



STAFF REPORT

TO: Council **MEETING DATE:** June 21st, 2016
FROM: Katie Thomas **FILE NO:** 3900-20-1230
Planning Assistant
SUBJECT: Smoking Control Bylaw Number 1230, 2016 Community Input

RECOMMENDATION(S)

THAT the Staff Report regarding community input on the proposed Smoking Control Bylaw be received;

AND THAT Council give third reading as amended to Smoking Control Bylaw No. 1230, 2016;

AND FURTHER THAT the bylaw be forwarded to the Ministry of Health for approval.

BACKGROUND/PURPOSE

The Smoking Control Bylaw was given first and second reading on April 19, 2016. Staff presented a report on the Bylaw in April providing a background to the creation of the Bylaw.

Staff were directed to gather community input and the Advisory Planning Commission on the proposed Bylaw before third Reading. This staff report looks at the information gathered from the community.

DISCUSSION

Online Survey

Staff created an online survey to gather community input. The survey went live on May 9 and was closed on Monday June 13. In that time, 109 individuals provided input on the proposed bylaw and the current Provincial regulations. The survey results have been attached to this report.

In brief, 63% of the respondents stated that the current provincial regulations were not sufficient. The survey results show that the approximately two-thirds of respondents are supportive of the proposed bylaw.

Staff provided respondents with the opportunity to comment on the proposed bylaw. A total of 42 comments were provided with a range of responses. Approximately 20 people expressed support for the bylaw referencing for example the need to be protected from second hand smoke. Approximately 10 other respondents did not support the bylaw stating in various ways that in their opinion the bylaw goes too far. Around 5 people brought up the need for enforcement to make this

bylaw effective. Two people expressed concerns about the inclusion of e-cigarettes in the ban since they feel that e-cigarettes are one of the ways that smokers can kick the habit.

The primary goal of the Bylaw would be voluntary compliance with the Smoking Control Bylaw through education. Signage and education will serve as reminders to individuals; if enforcement is necessary, the Bylaw Officer and Health Inspectors will have the power to issue tickets to offenders.

Advisory Planning Commission

The Advisory Planning Commission met on May 13, 2016 to discuss the Smoking Control Bylaw. The Commission suggested clarification of Part 2 of the bylaw, in which the bylaw does not specifically include Taxis under vehicles for hire. Staff have added the word "taxis" to clarify the statement.

The Commission provided the following recommendation:

THAT the Commission supports the proposed Smoking Control Bylaw as presented.

COMMUNICATION

The survey was advertised through the Town's Facebook page as well as the newspaper twice – once in a standalone advert and once on the Town's bi-weekly news and views section. Letters have been written from the Director of Planning to the pubs in Gibsons explaining the proposed Smoking Control Bylaw and the proposed no-smoking zone 7.5 metres from an opening. No comments had been received at the time of the writing of this report.

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,



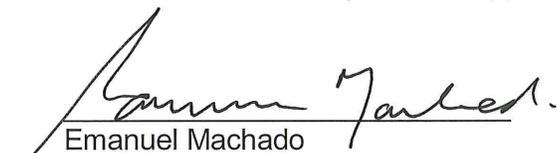
Katie Thomas
Planning Assistant



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: Smoking Control Bylaw Survey Results

Smoking Bylaw Survey Results

Do you feel that the current provincial regulations are sufficient?

Response	Chart	Percentage	Count
Yes		36.5%	38
No		63.5%	66
		Total Responses	104

Would you like to see the radius of smoke free zones increased from 3 metres?

Response	Chart	Percentage	Count
Yes		65.7%	71
No		34.3%	37
		Total Responses	108

Should vape products/e-cigarettes be included in a smoking ban?

Response	Chart	Percentage	Count
Yes		76.1%	83
No		23.9%	26
		Total Responses	109

Should smoking be permitted on outdoor patios?

Response	Chart	Percentage	Count
Yes		40.7%	44
No		59.3%	64
		Total Responses	108

Should smoking be banned in parks, trails and beaches?

Response	Chart	Percentage	Count
Yes		63.9%	69
No		36.1%	39
		Total Responses	108

Should all playing fields or sports events be smoke-free?

Response	Chart	Percentage	Count
Yes		76.1%	83
No		23.9%	26
		Total Responses	109

Do you have any further thoughts, comments or queries on the proposed Smoking Control Bylaw?

