

**CITY OF DUNCAN**

**SMOKE-FREE BYLAW NO. 3179, 2018**

**A BYLAW TO ESTABLISH SMOKE-FREE AREAS BY REGULATING AND PROHIBITING ENVIRONMENTAL TOBACCO SMOKE OR OTHER FORMS OF PRODUCTS BEING SMOKED.**

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**NOW THEREFORE** be it resolved that the Council of the City of Duncan, in an open meeting assembled, hereby enacts as follows:

**1. TITLE**

This Bylaw may be cited as the "Smoke-Free Bylaw No. 3179, 2018."

**2. DEFINITIONS**

*Burn or Burning* means to produce smoke or vapour that can be inhaled.

*Bus Stop* means a place on a bus route marked by a sign at which buses stop to pick up or drop off passengers and includes a transit shelter.

*Bylaw Enforcement Officer* means the person(s) appointed by the City to enforce regulatory bylaws of the City.

*City* means the City of Duncan.

*City Square* means the area immediately surrounding City Hall, including all benches, stage area, sidewalks and brickwork areas east of Craig Street, south of Ingram, and west of the Canada Avenue sidewalk and during public or private events shall include Craig Street and any adjacent sidewalks when closed for event purposes.

*Public Facility* means lands and buildings held, occupied, zoned or regulated for use by the public, any outdoor gathering place, buildings and land owned or operated by the City and, but not limited to, parks, playgrounds, benches, sports fields and the City Square.

*Responsible Person* means the person who controls, governs or directs the activity carried on within the building, being the owner, occupier, tenant of a place or premises referred to in this Bylaw and includes the person actually in charge thereof.

*Smoke or Smoking* means the burning, inhaling, exhaling, or carrying of a lighted cigarette, cigar, pipe, lighted smoking device, electronic smoking device, e-cigarette, and any other ignited smoking equipment to burn any vegetative matter or any vapour product.

*Transit Shelter* means a covered structure or facility located at a designated bus stop to provide protection from the elements for passengers waiting for a bus.

*Vegetative Matter* means matter produced by plants or growing in the manner of a plant.

### 3. REGULATIONS and PROHIBITION

**3.1** No person shall *smoke*:

- a) in any park;
- b) in a *public facility*;
- c) in any school yard;
- d) within a six (6) metre area measured on the ground from a point directly below any point of a doorway, window or air intake; or
- e) within six (6) metres of a *bus stop* measured on the ground from any point of the *bus stop* sign.

**3.2** A responsible person must not suffer or allow a person to smoke in any of the areas specified in section 3.1 (a) through (e)

**3.3** Section 3.1 does not apply to a ceremonial use of tobacco in relation to a traditional aboriginal cultural activity or a film production.

### 4. SIGNAGE

**4.1** A no *smoking* sign prescribed by any former City of Duncan Smoking Regulation Bylaw is a lawful no smoking sign for the purpose of this Bylaw.

**4.2** A person will not remove, alter, conceal, deface, write upon or destroy any no *smoking* sign posted pursuant to this Bylaw or any former City of Duncan Smoking Regulation Bylaw.

### 5. OFFENCES and PENALTIES

**5.1** The provisions of this Bylaw may be enforced by any *Bylaw Enforcement Officer*.

**5.2** A person who:

- a) contravenes, violates or fails to comply with any provision of this Bylaw, or
- b) thing which violates any provision of this Bylaw, or
- c) allows any other person to do any act or thing which violates any provision of this Bylaw; or
- d) permits any act or thing to be done in contravention or in violation of any of the provision of this Bylaw, or
- e) who neglects or refrains from doing anything required to be done by any of the provisions of this Bylaw, or
- f) who fails to comply with any order, direction or notice given under this Bylaw, or
- g) who fails to do anything required by this Bylaw,

commits an offence and, upon conviction, shall be liable to a fine or penalty of not less than \$100, and not exceeding \$10,000, plus the cost of prosecution.

- 5.3** Section 5.1 shall not prevent the City or an authorized person on behalf of the City issuing and enforcing a ticket under the City's Bylaw Offence Notice Enforcement Bylaw or the City's Municipal Ticket Information System Implementation Bylaw.
- 5.4** Where an offence under this Bylaw is of a continuing nature, each day that an offence continues or is permitted to exist shall constitute a separate and distinct offence.
- 5.5** The penalties imposed under Section 5.2 or 5.3 will be in addition to and not in substitution for any other penalty or remedy imposed by this Bylaw or any other statute, law or regulation.

**6. SEVERABILITY**

A decision by a court of competent jurisdiction that any part of this Bylaw is illegal, void or unenforceable servers that part from this Bylaw and is not to affect the balance of this Bylaw.

**7. REPEAL**

The City of Duncan Smoking Regulation Bylaw No. 3064, 2012 and any amendments are hereby repealed.

**8. ENACTMENT**


READ A FIRST TIME THIS 16<sup>th</sup> day of July, 2018.

READ A SECOND TIME THIS 16<sup>th</sup> day of July, 2018.

READ A THIRD TIME THIS 16<sup>th</sup> day of July, 2018.

DEPOSITED WITH THE MINISTER OF HEALTH THIS 1<sup>st</sup> day of August, 2018.

ADOPTED THIS 20<sup>th</sup> day of August, 2018.

  
Phil Kent, Mayor  
Paige MacWilliam,  
Director of Corporate Services