

## TOWN OF LADYSMITH

## BYLAW NO. 1936

**A Bylaw to Regulate Smoking in the Town of Ladysmith**

**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, can 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 and a nuisance to inhabitants and visitors of the Town of Ladysmith;

**AND WHEREAS** it is generally recognized by scientific and medical communities that there is no safe level of smoke or vapour 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 public health in the Town of Ladysmith to prohibit, regulate and impose requirements in relation to smoking in the Town of Ladysmith;

**NOW THEREFORE**, the Council of the Town of Ladysmith, in public meeting assembled, hereby enacts as follows:

**INTERPRETATION****1. Definitions**

In this Bylaw:

“Town” means the Town of Ladysmith

“Council” means the Council of the Town of Ladysmith

“Peace Officer” includes a Bylaw Enforcement Officer appointed by the Town of Ladysmith

“Responsible person” means a person who owns, controls, manages, supervises or operates common public areas;

“Burn” or “Burning” means the combustion of a substance to produce smoke, vapour, aerosol 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 may include 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 real property or property subject to a right of occupation by the Town for the purpose of pleasure, recreation or community uses of the public, including

playgrounds, sport courts, natural and landscaped areas, sports fields, trails, walkways and other public places and all improvements and may include beaches, and other public places adjacent to streams including land covered by water, but does not include the travelled portion of a highway;

“Public Facility” includes but is not limited to any outdoor gathering place, buildings and land owned or operated by the Town, including but not limited to parks, playgrounds, sports fields and outdoor public places where individuals are required to queue for the receipt of any service;

“Smoke” or “smoking” means the inhaling, exhaling, burning or carrying of a lighted cigarette, cigar, pipe or other lighted smoking device or electronic smoking device that burns or heats tobacco, cannabis, or any other weed or substance. It does not include the carrying of lighted incense or smoking as part of a traditional aboriginal cultural activity;

**2. Severability**

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

**3. Enforcement**

The Bylaw Enforcement Officers of the Town of Ladysmith shall be responsible for administration of this Bylaw.

**4. Duty of Administration**

The intent of this Bylaw is to set standards in the general public interest, and not to impose a duty on the Town of Ladysmith, its employees or any Peace Officer 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.

**HEALTH REGULATIONS**

**5. Prohibition of Smoking**

No person shall smoke in, at, on or within 7 meters of any of the following:

- (a) any part of a park within the Town of Ladysmith
- (b) a bus stop;
- (c) a customer service area;
- (d) any designated public place;
- (e) any outdoor workplace;
- (f) common areas of apartment buildings, condominiums and dormitories;
- (g) school grounds;
- (h) motor vehicles when youth under 16 years of age are present;
- (i) any public facility;
- (j) any fully or substantially enclosed workplace;
- (k) inside any part of a building or structure except in a private residence, hotel or motel room;
- (l) any public entrance, open window or air intake

**6. Application of Ban on Smoking**

A responsible person must not suffer or allow a person to smoke in any of the areas specified in section 5 (a) through (l)

**VIOLATIONS AND PENALTIES**

**7. Offences Under Bylaw**

A person who:

- a. violates any provision of this Bylaw or does any act or thing which violates any provision of this Bylaw or allows or permits any other person to do any act or thing which violates any provision of this Bylaw;
- b. neglects to do or refrains from doing anything required to be done by any provision of this Bylaw; or
- c. 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 Town of Ladysmith Ticket Information Utilization Bylaw No. 1457.

Each day that an offence against this Bylaw continues or exists shall be deemed to be a separate offence.

**ENACTMENT**

**5. Force and Effect**

This Bylaw comes into force and takes effect upon adoption.

**6. Citation**

This Bylaw may be cited for all purposes as "Town of Ladysmith Smoking Regulation Bylaw, 2018, No. 1936".

<b>READ A FIRST TIME</b>	<b>on the 7<sup>th</sup></b>	<b>day of May,</b>	<b>2018</b>
<b>READ A SECOND TIME</b>	<b>on the 7<sup>th</sup></b>	<b>day of May,</b>	<b>2018</b>
<b>READ A THIRD TIME</b>	<b>on the 7<sup>th</sup></b>	<b>day of May,</b>	<b>2018</b>
<b>THIRD READING RESCINDED</b>	<b>on the 17<sup>th</sup></b>	<b>day of September,</b>	<b>2018</b>
<b>READ A THIRD TIME AS AMENDED</b>	<b>on the 17<sup>th</sup></b>	<b>day of September,</b>	<b>2018</b>
<b>DEPOSITED WITH THE MINISTER OF HEALTH</b>	<b>on the 4<sup>th</sup></b>	<b>day of October,</b>	<b>2018</b>
<b>ADOPTED</b>	<b>on the 15<sup>th</sup></b>	<b>day of October,</b>	<b>2018</b>



[Redacted signature]

Mayor (A. Stone)

[Redacted signature]

Corporate Officer (J. Winter)