



TITLE: City of Cranbrook Clean Air Bylaw No. 3940, 2018

PREPARED BY: Rob Veg

DEPARTMENT: Office of Innovation and Collaboration

PURPOSE: To consider adoption of the proposed City of Cranbrook Clean Air Bylaw to establish regulations for smoking in and around municipal public places.

RECOMMENDED BY: Staff

THAT Council adopt "City of Cranbrook Clean Air Bylaw No. 3940, 2018".

BACKGROUND INFORMATION:

Background

Council gave three readings to the proposed bylaw at the regular meeting on October 1, 2018. No changes to the bylaw have been made.

In consideration of the potential for cannabis smoking in public and the existing outdated City "No Smoking Bylaw" from 1991, staff has prepared a new Clean Air Bylaw for the City. The new bylaw would prohibit smoking (new definition includes vaping and cannabis consumption) in the following locations:

- (a) *inside a Public Building - including within 7 meters of an entranceway to a Public Building;*
- (b) *in a Park – including within a 7 meter buffer zone surrounding the Park;*
- (c) *in a Public Municipal Open Space – including within a 7 meter buffer zone surrounding the Public Municipal Open Space;*
- (d) *in a City cemetery - including a 7 meter buffer zone surrounding the Cemetery;*
- (e) *in a transit shelter or a bus stop – including a 7 meter buffer zone surrounding the transit shelter or bus stop;*
- (f) *inside a motor vehicle or equipment owned or leased by the City;*
- (g) *during an Outdoor Special Event, unless exempted as per Section 3.2(b)*
- (h) *Cannabis in any public municipal right-of-way.*

In addition the bylaw provides for exemptions from the regulations and includes provisions for enforcement and penalties.

The proposed bylaw is based on a template provided by Interior Health. Per Provincial legislation, prior to repeal of an existing bylaw and/or establishing a new bylaw which deals with Public Health, a local government is required to consult with the medical health officer and deposit the bylaw with the Minister of Health. As part of the bylaw development, staff has been consulting with Interior Health Tobacco Enforcement Officer to

ensure the bylaw meets Ministry requirements for approval. It was confirmed by the Interior Health Officer that the City's existing bylaw is out of date as a result of the *Provincial Tobacco Vapor Product Control Act*.

ALTERNATIVE:

Nil

BUDGETARY IMPACT:

Nil

POLICY IMPLICATION:

The proposed new bylaw will repeal The City of Cranbrook “No Smoking Regulation Bylaw No. 3020, 1991”.

ATTACHMENTS:

[draft bylaw](#)

[IH Enforcement Background](#)

Approved By:

Marnie Dueck, City Clerk

David Kim, CAO

Status:

Approved - 04 Oct 2018

Approved - 11 Oct 2018



THE CORPORATION OF THE
CITY OF CRANBROOK

BYLAW NO. _____ **3940**

Clean Air Bylaw

WHEREAS the City of Cranbrook proposes a bylaw to prohibit smoking in public places in the City of Cranbrook; and

WHEREAS the City of Cranbrook considers it desirable to protect the health and safety of all citizens and visitors in the City by prohibiting smoking in specific public places; and

WHEREAS the City of Cranbrook has satisfied the preconditions to adopting this Bylaw set out in the Public Health Bylaws Regulation, B.C. Reg. 42/2004 as amended from time to time; and

NOW THEREFORE the Municipal Council of the City of Cranbrook in open meeting assembled, hereby enacts as follows:

1. **TITLE**

This bylaw may be cited, for all purposes, as "City of Cranbrook Clean Air Bylaw No. 3940, 2018".

2. **DEFINITIONS AND INTERPRETATION**

2.1 In this bylaw, unless the context requires otherwise:

City	means The Corporation of the City of Cranbrook.
Outdoor Special Event	means a community event including but not limited to a temporary street closure, farmers market, parade, fair and recreational and/or fundraising events.
Person	includes an individual, partnership, club or association, or incorporated body, and any of their legal representatives.
Public Building	means a Building or structure on land owned by the City
Public Municipal Open Space	means a Park or other outdoor public space which is owned, controlled or operated by the City for the use of the public.
Smoke or Smoking	means to inhale, exhale, burn or carry a lighted cigarette, electronic cigarette, cigar, pipe, hookah pipe or other lighted or heated smoking equipment that burns tobacco, Cannabis/marijuana or any other weed or substance.

