

THE CORPORATION OF THE CITY OF NELSON

Clean Air and Smoking Regulation Bylaw No. 3378, 2017

Being a bylaw to promote Clean Air and regulate Smoking in the City of Nelson

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Clean Air and Smoking Regulation Bylaw No. 3378, 2017

WHEREAS under the provisions of the *Community Charter*, Council may regulate and impose requirements to public health matters;

AND WHEREAS Council considers it expedient and desirable for the health, safety and welfare of the resident to regulate Smoking in the City of Nelson;

NOW THEREFORE the Council of the City of Nelson, in open meeting assembled, enacts as follows:

PART 1 – INTERPRETATION

Definitions

1.1 In this Bylaw, the following terms have the following meanings:

- (a) **“Bylaw Enforcement Officer”** means:
 - i. Special constables, officers, members or constables appointed to the Nelson Police Department pursuant to the *Police Act*;
 - ii. Bylaw Enforcement Officers appointed pursuant to the *Police Act* and *Community Charter*;
 - iii. Local Assists to the Fire Commissioner pursuant to the *Fire Services Act*; and
 - iv. a person appointed by Council as a Licensing Inspector, Building Inspector or Animal Control Officer;
- (b) **“Bus Stop”** means a place on a bus route marked by a sign at which buses stop to pick up and drop off passengers and includes a Transit Shelter;
- (c) **“Bylaw Notice”** means a ticket issued under the Bylaw Notice Enforcement Bylaw;
- (d) **“Bylaw Notice Enforcement Bylaw”** means the City's current Bylaw Notice Enforcement Bylaw including all amendments and replacements thereto;
- (e) **“Cannabis”** means Cannabis as defined in the *Controlled Drugs and Substances Act* and includes any products containing Cannabis;
- (f) **“City”** and **“City of Nelson”** means The Corporation of the City of Nelson;
- (g) **“Community Facility”** means a building, lands or recreation facility including but not limited to recreation centers, arenas, picnic shelters and other recreation facilities located in a Park or on any other land which the City owns or controls by means of a lease, licence or other legal instrument that is intended for athletic,

- social, cultural or recreational use by members or visitors to the community;
- (h) **“Entranceway”** includes but is not limited to doorways, anterooms, porticos, verandahs, stairways, air intake systems and windows;
 - (i) **“Park”** means any real property or property subject to a right of occupation by the City for the purpose of pleasure, recreation or community uses of the public, including parks, playgrounds, sport courts, natural and landscaped areas, sports fields, trails, walkways and other public places and all improvements and may include beaches, and other public places adjacent to lakes or streams including foreshore or land covered by water; but does not include the travelled portion of a highway;
 - (j) **“Public Building”** means a Building or structure on land owned by the City;
 - (k) **“Public Municipal Open Space”** means a Park, marina or other outdoor public space which is owned, controlled or operated by the City for the use of the public.
 - (l) **“Responsible Person”** means the person who controls, governs or directs the activity carried on within the building, place or premises referred to in this Bylaw and includes the person actually in charge thereof;
 - (m) **“School Yard”** means that portion of the lands of a school as defined in the *School Act* without buildings or structures;
 - (n) **“Smoke”** or **“Smoking”** means to inhale, exhale, burn or carry a lighted cigarette, electronic cigarette, cigar, pipe, hookah or other lighted or heated smoking equipment that burns tobacco, Cannabis or any other weed or substance.
 - (o) **“Transit Shelter”** means a covered structure or facility located at a designated bus stop to provide protection from the elements for passengers waiting for a bus.

PART 2: CLEAN AIR AND SMOKING REGULATION

Prohibitions – Public Buildings and City Parks

- 2.1 No person shall Smoke:
- (a) inside a Public Building - including within 7 meters of an Entranceway to a Public Building;
 - (b) in a Park – including within a 7 meter buffer zone surrounding the Park;
 - (c) in a Public Municipal Open Space – including within a 7 meter buffer zone surrounding the Public Municipal Open Space;
 - (d) in a City cemetery - including a 7 meter buffer zone surrounding the Cemetery;
 - (e) in a Transit Shelter or a Bus Stop – including a 7 metre buffer zone surrounding the Transit Shelter or Bus Stop;
 - (f) inside a motor vehicle or equipment owned or leased by the City.

Prohibitions – General

- 2.2 No person shall Smoke:
- (a) in any building, structure, vehicle or any other place that is fully or substantially enclosed, including within 7 meters of an entrance to such building, structure or other enclosed place, and
 - i. is a place to which the public is ordinarily invited or permitted access, either expressly or by implication; whether or not a fee is charged for entry,
 - ii. is a workplace;
 - iii. is a Transit Shelter or Bus Stop; or
 - iv. is a school property as prescribed under the *Tobacco and Vapour Products Control Act*;
 - v. is a health board property as prescribed under the *Tobacco and Vapour Products Control Act*.
 - vi. is any other entity or property that may be prescribed under the *Tobacco and Vapour Products Control Act*.

