

Request for Decision



To: Committee of the Whole
From: **Corporate Services**
Date: August 22, 2018
Subject: Bylaw No. 2054 – Smoke And Vape Free Places Bylaw
Recommendation: **THAT the Committee of the Whole recommends to Council to give the first three readings to Bylaw No. 2054, “Smoke And Vape Free Places Bylaw” at the September 24th, 2018 Regular Meeting of Council.**

Background

The Community Charter gives municipalities the authority to establish certain prohibitions in public places for the health and well-being of its citizens.

The BC Provincial Government enacted section 2.3 of the *Tobacco Control Act* in March of 2008, prohibiting smoking within public and work places, covering indoor areas and outdoor work areas. As the percentage of smokers decreases, in British Columbia a country-wide low of 10.2% of the population as of 2015, there is increased demand for smoke-free areas outdoors as well as indoors.

The Federal Government’s Bill 45 (the “Cannabis Act”) comes into effect on October 17, 2018, legalizing recreational use of cannabis nationwide.

Bylaw 2054 is the City’s proposed Smoke And Vape Free Places Bylaw. This bylaw designates outdoor public spaces including parks, playgrounds, public sidewalks, and the main core of downtown (Market Avenue) as no smoking areas for tobacco, cannabis, and other products, limiting the use of these products to areas minimizing exposure to second-hand smoke to other residents.

The bylaw was prepared at the request of Council, and is presented for discussion and feedback purposes.

Part of the process will also require an amendment to the MTI bylaw to include fines. This MTI Amendment Bylaw would be presented for first three readings on September 24, 2018 as well at the Regular Meeting of Council.

Benefits or Impacts

General

This bylaw addresses the health and well-being of the citizens of Grand Forks.

Strategic Impact



Community Livability

- The bylaw addresses feedback from residents impacting Community Liveability.

Policy/Legislation

This bylaw enhances smoking area limitations defined by the *Tobacco Control Act*, and sets other limitations in place in advance of the forthcoming *Cannabis Act* implementation.

Attachments

Bylaw No. 2054 “Smoke And Vape Free Places Bylaw”

Recommendation

THAT the Committee of the Whole recommends to Council to give the first three readings to Bylaw No. 2054, “Smoke And Vape Free Places Bylaw” at the September 24th, 2018 Regular Meeting of Council.

Options

1. THAT the Committee of the Whole accepts the recommendation.
2. THAT the Committee of the Whole does not accept the recommendation.
3. THAT the Committee of the Whole refers the matter back to staff for further information.

THE CORPORATION OF THE CITY OF GRAND FORKS

BYLAW NO. 2054

A Bylaw to Designate Smoke and Vape-free Outdoor Places in the City of Grand Forks

The Council for the Corporation of the City of Grand Forks, in open meeting assembled, **ENACTS** as follows:

1. **Citation**

1.1 This bylaw may be cited as the “**Smoke and Vape-free Outdoor Places Bylaw 2054.**”

2. **Definitions**

2.1 In this bylaw, unless the context requires otherwise:

“**Bylaw Enforcement Officer**” means the person duly appointed by Council as such, and shall include any peace officer.

“**Cannabis**” means cannabis as defined in the *Cannabis Act* (Bill C-45, an Act respecting cannabis and to amend the *Controlled Drugs and Substances Act*, the *Criminal Code* and other Acts.

“**City**” means the City of Grand Forks.

“**Community Facility**” means a building, lands or recreation facility including but not limited to recreation centers, arenas, picnic shelters and other recreation facilities located in a Park or on any other land which the City owns or controls by means of a lease, licence or other legal instrument that is intended for athletic, social, cultural, recreational, or other use by members or visitors to the community.

“**Entranceway**” includes but is not limited to doorways, verandahs, stairways, air intake systems and windows.

“**Municipal Ticketing Information Bylaw**” means the City of Grand Forks’ current Municipal Ticketing Information Bylaw, including all amendments and replacements thereto.

“**Outdoor Public Event**” means any event where the public is invited to gather on any outdoor area of City owned, controlled or operated property, including any park, public square or street, including, but not limited to:

- a) a market, contest, festival, celebration, fair, exhibition or concert;
- b) an outdoor public event on any City owned, controlled or operated property that is leased to a third party; or

- c) any event for which a City rental or use permit is required

“Outdoor Public Space” means any outdoor area owned, controlled, or operated by the City that is open to the public or to which the public is customarily admitted or invited, including but not limited to:

- a) park,
- b) sports venue, stadium, or sports facility,
- c) outdoor recreational facility,
- d) utility easement,
- e) cemetery,
- f) public streets, when used as part of an outdoor public event.

