

ITEM 2
MANAGER'S REPORT NO. 23
COUNCIL MEETING 85/03/25

RE: LETTER FROM MRS. B. G. WILSON WHICH APPEARED ON THE AGENDA FOR THE
1985 MARCH 11 MEETING OF COUNCIL (Item 5 d)
BYLAW #8047 - PART III - SMOKING

MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendation of the Director Administrative & Community Services be adopted.

* * * * *

1985 March 19

TO: MUNICIPAL MANAGER
FROM: DIRECTOR ADMINISTRATIVE AND COMMUNITY SERVICES
RE: SMOKING BYLAWS

RECOMMENDATION:

THAT a copy of this report be sent to Mrs. B.G. Wilson
2204 Hamilton Street, New Westminster, BC V3M 2R1.

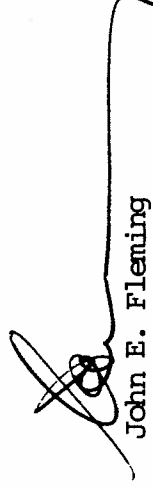
R E P O R T

Attached is a report from the Fire Chief to the Director Administrative and Community Services with regard to a complaint received from Mrs. Betty G. Willson at the Council meeting 1985 March 11. This item of correspondence had been referred to the Fire Chief for a report.

I have reviewed the report from the Fire Chief, and concur with many of his comments. In addition, I have discussed the matter with the Medical Health Officer, who is aware of efforts in a number of municipal jurisdictions to cope with the problem of smoking in public places, and the reaction of ever increasing numbers of people to such smoking. It is important to realize that, even with such mounting public pressure, the control of smoking is a controversial measure, and a difficult one to enforce. Nevertheless it is clear that tobacco smoke is a hazardous substance, and that the issue requires attention.

It is our intention over the next several months to monitor the experience of neighbouring jurisdictions who have new and improved smoking control bylaws in place, and to consider further whether such bylaws would be appropriate for Burnaby.

At the conclusion of that review, a further report will be forwarded to Council for consideration.


John E. Fleming
DIRECTOR

JEF:gmc
Attach.

cc: Fire Chief
Medical Health Officer
Municipal Solicitor

ITEM 2
MANAGER'S REPORT NO. 23
COUNCIL MEETING 85/03/25

104

TO: DIRECTOR ADMINISTRATIVE &
COMMUNITY SERVICES

FIRE DEPARTMENT
1985 MARCH 19

FROM: FIRE CHIEF

SUBJECT: COMPLAINT - B.G. WILSON
BYLAW #8047 - PART III - SMOKING
CORRESPONDENCE AND PETITIONS - COUNCIL MEETING 1985 MARCH 11

RECOMMENDATION:

THAT this report be received for information purposes.

BACKGROUND

On 1976 October 25 Council adopted Bylaw #6904 Amendment Bylaw #3, 1976 which in intent made it an offence to smoke tobacco in any form in retail outlets except those areas used as a restaurant, lunch counter, hair dressing parlor, barber shop, restroom or staff offices. In addition retail stores were required to post a described sign in a prominent location so as to be clearly visible by persons entering the store.

In 1983 April 11 this Bylaw, with some minor changes, was incorporated into Burnaby Fire Services Bylaw 1983, Bylaw #8047 (Part III, Attachment "A").

"A Bylaw respecting the prevention and suppression of fire and preservation of life and property".

In previous reports that Council received on this matter in 1976 and 1977, staff advised that "Enforcement of a by-law prohibiting smoking in stores would in all likelihood be very difficult, if not impossible, because there is not enough regulatory manpower available to police such activity, and owners of stores may be extremely reluctant to risk offending their customers...", and also, "Enforcement of this particular by-law, unlike others, will depend almost solely on those who are affected by it." It was with this understanding that the Municipal No-Smoking By-law was adopted. It is interesting to note that the comments on enforcement that were made several years ago are as applicable now as they were then.

ITEM 2
MANAGER'S REPORT NO. 23
COUNCIL MEETING 85/03/25

At the time of adoption it was agreed that monies for the provision of "No Smoking" signs would not be funded out of the Fire Department Operating Budget and the Chamber of Commerce agreed to assume these costs.

Our interpretation of the intent of the Bylaw was to place the onus for policing on the owners, operators, managers, etc. of affected businesses and establishments, with this Department issuing such orders as deemed necessary to ensure compliance. Since adoption, orders issued were only concerned with signing of a premises and not one individual has been cited for a smoking violation.

