



City of Richmond

Report to Committee

To: Community Safety Committee
From: Phyllis L. Carlyle
 General Manager, Law & Community Safety
Re: **Enhanced Smoking Regulations
 Exemptions and Recreational Facilities**

Date: December 3, 2008
File: 02-0765-03/2008-Vol 01

Staff Recommendation

1. Council not grant exemptions to cigar stores or veterans' organizations from the provisions of:
 - a) Subdivision Six of the City's Public Health Protection Bylaw No 6989; or
 - b) the Municipal Ticket Information Authorization Bylaw 7321:
 - Schedule A, Section 9. Public Health Protection Bylaw No 6989; and
 - Schedule B9, Subdivision 6 – Smoking Control & Regulation.

Phyllis L. Carlyle
 General Manager, Law & Community Safety
 (604.276.4104)

FOR ORIGINATING DEPARTMENT USE ONLY			
ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER	
Law.....	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>		
Parks Design, Construction & Programs..	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>		
REVIEWED BY TAG	YES <input checked="" type="checkbox"/> 65 72	NO <input type="checkbox"/>	REVIEWED BY CAO
			YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

Staff Report

Origin

Based on certain amendments to the City's Public Health Protection Bylaw No 6989, which Council adopted to be effective on March 31, 2009, the following resolution was carried during the Regular Council meeting of May 12, 2008,:

That staff investigate the issue of a destination cigar store and World War II veterans' establishments possibly receiving an exemption from Bylaw No. 8361.

It should be noted that Bylaw No. 8361 was, in fact, an Amendment Bylaw to the City's Municipal Ticket Information Authorization Bylaw 7321 and any exemptions under the former would be considered an exemption under the latter.

Further to a letter dated October 21, 2008 from the Richmond Sports Council, the following resolution was carried during the Parks, Recreation and Cultural Services Committee meeting of October 28, 2008:

That staff report back, including a bylaw amendment if necessary, on the implications of prohibiting smoking at all indoor and outdoor sports facilities.

Analysis

Exemptions

The amendments to the City's Public Health Protection Bylaw No 6989, which were adopted by Council on May 12, 2008, include a prohibition of smoking in any customer service area or patio where food or beverages are served or consumed and within 6 meters of customer service areas. The effective date for the customer service areas is March 31, 2009. Any infractions could be subject to the issuance of a Municipal Ticket Information (MTI) violation under the applicable Schedules in the Municipal Ticket Information Authorization Bylaw 7321.

Staff, in concert with Vancouver Coastal Health, have visited the destination cigar store in Richmond and met with their management to discuss their present operations and their compliance with Provincial Regulations as well as the enhanced measures regarding distances from doorways and windows which became effective on November 30, 2008. It is their opinion that their specific business should be exempted from the requirements related to customer service areas due to their main operation – the purchasing and smoking of cigars. There were numerous delegations at the May 12th meeting to support such an exemption and Community Bylaws has received a number of complaints from local residents regarding the negative impact of outdoor cigar smoking.

Based on Community Charter powers, the City is not in a position to exempt a particular business from such regulations but would have to exempt a particular class of businesses. This would mean exempting all cigar smoking locations which would potentially encourage the

establishment of such operations throughout the City to bypass the intention of the enhanced smoking regulations. As such, staff would not recommend an exemption in this particular case.

Staff, in concert with Vancouver Coastal Health, also visited the Army, Navy & Air Force Veterans' clubhouse at 11900 No 1 Road and the Canadian Legion Branch at 11131 Bridgeport Road – the two major establishments catering to veterans of major Canadian military conflicts.

The Army, Navy and Air Force clubhouse is expected to be demolished early in the New Year to make way for a new clubhouse to be built on the same location on No 1 Road. Management of the clubhouse indicated that only a minority of their membership are smokers and plans for the new clubhouse will address any existing Provincial and Municipal regulations. Our latest communication has not identified where they may operate on a temporary basis during redevelopment but we have committed to meet with them at that point to review the regulations in place.

The Canadian Legion Branch has always taken a proactive approach to smoking regulations with input in the past from Vancouver Coastal Health staff on the set up of their operations on Bridgeport Road. We will be meeting with them again in the New Year to address their set up under the enhanced municipal regulations to come into effect at the end of March.

Recreational Facilities

The letter to Council from the Richmond Sports Council proposed a prohibition on smoking in all indoor and outdoor recreational facilities in Richmond.

All indoor facilities are addressed in the amendments that came into effect on November 30, 2008. The amendments read, in part:

“A person must not smoke in a building; other than

- a dwelling unit;
- a hotel or motel room or suite designated for smoking by an operator; or
- enclosed premises:
 - that are not open to the public; and
 - where the only occupants of the building are the owners or owners of the business carried on in the building.

The issue of outdoor recreational facilities was considered with the adoption of amendments to the City's Public Health Protection Bylaw No 6989 on July 23, 2007 to address smoking on the City's expensive artificial turf fields and the review of the effectiveness and cost of enforcement measures. The requirements under the City's Public Health Protection Bylaw No 6989 are enforced under contract with Vancouver Coastal Health through the offices of Richmond Health Services. As identified in previous deliberations, the activity at these outdoor recreational fields is almost all in the evening hours, Monday to Friday, and on the weekends. Presently, enforcement personnel are on duty only during regular business hours, Monday to Friday.

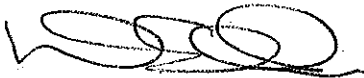
Any change to the present level of regulation on outdoor recreational fields and the provision of enforcement personnel would require further review of the educational and regulatory options and related costs to address the present level of smoking activity.

Financial Impact

No present financial impacts are anticipated.

Conclusion

Based on the authority of the City to grant exemptions and the potential implications of granting a class exemption, staff would recommend that no exemptions be granted. This would maintain the integrity of the amendments to the Public Health Protection Bylaw No 6989 adopted by Council on May 12, 2008.



Wayne G. Mercer
Manager, Community Bylaws
(604.247.4601)

WGM:wgm