



THE CORPORATION OF THE CITY OF DAWSON CREEK

SMOKING REGULATION BYLAW NO. 4240, 2014

CONSOLIDATED FOR CONVENIENCE ONLY

This is a consolidation of the bylaws listed below. Amendments have been incorporated with the parent bylaw for convenience only. This consolidation is not a legal document. Certified copies of the original bylaws should be consulted for all interpretations and applications of the subject bylaw.

Amendment Bylaw 4300, 2016

Amendment Bylaw 4390, 2018

THE CORPORATION OF THE CITY OF DAWSON CREEK

BYLAW NO. 4240

A Bylaw of the Corporation of the City of Dawson Creek (hereinafter called “The City”) to regulate smoking in public places.

WHEREAS a Council may, by bylaw, regulate, prohibit and impose requirements in relation to public health and public places;

AND WHEREAS it has been determined that second-hand tobacco smoke is a health hazard and nuisance for many inhabitants of and visitors to the City of Dawson Creek;

AND WHEREAS the City of Dawson Creek has satisfied the preconditions to adopting this Bylaw set out in the *Public Health Bylaws Regulation, B.C. Reg.42/2004*;

NOW THEREFORE the Council of the City of Dawson Creek, in open meeting assembled, enacts as follows:

SECTION 1 – TITLE

1.1 This Bylaw may be cited as “**SMOKING REGULATION BYLAW NO. 4240, 2014**”.

SECTION 2 – DEFINITIONS

2.1 In this Bylaw the following words and terms have the following meanings assigned to them:

“**Bank**” includes credit union, trust company, savings or loan company or other financial institution;

“**Building**” means any structure used or intended for supporting or sheltering any occupancy and includes part of a building;

“**Buffer Zone**” means within 7.5 metres from a public entrance, window or air intake of a Building, Structure, vehicle or place occupied by the business or use; or 7.5 metres from a Municipal Smoke Free Area.

“**Business**” means a business, trade, profession, or other occupation for which a person must obtain a licence under the City’s Business Bylaw, and includes a Bank, Food Services Establishment, Licenced Establishment, Personal Services Establishment, Retail Establishment, Billiard or Pool Hall, Taxicab or Public Bus;

“**Business Place**” means any Building, Structure, vehicle or place that a Business operates out of;

“**Bylaw Enforcement Officer**” means a person or persons appointed from time to time by resolution of City Council pursuant to Section 36 of the Police Act, the purpose of which is to enforce regulatory bylaws of the municipality.

“City” means the Corporation of the City of Dawson Creek;

“Designated Smoking Area” means an area on a property where a person may be permitted to Smoke under the *Tobacco and Vapour Products Control Act* or the *Cannabis Control and Licencing Act*, and has received additional approval from the City by way of a Council Resolution as an area in which a person may lawfully Smoke;

“Food Service Establishment” means any place where food intended for public consumption is sold, offered for sale, supplied, handled, prepared, packaged, displayed, served, processed, stored, transported or dispensed, and includes a patio used in conjunction with such a place;

“Fully or Substantially Enclosed” means a Building or Structure, vehicle or any other place having a roof or other covering where more than 50% of the wall space is enclosed by any material that does not permit air to flow easily through it;

“Hospital” means property that is, in whole or in part, owned or leased by, or operated under the authority of, a regional health board designated under the *Health Authorities Act*, or other governing body of a prescribed organization having the delivery of health services as one of its purposes.

“Licensed Establishment” means any place that is licensed under the provisions of the Liquor Control and Licensing Act (B.C.);

“Municipal Smoke Free Area” means an area that is established for the purpose of outdoor recreation, including Rotary Lake, the Dawson Creek Trail, a playing field, a bleacher for spectators, a tennis court, a playground, or parks, and which is owned, controlled, or operated by the City for the use or pleasure of the public;

“Operator” means any person who owns, controls, manages, supervises, or operates a business or other use which occupies a building, structure, vehicle or place, and in respect of common areas, includes a strata corporation or cooperative association and also means a person who drives a vehicle for hire;

“Outdoor Venue” means a place that is not Fully or Substantially Enclosed and is used for the assembly of persons, including for education, worship, entertainment, recreation, business or amusement;

“Personal Services Establishment” means a place in which a person provides a service to or on the body of another person, and includes but is not limited to a barber shop, beauty parlour, health spa, massage parlour, tattoo shop, sauna and steam bath;