Departmental policy on receiving a complaint is:

1. Note name and address of premises.
2. Apprise complainant of content of Bylaw.
3. Request he direct his complaint to owner, operator, or manager and point out penalty for conviction.
4. Follow up with visit from Fire Prevention Inspector to ensure premises are properly signed and let owner, operator, or manager know we are aware that there have been complaints, and issue an order if necessary.

It must be accepted that complaints received by this Department are generally received after the fact, with the offending smoker gone from the scene, with a reluctance on the part of store owner, operator or manager to identify an offending customer. Time spent on follow up of complaints of this nature by this Department, in our opinion, is a total loss.

REPORT

Regarding complaint from B.G. Wilson with respect to smoking in Safeway store, Edmonds and Kingsway and dealt with by Council at regular meeting 1985 March 11.

On receipt of complaint by this Department, a Fire Inspector visited the store on 1985 March 11 and noted that the required signs were in fact posted in prominent locations and was advised by the manager that every effort is taken by staff to ensure the regulation is enforced. No other action can be taken by this Department.

The following municipalities and/or cities have some type of "No Smoking" regulations, and for your information a copy of the Maple Ridge Bylaw is attached. Attachment "B".

1. West Vancouver - Part of Building Department Bylaw - signs are sold through Municipal Clerk's office.
2. Maple Ridge - Enforced by Bylaw Enforcement Officer - Building Department staff.
3. Vancouver - Applied to premises with 25 or more employees. Fire Department - 10 years in effect and not a single charge laid.
4. Capital City Regional District

Discussions with other municipal and city staff revealed that there has never been a single charge laid under these Bylaws.

SUMMARY

Given the need for such a Bylaw as deterrent against smoking in certain establishments, the law becomes ineffectual unless an officer of the municipality has the power to police and cite offenders. Such authority has to be clearly spelled out and, as in a traffic violation, a citation issued at

ITEM 2
MANAGER'S REPORT NO. 23
COUNCIL MEETING 85/03/25

the time of offense, otherwise it is impossible to enforce such a Bylaw, and this Department has no such authority. The content and intent of the Bylaw leans more to the health problem aspect as opposed to the danger of fire, as B.G. Wilson's complaint points out, and involvement by this Department, under these circumstances, impinges on other jurisdictions whose main concern is citizen and environmental health.

I have discussed this matter with Municipal Health and Legal staff. The Health Department proposes monitoring actions of other municipalities regarding their No Smoking Bylaw for a six month period, and the Legal Department feels a review of the Bylaw and its placement in the Fire Services Bylaw needs to be undertaken.


Chief H.O. Brown
FIRE CHIEF

HOB:mc
Attachments (2)

cc: Chief Public Health Inspector
Municipal Solicitor

THE CORPORATION OF THE DISTRICT OF BURNABY

BYLAW NO. 8047

A BYLAW respecting the prevention and suppression of fire and the preservation of life and property

PART III SMOKING

11. No person shall smoke or have in his possession a lighted pipe, cigarette, cigar or similar object
 - (a) in an elevator, or
 - (b) in retail store except in a part thereof used as a restaurant, lunch counter, hairdressing parlour, barber shop, restroom, staff offices or rest area.

12. (1) Every owner or occupier of a retail store shall display signs that prohibit smoking, satisfactory in number and location to the Director or his delegate.
(2) The owner or occupier of every building in which there is a passenger elevator shall cause a sign that prohibits smoking to be affixed therein in a position clearly visible to all persons entering the elevator.
(3) Signs that prohibit smoking shall have lettering at least 50 mm high with a 12 mm stroke or, in lieu of lettering, symbols at least 150 mm by 150 mm. The signs may carry a reference to this bylaw in smaller letters.
(4) Every person who contravenes or fails to comply with any provision of this section is guilty of an offence punishable on conviction by a fine of not less than twenty-five dollars and not more than five hundred dollars.