- 2.2 Unless otherwise provided, words and phrases used herein have the same meanings as in the *Community Charter, Local Government Act* or *Interpretation Act* as the context and circumstances may require.

A reference to a statute in this bylaw refers to a statute of the Province of British Columbia unless otherwise indicated, and a reference to any statute, regulation, bylaw or other enactment refers to that enactment as it may be amended or replaced from time to time. In the event of a conflict between this bylaw and a Provincial enactment, the stricter law prevails.

Words in the singular include the plural and words in the plural include the singular, and reference to a gender includes both genders and a corporation. Headings in this bylaw are for convenience only and must not be construed as defining or limiting the scope or intent.

3. CLEAN AIR AND SMOKING REGULATION

Prohibitions

3.1 No Person shall Smoke:

- (a) inside a Public Building - including within 7 meters of an entranceway to a Public Building;
- (b) in a Park – including within a 7 meter buffer zone surrounding the Park;
- (c) in a Public Municipal Open Space – including within a 7 meter buffer zone surrounding the Public Municipal Open Space;
- (d) in a City cemetery - including a 7 meter buffer zone surrounding the Cemetery;
- (e) in a transit shelter or a bus stop – including a 7 meter buffer zone surrounding the transit shelter or bus stop;
- (f) inside a motor vehicle or equipment owned or leased by the City;
- (g) during an Outdoor Special Event, unless exempted as per Section 3.2(b)
- (h) Cannabis in any public municipal right-of-way.

Exceptions to Prohibitions

3.2 This bylaw does not apply to:

- (a) a ceremonial use of tobacco in relation to a traditional Aboriginal cultural activity;
- (b) a designated smoking area established for the purpose of an Outdoor Special Event with the area being determined by and with the agreement of both the City and the event organizer;

- (c) carrying of lighted incense or other lighted smoking equipment used solely for ceremonial or religious purposes

4. PENALTIES

4.1 Any Person who:

- (i) contravenes any provision of this Bylaw;
- (ii) suffers or permits any act to be done in contravention of this Bylaw; or
- (iii) neglects to do anything required to be done under this Bylaw,

commits an offence and each day that the contravention is continued shall constitute a separate offence.

4.2 A Person who is guilty of an offence under this Bylaw is liable:

- (i) to pay a fine of up to \$10,000 if proceedings are brought under the *Offence Act* and the costs of prosecution; and
- (ii) compensation for damage or loss sustained by the City or another Person resulting from the offence; or
- (iii) to pay a fine of up to \$1,000 if the Bylaw is enforced by means of a municipal ticket information system under Part 8, Division 3 of the *Community Charter*.

5. SEVERABILITY

5.1 If any portion of this bylaw is declared invalid and set aside by a court of competent jurisdiction, then the invalid portion must be severed and the remainder of the bylaw shall be valid.

6. REPEAL OF BYLAWS

The following bylaws are hereby repealed:

6.1 The City of Cranbrook "No Smoking Regulation Bylaw No. 3020, 1991" and all bylaws enacted in amendment thereto.

7. **ADOPTION**

READ a first time this day of , 2018.

READ a second time this day of , 2018.

READ a third time this day of , 2018.

ADOPTED this day of , 2018.

Mayor

City Clerk

Smoke-free outdoor public places: BC's municipal momentum



PROPEL
CENTRE FOR
POPULATION
HEALTH IMPACT

In Spring 2016, we interviewed 24 BC municipalities about their experiences with implementing a smoke-free bylaw.

An interview script was developed with 21 questions and a prompt at the end for interviewees to add final comments.

Telephone interviews covered 3 topics: bylaw promotion, enforcement, and public response.

Communities ranged in size from small (1000-29,999 residents) to large (100,000+ residents).

TOBACCO SMOKE IS THE LEADING CAUSE OF PREVENTABLE DEATH IN CANADA

1. More than 4 million Canadians over age 12 report exposure to second-hand smoke in vehicles and/or public places.
2. **IN 2015, 14.3% OF BRITISH COLUMBIAN ADULTS AND 12.5% OF YOUTH IN GRADES 10-12 SMOKED; ALMOST ONE IN THREE BC YOUTH TRIED SMOKING.**
3. Smoking rates range by geography in BC, as do the smoke-free places policies that prevent smoking, protect from second-hand smoke and support cessation.

