

"SMOKING REGULATION BYLAW 1987 NO. 3200"

Consolidated Version

1995-MAR-21

Includes Amendments: 3233, 3821, 4892

CITY OF NANAIMO

BYLAW NO. 3200

A BYLAW TO REGULATE SMOKING

WHEREAS the Council may, by bylaw, pursuant to Section 692(1)(a) of the Municipal Act regulate persons, their premises and their activities, to further the care, protection, promotion and preservation of the health of the inhabitants of the municipality; and

WHEREAS a bylaw adopted pursuant to Section 692(1)(a) of the Municipal Act is not valid until approved by the Minister of Health;

THEREFORE, the Council in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. Title

This bylaw may be cited as "CITY OF NANAIMO SMOKING REGULATION BYLAW 1987 NO. 3200".

2. Interpretation

In this bylaw:

"bank" includes a credit union, trust company or other financial institution.

"government office" means an office of the Government of Canada, or the Government of the Province of British Columbia, a Regional District or the City of Nanaimo;

"person services establishment" means any place or premises in which a person provides a service to or on the body of another person in exchange for money or services, and includes but is not limited to a barber shop, beauty parlour, health spa, massage parlour, tattoo shop, sauna and steam bath;

"place of employment" means any indoor place of work other than:
(i) a private home which also serves as a place of work, or
(ii) any work place occupied solely by an independent contractor or only by the partners to a partnership, and includes any parts of a retail shop used exclusively by the employees of such premises, but does not include a reception area;

"place of public assembly" means a building or structure or portion thereof used for the gathering together of persons for the purpose of education, worship, entertainment, recreation, business or amusement but does not include a restaurant, a reception area or a place where only a private social function is being held;

"post"	includes the act of keeping continuously displayed, on a wall, or window, at a minimum height of 1.5 metres (5 feet) and a maximum height of 2.1 metres (7 feet) above floor level;
"private social function"	means a special social event for which an entire room or hall has been solely reserved, and at which attendance is limited to people who have been specifically invited or designated by the sponsor, but does not include events which are held privately for the purpose of business, sales or education;
"proprietor"	means the person who controls, governs or directs the activity carried on within the kinds of buildings, places or premises referred to in this bylaw and includes the person actually in charge thereof;
"reception area"	means the public space of an office or other establishment used for the receiving or greeting of customers, clients or other persons dealing with such office or establishment;
"restaurant"	means a restaurant as defined in the Regulations Governing the Sanitation and Operation of Food Premises;
"retail shop"	means any place or premises where goods are exposed or offered for sale by retail, but does not include a restaurant or a place where the only trade or business carried on is the custom blending of tobaccos or the sale of tobaccos, pipes, cigars or smokers' sundries;
"school building"	means a building provided or managed by public or independent persons or organization for the education of individuals up to the level of Grade 12;
"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, and including but not limited to sales, provision of information, transactions, or advice and transfer of money or goods but not including the service line at a private social function as defined herein;
"shopping mall"	means an enclosed area used in common by two or more retail shops for the purpose of providing access to customers, and to which area the retail stores are physically closed when not in operation;
"smoke or smoking"	means the inhaling, exhaling, burning or carrying of a lighted cigarette, cigar, pipe or other lighted smoking equipment, burning tobacco or any other weed or substance;
"smoking area"	means an area, designated by the proprietor, in which smoking is permitted.

3. Prohibition

No person shall smoke:

- (a) in an elevator, an escalator, an inside stairway or a washroom in any building generally open to an accessible by the public;
- (b) in any taxicab while operating within the City of Nanaimo, except with the consent of all passengers and the driver;
- (c) on any school bus, public bus or other form of public transportation;
- (d) in or in the proximity to any service line area in any building generally open to and accessible to the general public whether occupied or not;
- (e) at any service counter in a bank or government office;
- (f) in any public access areas of grocery stores, supermarkets and produce stores or shopping malls.

4. Exception to Permit Smoking in Designated Area

Where an exception is provided by this bylaw to permit smoking in a smoking area, an owner, proprietor or person in charge of any buildings, structure, space, place or area specified in Sections 5 to 18 inclusive, may designate all or a portion of the premises, and an owner, proprietor or person in charge of a restaurant may designate a portion of the premises as a smoking area where smoking is permitted, provided that the area so designated:

- (1) does not exceed the applicable limitations in size imposed by any other section of this bylaw;
- (2) shall be designed, constructed or arranged to ensure that the toxic effect of smoke or the chemicals or gases resulting from smoking is minimized in adjacent non-smoking areas through the use of physical barriers, ventilation systems, or special arrangements;
- (3) shall not include any part of the premises to which non-smokers may need access;
- (4) is fully identifiable by means of signs as provided for in Section 14; and
- (5) shall not include any area in which smoking is prohibited by the Fire Commissioner or a Fire Warden or pursuant to any other bylaw, statute or regulation.

5. Retail Shops

No Person shall smoke in a retail shop except in a smoking area.

6. Personal Services Establishment

No person shall smoke in any personal service establishment except in a smoking area.

