Enact other administrative amendments as recommended by CRD legal counsel.
- or
2. Direct staff to draft an amendment of the Clean Air Bylaw and an implementation plan to:
 - a. Extend the current buffer zone for smoking from three metres to seven metres; and,
 - b. Enact other administrative amendments as recommended by CRD legal counsel set out in Appendix A of this report.

IMPLICATIONS

Alternative 1:

This Alternative would ban the smoking of tobacco in high use public areas and would not apply in more remote areas of the CRD. For some locations this may require identifying and mapping areas to be included, for example higher use areas of Thetis Lake and Elk Lake Regional parks. From a financial implications standpoint, there would be implementation costs associated with the following: additional signage; potential additional enforcement; public education and awareness programs; and potential amendments to Regional Parks bylaws to specify designated areas if necessary.

The primary ongoing enforcement emphasis would be on education and awareness. 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

complaints basis. Where municipal public safety bylaws already ban smoking, no additional enforcement costs are anticipated.

Alternative 2:

This Alternative is ranked as Option 2 in Appendix A. While it would improve the application of the existing Bylaw, it is the absolute minimum option that should be enabled based on the health risk assessment and evidence provided by the Chief Medical Health Officer. From a financial implications standpoint, there would be minimal additional costs associated with new signage and a limited education and awareness program. The primary enforcement emphasis would be on education and awareness conducted by VIHA Environmental Health Officers on regular site visits. However, this Alternative only minimally addresses the recommendations of VIHA's Chief Medical Health Officer and is inconsistent with the request of municipalities for the CRD to consider expanding the ban on smoking in public areas for public health reasons.

CONCLUSION

Enacting the recommended amendments will generally make public areas more appealing and less toxic particularly to children and pets. The scope of this increased ban on smoking is consistent with bylaws now in place in at least 14 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 that the Board:

1. Direct staff to draft an amendment of the Clean Air Bylaw and an implementation plan to:
 - a. Ban smoking within the Region in: all public playgrounds and public playing fields; designated public spaces in municipalities; designated areas within Regional parks; all areas of Electoral Area community parks; and, all municipal parks;
 - b. Extend the current buffer zone for smoking from three metres to seven metres; and,
 - c. Enact other administrative amendments as recommended by CRD legal counsel.

**** Original Signed ****

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Attachments 2: Appendix A - Options to Expand the Parameters of the Clean Air Bylaw
Appendix B - Letter from VIHA Chief Medical Health Officer

APPENDIX A
Options to Expand the Parameters of the Clean Air Bylaw

Original recommendation to Increase the Ban on Smoking (not approved by CRD Board)

Description	Public Health Implications	Financial and Enforcement Implications	CRD Role	Member Municipality Role
<i>CRD-Wide Comprehensive Smoking Ban in all parks, public playgrounds, playing fields, public squares and beaches</i>	<ul style="list-style-type: none"> - Standardized application across the Region - Consistent role model for youth - Maximizes clarity for the public 	<ul style="list-style-type: none"> - High demand for additional signage - Medium demand for additional enforcement patrols - High demand for additional education and awareness campaign 	<i>Exclusive responsibility for cost and enforcement</i>	<i>None</i>

Recommended Housekeeping Amendments to be considered in conjunction with any of the options below:

- *Section 4(1)(b) refers to the size of the graphic symbol that should be put on a no smoking sign. This is set out in inches and then includes in brackets after that a measurement in centimeters. The measurement in centimeters is incorrect and only centimeters should be used to define the size of the graphic symbol to be included on the no smoking sign.*
- *Section 4(2) should refer only to the last main Bylaw. If the current bylaw is replaced as opposed to being amended, then Bylaw No. 2401 would also be included in section 4(2). The Section should also require that proprietors post signs in that part of the business place outside of a building or structure where either or both food and beverages are served or consumed.*

Options to Increase the Ban on Smoking

Rank	Option Description	Public Health Perspective	Financial and Enforcement Implications	CRD Role	Member Municipality Role
1	<ul style="list-style-type: none"> a) <i>Ban smoking within the Region in: all public playgrounds and public playing fields; designated public spaces in municipalities; designated areas within Regional parks; all areas of Electoral Area community parks; and, all municipal parks;</i> b) <i>Extend the current buffer zone for smoking from three metres to seven metres.</i> 	<ul style="list-style-type: none"> - <i>Protects vulnerable groups in highest use areas</i> - <i>Standardized application across the Region</i> - <i>Potential for some public confusion about areas of Regional parks covered</i> 	<ul style="list-style-type: none"> - <i>Medium to high demand for additional signage</i> - <i>Medium demand for additional enforcement patrols</i> - <i>Medium to high demand for additional education and awareness campaign</i> 	<i>Exclusive responsibility for cost and enforcement</i>	<i>Consent to allow placement of CRD signage within municipal areas.</i>