“Place of Public Assembly” means a Building used for the assembly of persons for the purpose of education, worship, entertainment, recreation, business or amusement, but does not include a place where a Private Social Function is being held;

“Private Social Function” means a special social event for which an entire room or hall has been reserved, at which attendance is limited to people who have been specifically invited or designated by the sponsor;

“Public Entrance” means an entryway to a place to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry;

“Municipal Smoke Free Area” means Rotary Lake, the Dawson Creek Trail, a playing field, a bleacher for spectators, a tennis court, or a playground which is owned, controlled or operated by the City for the use or pleasure of the public;

“Retail Establishment” means a place where goods or services are exposed or offered for retail sale but does not include a place where the only trade or business carried on is that of the custom blending of tobaccos, or sale of tobaccos, pipes, cigars or smokers’ sundries;

“School Property” means property that is

- a. owned or leased by, or operated under the authority of, a board established under the School Act or the Independent School Act, and
- b. used for the purposes of delivering educational programs or other learning programs,

and includes real property and improvements;

“Smoke” or “Smoking” means:

- (a) to smoke, hold or otherwise have control over an ignited tobacco product or another ignited substance, including cannabis, that is intended to be smoked, or;
- (b) to inhale or exhale vapour from, or to hold or otherwise have control over, (i) an activated electronic cigarette, (ii) an activated water pipe, (iii) another activated device containing a substance that is intended to be inhaled or exhaled;

but does not include the carrying of lighted incense or other lighted smoking equipment used solely for ceremonial or religious purposes.

“Sporting Event” means an organized athletic competition where admission is by ticket, whether paid or unpaid;

“Structure” includes part of a structure; and

“Substantially Enclosed Structure” means a Building or Structure, vehicle or any other place having a roof or other covering where more than 50% of the wall space is enclosed by any material that does not permit air to flow easily through it and is a place to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry; or is a prescribed place under the *Tobacco and Vapour Products Control Act* (BC).

SECTION 3 – APPLICATION

3.1 This Bylaw does not apply to:

- a. a Private Social Function;
- b. an area on a patio that is clearly designated for people at least nineteen (19) years of age in a Food Service Establishment or a Licenced Establishment;
- c. a Designated Smoking Area.

SECTION 4 – AREAS OF SMOKING PROHIBITION

- 4.1 No Operator of a Business, Hospital, Place of Public Assembly, School Property, or Substantially Enclosed Structure, shall cause, permit or allow a person to Smoke within a Building, Structure, vehicle or Business Place occupied by the Business or use.
- 4.2 No Operator of a Business, Hospital, Place of Public Assembly, School Property, or Substantially Enclosed Structure, shall cause, permit or allow a person to Smoke within the Buffer Zone for a Building, Structure, vehicle or Business Place occupied by the Business or use.
- 4.3 No person shall smoke in, at, or on, or within the Buffer Zone, of a Business Place; Outdoor Venue; Municipal Smoke Free Area; place at which a Sporting Event is occurring; Place of Public Assembly; Public Entrance; School Property; Substantially Enclosed Structure; or transit shelter.

SECTION 5 – SIGN REQUIREMENTS

- 5.1 The Operator of any Structure, vehicle, or Business Place where Smoking is not permitted under Section 4 must post at least one sign meeting the Sign Requirements listed in this Bylaw in the following locations:
 - a. at each doorway and air intake in a Building, Structure, Business Place, or Substantially Enclosed Structure;
 - b. at each Public Entrance or other point of access to an Outdoor Venue; Municipal Smoke Free Area; place at which a Sporting Event is occurring; Place of Public Assembly;
 - c. on the dashboard or a passenger window of a vehicle.
- 5.2 In this section, “letter height” means the actual height of the letter regardless of whether it is a capital or lower case letter;
- 5.3 All signs referred to in this bylaw:
 - a. shall carry the text “No Smoking” or “Smoking is Prohibited”, in capital or lower case letters or a combination thereof;
 - b. shall consist of two (2) contrasting colours, or if the lettering is to be applied directly to a surface or to be mounted on a clear panel, the lettering shall contrast to the background colour;
 - c. with respect to size of lettering of either “No Smoking” or “Smoking is Prohibited”, shall be not less than the following height based upon the maximum viewing distance in direct line of sight for:
 - (i) 3.0 metres or less, letter height of 1 centimetre;
 - (ii) 6.0 metres or less, letter height of 3 centimetres;
 - (iii) 12 metres or less, letter height of 7.5 centimetres;
 - (iv) More than 12 metres, letter height of not less than 7.5 centimetres.

