

DISTRICT OF INVERMERE

BYLAW NO. 1537, 2018

A BYLAW TO REGULATE AND PROHIBIT SMOKING IN CERTAIN AREAS OF THE DISTRICT

WHEREAS it has been determined that second-hand tobacco smoke is a health hazard and nuisance for many residents and visitors in the District of Invermere;

AND WHEREAS it is desirable for the protection, promotion and preservation of the health of the residents of the District of Invermere for Council to regulate and prohibit smoking in certain areas of the District;

AND WHEREAS the District of Invermere has satisfied the preconditions to adopting this Bylaw set out in the *Public Health Bylaws Regulation, B.C. Reg. 42/2004*;

NOW THEREFORE, the Council of the District of Invermere enacts as follows:

A. Title

This bylaw may be cited as "District of Invermere Smoking Regulation Bylaw No.1537, 2018."

B. Interpretation

Definitions:

Building Inspector as appointed by the District of Invermere.

Bus Stop means a bus stop zone, designated by curb paint, a bus stop sign or a transit shelter, for the pick-up and drop-off of passengers using the public transit or resort shuttle system.

Bylaw Enforcement Officer means any Peace Officer or other person designated by the District of Invermere.

Council means the Council of the District of Invermere.

District means The Corporation of The District of Invermere.

Dog Off-Leash Park means a park which has been so designated and within which dogs are permitted to run at large.

Electronic Smoking Device means a vaporizer or inhalant-type device, or a component of such device, that contains a power source and heating element designed to heat a substance and produce a vapor intended to be inhaled by the user of the device directly through the mouth.

Park means any real property owned or subject to the right of occupation by the District of Invermere for the pleasure, recreation or community uses of the public including public parks, playgrounds, public squares, pathways, trails, dikes and other public

spaces and all improvements and shall include all other public areas adjacent to lakes, rivers, streams or land covered by water, but does not include District owned or controlled parking lots or the travelled portion of a highway or sidewalk unless Smoking is specifically prohibited under this bylaw by map designation and attached to this bylaw as a Schedule.

Playground means an area owned by the School District No. 6 to which the public and particularly children are invited to participate in athletic and recreational activities.

Person means and include persons of either sex, association, partnerships, corporations, whether acting by himself or herself or by a servant, agent or employee.

Public facility includes, but is not limited to, any outdoor gathering place, buildings and land owned or operated by the District of Invermere, including but not limited to parks, playgrounds, sports fields, and community buildings.

Smoke or smoking means the inhaling, exhaling, burning or carrying of a lighted or heated cigarette, cigar, pipe or other lighted smoking equipment burning tobacco or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and cannabis, whether natural or synthetic, in any manner of 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.

Trail means any passage way where the public has access to or is invited for the purpose of providing for pedestrian traffic, equestrian traffic, cycling, electric bicycles, wheelchairs or medic chairs.

C. Severability

A decision by a court of competent jurisdiction 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.

D. Enforcement

The Bylaw Enforcement Officers or the Building Inspector of the District of Invermere shall be responsible for administration of this Bylaw.

E. Duty of Administration

The intent of this Bylaw is to set standards in the general public interest, and not to impose a duty on the District, its employees, Building Inspector or Bylaw Enforcement Officer 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 favor 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.

F. Regulations

Ban on Smoking

1. No person shall smoke:
 - (a) within the area of a park, playground or public facility unless specifically designated;
 - (b) within twenty (20) meters of most public or workplace doorways, open-window, or air-intakes (i.e. a “buffer zone”);
 - (c) within 10 metres of a bus stop;
 - (d) within the area of a Dog Off-Leash Park;
 - (e) on any public and private K-12 school grounds; or
 - (f) within the area of any Trail.

Enforcement of Ban on Smoking

2. A responsible person must not suffer or allow a person to smoke in any of the areas specified in section 1.0(a) through (f).

G. Offences, Penalties and Enforcement

Offences under Bylaw

1. A person who:
 - (a) violates any provision of this Bylaw or does any act or thing which violates any provision of this Bylaw or allows any other person to do any act or thing which violates any provision of this Bylaw;
 - (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 any other person to fail to comply, with an order or direction given under any provision of this Bylaw;
 - (d) is guilty of an offence against this Bylaw and liable to the penalties imposed under section 4.

2. A person who obstructs a Bylaw Enforcement Officer or Building Inspector in the performance of his or her duty is guilty of an offence against this Bylaw and liable to the penalties imposed under section 5.0.

Continuing Offence

3. If an offence is a continuing offence, each day that the offence is continued constitutes a separate and distinct offence.

Fines for Offence

4. Every person who violates any of the provisions of this Bylaw, or who causes, suffers, or permits any act or thing to be done in contravention or in violation of any of the provisions of this Bylaw, or who neglects or refrains from doing anything required to be done by any of the provisions of this Bylaw, or who fails to comply with any order, direction or notice given under this Bylaw, is guilty of committing an offence against this Bylaw and is liable on summary conviction to a fine of not less than \$100.00 and to a maximum, not exceeding the maximum allowed by the *Community Charter*, as amended, and the cost of prosecution.
5. Notwithstanding Section 4, any person who is guilty of obstructing a Bylaw Enforcement Officer or Building Inspector while performing his or her duties in relation to this Bylaw is liable on summary conviction to a fine of not less than \$2,000.00, or to imprisonment, or to both a fine and imprisonment, not exceeding the maximum allowed by the *Community Charter*, as amended, and the cost of prosecution.

F. Enactment

Force and Effect

1. This Bylaw comes into force and takes effect upon adoption.

PREPARED IN CONSULTATION WITH THE MEDICAL HEALTH OFFICER OF THE INTERIOR HEALTH AUTHORITY PRIOR TO ADOPTION.

DEPOSITED WITH THE PROVINCIAL MINISTRY OF HEALTH day of , 2018.

Read a First Time this 9th day of April, 2018.
Read a Second Time this 8th day of May, 2018.
Read a Third Time this 8th day of May, 2018.

ADOPTED this 22nd day of May, 2018.

signed "Gerry Taft"

MAYOR

signed "Chris Prosser"

C.A.O.

Certified a true copy of Bylaw No., 2018
this ___ day of _____, 20___

Corporate Officer