

The Corporation of the City of Penticton

Bylaw No. 2018-68

A Bylaw regulating smoking and vaping in the City of Penticton.

WHEREAS the Municipal Council considers that second hand smoke and vapour from tobacco, cannabis and other like products is a health hazard;

AND WHEREAS Section 8(3)I of the *Community Charter* provides that a Council may regulate, prohibit and impose requirements in relation to public health;

AND WHEREAS the City of Penticton has satisfied the preconditions to adopting a Bylaw as set out in the *Public Health Bylaws Regulations, B.C. Reg. 42/2004*;

NOW THEREFORE the Municipal Council of The Corporation of the City of Penticton (the "City") in open meeting assembled hereby ENACTS as follows:

1. Title

This Bylaw may be cited for all purposes as "Smoking Regulations Bylaw No. 2018-68".

2. Definitions

In this Bylaw the following definitions have the following meanings:

"Bylaw Enforcement Officer" means the person duly appointed as such for the purpose of enforcement of one or more of the City Bylaws and shall include any *peace officer*.

"public facility" means enclosed buildings or recreation facilities including but not limited to recreation centres, arenas, picnic shelters and other recreation facilities located in a Park or on any other land which the City owns or controls by means of a lease, licence or other legal instrument that is intended for athletic, social, cultural or recreational use by members or visitors to the community.

"public place" means an indoor or outdoor area, privately or publically owned, to which the public have access by right or by invitation, expressed or implied, whether by payment or not, but not a place when used exclusively by one or more individuals for a private gathering or other personal purpose.

"smoke" or "smoking" means the inhaling, exhaling, burning or carrying of a lighted cigarette, cigar, pipe, hookah or other lighted smoking equipment burning tobacco, cannabis or any other similar substance.

"vape" or "vaping" means the operating of an electronic vaping device that heats up and/or otherwise vaporizes a liquid or solid into an aerosol mist intended to be inhaled and exhaled.

3. Scope

This Bylaw applies within the City of Penticton.

4. Severability

A declaration by a court of competent jurisdiction that a section or provision of this Bylaw, including anything shown on Schedules to the Bylaw is invalid, shall not affect the validity of the Bylaw or any part of the Bylaw other than the section or provision, or part of the Schedule declared to be invalid.

5. Enforcement

Bylaw Enforcement Officers and or delegates are authorized to enforce the provisions of this Bylaw.

6. Prohibitions on Smoking

6.1 No person shall smoke or vape in the following locations:

- a) In a fully or substantially enclosed public place or workplace;
- b) Within seven and a half meters (7.5m) of a public place or workplace doorway, open window, or air intake;
- c) Transit shelters or within 7.5m of a transit stop;
- d) In common areas of apartment buildings;
- e) On or within 30m of any public or private elementary, middle or secondary (K-12) school ground;
- f) On or within 30m of a children's playground;
- g) In any public facility;
- h) In any public place or municipal open space listed in Schedule A, attached to and forming part of this bylaw.

7. Prohibitions on smoking or vaping of cannabis products

7.1 In addition to the prohibitions on smoking or vaping identified in Section 6, smoking or vaping of cannabis products are prohibited in the following locations:

- a) All public roads, sidewalks, walkways and trails;
- b) All public municipal open spaces.

8. Exceptions to this bylaw

8.1 This bylaw shall not apply to the following:

- a) Traditional ceremonial purposes;
- b) Private social functions, on private property.

9. Posting of Signs

- 9.1 A responsible person must display, or ensure the display of, a sign at all times, in the form established under paragraph 10(1):
- (a) at the main entrances to a park;
 - (b) at the main entrances to a designated public place;
 - (c) at the main entrances to a school yard.

10. Signs

- 10.1 A no-smoking sign shall state, (a) the phrase "no smoking", or (b) a graphic symbol which shall be a minimum of six centimetres in diameter.
- 10.2 No person shall remove, alter, conceal, deface, write upon or destroy any sign posted pursuant to this Bylaw.


11. Penalties

- 11.1 Except as otherwise provided in this Bylaw, any person who violates any of the provision of this Bylaw or who suffers or permits any act or thing to be done in contravention of this Bylaw, or who refuses, or omits or neglects to fulfill, observe, carry out or perform any duty or obligation imposed by this Bylaw commits an offence and is liable on summary conviction to a fine of not more than \$10,000.
- 11.2 In addition to any other penalty, the Licence Inspector or the Bylaw Officer may issue a Bylaw Offence Notice or Municipal Ticket Information to a person for a violation of this Bylaw.
- 11.3 Each day during which an offence is continued shall be deemed to constitute a new and separate offence.


12. Repeal

- 12.1 "The City of Penticton Smoking Regulation Bylaw No. 87-15" and all amendments thereto are hereby repealed upon adoption of this bylaw.

READ A FIRST time this	4 day of	December, 2018
READ A SECOND time this	4 day of	December, 2018
READ A THIRD time this	4 day of	December, 2018
RESCIND THIRD and READ a THIRD time as AMENDED	22 day of	January, 2019
DEPOSITED with the Minister of Health	21 day of	February, 2019
ADOPTED this	19 day of	March, 2019



John Vassilaki, Mayor



Angie Collison, Corporate Officer

SCHEDULE "A"

Public municipal open spaces where smoking is prohibited

The following areas have been designated by the Council of the City of Penticton as "no smoking areas":

1. Skaha Beach
2. Skaha Lake Walkway
3. Sudbury Beach (if leased by the City of Penticton)
4. Airport Beach (if leased by the City of Penticton)
5. Okanagan Beach
6. Okanagan Lake Park Beach
7. Marina Way Beach
8. Three Mile Beach
9. Dog Beach (Lakeside Road)
10. Behind the SS Sicamous
11. Behind the Penticton Tennis Club
12. Three Mile Boating Beach Area
13. Rotary Park Beach (north side of park)
14. Kiwanis Walking Pier Area
15. West Okanagan Lake Walkway from Winnipeg Street to the SS Sicamous
16. Outside Grounds and Parking Areas of South Okanagan Event Centre Complex