

A bylaw to provide smoke-free public spaces in the District of Hope

WHEREAS the District of Hope Council has been advised that secondhand smoke is a health hazard and a discomfort for many residents of the District;

AND WHEREAS, it is desirable for the health and safety and welfare of the residents of the District of Hope to prohibit or regulate smoking in the District to the extent provided herein;

NOW THEREFORE the Council of the District of Hope, in open meeting assembled, enacts as follows:

CITATION

1. This bylaw may be cited as the ***District of Hope Smoking Control Bylaw No. 1406, 2018.***

DEFINITIONS

2. In this bylaw

“fully or substantially enclosed” means places or vehicles that have a roof or other type of covering, and where more than 50% of the “nominal wall space” prevents the air from flowing easily through it.

“lease” means to lease as either a lessor or lessee;

“nominal wall space” is equal length, in metres, of the perimeter of the space times 2.7 metres.

“school property” means property that is

- (a) owned, or leased by, or operated under the authority of the *School Act*,
and
- (b) used for the purposes of delivering educational or other learning programs;
and
- (c) includes real property and improvements, and personal property.

“tobacco” means tobacco leaves or products produced from tobacco in any form or for any use.

“smoke or smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. “Smoking” also includes the use of an Electronic Smoking Device, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this bylaw, but does not include the strictly ceremonial use of tobacco in connection with a traditional Aboriginal cultural activity;

PROHIBITION

3. Subject to subsection (4), a person must not smoke tobacco, or hold lighted tobacco,
 - (a) in any public building, structure, vehicle or any other place that is fully or substantially enclosed;
 - (b) within a 6 metre distance from a doorway, window or air intake of a place described in paragraph (a); and
 - (c) in specific locations of any municipal park, as follows:
 - (i) playground – including a 10 metre buffer zone surrounding the playground;
 - (ii) beach – including a 10 metre buffer zone surrounding the beach;
 - (iii) playing fields – including a 10 metre buffer zone surrounding the playing fields; or
 - (iv) in, on or under an outdoor recreational structure, including but not limited to seating area, grandstand or bleacher.
 - (d) at a Cemetery that the municipality is licensed to maintain.
 - (e) in a transit bus shelter, including a 6 metre buffer zone surrounding the bus shelter; and
 - (f) during an Outdoor Special Event permitted by the District of Hope unless a designated smoking area has been established by the event coordinator and approved by the District of Hope.
4. Subsection (3) does not apply to the ceremonial use of tobacco
 - (a) in relation to a traditional aboriginal cultural activity, or
 - (b) by a prescribed group for a prescribed purpose.
5. No lighted tobacco or other products may be thrown on the ground or out of vehicle windows.

SIGNS

6. Those places referred to in section 3 (a) and (c) must display, at all times, one or more signs prohibiting smoking.

7. The sign referred to in section 6 shall:
 - (a) be clearly visible, and conspicuously posted, and of sufficient size so as to clearly identify that smoking is prohibited;
 - (b) include the international symbol to designate “no smoking” together with the words “*District of Hope Smoking Control Bylaw*”;
 - (c) consist of letters and graphic symbol of colour(s), which contrast with the background colour of the sign or the surface to which it is applied; and
 - (d) shall be a minimum of three and one half (3.5”) inches by four and one half (4.5”) inches (9 cm x 11 cm).

ENFORCEMENT

8. The Bylaw Enforcement Officer or RCMP, may give notice to any person ordering or directing that person to:
 - (a) discontinue or refrain from proceeding with any work or using or occupying any land or building or doing anything that contravenes this bylaw; or
 - (b) carry out any work or do anything to bring any land or building into conformity with this bylaw;within the time specified in such notice.
9. The Bylaw Enforcement Officer or RCMP may serve a notice under this bylaw:
 - (a) by mailing it by registered post to an owner who is the addressee of the notice at the address of the owner shown on the real-property assessment roll prepared pursuant to the *Assessment Act*;
 - (b) by handing it to the person who is the addressee of the notice; or
 - (c) if the notice refers to real property, by posting it on the real property.

OFFENCE AND PENALTIES

10. Notwithstanding the offence and penalties as provided under the *Community Charter* or *Local Government Act*, the following will apply:
 - (a) a violation of any of the provisions identified in this bylaw will result in liability for penalties and late payment amounts established in the *District’s Bylaw Notice Enforcement Bylaw, 2005*, and *Municipal Ticket Information Bylaw, 2005*;

- (b) a violation of any of the provisions identified in this bylaw will be subject to the procedures, restrictions, limits, obligations and rights established in the *Bylaw Notice Enforcement Bylaw, 2005*, in accordance with the *Local Government Bylaw Notice Enforcement Act, SBC 2003, c. 60*;
- (c) a person who:
 - (i) contravenes, violates or fails to comply with any provision of this bylaw;
 - (ii) suffers or allows any act or thing to be done in contravention or violation of this bylaw; or
 - (iii) fails or neglects to do anything required to be done under this bylaw,

is deemed to have committed an infraction of, or an offence against, this bylaw; and is liable on summary conviction to a fine of not more than Ten Thousand Dollars (\$10,000.00); and

- (d) each day such infraction is caused, or allowed to continue, constitutes a separate offence.

SEVERABILITY

- 11. A decision by a court that any part of this bylaw is illegal, void, or unenforceable severs that part from this bylaw, and is not to affect the balance of this bylaw.

REPEAL

- 12. That *Tobacco Control Bylaw No. 1253, 2008* and all amendments thereto are hereby repealed.

Read for a first time this 22nd day of January, 2018.

Read for a second time this 22nd day of January, 2018.

Read for a third time this 22nd day of January, 2018.

Adopted this 13th day of February, 2018.

Original signed by Mayor Wilfried Vicktor
Mayor

Original signed by Donna Bellingham
Director of Corporate Services