



STAFF REPORT

TO: Council
MEETING DATE: October 18, 2016

FROM: Andre Boel
Director of Planning
FILE NO: 3900-20-1230

SUBJECT: Smoking Control Bylaw Adoption

RECOMMENDATION(S)

THAT the Staff Report regarding Smoking Control Bylaw Adoption be received;

BACKGROUND/PURPOSE

On June 21st, 2016, Council gave third reading and directed staff to forward the bylaw to the Ministry of Health.

THAT the Planning Assistant's report regarding community input on the proposed Smoking Control Bylaw be received;

AND THAT "Smoking Control Bylaw No. 1230, 2016" be given third reading as amended;

*AND FURTHER THAT the bylaw be forwarded to the Ministry of Health for approval.
(R2016-210)*

This report provides the Smoking Control Bylaw No. 1230, 2016 for consideration of adoption. In addition, staff provides the results of discussions with three liquor licenced operations with outdoor patios.

DISCUSSION

Earlier this year Council reviewed information from an online questionnaire and the staff report from June discussed the outcome in more detail.

In July staff also followed up with the two pubs in Gibsons. Gramma's Pub (Michelle Whiting) confirmed that stairs and patios are already non-smoking and that they have no concerns regarding the proposed bylaw. The Blackfish Pub (Kathy Gillert) also indicated they had no concerns with the proposed bylaw.

The Gibsons Legion approached staff in July with concerns about their outdoor patio. Following their review of the proposed bylaw they provided the attached letter with concerns about the proposed bylaw. Staff has clarified with the Legion, that if the bylaw were to be enacted, there would be plenty time provided to make the necessary changes.

COMMUNICATION

If adopted the Town and Vancouver Coastal Health will work on some limited signage and on informing people about the requirements of the new bylaw.

RECOMMENDATIONS / ALTERNATIVES

Recommendations are listed on page 1 of this report.

Alternatively Council can indicate desired changes to the proposed Smoking Control Bylaw.


Respectfully Submitted,



André Boel, RPP
Director of Planning

CHIEF ADMINISTRATIVE OFFICER'S COMMENTS:

I have reviewed the report and support the recommendation(s).



Emanuel Machado
Chief Administrative Officer

Attachments: Letter Gibsons Legion dated August 24, 2016



THE ROYAL CANADIAN LEGION

GIBSONS BRANCH 109

747 Gibsons Way, Gibsons BC V0N 1V9

Phone 604-886-2411 Email : gibsonslegion109@gmail.com



August 24, 2016

To: Mayor Wayne Rowe and Council:

Re Proposed New Smoking Bylaw

On behalf of Gibsons Legion I would like to make comment/objection to your proposed revision of the by-law. When the last by-law was brought in we had to make alterations at considerable cost to the Legion to accommodate your conditions.

Now, once again, we are being presented with yet another proposed by-law which now will mean yet another expenditure which, at this time, we can ill-afford. As you know, Legions throughout the province are having tough times, most of it due to Liquor Board restrictions on drinking and driving and also to our Veteran base dwindling. What the new by-law would mean to us is that we would have to somehow to build a structure (with planning permission, of course) in the grassed area opposite our premises in order to be within the stipulated 7 metres. We have many patrons who are smokers and they are not exactly happy over this as they will now be open to the vagaries of changing weather conditions, especially in the winter.

Hopefully, you will re-consider the impact of this proposed change to the current by-law and how it affects companies similar to ourselves as, I understand, it is not the norm for establishments province-wide but rather something that has been adopted by some smaller communities.

As a non-smoker myself I understand what you are trying to achieve however, there is a cost and impact associated with this that, at times, may be unacceptable and impractical to bars on the Coast. It will probably lead again to a diminishing patronage at our Legion.

