

DATE OF MEETING JANUARY 21, 2019

AUTHORED BY HEIDI DAVIDSON, MANAGER, PERMIT CENTRE AND BUSINESS LICENSING

SUBJECT SMOKING REGULATION BYLAW

OVERVIEW

Purpose of Report

To present changes to the proposed “Smoking Regulation Bylaw 2018 No. 7268” at third reading concurrently with the required updates to the “Bylaw Notice Enforcement Bylaw 2012 No. 7159”.

Recommendation

That:

1. Council rescind third reading of “Smoking Regulation Bylaw 2018 No. 7268” (To regulate smoking in the City of Nanaimo);
2. Council approve revisions to the proposed “Smoking Regulation Bylaw 2018 No. 7268” at third reading as outlined in this report: to revise buffer zones, ensure consistency with “Parks, Recreation and Culture Regulation Bylaw 2008 No. 7073”, and provide an adjudication process;
3. “Smoking Regulation Bylaw 2018 No. 7268” pass third reading as amended;
4. “Bylaw Notice Enforcement Amendment Bylaw 2019 No. 7159.03” (To include a schedule of penalties related to “Smoking Regulation Bylaw 2018 No. 7268”) pass first reading;
5. “Bylaw Notice Enforcement Amendment Bylaw 2019 No. 7159.03” pass second reading; and
6. “Bylaw Notice Enforcement Amendment Bylaw 2019 No. 7159.03” pass third reading.

BACKGROUND

Attached for Council’s consideration is the amended draft “Smoking Regulation Bylaw 2018 No. 7268” (the “Smoking Bylaw”) and “Bylaw Notice Enforcement Amendment Bylaw 2019 No. 7159.03”.

As part of the Cannabis Task Force review, a new Smoking Bylaw was prepared and presented to Council at its meeting on 2018-AUG-13, at which time it received first, second, and third readings.

DISCUSSION

Following third reading, Staff identified amendments that if implemented, would provide consistency with the Provincial regulations and other City bylaws.

Buffer Zone and Signage

The Smoking Bylaw previously proposed a 7.5m no smoking buffer zone in front of doorways, windows, and air intakes; however, this exceeded the 6m Provincial requirement. It is Staff's opinion that the buffer zone should be established at 6m, which is consistent with the already-established Provincial requirements. In doing so, many businesses that already display the appropriate signage for the 6m smoke-free buffer will not be required to update it.

Parks Bylaw and Nuisance Bylaw

In order to provide a more cohesive approach with regard to smoking in the city and the regulation thereof, reference to smoking will be eliminated in both the "Parks, Recreation and Culture Regulation Bylaw 2008 No. 7073" (the "Parks Bylaw") and Public Nuisance Bylaw 2003 No. 5648". Having only one bylaw that oversees regulation of smoking and the fines associated with the contravention of the bylaw means that bylaw upkeep is simplified.

As such, wording in the proposed Smoking Bylaw has been revised to include the restriction of smoking on all City-owned properties except in designated areas (see Section 3.1a) replacing the wording that will be eliminated in the Parks Bylaw.

Fines and Ticket Disputes

Section 6, Offences and Penalties of the Smoking Bylaw have been rewritten with new language that will allow penalties to be issued by means of a Bylaw Notice pursuant to "Bylaw Notice Enforcement Bylaw 2012 No. 7159", and, if disputed, said tickets would be resolved by means of the Bylaw Notice Dispute Adjudication system. As such, the Bylaw Notice Enforcement Bylaw has been updated and is also on tonight's agenda for three readings.

The Bylaw Notice Dispute Adjudication system was created so that bylaw ticket disputes could be resolved at a municipal level as opposed to at a Provincial Court level.

Medical Health Officer Approval

The Medical Health Officer has reviewed the Smoking Bylaw and remains in support. As such, should Council pass third reading, the bylaw will be deposited with the Ministry of Health as per the requirements of the *Community Charter*. Once confirmation has been received by the Ministry, the Smoking Bylaw will return to a future Council meeting for adoption.

SUMMARY POINTS

- At Council's direction, a new bylaw to regulate smoking within the city of Nanaimo was prepared.
- After further consideration, the draft "Smoking Regulation Bylaw 2018 No. 7268" has been amended to align with the Province's 6m no smoking buffer zone around building entrances, windows and air intakes.
- The draft Smoking Bylaw is supported by the Medical Health Officer.

- If third reading is passed, the Smoking Bylaw will be deposited with the Ministry of Health and, once deposited, will return to a future Council meeting for adoption.

ATTACHMENTS

ATTACHMENT A: "Smoking Regulation Bylaw 2018 No. 7268"

ATTACHMENT B: "Bylaw Notice Enforcement Amendment Bylaw 2019 No. 7159.03"

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