ITEM 2
MANAGER'S REPORT NO. 23
COUNCIL MEETING 85/03/25

ATTACHMENT "B"

CORPORATION OF THE DISTRICT OF MAPLE RIDGE

CLEAN INDOOR AIR AND SMOKING REGULATION BY-LAW NO. 3426 - 1984

A By-law Respecting Smoking

WHEREAS it has been determined that second-hand tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars and pipes) is a health hazard and discomfort for many inhabitants of the District of Maple Ridge; and

WHEREAS it is desirable for the health, safety and welfare of the inhabitants of the District of Maple Ridge to prohibit or regulate smoking, or both, in the District of Maple Ridge as in this By-law more particularly set out;

NOW THEREFORE the Council of the Corporation of the District of Maple Ridge in open meeting assembled, enacts as follows:-

1. In this By-law -

"bus" means any vehicle for the transportation of people operated by or for the District of Maple Ridge or School District No. 42 whilst operating within the boundaries of Maple Ridge.

"District" means the Corporation of the District of Maple Ridge;

"place of public assembly" means a building or portion thereof used for the gathering together of persons for such purposes as deliberation, worship, entertainment, recreation, business or amusement, but does not include a place where a private social function is being held, a common mall in a retail shopping complex, bowling alley or billiard hall;

"private social function" means a special social event for which an entire room or hall has been reserved, at which attendance is limited to people who have been specifically invited or designated by the sponsor, and at which the seating arrangements are under the control of the sponsor of the event and not of the proprietor of the room or hall, but does not include events which are held primarily for the purposes of business, sales or education;

"proprietor" means the person who ultimately controls, governs or directs the activity carried on within the kinds of premises or facility referred to in this By-law and includes the person actually in charge thereof;

"reception area" means the public space used by an office or establishment for the receiving or greeting of customers, clients or other persons dealing with such office or establishment;

"resident or patient care area" means any and all areas of a medical care facility or hospital frequented by residents or patients, but does not include a room occupied by a resident or patient for his exclusive use;

"restaurant" means every place where meals are made available to the public to be consumed on the premises and includes dining lounges, lounges, cafeterias, lunch counters and canteens, and night clubs;

"retail premises" means a place where goods, wares, merchandise or other commodities in small quantities are sold and delivered;

"service counter" includes a table surface, railing, or other like physical structure or an area of floor space provided by a proprietor for the purpose of meeting or interviewing members of the public;

"service line" means an indoor line of two or more persons awaiting service of any kind, regardless of whether or not such service involves the exchange of money, including, but not limited to sales, provision of information, transactions or advice and transfers of money or goods;

2. BANKS, FINANCIAL INSTITUTIONS, MUNICIPAL OFFICES, SCHOOL BOARD OFFICES AND GOVERNMENT OFFICES:

No person shall smoke at any service counter nor in any service line in a bank, financial institution, municipal office, government office or other public office.

3. BUSES:

No person shall smoke in any Municipally owned or operated bus, nor in any bus owned or operated by or for School District No. 42.

4. ELEVATORS AND ESCALATORS:

No person shall smoke in any elevator or on any escalator in any building or part thereof.

5. HOSPITALS AND OTHER MEDICAL CARE FACILITIES:

No person shall smoke in any resident or patient care area in a medical care facility or hospital, nor in any area of a medical care facility or hospital to which members of the public have access.

Notwithstanding the above, the Hospital Board may designate not more than 50% of any public area in a Hospital as a "smoking area". Such an area must be clearly signed and designated as such. Similarly, any non-smoking area must be clearly signed and designated.

6. PREMISES IN WHICH FOODSTUFFS ARE SOLD, EITHER BY RETAIL OR WHOLESAL:

No person shall smoke in any premises where foodstuffs are offered for sale, either by retail or wholesale or where foods "open to the air" are stored.

Notwithstanding the above, any area of the premises not accessible to the public and where no "open to the air" food is stored shall be exempt from the non-smoking regulations.



D. G. Stephenson
LICENSE INSPECTOR
BY LAW ENFORCEMENT OFFICER

TELEPHONE: 463-5221
11895 HANEY PLACE
MAPLE RIDGE, B.C.
V2X 6G2

By-law No. 3426 - 1984
Page (2)

7. RESTAURANTS:

Every proprietor of a restaurant, at his option, shall post at each public entrance to the restaurant, a sign at eye level, visible from the outside of the restaurant, composed of letters at least two inches (2") in height, stating one of the following:-

- i) No Smoking Area Provided
By-law No. 3426 - 1984 (1/2" in height);
- ii) No Smoking Permitted
By-law No. 3426 - 1984 (1/2" in height);
- iii) No Smoking Area Not Provided
By-law No. 3426 - 1984 (1/2" in height).