The 42 response(s) to this question

#	Response
1.	In any case, smoking should be permitted only in designated smoking area supplied with ash tray. Designated smoking area has to be covered to eliminate the second hand smoke environment.
2.	I think its taking things too far, we outside after all!
3.	Designate public smoking permit places & provide butt containers!
4.	Really, cantt you people find more constructive things to do? When internal combustion engines are outlawed (including the towns own leaf-blowers), then I may agree.
5.	This is a no-brainer. This is the 5th survey in 6 years. Why? And signage needed so visitors know. You can't expect them to know by osmosis. Statements about sign clutter and 'we expect people will still smoke next to patios' are mind-boggling esp. from someone in the legal profession. If you can put up 10 or 11 No Parking signs in a very short distance cluttering North (looks terrible, complete over-signage), you can put up No Smoking signs! Stop asking, mulling. Get going. Tourist season is here.
6.	Although I think education is a very powerful tool, and as such, should be prominent in introducing this new bylaw, I also feel that the Town must be prepared to ENFORCE this bylaw. Without enforcement, irresponsible citizens will quickly learn that they can do whatever they want without penalty. You don't have to enforce too many times to make it clear that you mean business.
7.	If we are committed to reducing the use of tobacco products for the health of our citizens, we should be wary of disuading the use of e-cigarettes. It also should be noted that as e-cigarettes produce vapour, rather than smoke, any electronic vapour producing device could be covered by this ban.
8.	Just ridiculous!smoking is not illegal and there are people that still enjoy it!i realize the health effects of smoking as do smokers but why take ALL their rights away?This is definitely taking it all too far!Non smokers have the ability to stay away from smoke if they like!!
9.	Its not fair that only smokers get to enjoy the outdoor patios. Parks and all areas where children are (playgrounds, aports fields, etc) should definitely be smoke free. And there should be an actual consequence for breaking these bylaws, otherwise they are useless
10.	i have never ,....seen a smoking control bylaw being enforced...never..not once never...0 times..do you feel me

11. Smokers always get the best spots... Why should my children and I be stuck inside so only smokers can enjoy a patio? Also, have you tried ordering at the drive thru at Tim Horton's? So much smoke billowing in my vehicle that I still smell it an hour later... Disgusting. We were walking through Soames park the other day and passed a group of folks who stopped to sit and smoke. No only is it gross and toxic it a massive forest fire risk. Ban smoking on the patios and in parks. So happy that this is on the table!
12. I feel that to much injustice is being focused on tobacco smokers.I am in full agreeince with no smoking indoors in a public place or next to an entrance but really on our crowded ? beaches and pub or bar patios ,come on we as smokers accepted the not smoking inside while having a beer or a glass of wine but now we have to accept the fact that we have to leave half a drink and walk 7.5 meters away from any door or window or air intake to have a smoke that we are legally able to buy I would like to suggest that maybe half the beach area and half the patio areas be designated as non smoking.
13. I feel that your question. Should smoking in all parks ,trails and beaches is far to broad..
14. banning smoking is the right thing to do for the health of everyone. And it makes our outdoor spaces and parks safer from forest fires.
15. no smoking in ferry lineups
16. Please at least ban smoking in and around restaurants and pubs - this means no smoking sections at all. The smoke flows into non-smoking areas and ruins other people's experiences. Having moved to the Coast from Vancouver recently, I was shocked that smoking sections still exist here. So unhealthy. Go forward, Gibsons! Ban all smoking in public places!
17. A good start to eradicating a seriously unhealthy habit that affects not just the user, but all those around the smoker.

However, a bylaw is of no use unless it is enforced. Bylaws for dogs to be leashed, is such a glaring example of bylaws not being enforced.
18. the city has gone too far with the smoking bans.. i see people smoking pot in public areas all the time. this seems acceptable, but cigarettes is not.. i believe that smokers should respect nonsmokers. ie: dont light up beside someone, move away.. but for petes sake.. dont ban smoking in parks and beaches.. that is over the top..
19. Smokers should also be heavily fined for throwing their poisonous/dangerous cigarette butts on the ground. All public buildings, venues, parks, beaches need to be smoke free, including their grounds.
20. If a smoker doesn't smoke around anyone offended by it, there shouldn't be a problem. Smokers are very aware of their surroundings and should be allowed to smoke in areas where they're not being directly offensive to a non-smoker. People should also be encouraged to communicate if someone smoking around them offends them. We can talk to each other and have dialogue without by-laws regulating our every inhale.
21. I think there should be available smoking areas and available and appropriate places to discard the butts and packaging which seems to be almost as serious a problem. I don't see making a lot of rules as doing anything to effectively stop anyone outside from smoking so we should do all we can to make the cleanup more effective.
22. i dont' smoke, but i think the minority that still do have been squeezed out sufficiently.
23. This is a no-brainer. Smoking has been proven to be a health hazard and it is a nuisance. Smoke from cigarettes, cigars and vaporizers decreases the quality of life and the general enjoyment of our wonderful outdoor spaces. There is little worse than taking a deep breath

