

CAPITAL REGIONAL DISTRICT

BYLAW NO. 3962

**A BYLAW TO PROMOTE CLEAN AIR BY REGULATING
ENVIRONMENTAL TOBACCO SMOKE**

W H E R E A S:

- A. By Supplementary Letters Patent dated May 16, 1974, the powers, duties and obligations of all participating member Municipalities and any other local authorities to perform the function conferred on the Capital Regional District pursuant to Division XI – Community Health were transferred to the exclusive jurisdiction of the Capital Regional District, including, but without limiting the generality of the foregoing, the health powers conferred upon the Council of a municipality by the *Community Charter*, S.B.C. 2003, c. 26;
- B. The Board of the Capital Regional District may, by bylaw, pursuant to section 523 of the *Local Government Act*, R.S.B.C. 1996, c. 323, regulate and prohibit for the purposes of maintaining, promoting and preserving public health and maintaining sanitary conditions and undertake any other measures it considers necessary for those purposes;
- C. The Capital Regional District has been granted the additional power to exercise the powers conferred on a council of a municipality under section 8(3)(i) of the *Community Charter*, S.B.C. 2003, c. 26, in accordance with section 14 of the Capital Regional District Regulation, B.C. Reg. 65/90;
- D. Section 9(4) of the *Community Charter*, S.B.C. 2003, c. 26, and the Public Health Bylaws Regulation, B.C. Reg. 42/2004, requires that a bylaw to be adopted under section 2(a) or (b) of B.C. Reg. 42/2004 not be adopted unless the bylaw or a copy of it is first deposited with the Minister of Health and the local government has consulted with the Medical Health Officer responsible for health matters within the Capital Regional District;
- E. A copy of this bylaw has been deposited with the Minister of Health and the Board of the Capital Regional District has consulted with the Medical Health Officer;
- F. Environmental Tobacco Smoke has been designated a Class A carcinogen, similar to benzene and asbestos, by Health Canada and the Environmental Protection Agency of the United States of America, and is a health hazard to the inhabitants of the Capital Regional District;
- G. It is generally recognized by scientific and medical communities that no level of Environmental Tobacco Smoke exposure is safe and scientific research has determined that outdoor areas where smoking occurs contain significant levels of Environmental Tobacco Smoke; and

- H. It is desirable for the purposes of maintaining, promoting and preserving the public health of the inhabitants of the Capital Regional District to prohibit, regulate and impose requirements in relation to smoking in the Capital Regional District.

NOW, THEREFORE, the Board of the Capital Regional District, in open meeting assembled HEREBY ENACTS AS FOLLOWS:

1. INTERPRETATION

In this Bylaw:

“*business*” means carrying on a commercial or industrial undertaking of any kind or nature or the provision of a professional, personal or other service and includes an activity carried on by a government, government agency, Crown corporation, educational institution, municipality, regional district, or charitable organization;

“*bus stop*” means a place on a bus route marked by a sign at which buses stop to pick up and drop off passengers and includes a transit shelter;

“*Community Charter*” means the *Community Charter*, SBC 2003, Chapter 26;

“*designated public space*” means public playing fields, public playgrounds and public squares;

“*Enforcement Officer*” means a person appointed as a bylaw enforcement officer or contractor by the Capital Regional District to enforce this Bylaw;

“*Local Government Act*” means the *Local Government Act*, RSBC 1996, Chapter 323;

“*main entrance*” means a place where the name or information about a park, designated public space or school yard is posted or a place designed by a responsible person as a common entry point by the public;

“*no-smoking sign*” means a no-smoking sign prescribed by this Bylaw;

“*park*” means land acquired, reserved or dedicated as a regional park or community park in accordance with the *Local Government Act* or the *Community Charter* and land acquired, held, occupied, zoned or regulated as park by a local government and shall include, without restricting the generality of the foregoing, within such parks, all beaches, public playgrounds, public playing fields, public squares, roadways and paths, but shall not include any highway passing through such park that has been dedicated as highway by plan of subdivision or that has been laid out, constructed and maintained by the Ministry of Transportation of the Province of British Columbia, or a local government, or that is a public highway under the *Highway Act*;

“*prominently*” means placed in such a position that the text of the sign or graphic symbol is clearly visible to a person in a school yard or inside a building, structure or vehicle or passenger conveyance, except a private residence;

“*public playgrounds*” means lands held, occupied, zoned or regulated for use by the public as outdoor areas containing playground equipment;

“*public playing fields*” means lands held, occupied, zoned or regulated for use by the public as outdoor areas for sporting activities;

“*public square*” means land acquired, reserved or dedicated as a public square in accordance with the *Local Government Act* or *Community Charter*;

“*responsible person*” means the person who controls, governs or directs the activity carried on within the building, place or premises referred to in this Bylaw and includes the person actually in charge thereof;

“*school yard*” means that portion of the lands of a school as defined in the *School Act* without buildings or structures;

“*transit shelter*” means a covered structure or facility located at a designated bus stop to provide protection from the elements for passengers waiting for a bus.

