

DISTRICT OF SPARWOOD  
Clean Air Bylaw 1229, 2018

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*A Bylaw for the purpose of regulating smoking and vaping of tobacco, cannabis and other products in public places within the District of Sparwood.*

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WHEREAS pursuant to the *Community Charter and Public Health Bylaws Regulation*, a municipality may, by bylaw, regulate, prohibit and impose requirements in relation to public health;

AND WHEREAS the Council of the District of Sparwood considers it desirable for the purposes of maintaining, promoting and preserving the public health of the residents and visitors of the District of Sparwood to prohibit, regulate and impose requirements in relation to Smoking in the District of Sparwood;

AND WHEREAS the District of Sparwood has consulted with the medical health officer and it has been determined that second-hand smoke and vapour constitute a health hazard and nuisance for persons in public spaces in the District of Sparwood;

AND WHEREAS a copy of this Bylaw must be deposited with the Minister of Health;

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

**1. TITLE**

This bylaw may be cited as *"Clean Air Bylaw 1229, 2018"*.

**2. DEFINITIONS**

In this bylaw:

"BUILDING" means a structure which is designed, erected or intended for the support, enclosure or protection of persons or property.

"BYLAW ENFORCEMENT OFFICER" shall have the same meaning as defined under the Bylaw Enforcement Officer Bylaw, No. 393, as such Bylaw may be amended or replaced from time to time.

"CANNABIS" means cannabis as defined in the *Cannabis Act (S.C. 2018, c. 16)* and includes any products containing cannabis.

"COMMUNITY RECREATION SPACE" includes outdoor public skating rinks, sports fields and courts, swimming pools, playgrounds, trails, green spaces, parks including bike and skate parks, and public parking areas.

"DESIGNATED PUBLIC SPACE" includes outdoor public places where individuals are required to queue for the receipt of any service and any deck, seating area, viewing area or other place used in association with a community recreation space.

"DISTRICT" means the District of Sparwood.

"PUBLIC BUILDING" means a Building or structure on land owned by the District.

"PUBLIC PLACE" means a road, square, lane, bridge, highway, walkway, park, greenbelt, trail, boulevard, facility or other place to which the public has access by right or invitation, whether express or implied.

"SMOKE" or "SMOKING" means to purposely inhale or exhale smoke from or burn or carry, a lighted cigarette, cigar, pipe, hookah pipe, or other lighted or electronic smoking paraphernalia that burns or vaporizes tobacco or Cannabis or other weed or substance.

### **3. REGULATIONS**

#### **3.1. General Regulations**

- 3.1.1. No person shall Smoke:
- (a) Inside a Public Building;
  - (b) In or on a park or trail;
  - (c) In a Community Recreation Space; or
  - (d) In any Public Place.
- 3.1.2. The intent of this Bylaw is to set standards of general public interest, and not to impose a duty on the District of Sparwood or its employees to enforce its provisions and:
- (a) A failure to administer or enforce its provisions or the incomplete or inadequate administration or enforcement of its provisions is not to give rise to a cause of action in favour of any person; and
  - (b) The grant of any approval or permission or issuance of any permit is not a representation, warranty or statement of compliance with the Bylaw and the issuance thereof in error is not to give rise to a cause of action.

#### **3.2. No Smoking Signs**

- 3.2.1. A no-smoking sign shall state:
- (a) the phrase "no smoking or vaping";
  - (b) a graphic symbol substantially in the form shown on Schedule "A" attached hereto; and
  - (c) include the words "Clean Air Bylaw 1229" and the maximum fine amount per infraction.
- 3.2.2. The District shall display and keep prominently displayed one or more signs at each entrance to the Building or premises, at one or more conspicuous locations, in the form established under section 3.2.1:
- (a) At the main entrance to a Public Building;
  - (b) At the main entrance to a park, or other conspicuous location within the park;
  - (c) In an outdoor public washroom;
  - (d) At the main entrance to a Community Recreation Space; and
  - (e) At the main entrance to a cemetery.
- 3.2.3. No person shall remove, alter, conceal, deface, write upon or destroy any posted notice pursuant to this Bylaw.

#### **3.3. Exemptions**

Notwithstanding Section 3.1, the ceremonial use of tobacco or other native plants which produce smoke (e.g. smudging) in connection with traditional Indigenous Nations cultural activities in Public Places, Public Buildings, and Community Recreation Spaces is permitted where a facility rental agreement has been issued and identifies those activities in the writing within the agreement.

#### **3.4. Enforcement**

- 3.4.1. Bylaw Enforcement Officers of the District of Sparwood are responsible for the enforcement and administration of this Bylaw.
- 3.4.2. No person shall obstruct a Bylaw Enforcement Officer in the fulfillment of their duties under this Bylaw. The Bylaw Enforcement Officer is authorized and empowered to inspect, compel and require that all the regulations and provisions in this Bylaw are carried out.

**4. SCHEDULES**

The following schedules are included and form part of this bylaw:

- (a) Schedule A – No Smoking Sign

**5. OFFENCE AND PENALTY**

5.1. A person who contravenes any provision of this Bylaw commits an offence and is liable on summary conviction to a penalty of not more than \$10,000.00 and the cost of prosecution.

5.2. Without limiting the enforcement options under section 5.1, a person who commits an offence under this Bylaw will be liable to a penalty established under the Municipal Information Ticket Bylaw 1175, as amended or replaced from time to time.

**6. SEVERABILITY**

If a portion of this bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed, and the remainder of this bylaw is deemed to have been adopted without the severed section, subsequent, paragraph, or subparagraph.

**7. FORCE AND EFFECT**

This bylaw shall come into force and take effect on October 17, 2018.

READ A FIRST TIME this \_\_\_\_ day of \_\_\_\_\_, 201 \_\_\_\_.

READ A SECOND TIME this \_\_\_\_ day of \_\_\_\_\_, 201 \_\_\_\_.

READ A THIRD TIME this \_\_\_\_ day of \_\_\_\_\_, 201 \_\_\_\_.

DEPOSITED WITH THE MINISTER OF HEALTH this \_\_\_\_\_ day of \_\_\_\_\_, 201 \_\_\_\_.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 201 \_\_\_\_.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Corporate Officer

SCHEDULE "A"

Clean Air Bylaw 1229, 2018 "No-Smoking" Sign

**NO SMOKING  
OR VAPING**



**SPARWOOD**  
★

**Clean Air Bylaw 1229**  
Maximum fine \$1,000 per infraction