of fresh air to have it fouled reprehensibly with second hand smoke.
24. It's time for a comprehensive smoke-free bylaw. Thank you.
25. Considering most forest fires are human caused, and likely some of those by carelessly discarded cigarettes, it seems fair to start banning them from parks and trails etc
26. If there will be no enforcement, then please don't waste time and energy to change the bans. Increase fines and send around bylaw officers, or just give it all up.
27. E-cigarettes are sometimes used by people whom are trying to quit smoking the 'real thing'. I am a non-smoker (always have been) and I don't agree with measures that discriminate against people trying to kick a bad habit.
28. This town is way too controlling
29. As a former smoker, I generally applaud efforts to help keep our communities healthy and reduce the amount of cigarette smoking. That being said, I have a lot of friends who still smoke and it would be sad if they stopped coming to parks and patios because their not allowed to smoke. It is a brutal addiction that will not be cured overnight or by making smokers into social pariahs. All that being said, I think the most important thing is to keep smoking away from children and youth, as this group is highly influenced by what they see every day and so while I wouldn't want to see a complete ban from public spaces, I do think it is inappropriate during sporting events.
30. Smoking is disgusting and should ONLY be allowed in someone's own home where only they can smell it because they choose to. It is offensive and antisocial to be out in public and force others to be subjected one's bad habits. The smell on clothes and in hair is bad enough. The wind can blow the smoke anywhere.... Even 75m from a doorway is not enough! Stop the litter and threat of forest fires! Good luck enforcing this bylaw but it is a step in the right direction.
31. Actual enforcement of the current bylaws would be a nice start.
32. it should be illegal to throw cigarette butts on the ground. In the U.K. you have to use a personal ashtray...it has a lid on it and you carry it around in your bag or pocket.
33. Second hand smoke is offensive to many people. Children should not have to be exposed to any offensive odor.
34. If you really want to make a difference you should look at banning the sale of tobacco products in gibsons. Smokers are often addicted without help. To have their addictive product readily available at nearly half the businesses and then tell them where to and not to smoke seems fundamentally missguided and unreasonable. If the town exceeds provincial regulations the town should also offer more ashtrays available in the areas smokers can smoke. Smokers are addicted because stores sell it.
35. This survey is simplistic. * I have never smoked, & am sensitive to smoke & need to avoid it. However the proposed 7.5 meters, & banning from playing fields altogether, are going to extremes, in my view. * If 3 meters is not sufficient, then extend it to a reasonable distance, perhaps 5 meters. * Yes to banning on buses etc, & at bus stops within a certain distance. Again I suggest 5 meters, not 7.5. Ditto for air intakes. * Gibsons' parks are very small, but surely there is still room for smoking while leaving

sufficient space for non-smokers, except as a spectator at a public event.

* Regulations that go too far, in my opinion, will just provoke smokers into smoking along the road & dropping their butts as they go, & throwing them out of car windows. In 12 years of living here, I have never seen any hired person cleaning up cigarette butts or other debris along Gibsons roads.

* Even more important, it is well known that many wildfires are started by a live cigarette. Many of us in Gibsons live right next to the forest. I do not appreciate the extra risk to me & my home from yet more butts thrown out wherever smokers can get away from the excessive measures proposed in this bylaw.

36. smoke only in your private home away from others

37. Cigaretts are legal products and taxed by government. If you really were serious, you would help to stop HSPP emitting enormous amounts of pollution to the air in and around Gibsons. Look as well at BC Ferries etc. No this is absolutely a joke and typical for people like you who don't have the courage to deal with real problems.

38. Some provision should be made for smoking medical marijuana.

39. We should have smoke-free parks and beaches and no smoking on patios just like Vancouver. Why do we have to be exposed to smoke while people in Vancouver don't?

40. This is work in the right direction. Thanks for promoting the health of Gibsons residents.

41. The public has a right to be protected from second hand smoke. The US Surgeon General has said there is no safe level of exposure. Smelling smokes means people (even unborn children in utero) are potentially harmed. Strong by laws protect the 86% of the Canadian population who DO NOT smoke.

42. It is time to update the regulations around second hand smoke and protecting people that do not want the exposure.

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 19th day of April 2016
READ A SECOND TIME this the 19th day of April 2016
READ A THIRD TIME as amended this the day of 2016
APPROVED by the Minister of Health day of 2016
ADOPTED THIS the day of 2016

Wayne Rowe, Mayor

Selina Williams, Corporate Officer