

Date: June 22, 2010



TO: Board Members – Vancouver Park Board
FROM: General Manager – Parks and Recreation
SUBJECT: Park Board Smoking Regulation and Ticket Offences Bylaws

RECOMMENDATION

- A. THAT the Board approve the proposed Park Board Smoking Regulation Bylaw as provided in Appendix A;*
- B. THAT the Board approve the proposed Park Board Ticket Offences Bylaw as provided in Appendix B, in order to permit enforcement of Parks bylaws by way of a Municipal Ticket Information system;*
- C. THAT the General Manager instruct the Director of Legal Services to bring forward for enactment the proposed bylaws, generally in accordance with Appendices A and B.*

POLICY

The creation of new bylaws regulating the use of park land and park facilities requires approval of the Park Board and enactment of the bylaws by the Board.

BACKGROUND

The Vancouver Charter gives the Park Board exclusive jurisdiction, possession, and control of parks. This authority includes the ability to pass bylaws for the control, regulation, protection and government of the parks, and of places within the jurisdiction of the Board. Smoking regulations in Vancouver generally fall within the jurisdiction of the Health Bylaw.

At the April 19, 2010 Park Board meeting staff were directed to work with Legal Services to seek amendments to the Health Bylaw and Parks Bylaws in order to regulate smoking in parks. The first action was completed on June 10, 2010 when City Council approved the recommendation to amend the Health Bylaw to delegate the authority to regulate smoking in parks to the Park Board, effective September 1, 2010. The recommendations in this report represent the final step from the approved motion.

DISCUSSION

Smoking Regulation Bylaw

Over the past several months, staff have conducted research on smoking regulations for outdoor public spaces in other jurisdictions within Canada and abroad. The bylaw outlined in Appendix A has been based on these findings. The regulation essentially prohibits smoking in any park, including facilities within parks. A current list of all properties where this bylaw applies is also listed (Appendix A, Schedule A) for further clarity.

Municipal Ticket Information (MTI's)

This ticketing system is used in many other local municipalities such as Surrey, Richmond and Coquitlam. It is also used in Vancouver for enforcing certain bylaws.

Most bylaw offences in Vancouver, including offences pursuant to the Parks Control Bylaw, are prosecuted by way of a long form information. This means that after an investigation, a Park Board employee would send a report to the City Prosecutor requesting approval of a charge. If that charge is approved, a document called an information would be typed up and sworn. That information must be personally served on the offender in order to compel the offender to attend court.

The MTI method streamlines the enforcement process and increases efficiencies for some offences. This is because the MTI is personally served on the offender at the time of the offence. The MTI is the charging document and the offender must take steps to dispute that charge or he will be deemed to have pled guilty.

In order to prosecute using MTIs, a bylaw must be enacted by the Board designating the particular offences for which staff can issue MTIs. To prosecute offences under the Parks Bylaws using MTIs, the Park Board must pass a bylaw that explicitly designates the bylaw offences which may be enforced using MTIs, those staff authorized to issue MTIs and the amount of the fine for each designated offence.

A proposed form of bylaw is attached to this report as Appendix B. Should the Board approve the recommendations in this report, it may then choose to enact the bylaw at the same meeting after approval of the recommendations.

If an offender disputes the MTI, a trial will take place and the City Prosecutor, Park Ranger or other city staff who observed the offence must testify in court. If an MTI is not disputed or is paid, the offender is deemed to have pled guilty and the fine is immediately payable to the City. The municipality must then collect the fine.

City staff currently use a software program that has been modified to accommodate the MTI process and will be used to track the issuance of MTIs.

Delegation of Authority:

During the period of the 2010 Winter Games, Park Ranger staff were part of a larger City team with other inspectors, which temporarily coordinated the enforcement activities for City and Park Board bylaws during the winter of 2010. This effort was by all accounts successful in demonstrating the effectiveness of a collaborative approach. The City is currently evaluating ways of improving the bylaw administration and enforcement process. Park Board will be engaged with this process to take advantage of efficiencies and new opportunities which may assist with the enforcement of Parks bylaws. At this time staff are recommending that Park Rangers and Police Officers be included on the list of authorized personnel for bylaw enforcement in parks (as shown in the table in Appendix B).

RECOMMENDATION

Staff recommend that the Board approve the proposed bylaws as provided in Appendices A and B, in order to carry out the Board's intention to regulate smoking in all parks and beaches, effective September 1, 2010.

Prepared by:
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