CITY OF EDMONTON

BYLAW 14614

PUBLIC PLACES BYLAW

(CONSOLIDATED ON OCTOBER 20, 2015)

THE CITY OF EDMONTON
BYLAW 14614

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Whereas, pursuant to section 7(a) of the *Municipal Government Act*, a council may pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property; and

Whereas, pursuant to section 7(b) of the *Municipal Government Act*, a council may pass bylaws for municipal purposes respecting people, activities and things in, on or near a public place or place that is open to the public; and

Whereas, pursuant to section 7(i) of the *Municipal Government Act*, a council may pass bylaws for municipal purposes respecting the enforcement of bylaws made under the *Municipal Government Act* or any other enactment including any or all of the following:

(i) the creation of offences;
(ii) for each offence, imposing a fine not exceeding $10,000 or imprisonment for not more than one year, or both;
(iii) providing for imprisonment for not more than one year for non-payment of a fine or penalty;
(iv) providing that a person who contravenes a bylaw may pay an amount established by bylaw and if the amount is paid, the person will not be prosecuted for the contravention;
(v) providing for inspections to determine if bylaws are being complied with; and
(vi) remedying the contraventions of bylaws;

PART I - PURPOSE, DEFINITIONS AND INTERPRETATION

PURPOSE 1 The purpose of this bylaw is to regulate the conduct and activities of people in public places to promote the safe, enjoyable, and reasonable use of such property for the benefit of all citizens of the City

DEFINITIONS 2 In this bylaw, unless the context otherwise requires:

(a) **"City"** means the City of Edmonton;

(b) **"City Manager"** means the chief administrative officer of the City;

(c) **"handbill"** means printed material primarily advertising goods or services;

(d) **"hotel"** includes a motel, inn or any other similar establishment providing temporary lodging;

(e) **"municipal tag"** means a ticket alleging an offence issued pursuant to the authority of a bylaw of the City;

(f) **"occupy"** or **"occupies"** means residing on or to be in actual or apparent possession or control of property;

(g) **"own"** or **"owns"** means:

(i) in the case of land, to be registered under the *Land Titles Act* as the owner of the fee simple estate in a parcel of land; or;

(ii) in the case of personal property, to be in lawful possession or have the right to exercise control over it, or to be the registered owner of it;

(h) **"person"** means any individual, firm, partnership, association, corporation, trustee, executor, administrator or other legal representative;

(i) **"property"** means;

(i) in the case of land, a parcel of land including any buildings; or

(ii) in other cases, personal property;

(j) "**public place**" means any property, whether publicly or privately owned, to which members of the public have access as of right or by express or implied invitation, whether on payment of any fee or not; and

(k) **"violation ticket"** has the same meaning as in the *Provincial Offences Procedure Act.*

RULES FOR INTEPRETATION

3 The marginal notes and headings in this bylaw are for reference purposes only.

PART II - PUBLIC BEHAVIOURS

LITTERING 4 A person shall not leave any garbage, litter or other refuse in a public place except in a receptacle designed and intended for such use.

AGGRESSIVE PANHANDLING

4.1 (1) A person shall not panhandle in an aggressive manner in any public place.

(2) For the purpose of this section "panhandle" or "panhandling" means a request or solicitation made verbally or otherwise for the gratuitous provision of money or goods from another person.

(3) For the purpose of this section, and without limiting the generality of the phrase, a person shall be considered to be panhandling in an "aggressive manner" if they:

(a) obstruct or impede the passage of another person;
(b) make continued requests or solicitations after receiving a negative response from another person
(c) insult, threaten, coerce or intimidate another person;
(d) make physical contact with another person; or
(e) are intoxicated by alcohol or under the influence of illegal drugs;

while panhandling.

(S. 2, Bylaw 15167, July 8, 2009) Effective April 1, 2010

URINATION AND DEFECATION 5 A person shall not urinate or defecate in a public place except in a facility designed and intended for such use.

DANGEROUS ACTIONS 6 A person shall not throw or propel an object, or act in any other way, in a public place that is reasonably likely to cause injury to another person or damage to property

FIGHTING 7 A person shall not participate in a fight or other similar physical confrontation in a public place.