Options to Increase the Ban on Smoking (Continued)

Rank	Description	Public Health Perspective	Financial and Enforcement Implications	CRD Role	Member Municipality Role
2	Extend the Current Buffer from three metres to seven metres.	<ul style="list-style-type: none"> - Vulnerable population groups exposed in high activity areas, such as playgrounds and playing fields and all parks - Minimal application across regional and municipal spaces. 	<ul style="list-style-type: none"> - Medium demand for signage amendments (commercial properties) - Low demand for additional enforcement patrols - Low demand for additional education and awareness campaign 	Exclusive responsibility for cost and enforcement	None
3	Within all areas of Electoral Area community parks and designated areas of CRD Regional parks, and Extend the Current Buffer; Municipalities could ban smoking within their jurisdictions using Public Safety Powers	<ul style="list-style-type: none"> - Creates inequity in terms of application in municipal parks, playing fields, playgrounds and other public spaces - Vulnerable population groups exposed in some high activity areas - Public confusion - Inconsistent role model for youth 	<ul style="list-style-type: none"> - Low to medium demand for additional signage - Low demand for additional enforcement patrols - Low to medium demand for additional education and awareness campaign 	Exclusive responsibility for cost and enforcement.	None

Glossary of Terms:

Term	Description
<i>Low Demand</i>	Additional staff, legal and capital costs can be accommodated in existing budget.
<i>Medium Demand</i>	Additional staff, legal and capital costs should be within existing budgets. Depending on final scope of amendments, on-going costs may require additional funding.
<i>High Demand</i>	Significant additional staff, legal and capital costs. One-time costs should be accommodated in existing CRD and VIHA budgets, but on-going costs may require additional funding.
<i>Designated Area</i>	That portion of a park or other public space identified for the purposes of being subject to a no smoking ban in the Clean Air Bylaw. An example is a Lakefront Swimming Area.
<i>Lakefront Swimming Area</i>	Those locations where the public has access to lakes for recreational purposes, including sandy beaches and adjacent day-use picnic areas.
<i>Park</i>	A Regional park, a community park within a CRD Electoral Area that is not designated as a Regional park, and a park in a municipality. Does not include provincial or federal parks.
<i>Public Playground</i>	A publicly owned or controlled area intended for use by children and youth with permanent playing apparatus. May or may not be located in a park.
<i>Public Playing Field</i>	Publicly owned or controlled area designated for public use for formal and informal athletic and recreational activities. May or may not be located in a park.
<i>Public Space</i>	A publicly owned or controlled area where people congregate, that is not a playground or playing field or in a park, such as a plaza or square.

APPENDIX "B"



Excellent care –for everyone, everywhere, every time.

July 24, 2013

MEMORANDUM

TO: The Capital Regional District Planning, Transportation and Protective Services Committee

ISSUE

Expanding the parameters of the Capital Regional District (CRD) Clean Air Bylaw

BACKGROUND

The Capital Regional District (CRD) has been a national leader in protecting the health of the public through its actions prohibiting cigarette smoking on school grounds in 1996 and in all CRD indoor work places in 1999. These clean air promoting regulations were followed by an expansion of the bylaw to include commercial patios where food and beverages were consumed. Having enacted bylaws that were well constructed and legally sound, the CRD has partnered with the Capital Health Region and, more recently, the Vancouver Island Health Authority to ensure compliance. This has been achieved through extensive public education and followed, if necessary, by consistent enforcement.

DISCUSSION

At the request of the CRD, my office has conducted an exhaustive review of the scientific literature and academic reports on second-hand tobacco smoke, in addition to a recent (2012) VIHA Outdoor Tobacco Smoke Monitoring Study conducted within the CRD. A bibliographic summary of this literature is attached. In addition, my office has completed a review of bylaws in other municipal jurisdictions in British Columbia confirming that significant positive social modeling has been achieved through tobacco control prohibitions in public places such as beaches, playgrounds, playing fields, public squares, and parks.

Concurrently, there has been a renaissance in further understanding the addictive features of nicotine. Moreover, through sophisticated MRI studies of the developing brain, the power of seeing individuals smoking has on the thought processes of children and youth is being conclusively demonstrated.

CONCLUSION

I have concluded that the evidence in support of expanding the parameters of the CRD Clean Air Bylaw has met the test for Public Health action. Given this Bylaw is to protect a population that relies on us for protection, I strongly recommend that the CRD Board amend the Clean Air Bylaw to prohibit the smoking of tobacco in all areas of all public parks, beaches, playgrounds, playing fields, and squares in the CRD. Do it for our future – the children of the CRD.

