



EXPLANATORY MEMO

SMOKING REGULATION BYLAW NO. 2792

AMENDMENT NO. 2, 2018

No. 3047

PURPOSE:

- To comply with provincial Tobacco and Vapour Products Control Act and Tobacco and Vapour Products Control Regulation which increases the no-smoking buffer zone around all doorways, air intake and open windows to any substantially enclosed public and work places in BC to six metres (was three metres).
- To comply with provincial Motor Vehicle Act that prohibits smoking in a vehicle with children under the age of 16.
- To include cannabis within the definition of “Smoke” or “Smoking” in preparation for the federal government's legalization of non-medical cannabis in late summer 2018 and to comply with provincial regulations prohibiting use of cannabis in areas frequented by children.
- To limit the areas where smoking of tobacco and use of vaping devices is permitted in areas that may be frequented by children, including but not limited to, parks and public facilities.

BACKGROUND:

- The Province enacted new laws around the sale, display, promotion and use of tobacco and vapour products effective Sept. 1, 2016, necessitating amendment to the City's Smoking Regulation Bylaw. The Tobacco and Vapour Products Control Regulation sets a six-metre zone around all doorways, air intakes and open windows to any substantially enclosed public and work places in B.C. (previously, the buffer zone was three metres).
- The Province enacted a new law in 2009 to prohibit smoking in a vehicle with children under the age of 16.
- Bill C-45, which legalizes the use of non-medical cannabis, received Royal Assent on June 21, 2018. It is scheduled to come into force on October 17, 2018. Under its authority within the regulation framework, the Province has enacted regulations restricting cannabis smoking in areas frequented by children, including community beaches, parks and playgrounds. As municipalities have the authority to restrict where tobacco may be smoked and where electronic “vaping” devices may be used, amendments are proposed that would also restrict the smoking of tobacco and use of vaping devices in areas that may be frequented by children, including but not limited to parks and public facilities.

Note: After third reading of the bylaw, it will require approval by the Minister of Health before adoption can occur.



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A Bylaw to amend the City's Smoking Regulation bylaw.

The Council of the City of Langley, in open meeting assembled, enacts as follows:

1. Title

This bylaw shall be cited as the "Smoking Regulation Bylaw, 2010, No. 2792, Amendment No. 2, 2018, No. 3047".

2. Amendments

(1) Smoking Regulation Bylaw No. 2792 is hereby amended as follows:

(a) In Section 2 by adding the following definitions in alphabetical order:

"Cannabis" has the same meaning as in the *Cannabis Control and Licensing Act*.

"Common Areas" include lobbies, foyers, stairwells, elevators, corridors, cloakrooms, washrooms, food fair seating areas and other public areas of a **Building**.

"Enclosed Premises" means **Premises** that are enclosed on all sides, except for windows, doors and other similar openings, but does not include a dwelling unit or sleeping unit as defined in the City's Zoning Bylaw 1996, No. 2100, or a hotel or motel room or suite designated for **Smoking** by a **Responsible Person**.

"Park" means a Park as defined in the City's Parks and Public Facilities Regulation Bylaw, 2018, No. 3048.

"Premises" means a portion of a **Building** in respect of which a person has exclusive possession.

"Public Facility" means a Public Facility as defined in the City's Parks and Public Facilities Regulation Bylaw, 2018, No. 3048.

"Representative of the City" means the administrative manager responsible for Parks administration or Public Facilities within the

City or his designate; and for the purpose of enforcing the provisions of this bylaw, also includes:

- (a) a peace officer; and
- (b) a bylaw enforcement officer appointed by the City.

“Smoking Area” means those areas designated and signed for Smoking tobacco.

“Vehicle” means the interpretation under the Motor Vehicle Act R.S.B.C. 1996, c 318.

“Vehicle for Hire” means a Vehicle used for the carrying, transportation or conveyance of persons or property for hire and includes a taxi cab, limousine, bus or tow car.