- d. must include a reference to the 7.5 metre Buffer Zone if applicable.
- e. may include in the text at the bottom of each sign “Dawson Creek Bylaw No. 4240 Maximum Penalty \$1,000.00.”
- f. notwithstanding the provisions of Subsection a) hereof, the following graphic symbol may be used to indicate “no smoking areas”. Each symbol may include the text “Dawson Creek Bylaw No. 4240”. Any such symbol shall be on a white background with a circle and interdictory stroke in red, with a cigarette, letters and figures in black, provided such symbol complies with the other provisions of this Section. There may be added appropriate symbols, such as directional arrows.



- g. with respect to size of the graphic symbol, the diameter of the circle and the symbol referred to in Subsection 5.2.f hereof, shall be not less than the number of centimetres prescribed below, based upon the maximum viewing distance and direct line of sign, as follows:
 - (i) 3.0 metres or less, 10 centimetres;
 - (ii) 6.0 metres or less, 15 centimetres;
 - (iii) 12 metres or less, 20 centimetres;
 - (iv) More than 12 metres, a size of not less than 20 centimetres.
- h. Notwithstanding that the symbol in Subsection 5.2.f hereof is a cigarette, it shall include a lighted cigar, cigarette, pipe, or other lighted smoking equipment.

SECTION 6 – DUTY OF ADMINISTRATION

- 6.1 The intent of this bylaw is to set standards in the general public interest, and not to impose a duty on the City 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.

SECTION 7 – ENFORCEMENT

- 7.1 Any person designated as a Bylaw Enforcement Officer pursuant to the City of Dawson Creek’s Bylaw Enforcement Notice Bylaw or Dawson Creek’s Municipal Ticket Information Bylaw is hereby authorized and empowered to enforce the provisions of this Bylaw by the Bylaw Notice Enforcement Bylaw No. 4277, 2016 or by the Municipal Ticket Information System Bylaw No. 4278, 2016.
- 7.2 No person shall do any act or suffer or permit any act to be done in contravention of this bylaw.
- 7.3 No person shall obstruct or impede a bylaw officer in lawful performance on any property, at all reasonable times, in order to ascertain whether such regulations are being observed as per Section 16 of the *Community Charter*.
- 7.4 Each day that an offence against this bylaw continues shall be deemed a separate and distinct offence.
- 7.5 A person who contravenes any provision of this bylaw is liable to a fine of not more than \$10,000.00 and not less than \$100.00 for each offence.
- 7.6 Any penalty imposed pursuant to this bylaw shall be in addition to, and not in substitute for, any other penalty or remedy imposed pursuant to any other applicable statute, law, or legislation.

SECTION 8 - ADMINISTRATIVE

- 8.1 If any provision of this bylaw is declared or held to be illegal, invalid, or ultra vires, in whole or in part, then the provision shall not apply and the remainder of this bylaw shall continue in full force and effect and be construed as if it had been enacted without the illegal, invalid, or ultra vires provision.
- 8.2 This bylaw hereby repeals the “Regulation of Smoking Bylaw No. 2730, 1989” and all amendments made thereto in its entirety.
- 8.3 Effective Date
- a) This bylaw, except SECTION 5 – SIGN REQUIREMENTS comes into effect upon adoption.
 - b) SECTION 5 – SIGN REQUIREMENTS comes into force and takes effect six (6) months after adoption.

READ a first time this 15th day of September, 2014.

READ a second time this 15th day of September, 2014.

READ a third time as amended this 3rd day of November, 2014.

RESCINDED AND RE-READ a third time as amended this 15th day of December, 2014.

DEPOSITED WITH THE MINISTRY OF HEALTH this 23rd day of December, 2014.

ADOPTED this 5th day of January, 2015.

CERTIFIED A TRUE AND CORRECT COPY of Bylaw No. 4240 cited as “SMOKING REGULATION BYLAW NO. 4240, 2014”

ORIGINAL SIGNED BY

Brenda Ginter
Corporate Administrator

The Corporate Seal of **THE CORPORATION OF THE CITY OF DAWSON CREEK** was affixed in the presence of:

ORIGINAL SIGNED BY

Mayor Dale Bumstead

ORIGINAL SIGNED BY

Brenda Ginter – Corporate Administrator