



DISTRICT OF CLEARWATER

BYLAW NO. 201, 2019

A Bylaw to Regulate Smoking and Vaping in the District of Clearwater

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

AND WHEREAS it has been determined that second-hand smoke is a health hazard and nuisance for persons of and visitors to the District of Clearwater;

NOW THEREFORE the Council of the District of Clearwater, in open meeting assembled, **ENACTS AS FOLLOWS:**

1. CITATION

1.1 This bylaw may be cited as "*District of Clearwater Smoking and Vaping Regulation Bylaw No. 201, 2019*".

2. DEFINITIONS

2.1 In this Bylaw:

"Burn" means to produce smoke, vapour or other substances that can be inhaled.

"Bylaw Enforcement Officer" means a person in a class prescribed under the *Community Charter* who is designated by a local government as a bylaw enforcement officer.

"District" means the Corporation of the District of Clearwater.

"District trail" means a paved or unpaved path for pedestrian, cyclist and wheeled mobility aid use that may be in parks, on streets, or on other public lands.

"E-cigarette" means:

- a) a product or device, whether or not it resembles a cigarette, containing an electronic or battery-powered heating element capable of vaporizing an e-substance for inhalation or release in the air, or
- b) a prescribed product or device similar in nature or use to a product or device described in paragraph a)

“E-substance” means a solid, liquid or gas, that:

- a) upon being heated, produces a vapour for use in an e-cigarette, whether or not the solid, liquid or gas contains nicotine; and
- b) is not a controlled substance within the meaning of the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19.

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

- a) children’s playground;
- b) playing field, sports venue, stadium, or sports facility;
- c) District trail;
- d) outdoor recreational facility;
- e) utility easement;
- f) District street when used as part of an outdoor public event;
- g) parking lot of District facilities.

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

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

“Park” means any real property owned or occupied by the District for the purpose of pleasure, recreation or community use by the public, including, but not limited to dedicated parks, but does not include any District land leased to a third party;

“Public body” means:

- a) a ministry of the government of British Columbia;
- b) an agency, board, commission, corporation, office or other body controlled by the government of British Columbia or a municipality or regional district; or
- c) a municipality or regional district.

“Public building” means a building or structure on land owned or occupied by a public body.

“Smoke or smoking” means the inhaling, exhaling, burning, or carrying of a lighted cigarette, cigar, pipe, hookah pipe, e-cigarette or other smoking equipment that burns tobacco, cannabis,

hops, lettuce, comfrey, motherwort, honeyweed, catnip, lily, sage, wireweed or any other plant, substance or material.

“Street” includes a road, lane, bridge, viaduct, sidewalk or any other way open to public use, other than a public right of way on private property.

“Transit shelter” means a building or other structure located on District property and constructed near a transit stop to provide seating and/or protection from the weather for the convenience of waiting passengers.

“Transit stop” means a sign-posted location where public transit vehicles stop to pick up riders, and distances from a transit stop shall be measured from the sign that identifies the transit stop location.

“Utility Easement” means easements where District utility infrastructure is located.

3. REGULATIONS

3.1 No person shall smoke:

- 3.1.1 within 7.5 metres of an entrance to a public building or any air intake vent or operable window for a public building;
- 3.1.2 within 7.5 metres of a transit stop or transit shelter where people wait to board a public transit vehicle;
- 3.1.3 in any District park, sports venue, playground, outdoor public spaces or parking lots;
- 3.1.4 on a District street when used as part of an outdoor public event;
- 3.1.5 utility easements;

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 “Smoking and Vaping Bylaw”;
- d) 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:
 - e) At the main entrance to a Public Building;
 - f) At the main entrance to a park, or other conspicuous location within the park;
 - g) At the main entrance to a cemetery.
- 3.2.2 No person shall remove, alter, conceal, deface, write upon or destroy any posted notice pursuant to this Bylaw.

4. EXEMPTIONS SPECIFIED

4.1 This Bylaw does not apply to:

- a) 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.
- b) smoking by an actor as part of a stage or public theatrical performance.

5. OFFENCES AND PENALTIES

5.1 A person who:

- a) violates or who causes, permits or allows any of the provisions of this Bylaw to be violated;
- b) neglects to do or refrains from doing anything required to be done by any provision of this Bylaw; or
- c) fails to comply or allows another person to fail to comply, with an order or direction given under any provision of this Bylaw; and
- d) is guilty of an offence against this Bylaw and liable to the penalties imposed under this section.

5.2 Every person who commits an offence against this Bylaw is punishable on conviction by a fine of not less than \$250.00 and not more than \$1,000 for each offence. Each day that an offence against this Bylaw continues or exists shall be deemed to be a separate offence.

6. ADMINISTRATION AND ENFORCEMENT

6.1 The Bylaw Enforcement Officer for the District of Clearwater shall be responsible for administration of this Bylaw.

6.2 The intent of this Bylaw is to set standards of general public interest and not to impose a duty on the District of Clearwater or its employees to enforce its provisions and;

- a) a failure to administer 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.

7. SEVERABILITY

7.1 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, subsection, paragraph, subparagraph, clause or phrase.

8. FORCE AND EFFECT

8.1 This bylaw shall come into force and take effect on July 1, 2019.

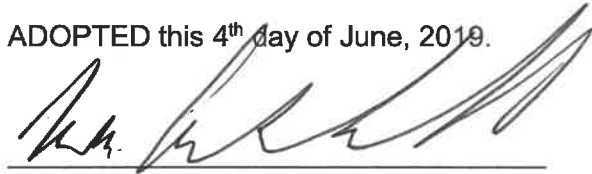
READ a first time this 21st day of May, 2019.

READ a second time this 21st day of May, 2019.

READ a third time this 21st day of May, 2019.

DEPOSITED with the Minister of Health this 30th day of May, 2019.

ADOPTED this 4th day of June, 2019.



Merlin Blackwell, Mayor



Leslie Groulx, Corporate Officer

SCHEDULE "A"

Smoking / Vaping Bylaw 201 "No-Smoking" Sign



