

CITY OF DELTA

BYLAW NO. 7779

A bylaw to regulate smoking in the City of Delta

The Council of the City of Delta in open meeting assembled,
ENACTS AS FOLLOWS:

PART 1 CITATION

- 1.1. This bylaw may be cited for all purposes as "**Delta Smoking Regulation Bylaw No. 7779, 2018**".

PART 2 REPEAL

- 2.1. Delta Smoking Regulation Bylaw No. 7481, 2015, and all its amendments, is hereby repealed.

PART 3 INTERPRETATION AND AUTHORITIES

Severability

- 3.1. 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 portion.

Successorship of Delegated Authority

- 3.2. Words in the bylaw directing or empowering any officer or employee of the City of Delta to do any act or thing, or otherwise applying by name of office, includes successors in such office and any lawful deputy, and any person who is duly appointed to act in that officer or person's place.

References to Enactments

- 3.3. A reference to a statute in this bylaw refers to a statute of the Province of British Columbia and includes its regulations unless otherwise indicated.
- 3.4. Except as otherwise indicated in this bylaw, words and phrases herein are to be construed in accordance with their meanings in the *Community Charter*, *Local Government Act*, and the *Interpretation Act*, as the context and circumstances require.

Interpretation

3.5. In this bylaw, the term “including” means “including, without limiting the generality of the foregoing”.

PART 4 DEFINITIONS

4.1. In this bylaw, unless otherwise specified:

“Activated E-Cigarette”	has the same meaning as in the <i>Tobacco And Vapour Products Control Act</i> .
“Apartment Building”	has the same meaning as in Delta Zoning Bylaw No. 7600, 2017.
“Bed and Breakfast Unit”	has the same meaning as in Delta Zoning Bylaw No. 7600, 2017.
“Building”	has the same meaning as in Delta Zoning Bylaw No. 7600, 2017.
“Business”	has the same meaning as in Delta Business Licence Bylaw No. 7670, 2017.
“City”	means the City of Delta.
“Dwelling Unit”	has the same meaning as in Delta Zoning Bylaw No. 7600, 2017 and includes a “caretaker dwelling unit”, “farm house”, “sleeping unit”, and “watchman dwelling unit” all as defined in Delta Zoning Bylaw No. 7600, 2017.
“Highway”	has the same meaning as in The Corporation of Delta Highways Bylaw No. 6922, 2011.
“Officer”	has the same meaning as in the <i>Police Act</i> and includes any person appointed to enforce the provisions of City bylaws such as a Bylaw Inspector.
“Park or Municipal Land”	has the same meaning as in Parks Regulation Bylaw No. 8544, 2025 but excludes a Highway.
“Public Event”	means any event where the public is invited to gather on any area of City owned, controlled, or operated property, including any park, public square, or street and includes:

- (a) a market, contest, festival, celebration, fair, exhibition, sporting activity, or concert; or
- (b) any occasion open to the public for which a City permit is required.

“Responsible Person”

means a person who owns, controls, manages, supervises, operates, or holds:

- (a) a Business or other use that occupies a Building;
- (b) an Apartment Building;
- (c) a permit for any Public Event or activity that the City has authorized by the issuance of a permit and to which this bylaw applies,

and includes, in respect of an Apartment Building, a strata corporation, cooperative association, or a property manager.

“Smoke” or “Smoking”

means the inhaling, exhaling, or carrying of a lighted cigarette, cigar, pipe, Activated E-Cigarette, or any other equipment, device, or item being used for burning or heating tobacco, cannabis, or any other consumable substance or material.

“Tourist Accommodation Unit”

has the same meaning as in Delta Zoning Bylaw No. 7600, 2017.

“Vehicle for Hire”

means a vehicle used for the carrying, transporting, or conveyance of persons or property for hire and includes a taxi cab and limousine.

PART 5 GENERAL REGULATIONS

Prohibitions

5.1. A person must not Smoke:

- (a) in a Building, except in:

- (i) a Dwelling Unit, other than one where a Business that invites employees or the public operates;
 - (ii) an “accessory building” to a Dwelling Unit or “accessory farm residential facilities”, as defined in Delta Zoning Bylaw No. 7600, 2017, other than one in which a Business that invites employees or the public operates;
 - (iii) a Bed and Breakfast Unit, or a Tourist Accommodation Unit designated for Smoking by the Responsible Person of the Bed and Breakfast Unit or Tourist Accommodation Unit;
- (b) in a Vehicle for Hire;
- (c) in or at any public transportation facility, including:
 - (i) a school bus;
 - (ii) a public bus;
 - (iii) within 7.5 metres of a transit stop where people wait to board a public transit vehicle.
- (d) in any place of Business to which the public is invited or has access;
- (e) within 7.5 metres of a door, openable window, or air intake of a Building;
- (f) in, or within 7.5 metres, of any Park or Municipal Land;
- (g) at, or within 7.5 metres, of a Public Event.