Richard S. Stanwick, MD, MSc, FRCPC, FAAP
Chief Medical Health Officer

Attachment

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Attachment

Literature Review Related to CRD Clean Air Bylaw Amendment

A: Outdoor Smoke and Health	
Article	Citation
1. Real-Time Measurement of Outdoor Tobacco Smoke Particles.	Klepeis, N.E., Ott, W.R., & Swtizer, P. (2007). Real-Time Measurement of Outdoor Tobacco Smoke Particles. <i>Journal of the Air & Waste Management Association</i> 2007, 57:5, 522-534.
2. Outdoor Tobacco Smoke Air Monitoring Study at Public Parks and Beaches 2012	Office of the Chief Medical Health Officer (2012). Outdoor Tobacco Smoke Air Monitoring Study at Public Parks and Beaches 2012. <i>Office of the Chief Medical Health Officer, Vancouver Island Health Authority</i>
3. Evidence to Support Outdoor Smoking Restrictions [Power Point to Ottawa Board of Health by Propel Centre for Population Health in partnership with Canadian Cancer Society and University of Waterloo]	Kennedy, R.D., & Fong, G. T. (2012). Evidence to support outdoor smoking restrictions [PowerPoint slides]. Retrieved from http://uwaterloo.ca/propel/programs/tobacco-control/smoke-free-spaces
4. The health evidence for smoke bans in outdoor settings	The Cancer Council NSW. (2007). <i>The health evidence for smoke bans in outdoor settings</i> . Retrieved from http://www.ashaust.org.au/
5. FACT SHEET: Outdoor Air Pollution From Secondhand Smoke	Repace, J.L. (2008). FACT SHEET: <i>Outdoor Air Pollution From Secondhand Smoke</i> . Retrieved from the Repace Associates, Inc. Secondhand Smoke Consultants website: http://www.repace.com
6. Benefits of Smoke-Free Regulations in Outdoor Settings: Beaches, Golf Courses, Parks, Patios, and in Motor Vehicles	Repace, J.L. (2008). <i>Benefits of Smoke-Free Regulations in Outdoor Settings: Beaches, Golf Courses, Parks, Patios, and in Motor Vehicles</i> . Retrieved from the Repace Associates, Inc. Secondhand Smoke Consultants website: http://www.repace.com
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8. Banning outdoor smoking is scientifically justifiable	Repace, J.L. (2000). Banning outdoor smoking is scientifically justifiable. <i>Tobacco Control</i> . 2000 March; 9(1): 98. doi: 10.1136/tc.9.1.98
9. Vancouver Island Outdoor Smoking Area Air Monitoring Study 2007	Travers, M.J., Higbee C., & Hyland, A. (2007). Vancouver Island Outdoor Smoking Area Air Monitoring Study 2007. Retrieved from http://tobaccofreeair.org/results.php

B: Communities: Experience, Resolutions and Technical Reports	
Article	Citation
10. Smoking on the Margins: An Equity Analysis of the Outcomes of an Outdoor Smoke Free Policy	Pederson, A., Okoli, C. & Rice, W. (2012). Smoking on the Margins: An Equity Analysis of the Outcomes of an Outdoor Smoke Free Policy [PowerPoint slides]. Retrieved from http://www .cleanaircoalitionbc.com/news-and-updates/knowledge-ex hange-meetings/smoking-on-the-margins
11. Changes in smoking behaviours following a smokefree legislation in parks and on beaches: an observational study	Okoli, C., Johnson, A., Pederson, A., Adkins, S. & Rice, W. (2013). Changes in smoking behaviours following a smokefree legislation in parks and on beaches: an observational study. <i>BMJ Open</i> 2013;3:e002916. doi: 10.1136/bmjopen-2013-
12. Smoke Free Beaches in Ontario: Progress and Implications for Practice Summary	Powell, J. (2011). <i>Smoke Free Beaches in Ontario: Progress and Implications for Practice Summary</i> . Retrieved from https://www.ptcc-cfc.on.ca/cms/one.aspx?pageid= 120934
13. Building the Case for Smoke-Free Public Outdoor Spaces Technical Report	Neil, S., Yateman, A., Stobo, L.(2011). Building the Case for Smoke-Free Public Outdoor Spaces Technical Report. Retrieved from Middlesex London Health Unit website https://www.healthunit.com/smoke-free-outdoor-spaces
14. Smoke-Free Outdoor Spaces: Municipalities building healthier communities	Grey Bruce Health Unit (2011). <i>Smoke-Free Outdoor Spaces: Municipalities building healthier communities Backgrounder</i> . Retrieved from http://www.publichealthgreybruce.on.ca/HOME/Publications/Board/BOH_Resolutions/Index.htm
15. Smoke-Free Outdoor Public Places Technical Report Durham Region Health Department	Durham Regional Health Department (2012). <i>Smoke-Free Outdoor Public Places Technical Report-May 23, 2012</i> . Retrieved from http://www.durham.ca/departments/health/idsfOutdoorPublicPlacesReport.pdf
16. Getting an outdoor smoke free policy: the case of Kapiti Coast District Council	Halkett, L., & Thomson, G. (2010). Getting an outdoor smoke free policy: the case of Kapiti Coast District Council. <i>The New Zealand Medical Journal NZMJ</i> 29 January 2010, Vol 123 No 1308; ISSN 1175 8716. Retrieved from http://journal.nzma.org.nz/journal/123-1308/3941/content.pdf
17. The Health Impacts of Exposure to Outdoor Tobacco Smoke: A Rapid Review of the Evidence	Ursitti, F., & Schiefari, A. (2011). <i>The Health Impacts of Exposure to Outdoor Tobacco Smoke: A Rapid Review of the Evidence</i> . Retrieved from the Ontario Campaign for Action on Tobacco website: http://www.ocat.org/pdf/Outdoor/PeelRegionHealthImpactsOutdoorSHSExposure2011.pdf
18. City of Ottawa kicks off campaign exposing health risks of second-hand smoke. Smoking outdoors pollutes your lungs and the environment.	Strizzi, J. (2012), <i>City of Ottawa kicks off campaign exposing health risks of second-hand smoke. Tobacco Info</i> No. 2 - September 2010 Retrieved from http://www.tobaccoinfo.ca/mag2/campaign.htm

