



## DISTRICT OF PORT HARDY

### BYLAW NO. 1068-2017

Being a Bylaw to Regulate Smoking in the District of Port Hardy

WHEREAS it has been determined that Environmental Smoke whether from tobacco, marijuana, heated vapour or the burning of other substances can contain Class A carcinogens similar to benzene and asbestos, contain fine particles that can be inhaled deep into the lungs causing harm both locally and in other parts of the body, and is a health hazard to the inhabitants of the District of Port Hardy;

AND WHEREAS it is generally recognized by scientific and medical communities that there is no safe level of smoke exposure and that whether the smoking occurs indoors or outdoors exposure to significant levels of Environmental Smoke can occur;

AND WHEREAS it is desirable for the purposes of maintaining, promoting and preserving the public health of the inhabitants of the District of Port Hardy to prohibit, regulate and impose requirements in relation to smoking in the District of Port Hardy

NOW THEREFORE, the Council of the District of Port Hardy in open meeting assembled enacts as follows:

#### **PART 1 CITATION**

1. This Bylaw shall be cited as "District of Port Hardy Smoking Regulation Bylaw No. 1068-2017".

#### **PART 2 DEFINITIONS**

"burn" or "burning" means to produce smoke, vapour or other substances that can be inhaled;

"bus stop" means a place on a bus route marked by a sign at which buses stop to pick up and drop off passengers and includes a transit shelter;

"customer service area" means a partially enclosed or unenclosed area, including a balcony, patio, yard or side walk, 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;

"designated public space" includes but is not limited to public playing fields, public playgrounds, public squares, and outdoor public places where individuals are required to queue for the receipt of any service;

"outdoor workplace" means any outdoor place used in conjunction with the workplace, including but not limited to construction and marine sites as well as sites with flag persons;

"park" means any property owned and dedicated as a park by the District of Port Hardy and including but not limited to public playgrounds, playing fields, beaches, or public trails;

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“smoke” or “smoking” means to inhale, exhale, burn, or carry a lighted cigarette, cigar, pipe, hookah pipe, or other lighted smoking device or electronic smoking device that burns tobacco, weed, or other substance.

### **PART 3 HEALTH REGULATIONS**

#### Prohibition of smoking

- 3.1 No person shall smoke in, at, on or within 6 metres of any of the following:
- i. any part of a park within the District of Port Hardy;
  - ii. a bus stop;
  - iii. a customer service area;
  - iv. any designated public space;
  - v. any outdoor workplace.
- 3.2 No person shall smoke in any place where prohibited by the *Tobacco and Vapour Products Control Act* and Regulation.
- 3.3 Section 3.1 does not apply to a ceremonial use of tobacco in relation to a traditional aboriginal cultural activity.

### **PART 4 VIOLATIONS AND PENALTIES**

#### Offences under Bylaw

- 4.1 A person who:
- i. violates or who causes, permits or allows any of the provisions of this Bylaw to be violated;
  - ii. neglects to do or refrains from doing anything required to be done by any provision of this Bylaw; or
  - iii. fails to comply or allows another person to fail to comply, with an order or direction given under any provision of this Bylaw;

is guilty of an offence against this Bylaw, and liable to the penalties imposed under this Section 4.

#### Fine for offence

- 4.2 Every person who commits an offence against this Bylaw is punishable on conviction by a fine of not less that (\$250) and not more than (\$2,000) for each offence. Each day that an offence against this Bylaw continues or exists shall be deemed to be a separate offence.

### **PART 5 ADMINISTRATION AND ENFORCEMENT**

- 5.1 The Bylaw Enforcement Officers of the District of Port Hardy shall be responsible for administration of this Bylaw.

- 5.2 The intent of this Bylaw is to set standards of general public interest, and not to impose a duty on the District of Port Hardy or its employees to enforce its provisions and;
- i. 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
  - ii. 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.

## **PART 6 SEVERABILITY**

- 6.1 If any portion of this Bylaw is held invalid by a court of competent jurisdiction, then the invalid portion shall be severed and the remainder of this Bylaw shall be deemed to have been adopted without the severed portion.

## **PART 7 EFFECTIVE DATE**

- 7.1 This Bylaw is in effect January 1, 2018.

Read a first time on the 11<sup>th</sup> day of July, 2017.

Read a second time on the 8<sup>th</sup> day of August, 2017

Read a third time on the 28<sup>th</sup> day of November, 2017

Adopted this 12<sup>TH</sup> day of December, 2017

*Original signed by:*

\_\_\_\_\_  
DIRECTOR  
OF CORPORATE SERVICES

\_\_\_\_\_  
MAYOR

Certified a true copy of  
Bylaw No. 1068-2017 as adopted.

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Director of Corporate Services