BC's Tobacco and Vapour Products Control Act (revised 2016) bans smoking and vaping in workplaces, indoor public places and in the common areas of multi-unit dwellings. The Act includes outdoor places such as school grounds, health authority properties, transit shelters and within a buffer zone of 6 metres from doors, windows and the air intakes of public buildings.

MUNICIPAL SMOKE-FREE BYLAWS PROTECT CITIZENS AND SUPPORT QUITTING

1. Municipalities have the authority to enact tobacco bylaws that exceed provincial standards.
2. 71 communities in BC have committed to smoking restrictions above and beyond provincial regulations.
3. **ALMOST 1 MILLION BRITISH COLUMBIANS IN 122 COMMUNITIES REMAIN UNPROTECTED FROM TOBACCO EXPOSURE AND ROLE-MODELLING IN OUTDOOR PUBLIC PLACES.**



FEEDBACK FROM THE PUBLIC AND BUSINESS OWNERS HAS BEEN GOOD ... MOST PEOPLE ARE SAYING THANKS FOR IMPLEMENTING THE BYLAW.

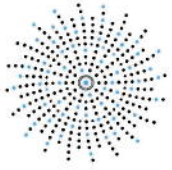
LESSONS FROM COMMUNITIES

SMOKE-FREE BYLAWS RESULTED IN few or no costs to municipalities | possible decreased clean up costs | positive public response to the change.

21 MUNICIPALITIES (88%) SAID THE BYLAW HAD A POSITIVE IMPACT ON THE COMMUNITY.

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Smoke-free outdoor public places: BC's municipal momentum



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POPULATION
HEALTH IMPACT

Canadian Cancer Society recommends bylaws to prohibit smoking and vaping on bar/restaurant patios and all city managed properties including parks, playgrounds, trails, plazas, beaches, playing fields, recreation facilities and venues.

A 7.5-9m buffer zone is recommended from each, as well as the doors, windows and air intakes of public buildings.

Bylaws should include burning cigarettes, cigars and any other substance using a pipe, hookah pipe, lighted smoking device or electronic smoking device.

HOW WAS COMMUNITY BUY-IN OBTAINED?

COMMUNITY CONSULTATION

- Almost half of communities (46%) consulted the public ahead of time.
- More than half (54%) gave educational presentations to the community.

SIGNAGE AND PROMOTIONS

- 83% of municipalities posted signs and used communication channels such as websites, newsprint, radio ads, direct mail and newsletters.
- 80% framed the bylaw as a protective measure (clean air, health and lower secondhand smoke exposure), in some cases with environmental issues, prevention, or a combination of the three.

“ MOST HELPFUL FOR US WAS A STAKEHOLDER WORKING GROUP ... WE MET REGULARLY LEADING UP TO THE IMPLEMENTATION, [IT] HELPED TO GET PEOPLE AND GROUPS ON BOARD [WITH THE BYLAW]. ”

HOW WERE BYLAWS ENFORCED?

ENFORCEMENT APPROACH PRIMARILY COMPLAINT-DRIVEN.

1. BYLAW OFFICERS: In 54% of municipalities, more than one position enforced bylaw; each included a bylaw officer.
2. GRACE PERIODS: The majority of municipalities (71%) used a grace period where warnings were issued instead of tickets.
3. EDUCATION & WARNINGS: 41% of municipalities continued to use warnings and education after the grace period, and 67% of municipalities had not issued tickets at all.

WHAT WAS THE COST?

MOST COMMUNITIES INCURRED MINIMAL COSTS.

1. In 23 municipalities, costs came from a pre-existing budget.
2. Signage was the highest reported cost. Depending on centre size, communities posted as few as 5 signs and as many as 2000.
3. Almost all municipalities (96%) said no additional bylaw enforcement officers were hired as a result of bylaw.

“ THIS BYLAW MORE THAN OTHERS HAS BEEN USED AS AN EDUCATIONAL TOOL MORE THAN ANYTHING ELSE, ABOUT GETTING THE WORD OUT, CREATING SMOKE-FREE SPACES AND ENVIRONMENT. ”