5.2. Without limiting Section 5.1, a person must not use or consume cannabis in any form or by any means on a Highway.

5.3. A person must not dispose of any lit substance in a Park or Municipal Land other than into a receptacle designed for that purpose and that is clearly marked for that purpose.

Exemptions

5.4. Section 5.1 of this bylaw does not apply to:

- (a) ceremonial use of Smoke as part of an indigenous peoples traditional cultural activity; or

- (b) Smoking by actors as part of a commercial stage or theatrical performance or a stage or theatrical performance that is expressly permitted by Delta.

5.5. The Director of Parks, Recreation & Culture or their designate may specify areas in a Park or Municipal Land where Smoking may be permitted.

Duties of a Responsible Person

5.6. Except as permitted in Sections 5.1 and 5.4, a Responsible Person must not allow or permit a person to Smoke:

- (a) in a Building;
- (b) in a place of Business to which the public is invited or has access;
- (c) in a Vehicle for Hire;
- (d) at or within 7.5 metres of a Public Event; or
- (e) within 7.5 metres of a door, openable window, or air intake of a Building.

Signage

5.7. Where Smoking is prohibited by this bylaw, a Responsible Person must place, as applicable, a clearly visible sign at every formal entrance to the building or area bearing either;

- (a) the phrase “NO SMOKING”; or
 - (b) a graphic symbol or icon that clearly illustrates that Smoking is prohibited;
- in letters not less than 15 mm high on a background of contrasting colour.

5.8. A person must not remove, alter, conceal, deface, or destroy any sign required by this bylaw.

PART 6 COST RECOVERY AND IDENTIFICATION

Identification

6.1. When requested to do so by an Officer during the course of enforcing this bylaw, a person must correctly state their name and address.

6.2. A person must not obstruct an Officer during the enforcement of this bylaw.

PART 7 ENFORCEMENT AND PENALTY

Fines and Penalties

7.1. A person who:

- (a) contravenes, violates or fails to comply with any provision of this bylaw;
- (b) suffers or allows any act or thing to be done in contravention of this bylaw;
 or
- (c) fails or neglects to do anything required to be done under this bylaw;

commits an offence and upon conviction shall be liable to a fine of not more than Ten Thousand (\$10,000.00) Dollars, and where the offence is a continuing one, each day that the offence is continued shall constitute a separate offence.

7.2. This bylaw may be enforced:

- (a) by an Officer;
- (b) by means of a ticket in the form prescribed for the purpose under the *Community Charter*, and fines imposed for offences under Municipal Ticketing Information Bylaw No.6639, 2007, as amended;
- (c) by proceedings brought under the *Offence Act*; or
- (d) by means of a bylaw notice as authorized by the *Local Government Bylaw Notice Enforcement Act* and fines imposed for offences under Delta Bylaw Notice Enforcement Bylaw No. 7009, 2011, as amended.

7.3. An Officer may:

- (a) refer any disputed tickets issued under Section 7.2 (b) to the Provincial Court;
- (b) refer any disputed notices issued under Section 7.2 (d) to an adjudicator;
 and
- (c) represent the City in any related proceedings.

No Duty of Care

7.4. Failure to enforce this bylaw shall not give rise to a cause of action in favour of any person.

READ A FIRST time the **25th** day of **June,** **2018.**

READ A SECOND time the **25th** day of **June,** **2018.**

READ A THIRD time the **25th** day of **June,** **2018.**

Consult with the medical health officer responsible for public health matters within the geographic area of the City the **27th** day of **June,** **2018.**

DEPOSITED with the Minister of Health the **27th** day of **June,** **2018.**

FINALLY CONSIDERED AND ADOPTED the **13th** day of **August,** **2018.**

“Lois E. Jackson”

Lois E. Jackson
Mayor

“Robyn Anderson”

Robyn Anderson
City Clerk