

TOWN OF OLIVER

BYLAW 1375

A BYLAW FOR THE PURPOSE OF REGULATING SMOKING IN THE TOWN OF OLIVER

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 Town of Oliver;

NOW, THEREFORE, the Council of the Town of Oliver in open meeting assembled,

ENACTS AS FOLLOWS:

Citation

1.1. This Bylaw may be cited for all purposes as “Smoke Free Bylaw 1375.”

PART 1 – INTERPRETATION

Definitions

1.2. In this Bylaw unless the context requires otherwise:

“**Bylaw Enforcement Officer**” means the persons duly appointed by Council as such, and shall include any *peace officer*.

“**Bylaw Notice**” means a ticket issued under the Bylaw Notice Enforcement Bylaw.

“**Bylaw Notice Enforcement Bylaw**” means the Town of Oliver’s current Bylaw Notice Enforcement Bylaw including all amendments and replacements thereto.

“**Cannabis**” means cannabis as defined in the *Cannabis Act* (Bill C-45, an *Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts*.

“**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 Town 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.

“Employer” includes any person who as the owner, proprietor, manager, superintendent or overseer of any activity, business, work, trade, occupation or profession, has control over or direction of, or is directly or indirectly responsible for the employment of a person therein.

“Entranceway” includes but is not limited to doorways, verandahs, stairways, air intake systems and windows.

“Operator” includes the person responsible for the day to day operations of a public premise and a proprietor of a public premise.

“Proprietor” means, where applicable:

- a) The person who ultimately controls, governs or directs the activity carried on within any premises referred to in this Bylaw and includes the person usually in charge thereof
- b) A hospital authority appointed pursuant to the *Hospital Act*
- c) A board of trustees elected pursuant to the provisions of the *School Act*.

“Outdoor Public Event” means any public event where the public is invited to gather on any outdoor area of Town owned, controlled or operated property, including any park, public square or street, including, but not limited to:

- d) a market, contest, festival, celebration, fair, exhibition or concert;
- e) an outdoor public event on any Town owned, controlled or operated property that is leased to a third party; or
- f) any event for which a Town rental or use permit is required

“Outdoor Public Space” means any outdoor area owned, controlled, or operated by the Town that is open to the public or to which the public is customarily admitted or invited, and includes any:

- a) park
- b) sports venue, stadium, or sports facility
- c) outdoor recreational facility
- d) utility easement
- e) cemetery
- f) transit stop
- g) excluding public streets except when used as part of an outdoor public event.

“Park” means any real property or property subject to a right of occupation by the Town of Oliver for the purpose of pleasure, recreation or community uses of the public, including parks, playgrounds, splashpads, 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.

“**Person**” includes associations, partnerships, corporations whether acting by himself or herself or by a servant, agent or employee.

“**Public Premise**” means all or any part of a building, structure or other enclosed area to which members of the public have access as of right or by express or implied invitation.

“**Public Vehicle**” means a bus, taxi or other vehicle that is used to transport members of the public for a fee.

“**School Property**” means property that is owned or leased by, or operated under the authority of, a board established under the *School Act* or the *Independent School Act*, and used for the purposes of delivering educational programs or other learning programs, and includes real property and improvements.

“**Smoke**” or “**Smoking**” means to inhale, exhale, burn or carry a lighted cigarette, electronic cigarette, cigar, pipe, hookah pipe or other lighted or heated smoking equipment that burns tobacco, Cannabis or any other weed or substance but does not include the carrying of lighted incense or other lighted smoking equipment used solely for ceremonial or religious purposes.

“**Town**” means the Town of Oliver.

“**Workplace**” includes the whole or any part of a building, structure, vehicle or passenger conveyance in which a *business* is carried on but excludes:

- a) Any part which constitutes public premises, and
- b) Private residences.

PART 2 – SMOKING REGULATION

Prohibitions

2.1. No Person may Smoke:

- a) In a *public premises* or a *public vehicle*
- b) In, on or within 6 metres of a:
 - i. Community Facility
 - ii. Outdoor Public Space
 - iii. Park
 - iv. School Property
 - v. Town street when used as part of an outdoor public event

To which the public has access as of right or by express or implied invitation

- c) Within 6 metres of an entrance or exit to a public premise
- d) An *employer, operator or proprietor* must not permit a person to smoke or vape on premises controlled or owned by them where doing so is prohibited by this bylaw.

Exceptions to Prohibitions Specified

2.2. This Bylaw does not apply to:

- a) a designated smoking area established for the purpose of an outdoor public event with the area being determined by and with the agreement of both the Town of Oliver and the event organizer
- b) Aboriginal Cultural activity
- c) carrying of lighted incense or other lighted smoking equipment used solely for ceremonial or religious purposes.

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

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 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 at the:

- a) main entrance to a Public Building
- b) main entrance to a Park
- c) main entrance to a Public Municipal Open Space
- d) main entrance to a School Yard

- e) main entrance at a Place of Assembly
 - f) main entrance to a Cemetery
 - g) transit or bus stop.
- 3.4. Where the prohibition of smoking applies under section 2.1, a person must ensure a sign is placed in a conspicuous position and that states:
- a) the words “Smoke Free Bylaw 1375”; and
 - b) the words “Smoking is prohibited within six (6) 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. A violation of a provision of this Bylaw will result in liability for penalties and late payment amounts established in the Towns Bylaw Notice Enforcement Bylaw 1378 and Municipal Ticketing Bylaw 1289.
- 4.2. 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 Town’s current Bylaw Notice Enforcement Bylaw 1378, in accordance with the Local Government Bylaw Notice Enforcement Act, SBC 2003, C. 60.
- 4.3. A person who contravenes, violates, or fails to comply with any provision of this Bylaw is deemed to have committed an offence under this Bylaw, and is liable on summary conviction to a fine not exceeding \$10,000.00 for each offence.
- 4.4. Each violation of this Bylaw will constitute a separate offence.
- 4.5. If a Bylaw Enforcement Officer has determined that a person has violated a provision of this Bylaw, that person must, when requested by the Bylaw Enforcement Officer, provide their name and address to the officer.

Enforcement

- 4.6. Bylaw Enforcement Officers are designated to enforce this Bylaw by means of Bylaw Notice under the *Community Charter*.
- 4.7. No Person shall interfere with, delay, obstruct or impede the Bylaw Enforcement Officer, designate or other person lawfully authorized to enforce this Bylaw in the performance of duties.
- 4.8. The Bylaw Enforcement Officer has the right to enter at all reasonable hours any land or Building to which this Bylaw applies in order to ascertain whether the provisions of this bylaw are being complied with.

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.

Read a first, second and third time as amended on the 11th day of June, 2018.

Re-read a third time as amended on the 25th day of June, 2018.

Adopted this 9th day of July, 2018.

MAYOR

CORPORATE OFFICER

SCHEDULE "A"

Smoke Free Bylaw 1375

The following graphic symbol is prescribed for the purpose of Section 3.1

