

DISTRICT OF SPARWOOD
Clean Air Bylaw 1241, 2018

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

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 1241, 2018*".

2. DEFINITIONS

In this Bylaw:

"BANK" includes credit union, trust company, savings or loan company or other financial institution.

"BUFFER ZONE" means six (6) meters from a public entrance, window or air intake of a public building, community recreation space, or other place specified in Section 3.1.1 of this Bylaw.

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

"BUSINESS" means a business, trade, profession, or other occupation for which a person must obtain a licence under Business Licence Bylaw No. 849, as such Bylaw may be amended or replaced from time to time.

"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" means outdoor public skating rinks, sports fields and courts, swimming pools, playgrounds, District spray, bike and skate parks.

"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.

"FOOD SERVICE ESTABLISHMENT" means any place where food intended for public consumption is sold, offered for sale, served, supplied, handled, prepared, packaged, displayed, served, processed, stored, or dispensed, and includes a patio used in conjunction with such a place.

"PERSONAL SERVICES ESTABLISHMENT" means a place in which a person provides a service to or on the body of another person and includes but is not limited to a barber shop, beauty salon, health spa, massage therapy, and tattoo shop.

"PLACE OF PUBLIC ASSEMBLY" means a Building used for the assembly of persons for the purpose of education, worship, entertainment, recreation, business or amusement, but does not include a place where a Private Social Function is being held.

"PRIVATE SOCIAL FUNCTION" means a special social event for which an entire room or hall has been reserved, at which attendance is limited to people who have been specifically invited or designated by the sponsor.

"PUBLIC BUILDING" means a Building or structure on land owned by the District, including the concrete pad at the entrance to the Henry Volkmann Memorial Leisure Complex.

"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.

"RETAIL ESTABLISHMENT" means a place where goods or services are exposed or offered for retail sale.

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

"VAPOURIZING DEVICE" means an electronic device that vapourizes a solid, liquid or gas substance for inhalation and includes devices as defined by the *Tobacco and Vapour Products Control Act (RSBC 1996, Chapter 451)*.

3. REGULATIONS

3.1. General Regulations

3.1.1. No person shall Smoke at or within any of the following:

- (a) a Public Building;
- (b) a Community Recreation Space; or
- (c) any Designated Public Place.

or within the Buffer Zone of such place or building.

3.1.2. No owner or operator of a:

- (a) Retail Establishment;
- (b) Food Service Establishment;
- (c) Health or dental clinic;
- (d) Bank;
- (e) Personal Services Establishment;
- (f) Place of Public Assembly; or
- (g) Any other Building that is fully or substantially enclosed 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; or
 - (iii) is a prescribed place pursuant to the *Tobacco and Vapour Products Control Act*

shall permit or allow any person to Smoke within such place or within six (6) metres from a

doorway, window or air intake of the parcel on which such Building or place is located.

3.1.3. No person shall Smoke within 6 meters of:

- (a) 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;
- (b) is a workplace; or
- (c) is a prescribed place, place pursuant to under the *Tobacco and Vapour Products Control Act*.

3.1.4. 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 does not to give rise to a cause of action in favour of any person against the District of Sparwood; and
- (b) the grant of any approval or permission or issuance of any permit is not a representation, warranty or statement of compliance with this Bylaw and the issuance thereof in error does not to give rise to a cause of action.

3.2. Designated Smoking Areas

3.2.1. Notwithstanding the provisions of Section 3.1.1, the Director of Community and Facility Services may designate smoking area at or near a Public Building provided that such area is not within the Buffer Zone.

3.2.2. Where smoking is not prohibited under this Bylaw or the *Tobacco and Vapour Products Control Act or Regulations* an owner or operator of a Business may permit smoking in a designated smoking area on the parcel which such Business is located.

3.3. Smoking Regulation Signs

3.3.1. 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" or Schedule "B" attached hereto; and
- (c) include the words "Clean Air Bylaw 1241" and the maximum fine amount per infraction.

3.3.2. A "designated smoking area" sign shall state:

- (a) the phrase "designated smoking area"; or
- (b) "smoking permitted"; or
- (c) words of similar meaning with a graphic symbol substantially in the form shown on Schedule "C" attached hereto.

3.3.3. Any owner, occupier or tenant of a premise set out in Section 3.1.2 shall prominently display a "no smoking" sign substantially in the form shown on Schedule "A" of this Bylaw so as to be clearly visible to all persons entering such premises.

3.3.4. No person shall remove, alter, conceal, deface, write upon or destroy any posted sign pursuant to this Bylaw.

3.4. 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 Designated Public Places, Public Buildings, and Community Recreation Spaces is permitted where a facility rental agreement has been issued and identifies those activities in writing.

3.5. Enforcement

3.5.1. Bylaw Enforcement Officers of the District of Sparwood are responsible for the enforcement and administration of this Bylaw.

3.5.2. 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
- (b) Schedule B – No-Smoking Buffer Sign
- (c) Schedule C – Designated Smoking Area 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 upon adoption by Council.

READ A FIRST TIME this 5 day of November 2018.

READ A SECOND TIME this 19th day of November 2018 as amended.

READ A THIRD TIME this 19th day of November 2018.

DEPOSITED WITH THE MINISTER OF HEALTH this 27th day of November, 2018.

ADOPTED this 3rd day of December 2018.



Mayor



Corporate Officer

SCHEDULE "A"

Clean Air Bylaw 1241, 2018 "No-Smoking" Sign



SCHEDULE "B"

Clean Air Bylaw 1241, 2018 "No-Smoking" Buffer Sign



SCHEDULE "C"

Clean Air Bylaw 1241, 2018 "Designated Smoking Area" Sign