Thank you
Wilma Jones
President
RCL Branch 109

**TOWN OF GIBSONS
BYLAW NO. 1230, 2016**

A Bylaw to regulate smoking within the Town of Gibsons

WHEREAS the *Community Charter* authorizes Council may, by bylaw, to regulate, prohibit and impose requirements in relation to, among others, public health;

AND WHEREAS it has been determined that second-hand tobacco smoke is a health hazard and nuisance for many inhabitants of and visitors to the Town of Gibsons;

AND WHEREAS the Town of Gibsons has satisfied the preconditions to adopting this Bylaw set out in the Public Health Bylaws Regulation, B.C. Reg. 42/2004;

NOW THEREFORE the Council of the Town of Gibsons in open meeting assembled enacts as follows:

PART 1. INTRODUCTION

1. Citation

This Bylaw may be cited for all purposes as the "Smoking Control Bylaw No. 1230, 2016".

2. Definitions

In this Bylaw:

Building means a structure, located on the ground, which is designed, erected, or intended for the support, enclosure, or protection of persons or property. When a structure is separated by party walls located upon lot lines, then each portion of such structure shall be deemed a separate building;

Bylaw Enforcement Officer means a delegate of the provincial Medical Health Officer, an provincial Environmental Health Officer, a Town Bylaw Enforcement Officer, or a Royal Canadian Mounted Police officer;

Council means the Municipal Council of the Town of Gibsons;

Common Area includes, but is not limited to, lobbies, foyers, stairwells, elevators, corridors, cloakrooms, washrooms, food fair seating areas, and other public areas of a building;

Fully or Substantially Enclosed means a building or 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;

Liquor Primary Licensed Establishments means establishments licensed primarily to serve liquor as defined by the B.C. Liquor Control and Licensing Branch;

Operator means any person who, as owner, proprietor, lessee, manager, employee, or otherwise, carries on the operation of a facility or business, and includes any person managing or supervising such facility or business;

Outdoor Customer Service Area means a part of private or public property located immediately outside of a restaurant, retail food service, neighbourhood public house or licensed lounge whether partially enclosed or unenclosed, including a balcony, patio, yard, or sidewalk that is connected to or associated with a business or use in a building or premises that includes the service of food or beverages, which may include alcoholic drinks, to customers or other persons for consumption on site;

Outdoor Venue means a place that is not fully or substantially enclosed and is used for the assembly or persons for such purposes as worship, entertainment, recreation, business or amusement;

Park means any real or personal property owned by the Town used for park and recreation purposes and includes all buildings and structures situated thereon;

Personal Service Establishment means a barbershop, beauty shop, drycleaner, laundromat or shoe repair shop and includes the sale of goods where the sale of goods is auxiliary to the provision of a service;

Place of Public Assembly means a building or structure used for the assembly of persons for such purposes as deliberation, education, worship, entertainment, recreation, business or amusement, including a shopping mall and a bingo hall, but does not include a restaurant or a private residential dwelling;

Restaurant means a dining establishment where food is sold to the public for immediate consumption within the premises, but where no provision is made for the consumption of food in motor vehicles which are parked on the same site;

Retail includes the operation of retail stores, bakery shops, auction rooms, supermarkets, greenhouses and nurseries, but does not include the operation of service stations and car washes;

Retail Establishment means a building, structure, or other place where goods or services are exposed or offered for sale by retail;

Responsible Person means a person who owns, controls, manages, supervises, operates, or holds:

- (a) a business or other use that occupies all or substantially all of a building;
 - (i) a business or other use that occupies premises;
 - (ii) an outdoor customer service area;
 - (iii) a common area;
 - (iv) a vehicle for hire; or
 - (v) a permit for any outdoor public event or activity that the Town has authorized by the issuance of a permit and to which this bylaw applies;

- (vi) and, in respect of a common area, includes a strata corporation or cooperative association;

Smoke or Smoking means to inhale, exhale, burn or carry a lighted cigar, cigarette, electronic cigarette, pipe or other lighted smoking equipment that burns or vaporizes tobacco or other weed or substance but does not include the ceremonial use of tobacco in connection with a traditional aboriginal cultural activity;

Structure means an erection or construction of any kind whether fixed to, supported by or sunk into land or water;

Town means the Town of Gibsons or the area within its boundaries, as the context may require;

Transit Shelter means a building or other structure located on Town property and constructed near a bus stop to provide seating and/or protection from the weather for the convenience of waiting passengers;

Vehicle for Hire means a vehicle for hire.