- (b) In Section 2, under the definition of “Responsible Person”, by replacing the following:

“‘Responsible Person’ means a person who owns, controls, manages, supervises or operates:

- (a) a **Business** or other use which occupies all or substantially all of a **Building**,
- (b) a **Business** or other use which occupies **Premises**,
- (c) **Common Areas**, or
- (d) a **Customer Services Area**;

and, in respect of **Common Areas**, includes a strata corporation or cooperative association.”

with

“‘Responsible Person’ means a person who owns, controls, manages, supervises or operates:

- (a) a **Business** or other use which occupies all or substantially all of a **Building**,
- (b) a **Business** or other use which occupies **Premises**,
- (c) **Common Areas**,
- (d) a **Customer Services Area**, or

(e) a **Vehicle for Hire**;

and, in respect of **Common Areas**, includes a strata corporation or cooperative association.”

(c) In Section 2, under the definition of “Smoke” or “Smoking”, by replacing the following:

““Smoke” or “Smoking” means burn or carry a lighted cigarette, cigar, pipe, electronic smoking device, hookah pipe or other lighted smoking equipment that burns tobacco.”

with

““Smoke” or “Smoking” means to

- (a) burn, light operate, or activate a cigarette, cigar, pipe, electronic smoking device, hookah pipe or other smoking equipment that burns tobacco, Cannabis or other substance; or
- (b) carry or hold a lit cigarette, cigar or pipe.

(d) In Section 4.(1) by replacing the following wording:

“(1) A person must not **Smoke**:

(a) in a **Building**, except in:

- (i) a dwelling unit or sleeping unit defined under the Zoning Bylaw, including a dwelling unit in which an owner or occupier also carries on **Business**;
- (ii) a hotel or motel room or suite designated for **Smoking** by a **Responsible Person**; or

(b) in an enclosed or partially enclosed shelter where people wait to board public transit;

(c) within three metres measured on the ground from a point directly below any point of any opening into any **Building**, including any door or window that opens or any air intake;

(d) in a **Customer Service Area**; or

(e) within three metres of the perimeter of a **Customer Service Area.**”

with

“(1) A person must not **Smoke**:

(a) in a **Building**, except in:

- (i) a dwelling unit or sleeping unit defined under the Zoning Bylaw, including a dwelling unit in which an owner or occupier also carries on **Business**;
- (ii) a hotel or motel room or suite designated for **Smoking** by a Responsible Person; or
- (iii) **Enclosed Premises**:
 - a. that are not open to the public; and
 - b. where the only occupants of the **Building** are the owner or owners of the **Business** carried on in the **Building**;

(b) in an enclosed or Partially Enclosed Shelter where people wait to board public transit;

(c) within six metres measured on the ground from a point directly below any point of any opening into any **Building**, including any door or window that opens or any air intake;

(d) in a **Customer Service Area**;

(e) within six metres of the perimeter of a **Customer Service Area**;

(f) Cannabis in a **Vehicle**;

(g) tobacco or any other substance, except for Cannabis which is governed by s. 4(1)(f) of this bylaw, in a **Vehicle**, if any occupant of the **Vehicle** is under the age of sixteen (16) years;

(h) in a **Vehicle for Hire**;

(i) Cannabis in any area that may be frequented by children, including but not limited to **Parks** and **Public Facilities**; or

(j) tobacco in **Parks and Public Facilities**, except within designated **Smoking Areas**.”

(e) In Section 5(1)(c) by replacing the following wording:

“an area described in 4(1)(c) or (e).”

with

“an area described in 4(1)(c), (e) or (h).”

(f) In Section 7(1) by replacing the following wording:

“An inspector or official of the City, or a bylaw enforcement officer”;

with

“A **Representative of the City**”;

(g) In Section 8(1) by replacing the following wording:

“An inspector or official of the City, or a bylaw enforcement officer”;

with

“A **Representative of the City**”.

READ A FIRST, SECOND and THIRD TIME this day of , 2018.

APPROVED BY THE MINISTER OF HEALTH on the day of , 2018.

FINALLY ADOPTED this day of , 2018.

MAYOR

CORPORATE OFFICER