8. SERVICE LINE:

No person shall smoke in any service line in or on any retail premises.

Notwithstanding the above, any area of the premises not accessible to the public shall be exempt from the non-smoking regulations.

9. SIGNING OF NON-SMOKING AREAS:

Wherever under the provisions of this by-law, smoking is prohibited in any premises or facility, the proprietor thereof shall ensure that a sign or signs shall be conspicuously posted to describe or clearly delineate that part of the premises or facility where smoking is prohibited, and be clearly visible to all persons therein.

10. THEATRES AND OTHER PLACES OF PUBLIC ASSEMBLY:

No person shall smoke in an enclosed indoor area being used as a place of public assembly.

Notwithstanding the above, the proprietor of such premises may designate an area of not more than fifty percent (50%) of the floor area available to the public as a smoking area, such area to be signed "Smoking in This Area Only". Smoking shall be permitted only in such area.

11. SIGN - "NO SMOKING AREA":

NOTWITHSTANDING any of the provisions of this By-law, the graphic symbol set out below may be used to designate a "No Smoking Area", this shall be on a white background with the interdictory stroke in red, with circle, cigarette, letters and figures in black:



By-Law No. 3426 - 1984

12. ENFORCEMENT:

The By-law Enforcement Officer, or his accredited representative, shall have the right of entry and may enter onto any land or into any building at all reasonable hours in order to inspect the same and ascertain whether the provisions of this By-law are being or have been carried out. Any person interfering with or obstructing the entry of any such official or employee of the District onto any such land or into any such building to which said entry is made or attempted, pursuant to the provisions of this section of the By-law, shall be deemed to be guilty of infraction of this By-law and liable to a penalty of not more than \$500.00.

13. PENALTY:

Any person who smokes in contravention of this By-law is guilty of an offence and liable to penalty of not more than \$500.00.

Any proprietor or person who fails or neglects to perform any duty imposed upon him by this By-law shall be guilty of an offence and liable to a penalty of not more than \$500.00.

14. CITATION:

This By-law may be cited for all purposes as Maple Ridge Smoking Regulation By-law No. 3426 - 1984.

READ a first time the 23rd day of July, 1984 A.D.

READ a second time the 23rd day of July, 1984 A.D.

READ a third time the 7th day of August, 1984 A.D.

RECONSIDERED AND FINALLY ADOPTED the 20th day of August, 1984 A.D.

(Signed) D.J. Griffin, MAYOR

(Signed) J. McBride, DEPUTY CLERK

Certified a true and correct copy of Maple Ridge Smoking Regulation
By-law No. 3426 - 1984.

Date: August 21st, 1984

(Signed) J. McBride, DEPUTY CLERK

ITEM 2
MANAGER'S REPORT NO. 23
COUNCIL MEETING 85/03/25

110

CORPORATION OF THE DISTRICT OF MAPLE RIDGE
A CASH REGISTER IMPRESSION CONSTITUTES AN OFFICIAL RECEIPT
FOR PENALTY PAID.
A DISHONOURED CHEQUE INVALIDATES THIS RECEIPT. N^o 1502

DO NOT DETACH

**CORPORATION OF THE DISTRICT OF MAPLE RIDGE
NOTICE OF BY-LAW VIOLATION**

TO: _____
(Name)

(Address)

You are hereby notified that you are alleged to have committed a violation of a By-Law of the Corporation of the District of Maple Ridge.

ALLEGED OFFENCE		
BY-LAW	SECTION	DETAILS OF OFFENCE

Location of Offence: _____
Date and Time: _____
Signature: _____
(Issuing Officer)

THIS NOTICE may be settled by voluntary payment of \$ _____ in accordance with the schedule on the reverse side of this Notice, provided that payment is received within 10 calendar days of Notice. Payment may be made in person or mailed to:

Finance Department
Corporation of the District of Maple Ridge,
11995 Haney Place, Maple Ridge, B.C. V2X 6G2
Office Hours: 10:00 a.m. to 4:30 p.m. Monday to Friday, except Holidays.

THIS NOTICE MUST ACCOMPANY PAYMENT.

Failure to pay the indicated voluntary penalty by the _____ day of _____, 19____, will result in the laying of an information and the issuance of a Summons for your appearance in Provincial Court.

If you wish to appear in Provincial Court for a trial on the alleged offence, complete the following and return to the above address:

I hereby apply for transfer of this matter for trial N^o 1502

Signature: _____