

**DISTRICT OF UCLUELET
BYLAW NO. 1187, 2016**

“A Bylaw to Regulate Smoking”

WHEREAS, it is desirable for the protection, promotion and preservation of health for the citizens and visitors of the District of Ucluelet;

AND WHEREAS, Council has consulted with the medical health officer on this Bylaw and deposited a copy thereof with the Ministry of Health;

NOW THEREFORE, Council under its statutory powers, including Section 8(3)(i) of the Community Charter, S.B.C. 2003, c. 26 (the "Community Charter") and Public Health Bylaws Regulation, B.C. Reg. 42/2004, enacts as follows:

Title

- 1) This bylaw may be cited as “Smoking Control Bylaw No. 1187, 2016.”

Definitions

- 2) "E-cigarette" means a product or device, whether or not it resembles a cigarette, containing an electronic or battery-powered heating element capable of vaporizing a substance for inhalation or release into the air;
- 3) “Customer service area” means a partially enclosed or unenclosed area, including a balcony, patio, yard or sidewalk, that is part of or connected to or associated with a business or use in a building or premises that includes the service of food or alcoholic drinks to customers or other persons for consumption on site;
- 4) "Municipal Park" means any property owned and dedicated as a park by the District of Ucluelet and including but not limited to public playgrounds, playing fields, beaches, designated public spaces or public trails;
- 5) "Smoke" or "Smoking" means to purposely inhale or exhale smoke from or burn or carry, a lighted cigarette, cigar, pipe, e-cigarette or other smoking equipment that burns or vaporizes tobacco, weed or other substance;
- 6) "Building" includes a structure.

Prohibition

- 7) No person shall smoke in any part of a municipal park within the District of Ucluelet;
- 8) No person shall smoke within 8 metres measured horizontally and/or vertically of any opening into any building, including any door or window that opens or any air intake;

- 9) No person shall smoke in a restaurant;
- 10) No person shall smoke within 8 meters of “customer service areas”.

Exceptions

- 11) The District of Ucluelet reserves the right to designate smoking areas for outdoor special events.

Fines

- 12) Fines and penalties for tickets issued for offences against this bylaw shall be in accordance with Schedule “A”, attached hereto and forming part of this Bylaw.
- 13) Pursuant to section 264(4) of the *Community Charter*, the words or expressions set out in Column 1 of Schedule “A” designate the offence committed under the bylaw section appearing in Column 2 opposite the respective words or expressions.
- 14) Pursuant to section 265(1)(a) of the *Community Charter*, the amounts appearing under Column 3 of Schedule “A” are the fines set for the corresponding offences designated in Column 1 of each Schedule.

Duty of Administration and Enforcement

- 15) The intent of this Bylaw is to set standards of general public interest, and not to impose a duty on the District of Ucluelet 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.

Severability

- 16) Where a decision by a court of competent jurisdiction determines that any part of this Bylaw is illegal, void, or unenforceable severs, that part is deemed severed from this Bylaw and is not to affect the balance of this Bylaw.

READ A FIRST TIME this 26th day of January, 2016.

READ A SECOND TIME this 26th day of January, 2016.

READ A THIRD TIME this 26th day of January, 2016.

ADOPTED this 9th day of February, 2016.

CERTIFIED A TRUE AND CORRECT COPY: "Smoking Control Bylaw No. 1187, 2016."



Mayor
Dianne St. Jacques



Chief Administrative Officer
Andrew Yeates

THE CORPORATE SEAL of the District of Ucluelet was hereto affixed in the presence of:



Chief Administrative Officer
Andrew Yeates

SCHEDULE "A"
BYLAW 1187, 2016

SMOKING FINES

Column 1 - Offence	Column 2 - Section	Column 3 - Set Fine
Smoking in a municipal park	7	\$50
Smoking too close to a building opening	8	\$50
Smoking in a restaurant	9	\$50
Smoking too close to a customer service area	10	\$50