PART 2. GENERAL SMOKING RESTRICTIONS

A person must not smoke:

- 1) in a building, except in:
 - (a) a dwelling unit other than a dwelling unit in which a business to which employees or the public are invited is carried on therein;
 - (b) a hotel or motel room or suite designated for smoking by a responsible person;
 - (c) enclosed premises:
 - (i) that are not open to the public, and
 - (ii) where the only occupants are the owner or owners of the business carried on in the premises;
- 2) in a vehicle for hire;
 - (a) in any public transit vehicle, including a school bus, passenger bus, taxi, water taxi, or ferry;
 - (b) in or within 7.5 metres of a building, transit stop or transit shelter where people wait to board a vehicle for hire or public transit vehicle, provided that, subject to the other provisions of this Bylaw;
- 3) within 7.5 metres measured on the ground from a point directly below any opening into any building including any door or window that opens or any air intake.

PART 3. SMOKING IN PARKS AND OTHER MUNICIPAL PROPERTY

A person must not smoke in or within 7.5 metres of:

- 1) any park, public beaches and public trails;
- 2) the grounds of any Town building used for public recreation.

PART 4. DUTIES OF RESPONSIBLE PERSON

Except as permitted in Part 2 subsection 1(a), a responsible person must not suffer or allow a person to smoke in:

- 1) a building or outdoor customer service area;
- 2) a common area or premises;
- 3) a vehicle for hire,

in each case, that is owned, controlled, managed, supervised, operated or held by that responsible person.

PART 5. SIGN REQUIREMENTS

A responsible person must display a sign at all times:

- 1) on any advertisement or poster promoting a public event on Town property for which the Town has authorized by a permit, stating:

“THIS IS A SMOKE FREE EVENT. NO SMOKING PLEASE”.

PART 6. CONDITION OF SIGNS

A person must not remove, alter, conceal, deface or destroy any sign required under this Bylaw.

PART 7. POWER TO INSPECT

A Bylaw Enforcement Officer has the right of entry and may enter at all reasonable hours onto any land or into any building to which this Bylaw applies in order to ascertain whether the provisions of this Bylaw are being complied with.

PART 8. OBSTRUCTION

A person must not interfere with, delay, obstruct or impede a Bylaw Enforcement Officer or designate or other person lawfully authorized to enforce this Bylaw in the performance of duties under this Bylaw.

PART 9. OFFENCE, PENALTIES AND ENFORCEMENT

1. Every person or proprietor who offends against any of the provisions of this Bylaw, or who suffers or permits any act or thing to be done in contravention or violation of the provisions of this Bylaw, or neglects to do or refrains from doing anything required to be done by this Bylaw, shall be deemed to have committed an offence under this Bylaw and shall be liable to fines specified under the Bylaw Notice Enforcement Notice Bylaw No.1125, 2010.
2. Pursuant to Section 264 of the *Community Charter*, S.B.C. Chapter 26, any person designated as a Bylaw Enforcement Officer is hereby authorized and empowered to enforce the provisions of this Bylaw by Bylaw Enforcement Notice or as otherwise provided by this or any other bylaw of the Town of Gibsons.

PART 10. SEVERABILITY

If any section, subsection or clause of this Bylaw is for any reason held to be invalid by the decision of a court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Bylaw.

PART 11. REPEAL

"Non-Smoking Areas Bylaw No. 622, 1990" is repealed.

PART 12. EFFECTIVE DATE

This Bylaw comes into force and effect six (6) months from the date of approval by the Minister of Health.

READ A FIRST TIME this the	19 th	day of	April	2016
READ A SECOND TIME this the	19 th	day of	April	2016
READ A THIRD TIME as amended this the	21 st	day of	June	2016
DEPOSITED at the Minister of Health	30 th	day of	August	2016
ADOPTED THIS the		day of		2016

Wayne Rowe, Mayor

Selina Williams, Corporate Officer