BULLYING 8 (1) In this section "harassed" includes but is not limited to tormented, troubled, worried, plagued or badgered.

(2) A person shall not, in a public place, repeatedly communicate, cause or permit communication, either directly or indirectly, with any person under 18 years of age in a way that causes the person, reasonably in all the circumstances, to feel harassed.

WEAPONS 9 (1) A person shall not possess any loaded weapon, capable of

launching or firing a projectile, in a public place.

(2) A person shall not cause or permit a weapon to launch or fire a projectile in a public place.

HANDBILLS

10 (1) A person shall not distribute, cause or permit the distribution of a handbill in a hotel.

(2) This section does not apply unless:

(a) the person has been given notice by the proprietor or someone acting on behalf of the proprietor of the hotel not to distribute handbills, or

(b) signs prohibiting the distribution of handbills are visibly displayed at each of the entrances normally used by members of the public to enter the hotel.

(3) In a prosecution for a contravention of this section, the court may, in the absence of evidence to the contrary, infer that a person distributed, caused or permitted the distribution of a handbill from the fact that the goods or services of the person are advertised in the handbill.

PART III - SMOKING

DEFINITIONS

11 In this Part:

(a) **"building"** means an enclosed or substantially enclosed building or structure and, without limiting the generality of the foregoing, includes any bus shelter or rail platform;

(a.1) "**electronic cigarette**" means a handheld device containing a liquid that is vapourized and inhaled, and includes but is not limited to electronic cigarettes, e-cigarettes, vapourizer cigarettes, personal vapourizers, and electronic nicotine delivery systems;

(a.2) "**electronic cigarettes retailer**" means a fully enclosed premises where the sole function of the premises is the sale of electronic cigarettes and electronic cigarette products, and for which a valid City business licence has been issued pursuant to Bylaw 13138, Business Licence Bylaw;

(b) **"patio"** means an area outside of a building intended for the consumption of food or beverages by patrons of a business providing such food and beverages;

(c) **"playground"** means a structure or collection of structures designed and intended for recreational use by children and, where mounted in a distinct material such as sand, gravel, or wood chips, includes the material in which those structures are mounted;

(c.1) "**no smoking area**" means any public place, or portion of a public place, designated by temporary or permanent signage or other marking as a no smoking area;

(d) **"public vehicle"** means a bus, taxi or other vehicle that is used to transport members of the public for a fee;

(e) **"seasonal skating rink"** means an outdoor ice surface on which members of the public are permitted to skate, whether on payment of any fee or not, and includes public lakes, ponds, and outdoor rinks with boards or other ice support infrastructure;

(f) **"skate park"** means an area designed and intended specifically for the use of skateboards, in-line skates, or similar devices;

(g) "**smoke**" or **"smoking**" means to smoke, hold, or otherwise have control over an ignited tobacco product, or to use, hold, or otherwise have control over an electronic cigarette;

(h) **"sports field"** means an outdoor area designed and intended for use in a specific sporting event and includes soccer fields, baseball diamonds, tennis courts, and similar areas but does not include golf courses;

(i) **"tobacco product"** means a product manufactured from tobacco and intended to be smoked including but not limited to a cigarette or a cigar;

(j) **"water spray park"** means a structure or collection of structures that spray or release water which is designed and intended for recreational use; and

(k) **"window"** means a window that can be opened to admit air.

(S.2, Bylaw 15961, April 4, 2012)

(S.2, Bylaw 17004, April 15, 2015)

(S.2-4, Bylaw 17297, October 20, 2015)

GENERAL SMOKING PROHIBITION

12 Except as permitted by this Part, a person shall not smoke:

(a) inside a building;

(b) on a patio;

(c) inside a public vehicle;

(d) within five metres from a doorway, window or air intake of a building or patio; or

(e) within ten metres of a playground, seasonal skating rink, skate park, sports field, or water spray park;

(f) within a no smoking area.

(S.3, Bylaw 14877, March 25, 2008)

(S.3, Bylaw 15961, April 4, 2012)

(S.3, Bylaw 17004 April 15, 2015)

OWNER OBLIGATIONS

13 A person who owns or occupies a place where smoking is prohibited by this Part shall not permit any individual to smoke in that place.