Exceptions to Prohibitions Specified

- 2.3 This bylaw does not apply to a ceremonial use of tobacco in relation to a traditional Aboriginal cultural activity.

PART 3 – SIGNS

No Smoking Signs

- 3.1 A no-smoking sign shall state
- a) the phrase “no smoking or vaping”, or
 - b) a graphic symbol substantially in the form shown on Schedule “A” attached to this Bylaw, which shall be a minimum of six centimeters in diameter and may include
 - c) the words “City of Nelson Clean Air and Smoking Regulation Bylaw 3378”.
- 3.2 No person shall remove, alter, conceal, deface, write upon or destroy any sign posted pursuant to this bylaw.

Posting of Signs

- 3.3 A responsible person must display or ensure the display of a sign in a conspicuous position at all times in the form established under section 3.1:
- a) at the main entrance to a Public Building
 - b) at the main entrance to a Park;
 - c) at the main entrance to a Public Municipal Open Space;
 - d) at the main entrance to a School Yard;
 - e) at the main entrance to a Cemetery;

- f) at a Transit Shelter or Bus Stop
- 3.4 Where the prohibition of smoking applies under section 2.2, a Responsible Person must ensure a sign is placed in a conspicuous position and that states:
- a) the phrase “no smoking”, or
 - b) a graphic symbol substantially in the form shown on Schedule “A” attached to this Bylaw, which shall be a minimum of six centimeters in diameter and include
 - i) the words “City of Nelson Clean Air and Smoking Regulation Bylaw 3378”; and
 - ii) the words “Smoking is prohibited within seven (7) meters of openings into this building or structure including doors and windows that open and any air intake”.

PART 4: OFFENCE AND PENALTIES

Bylaw Contravention

- 4.1 Any person who:
- a) contravenes or fails to comply with this Bylaw;
 - b) permits, suffers or allows any act or thing to be done in contravention of this Bylaw;
 - c) fails to carry out an order made under this Bylaw; or
 - d) fails or neglects to do anything required under a permit issued by the City in respect of this Bylaw,
- commits an offence of this Bylaw and each day such offence continues or is permitted to continue will constitute a separate offence.
- 4.2 This Bylaw may be enforced under the City’s Bylaw Notice Enforcement Bylaw, as may be amended or replaced from time to time.

Designation of Bylaw and Bylaw Enforcement Officers

- 4.3 This Bylaw is designated under the *Community Charter* as a bylaw that may be enforced by means of a Bylaw Notice.
- 4.4 Without limiting the enforcement options under section 4.1, a person who commits an offence under this Bylaw will be liable to a penalty established under the Bylaw Notice Enforcement Bylaw.
- 4.5 Bylaw Enforcement Officers are designated to enforce this Bylaw by means of a Bylaw Notice under the *Community Charter*.
- 4.6 No person may obstruct a Bylaw Enforcement Officer in the fulfillment of his or her duties under this Bylaw.

PART 5 – GENERAL PROVISIONS

Severability

- 5.1 If any part, section, sub-section, clause or sub-clause of this Bylaw is, for any reason, held to be invalid by the decision of a court of competent jurisdiction, such decision does not affect the validity of the remaining portions of this Bylaw.

Notice

- 5.2 Any notice required to be given under this Bylaw shall sufficiently be given if in writing and delivered by hand or sent by prepaid registered mail at the Property Owner's last known address set out on the assessment roll.

Repeal and Replacement

- 5.3 The Corporation of the City of '**Nelson Clean Indoor Air Bylaw No 2414, 1990**' and all amendments thereto, is hereby repealed.
- 5.4 The Corporation of the City of Nelson's '**City Premises Smoking Regulation Bylaw No. 2330, 1989**' and all amendments thereto be repealed.

Citation

- 5.5 This Bylaw may be cited as the "Corporation of the City of Nelson **Clean Air and Smoking Regulation Bylaw No. 3378, 2017**".

Effective Date

- 5.6 This Bylaw comes into force and effect upon its adoption.

READ A FIRST TIME the 19th day of June, 2017
READ A SECOND TIME the 19th day of June, 2017
READ A THIRD TIME the 19th day of June, 2017

DEPOSITED WITH THE MINISTER OF HEALTH this 23rd day of June, 2017

FINALLY PASSED AND ADOPTED the 23rd day of June, 2017

DEB KOZAK

Mayor

FRANCES LONG

Corporate Officer

**SCHEDULE "A" TO
THE CORPORATION OF THE CITY OF NELSON
Clean Air and Smoking Regulation Bylaw No. 3378, 2017**

The following graphic symbol is prescribed for the purpose of Section 3(1).

