

## BYLAW 2016-1975

### A BYLAW OF THE CITY OF ESTEVAN TO PROVIDE FOR THE CONTROLLING, REGULATING AND GOVERNING OF SMOKING WITHIN CITY FACILITIES IN THE CITY OF ESTEVAN.

**WHEREAS** second-hand smoke is the smoke from lighted tobacco, and there is no known safe level of exposure to second-hand smoke;

**AND WHEREAS**, under the provisions of Section 8(1)(b) of *The Cities Act*, S.S. 2002, c.C-11.1, bylaws may be passed by a city in relation to the safety, health and welfare of people and the protection of people and property;

**AND WHEREAS**, under the provisions of Section 8(1)(c) of *The Cities Act*, bylaws may be passed by a city in relation to people, activities and things in, on or near a public place or place that is open to the public;

**AND WHEREAS** City Council wishes to prohibit tobacco smoking and limit the impact of tobacco smoke on persons using the City's buildings and structures, particularly for the benefit of young persons, for the health of the public generally, to protect and enhance the quality and use of City property, and to improve the environmental and social conditions on City properties, buildings and structures through a bylaw which prohibits the smoking of tobacco;

**NOW, THEREFORE**, the Council of the City of Estevan enacts as follows:

#### **DEFINITIONS**

1. In this Bylaw the following terms have prescribed meanings unless the context otherwise requires;

(a) **“City”** means The City of Estevan;

(b) **“Tobacco”** includes pipe tobacco, chewing tobacco, water-pipe tobacco, cigarettes, cigars, cigarillo's or any similar product made with or containing tobacco;

(c) **“Electronic Cigarette”** means a handheld device containing a liquid that is vapourized and inhaled, and includes but is not limited to electronic cigarettes, e-cigarettes, vapourizer cigarettes, personal vapourizers and electronic nicotine delivery systems;

(d) **“Vape or Vaping”** means the utilization of an electronic cigarette or any other heated smoking equipment used to vaporize any tobacco or non-tobacco substance whether or not it contains nicotine;

(e) **“Public Place”** means all or any part of a building or other enclosed place that is open to the public or to which the public is customarily admitted or invited and includes all municipal buildings within and outside the City of Estevan, or owned by the City of Estevan;

(f) **“Manager”** means any authorized Manager employed by the City for the purposes of this Bylaw;

(g) **“Officer”** means a municipal law enforcement officer appointed by the municipality.

## **INTERPERTATION**

2. This Bylaw is intended to supplement, not replace, the legislative scheme established under Part III of *The Tobacco Control Act*.

## **PROHIBITION**

3. No person shall:

(a) Smoke, hold a lit tobacco, chew tobacco, or vape in a Public Place, including five (5) meters away from all entry/exits;

(b) Fail to leave a Public Place after Authorized Staff has given the person notice or direction to leave for smoking tobacco in a Public Place;

(c) Enter or use a Public Place after Authorized Staff have prohibited the person’s entry or use for smoking tobacco in a Public Place

(d) Smoke, hold a lit tobacco, chew tobacco or vape within five (5) meters of an outdoor pool, skating rink, playground, skate park, tennis courts or sports field.

4. The prohibitions in section 3 above apply in all Public Places; those Public Places are responsible for positing “No Smoking” signage.

5. The City may post “No Smoking” signs in a conspicuous location in areas where smoking is prohibited.

6. No person shall remove, cover up or alter any sign which has been posted pursuant to section 5.

## **ADMINISTRATION AND ENFORCEMENT**

7. City employees or contractors that carry out any action under this Bylaw are deemed to be Authorized Staff for the purposes of this Bylaw, in the absence of evidence to the contrary.

8. A Manager may issue, extend or vary a prohibition of entry or use by a person in a Public Place under this Bylaw, including without limiting the generality of the foregoing, making such prohibition applicable to other Public Places or making a prohibition for any term including for longer than one year, in their absolute discretion.

9. Where any person contravenes any provision of this Bylaw, an Officer may direct such person to comply with this Bylaw. Every person so directed shall comply with such direction without delay.

10. Where an Officer has reasonable grounds to believe that an offence has been committed by a person, the Officer may require the name, address and proof of identity of that person, and the person shall supply the required information.

## **OFFENCES AND PENALTIES**

### 11. Offences and Penalties

(a) Every person who contravenes Section 3(a) of this Bylaw is guilty of an offence and liable on summary conviction to a fine of not more than:

- (i) In the case of a first offence, \$3,000; and
- (ii) In the case of a second or subsequent offence, \$5,000.

(b) Every person who contravenes Section 3 (a) or (b) of this Bylaw is guilty of an offence and liable on summary conviction to a fine of not more than \$3,000.

In default of payment of a fine imposed pursuant to Section 3 (a) (b) or (c), the individual convicted may be imprisoned for a term of not more than 90 days.

(c) Notwithstanding Subsection (1), in the case of a contravention of this bylaw, an officer shall issue a notice of violation to the person contravening the bylaw indicating the section of the bylaw that was contravened and the amount of the penalty to be paid as provided in Schedule "A" of this bylaw.

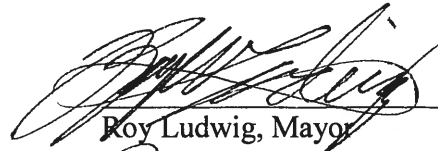
Schedule "A" – Smoking Control Penalties

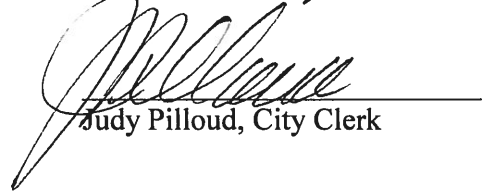
Section	Section Description	Fine Amount	Fine Amount if paid within 14 days
3 (a)	Smoking, holding a lighted tobacco or vape in public place	\$250.00	\$150.00
3 (b)	Fail to leave public place after asked to do so	\$100.00	\$50.00
3 (c)	Enter public place after prohibited entry	\$100.00	\$50.00
6	Remove, cover up or alter any sign	\$100.00	\$50.00
3 (d)	Smoke, hold a lighted tobacco or vape within 5 meters of recreational area	\$250.00	\$150.00

**Effective Date of Bylaw**

1. This bylaw shall come into force and take effect as of January 1<sup>st</sup>, 2017

CITY OF ESTEYAN

  
 Roy Ludwig, Mayor

  
 Judy Pilloud, City Clerk

Introduced and read a first time this 5<sup>th</sup> day of December, 2016.

Read a second time this 19<sup>th</sup> day of December, 2016.

Read a third time and adopted this 19<sup>th</sup> day of December, 2016.