“Park” means any real property or property subject to a right of occupation by the City of Grand Forks for the purpose of pleasure, recreation or community uses by the public, including but not limited to parks, playgrounds, splashpads, sport courts, natural and landscaped areas, sports fields, trails, walkways and other public places and all improvements and may include beaches, and other public places adjacent to lakes or streams including foreshore or land covered by water.

“Prescribed Distance” means the distance specified in B.C. Reg. 232/2007 (*Tobacco and Vapour Products Control Regulation*), including all amendments and replacements thereto, as the distance from a doorway, window, or air intake in which a person must not smoke tobacco, **or** 6 metres, whichever is greater.

“Public Premise” means all or any part of a building, structure or other enclosed area to which members of the public have access as of right or by express or implied invitation.

“Public Vehicle” means a bus, taxi or other vehicle that is used to transport members of the public for a fee.

“School Property” means property that is owned or leased by, or operated under the authority of, a board established under the School Act or the Independent School Act, and used for the purposes of delivering educational programs or other learning programs, and includes real property and improvements.

“Smoke” or **“Smoking”** means to inhale, exhale, burn or carry a lighted cigarette, electronic cigarette, cigar, pipe, hookah pipe or other lighted or heated smoking equipment that burns tobacco, Cannabis or any other weed or substance but does not include the carrying of lighted incense or other lighted smoking equipment used solely for ceremonial or religious purposes.

3. Smoking Regulation

3.1 No Person may Smoke:

- a) In a Public Premise or a Public Vehicle,
- b) In, on, or within the Prescribed Distance of a:

- i. Community Facility,
 - ii. Outdoor Public Space,
 - iii. Park,
 - iv. Picnic area,
 - v. School Property,
 - vi. playground or playing field,
 - vii. skateboard or bike park,
 - viii. public tennis court or swimming pool lot,
 - ix. community garden,
- c) within the Core Commercial (CC) zoned area of Market Avenue between Riverside Drive and 5th Street (excluding alleys and private parking lots),
 - d) on public sidewalks,
 - e) on a City street when used as part of an Outdoor Public Event,
 - f) inside or within the Prescribed Distance of any public building or space in which the City owns or holds an interest,
 - g) inside a motor vehicle or equipment owned, leased, or used by the City.

3.2 This Bylaw does not apply to:

- a) a designated smoking area established for the purpose of an Outdoor Public Event with the area being determined by and with the agreement of both the City and the event organizer,
- b) Aboriginal cultural activity,
- c) carrying of lighted incense or other lighted smoking equipment used solely for ceremonial or religious purposes.

4. Offences and Penalties

4.1 A violation of a provision of this Bylaw will result in liability for penalties and late payment amounts established in the City's Municipal Ticketing Information Bylaw.

4.2 A Person who contravenes, violates, or fails to comply with any provision of this Bylaw is deemed to have committed an offence under this Bylaw, and is liable on summary conviction to a fine not exceeding \$2,000 for each offence.

4.3 Each violation of this Bylaw constitutes a separate offence.

4.4 If a Bylaw Enforcement Officer has determined that a Person has violated a provision of this Bylaw, that Person must, when requested by the Bylaw Enforcement Officer, provide their name and address to the Officer.

4.5 Bylaw Enforcement Officers are designated to enforce this Bylaw by means of the Bylaw Notice under the Community Charter.

- 4.6 No Person shall interfere with, delay, obstruct, or impede the Bylaw Enforcement Officer, designate, or other person lawfully authorized to enforce this Bylaw in the performance of duties.
- 4.7 The Bylaw Enforcement Officer has the right to enter at all reasonable hours any land or building to which this Bylaw applies in order to ascertain whether the provisions of this Bylaw are being complied with.

5. General

- 5.1 Any enactment referred to herein is a reference to an enactment of British Columbia and regulations thereto, as amended, revised, consolidated or replaced from time to time.
- 5.2 If any part, section, sentence, clause, phrase or word of this Bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder which shall continue in full force and effect and be construed as if the Bylaw had been adopted without the invalid portion.

Read a first, second, and third time on the ___ day of ___, 2018.

Adopted this ___ day of ___, 2018.

Mayor

Corporate Officer