2. PROHIBITION

- (1) No person shall carry or have in his possession a burning cigarette or cigar or a pipe containing burning tobacco, or burn tobacco in any other manner:
 - (a) in any park except in a private vehicle;
 - (b) in any designated public space;
 - (c) in any school yard;
 - (d) inside any part of a building or structure except in a private residence, hotel or motel room or tent or trailer in a campsite;
 - (e) in any area of a business place where either or both food and beverages are served or consumed, or both served and consumed;
 - (f) in any vehicle or passenger conveyance, except in a private vehicle;
 - (g) within seven (7) metre area measured on the ground from a point directly below any point of a doorway, window or air intake in a place described in subparagraphs 2(1)(d) and (e);
 - (h) within seven (7) metres of a bus stop measured on the ground from any point of the bus stop sign.
- (2) No responsible person shall permit a person to carry or have in his possession a burning cigarette or cigar or a pipe containing burning tobacco, or to burn tobacco in any manner:
 - (a) inside any part of a building or structure, except inside a private residence, hotel or motel room, or tent or trailer in a campsite;
 - (b) in any area of a business place where either or both food and beverages are served or consumed, or both served and consumed;
 - (c) in any vehicle or passenger conveyance, except in a private vehicle;
- (3) Section 2(1) does not apply to a ceremonial use of tobacco in relation to a traditional aboriginal cultural activity.

3. POSTING OF SIGNS

- (1) A responsible person must display, or ensure the display of, a sign at all times, in the form established under paragraph 4(1):
 - (a) at the main entrances to a park;
 - (b) at the main entrances to a designated public space;
 - (c) at the main entrances to a school yard;
 - (d) at each entrance to a building or structure for which that person is a responsible person except a private residence, hotel or motel room, or a tent or trailer in a campsite;
 - (e) inside a vehicle or passenger conveyance, except in a private vehicle;
 - (f) at any area of a business place where either or both food and beverages are served or consumed, or both served and consumed;
- (2) A responsible person must display, or ensure the display of, a sign, at all times, on each exterior wall of a building or structure where the prohibition contained in section 2(1) applies, that states:

“Smoking is prohibited within seven (7) meters of openings into this building or structure including doors and windows that open and any air intake.”

4. SIGNS

- (1) A no-smoking sign shall state,
 - (a) the phrase "no smoking", or
 - (b) a graphic symbol substantially in the form shown on Schedule "A" attached to this Bylaw, which shall be a minimum of six centimetres in diameterand may include
 - (c) the words "Capital Regional District Bylaw No. 3962 Maximum Penalty \$2,000.00."
- (2) A sign prescribed by former Capital Regional District Bylaw Nos. 2217 and 2401 is a lawful no-smoking sign for the purpose of this Bylaw.
- (3) No person shall remove, alter, conceal, deface, write upon or destroy any sign posted pursuant to this Bylaw.

5. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Bylaw is for any reason held to be invalid by the decision of any Court, the section, subsection, sentence, clause or phrase may be severed from the remaining portion of this Bylaw.

6. OFFENCE

- (1) A person who contravenes, violates or fails to comply with any provision of this Bylaw, or who suffers or permits any act or thing to be done in contravention or violation of this Bylaw, or who fails to do anything required by this Bylaw, commits an offence and shall be liable, upon conviction, to a fine of not more than Two Thousand Dollars (\$2,000.00), the costs of prosecution and any other penalty or order imposed pursuant to the *Local Government Act, Community*

Charter or the Offence Act (British Columbia). Each day that an offence against this Bylaw continues or exists shall be deemed to be a separate and distinct offence.

- (2) The penalties imposed under Section 6(1) shall be in addition to and not in substitution for any other penalty or remedy imposed by this Bylaw or any other statute, law or regulation.

7. **INSPECTION**

An Enforcement Officer is authorized to enter onto and into any land, building, structure or premises for the purposes established by sections 268 and 314.1 of the *Local Government Act* and any other authority to enter property granted in the *Local Government Act*, *Community Charter*, or another Act in accordance with the provisions of section 16(1)-(5) of the *Community Charter*, or other conditions of entry, if any, set out in the *Local Government Act*, *Community Charter* or another Act.

8. **REPEAL**

Capital Regional District Bylaw No. 2401 is hereby repealed.

9. **TITLE**

This Bylaw may be cited as the "Capital Regional District Clean Air Bylaw No. 1, 2014."

10. **EFFECTIVE DATE**

The effect of this Bylaw is suspended until April 1, 2015 and this Bylaw shall come into force effective April 1, 2015.

READ A FIRST TIME THIS	9 th	day of	July	2014
READ A SECOND TIME THIS	9 th	day of	July	2014
AMENDED THIS	13 th	day of	August	2014
READ A THIRD TIME THIS	13 th	day of	August	2014
DEPOSITED WITH THE MINISTER OF HEALTH THIS	25 th	day of	August	2014
ADOPTED THIS	10 th	day of	September	2014


CHAIR


CORPORATE OFFICER

CAPITAL REGIONAL DISTRICT CLEAN AIR BYLAW NO. 3962

SCHEDULE "A"

The following graphic symbol is prescribed for the purpose of Section 4(1).