PRIVATE RESIDENCES

14 Nothing in this Part prohibits a person from smoking in an area of a building designed, intended and used exclusively as a private residence.

WORKPLACE EXCEPTION

15 Repealed.

(S.4, Bylaw 14877, March 25, 2008)

ABORIGINAL PEOPLE

15 Nothing in this Part affects the rights of aboriginal people respecting traditional aboriginal spiritual or cultural practices of ceremonies.

(S.4, Bylaw 17004, April 15, 2015)

LEGISLATIVE EXCEPTION

16 (1) Subject to the provisions of this section, a person who owns or occupies a place where smoking is otherwise prohibited by this Part may permit smoking in that place when smoking is permitted pursuant to provincial or federal legislation or powers exercised pursuant to such legislation.

(2) If smoking is permitted pursuant to this section, the person who owns or occupies shall ensure that:

(a) smoke does not enter any place where smoking is

prohibited;

(b) signage is clearly and prominently at each entrance to a place where smoking is permitted indicating that smoking is permitted inside; and

(c) no person under 18 years of age is allowed to enter or remain in a place where smoking is permitted.

(S.5, Bylaw 14877, March 25, 2008)

E-CIGARETTES EXCEPTION

16.1 Nothing in this Part prohibits a person from using an electronic cigarette for the sole purpose of testing the device, or sampling products used with the device, prior to purchase within an electronic cigarettes retailer.

(S.5, Bylaw 17297, October 20, 2015)

PROOF OF EXCEPTION

17 The burden of proving that an exception applies in a particular case is on the person alleging such exception on a balance of probabilities.

PROSECUTIONS

18 (1) In a prosecution for a contravention of this Part, it is not necessary that a witness testify to the precise description, kind, brand or name of the tobacco product or electronic cigarette possessed, smoked or consumed.

(2) In a prosecution for a contravention of this Part, the court may, in the absence of evidence to the contrary, infer that the product smoked was a tobacco product or electronic cigarette from the fact that a witness describes it by a name that is commonly used to describe a tobacco product or electronic cigarette.

(S.6-7, Bylaw 17297, October 20, 2015)

NO SMOKING AREAS

18.1 (1) The City Manager may designate any public place, or portion of a public place, as a no smoking area.

(2) The City Manager must place temporary or permanent signs or other markings identifying a no smoking area.

(S.5, Bylaw 17004, April 15, 2015)

PART IV - ENFORCEMENT

OFFENCE

19 A person who contravenes this bylaw is guilty of an offence.

CONTINUING

20 In the case of an offence that is of a continuing nature, a

OFFENCE

contravention constitutes a separate offence in respect of each day, or part of a day, on which it continues and a person guilty of such an offence is liable to a fine in an amount not less than that established by this bylaw for each such day.

VICARIOUS LIABILITY

21 For the purposes of this bylaw, an act or omission by an employee or agent of a Person is deemed also to be an act or omission of the person if the act or omission occurred in the course of the employee's employment with the person, or in the course of the agent's exercising the powers or performing the duties on behalf of the person under their agency relationship.

CORPORATIONS AND PARTNERSHIPS

22 (1) When a corporation commits an offence under this bylaw, every principal, director, manager, employee or agent of the corporation who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence whether or not the corporation has been prosecuted for the offence.

(2) If a partner in a partnership is guilty of an offence under this bylaw, each partner in that partnership who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence.

FINES AND PENALTIES

23 (1) A person who is guilty of an offence is liable to a fine in an amount not less than that established in this section, and not exceeding $10,000.00, and to imprisonment for not more than six months for non-payment of a fine.

(2) Without restricting the generality of subsection (1) the following fine amounts are established for use on municipal tags and violation tickets if a voluntary payment option is offered:

(a) $250.00 for any offence for which a fine is not otherwise established in this section; or

(b) Repealed

(S.2(1), Bylaw 14753, February 13, 2008)

(c) $500.00 for any offence under section 5, 7, 9, and 13; and

(S.2(2), Bylaw 14753, February 13, 2008)

(d) double these fine amounts for any subsequent offence.

(3) A subsequent offence means an offence committed by a person within one year after that person has already been convicted of the

same offence or has voluntarily paid a fine for the same offence

MUNICIPAL TAG 24 If a municipal tag is issued in respect of an offence the municipal tag must specify the fine amount established by this bylaw for the offence.