7. Restaurants

No person shall smoke in a restaurant except in a smoking area, which area shall not occupy more than 75 percent of the seating area.

8. Reception Areas

No person shall smoke in any reception area except in a smoking area which shall occupy not less than 13 square metres (140 square feet) nor more than 50 percent of the floor area of the reception area.

9. Health Care Facilities

No person shall smoke in any hospital or health clinic, medical or dental office, public health unit, or similar care facility place except in a smoking area.

10. Public Assembly Area

No person shall smoke in any building, structure, place or area being used as a place of public assembly, except that a person may smoke:

- (1) where permitted by the proprietor, in a pool hall, bowling alley, dance hall, cocktail lounge, tavern, cabaret, private club, public house and bar; and
- (2) in a smoking area of any other place of public assembly, which smoking area shall not exceed 50 percent of the floor area of the building, structure, place or area that is generally open to the public, and provided further that the area designated as a smoking area shall not include those parts of a building used as a classroom, concert hall, auditorium, gymnasium, swimming pool, theatre or motion picture house, music hall, display area in museum or art gallery, or parts of the school building frequented by pupils, which areas shall not be used in the calculation of the total floor area for the purpose of this section.

11. Places of Employment

No person shall smoke in any place of employment except in a smoking area designated in accordance with Sections 4 and 14 of this bylaw.

12. Municipal Buildings

No person shall smoke in any municipal buildings except in a smoking area, which shall be restricted to a staff lounge or lounges.

13. Signs

- (1) The owner, proprietor or person in charge of all premises shall post:
 - (a) within the building and in proximity to the front entrance a sign stating either:
 - (i) "NO SMOKING PERMITTED ON THESE PREMISES",
 - (ii) "SMOKING PERMITTED IN ALL AREAS OF THESE PREMISES",
 - or
 - (iii) "SMOKING PERMITTED IN DESIGNATED AREAS ONLY",as applicable.
 - (b) within any area designated as a smoking area one or more signs placed in a conspicuous position and clearly visible from all parts of the area and bearing the text "SMOKING PERMITTED IN THIS AREA ONLY".
 - (c) within any area where smoking is not permitted one or more signs placed in a conspicuous position and clearly visible in all parts of the area and bearing the text "NO SMOKING PERMITTED IN THIS AREA".
- (2) All signs required to be posted pursuant to this section shall conform to the following specifications:
 - (a) All signs shall include the text "City of Nanaimo Bylaw - Maximum Fine \$2,000." in letters not less than one-quarter of the height of all other letters on the sign and shall display the international symbol to designate "No Smoking". Such graphic symbol shall occupy not less than 25 percent of the size of the sign.
 - (b) Signs shall consist of at least two contrasting colours, or if the lettering is to be applied to a surface or mounted on a clear panel then the lettering shall contrast to the colour of the background.
 - (c) Signs required to be posted pursuant to Section 14(1) shall be of a minimum size of 30 cm. by 15 cm. (12 in. by 6 in.).
 - (d) The size of lettering shall be not less than the following heights based upon the following maximum viewing distances in direct line of sight:

Up to 3 m. (10 ft.)	- Letter height 2.5 cm. (1 in.)
Up to 6.1 m. (20 ft.)	- Letter height 5.1 cm. (2 in.)
Up to 12.2 m. (40 ft.)	- Letter height 7.6 cm. (3 in.)
Up to 24.4 m. (80 ft.)	- Letter height 10.2 cm. (4 in.)
Up to 48.8 m. (160 ft.)	- Letter height 15.5 cm. (6 in.)
Up to 73.1 m. (240 ft.)	- Letter height 20.3 cm. (8 in.)

- (e) Lettering may be in either upper or lower case or combination thereof, but "letter height" when used in this section means the actual height of a letter whether or not it is in upper or lower case.
- (f) No person shall remove, alter, conceal, deface or destroy any sign posted pursuant to this bylaw.

14. This bylaw does not apply to a private social function.

15. Penalties

Any person who violates any provision of this bylaw is guilty of an offence and is liable on summary conviction to a minimum fine of \$50.00 and a maximum fine of \$2,000; or, if an information is laid by means of a ticket, in accordance with the procedure set out in the *Offence Act*, a fine as stipulated in Schedule 'A' of this Bylaw.

16. This bylaw shall come into force and take effect on 1987-JUL-06, except that Section 12 shall come into force and take effect on 1987-NOV-02.

(Bylaw No. 4892)

SCHEDULE 'A'

FINE SCHEDULE

Fines for tickets issued pursuant to this Bylaw, shall be as follows:

<u>Description of Offence</u>	<u>Section #</u>	<u>Amount of Fine</u>
Smoking in prohibited areas	3	\$100.00
Smoking in other than designated areas of:		
- Retail shop	6	\$100.00
- Personal Service Establishment	7	\$100.00
- Restaurants	8	\$100.00
- Reception Area	9	\$100.00
- Health Care Facility	10	\$100.00
- Public Assembly Area	11	\$100.00
- Place of Employment	12	\$100.00
- Municipal Building	13	\$100.00
Fail to post signs	14	\$100.00