E: Social Modeling	
Article	Citation
24. Young adult perceptions of smoking in outdoor park areas	Klein, E.G., Bernat, D.H., Forster, J.L. (2012). Young adult perceptions of smoking in outdoor park areas. <i>Health & Place</i> . 2012 Sep;18(5):1042-5. doi: 10.1016/j.healthplace.2012.06.002.
25. Effect of restrictions on smoking at home, at school, and in public places on teenage smoking: cross sectional study	Wakefield M.A., Chaloupka F.J., Kaufman N.J., Orleans, C.T., Barker, D.C., & Ruel, E.E. (2000). Effect of restrictions on smoking at home, at school, and in public places on teenage smoking: cross sectional study. <i>BMJ</i> 2000;321:333-37.
26. Smoking visibility, perceived acceptability, and frequency in various locations among youth and adults	Alesci, N.L., Forster, J.L., & Blaine, T. (2003). Smoking visibility, perceived acceptability, and frequency in various locations among youth and adults. <i>Preventive Medicine</i> 36 (2003), 272-281. Retrieved from http://www.sciencedirect.com/science/article/pii/S0091743502000294
27. At the frontier of tobacco control: A brief review of public attitudes toward smoke-free outdoor places	Thomson, G., Wilson, N., Edwards, R. (2009). At the frontier of tobacco control: A briefreview of public attitudes toward smoke-free outdoor places. <i>Nicotine & Tobacco Research, Volume 11, Number 6 (June 2009)</i> 584-580. doi: 10.1093/ntr/ntp046
28. Use of Cigarettes and Alcohol by Preschoolers While Role-playing as Adults	Dalton, M.A., Bernhardt, A.M., Gibson, M.S., Sargent, J.D., Beach, M.L., Adachi-Mejia, A.M., Titus-Ernstoff, L.T., Heatherton, T.F. (2005). Use of Cigarettes and Alcohol by Preschoolers While Role-playing as Adults. <i>Archives of Pediatric & Adolescent Medicine</i> . 2005; 159(9):854-859. doi: 10.1001/archpedi.159 .9.854

F: Cigarette Filters as Toxic Waste	
Article	Citation
29. Cigarette Butts and the Case for an Environmental Policy on Hazardous Cigarette Waster	Novotny T.E., Lum K., Smith E., Wang, V., & Barnes, R. (2009). Cigarette Butts and the Case for an Environmental Policy on Hazardous Cigarette Waste. <i>International Journal of Environmental Research and Public Health</i> 2009;6:1691-705. Retrieved from http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2697937/
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34. Tobacco Product Waste Reduction Toolkit	Novotny, T. (2013). <i>Tobacco Product Waste Reduction Toolkit</i> . California Department of Public Health, California Tobacco Control Program. Retrieved from http://www.cigwaste.org/
G: Municipal Bylaw Examples	
35. The City of Duncan	
36. The District of Tofino	
37. City of Powell River	
38. City of Nanaimo	
39. Town of Qualicum Beach	
40. Vancouver	