PAYMENT IN LIEU OF PROSECUTION 25 A person who commits an offence may, if a municipal tag is issued in respect of the offence, pay the fine amount established by this bylaw for the offence and if the amount is paid on or before the required date, the person will not be prosecuted for the offence.

VIOLATION TICKET 26 If a violation ticket is issued in respect of an offence, the violation ticket may:

(a) specify the fine amount established by this bylaw for the offence; or

(b) require a person to appear in court without the alternative of making a voluntary payment.

VOLUNTARY PAYMENT 27 A person who commits an offence may:

(a) if a violation ticket is issued in respect of the offence; and

(b) if the violation ticket specifies the fine amount established by this bylaw for the offence;

make a voluntary payment equal to the specified fine.

ORDER TO COMPLY 28 (1) If the City Manager believes, on reasonable grounds, that a person is contravening any provision of this bylaw, the City Manager may, by written order, require any person responsible for the contravention to remedy it.

(2) The order may:

(a) direct a person to stop doing something, or to change the way in which the person is doing it;

(b) direct a person to take any action or measures necessary to remedy the contravention of the bylaw and, if necessary, to prevent a re-occurrence of the contravention;

(c) state a time within which the person must comply with the directions;

(d) state that if the person does not comply with the directions within a specified time, the City will take the action or measure.

(3) A person named in and served with an order issued pursuant to this section shall comply with any action or measure required to be taken within the time specified.

(4) An order issued pursuant to this section may be served:

(a) in the case of an individual:

(i) by delivering it personally to the individual;

(ii) by leaving it for the individual at their apparent place of residence with someone who appears to be at least 18 years of age; or

(iii) by mail addressed to the individual at their apparent place of residence or at any address for the individual on the tax roll of the City or at the Land Titles registry;

or;

(b) in the case of a corporation:

(i) by delivering personally to any director or officer of the corporation;

(ii) by delivering it personally to any person apparently in charge of an office of the corporation at an address held out by the corporation to be its address; or

(iii) by mail addressed to the registered office of the corporation.

PART V - GENERAL

POWERS OF THE CITY MANAGER

29 Without restricting any other power, duty or function granted by this bylaw the City Manager may:

(a) carry out any inspections to determine compliance with this bylaw;

(b) take any steps or carry out any actions required to enforce this bylaw;

(c) take any steps or carry out any actions required to remedy a contravention of this bylaw;

(d) establish areas where activities otherwise regulated, restricted or prohibited by this bylaw are permitted;

(e) establish forms for the purposes of this bylaw; and

(f) delegate any powers, duties or functions under this bylaw to an employee of the City.

OBSTRUCTION 30 A person shall not obstruct or hinder any person in the exercise or performance of the person's powers pursuant to this bylaw.

CERTIFIED COPY OF RECORDS 31 A copy of a record of the City, certified by the City Manager as a true copy of the original, shall be admitted in evidence as prima facie proof of the facts stated in the record without proof of the appointment or signature of the person signing it

NUMBER AND GENDER REFERENCES 32 All references in this bylaw will be read with such changes in number and gender as may be appropriate according to whether the reference is to a male or female person, or a corporation or partnership.

PART VI - TRANSITIONAL

REPEALS 33 The following bylaws are repealed:

(a) Bylaw 7608, the Public Places Bylaw;

(b) Bylaw 11869, the Handbill Bylaw; and

(c) Bylaw 13333, the Smoking Bylaw.

EFFECTIVE DATE 34 This bylaw takes effect beginning on April 1, 2008.

(NOTE: Consolidation made under Section 69 of the *Municipal Government Act*, R.S.A., 2000, c. M-26 and Bylaw 12005, and printed under the City Manager's authority)

Bylaw 14614, passed by Council May 22, 2007

Amendments:

Bylaw 14753, February 13, 2008
Bylaw 14877, March 25, 2008
Bylaw 15167, July 08, 2009 Effective April 1, 2010
Bylaw 15961, April 4, 2012
Bylaw 17004, March 3, 2015 Effective April 15, 2015
Bylaw 17297, October 20, 2015