CITY OF NANAIMO

BYLAW NO. 7267

A BYLAW TO PREVENT AND PROHIBIT NUISANCES AND DISTURBANCES

WHEREAS the City of Nanaimo wishes to promote a safe, comfortable and inviting community for all of its citizens, businesses and visitors;

WHEREAS the small minority of persons that creates nuisances and disturbances and that, in general, engages in uncivil behaviour threatens the quality of life desired by the population as a whole; and

WHEREAS it is in the public interest for the City to take the necessary measures to eliminate nuisances, disturbances and occurrences of uncivil behaviour.

NOW THEREFORE the Council of the City of Nanaimo in open meeting assembled HEREBY ENACTS AS FOLLOWS:

1. Title

This Bylaw shall be cited as the City of Nanaimo "PUBLIC NUISANCE BYLAW 2018 NO. 7267.

2. Definitions

In this Bylaw:

"Bylaw Enforcement Officer"	means a person appointed by the Municipal Council as a Bylaw Enforcement Officer.
“City”	means the City of Nanaimo.
“City Parkade”	means the City parking structures and facilities located upon the following lands: a. **Bastion Street Parkade**, situated at lands with a civic address of 236 Bastion Street, Nanaimo, and legally described as Lot 1, Plan 26912, Nanaimo District b. **Harbour Front Parkade**, situated at lands with a civic address of 51 Gordon Street, and legally described as Lot 1, Section 1 and part of the bed of the public harbor, Nanaimo District, Plan VIP65156, except parts in Air Space Plan VIP65336 and Air Space Plan VIP65337.

c. **Port of Nanaimo Centre Parkade**, situated at lands with a civic address of 101 Gordon Street, and legally described as LT A, Sec 1, LD 32, and of the bed of the public harbor of Nanaimo, PLN VIP79754, Lot A, Section 1, Nanaimo District, and of the bed of the public harbor of Nanaimo, Plan VIP 79754.

"Consume"	in relation to Liquor, includes putting liquor to any use, by drinking or otherwise, and includes possessing liquor in an open or unsealed container.
"E-Cigarette"	means any product or device containing an electronic or battery-powered heating element capable of vaporizing an e-substance for inhalation or release into the air, whether or not the device resembles a cigarette.
"E-Substance"	means a solid, liquid, or gas that, on being heated, produces a vapour for use in an E-Cigarette, regardless of whether the solid, liquid, or gas contains nicotine.
"Establishment"	has the same meaning as in the *Liquor Control and Licensing Act*, SBC 2015, c. 19.
"Event Site"	has the same meaning as in the *Liquor Control and Licensing Act*, SBC 2015, c. 19.
"Graffiti"	includes any unauthorized inscription, drawing, writing, pictorial representation, message or slogan made on any surface by means of paint, chalk, ink or other substances, or by chisel, hammer, stone or other device.
"Highway"	includes every road, street, lane, alley and right-of-way designed or intended for or used by the general public for the passage of vehicles, and every place or passage way to which the public, for the purpose of parking or servicing of vehicles, has access or is invited; and every place or passage way owned or operated by the City of Nanaimo for the purpose of providing off-street parking.
"Liquor"	has the same meaning as in the *Liquor Control and Licensing Act*, SBC 2015, c. 19;
"Park"	means any space owned or leased by the City, province, or federal government and used, reserved, or dedicated for use as a play area, play lot, playground, play field, trail, public square, open space, beach, or other parks, recreation, or culture purposes, whether or not the space is zoned or formally designated for that purpose.
"Peace Officer"	has the same meaning as in the *Criminal Code*, RSC 1985, c. C-46.

"Person"	means a natural person.
"Public Place"	includes every sidewalk, park, courtyard, square, walkway, parkade and any other area open to public use.
“Smoke” or “Smoking”	means to inhale, exhale, burn, consume, or carry while lighted or activated: (a) a cigarette, cigar, pipe, bong, hookah, or other lighted smoking equipment which burns tobacco, cannabis, or any other plant, herb, or weed substance; and (b) an e-cigarette or e-substance.

3. General Prohibitions

3.1 No person shall engage in drunkenness, profane swearing or indecent, obscene or grossly insulting language on a Highway or in a Public Place.

3.2 No person shall impede or obstruct any other person on a Highway or Public Place, excluding lawful picketing as provided in the BC Labour Code.

3.3 No person shall stand on a Highway or Public Place in such a manner which impedes or obstructs the free movement of other persons or vehicular traffic.

3.4 No person shall participate in a fight or other similar physical confrontation on a Highway or in a Public Place.

3.5 No person shall deposit or throw bottles, broken glass or other rubbish on any Highway or in a Public Place.

3.6 No person shall place graffiti on walls, fences or other surfaces in or visible from a Highway or Public Place.

3.7 No person shall, without reasonable excuse, urinate, vomit, or defecate on or in a Highway or Public Place.

(a) For the purposes of this section, a “reasonable excuse”:

(i) means a situation in which the contravention was inevitable or unavoidable, and the person in contravention had no reasonable opportunity to take an alternative course of action to avoid contravening this section; and

(ii) does not include any situation in which the contravention is caused in part by the consumption of alcohol or narcotics.

3.8 No person shall in any Public Place, or on private property while exposed to public view:

(a) be nude or clad in a manner which offends against public decency and order;

(b) engage in an indecent act, including masturbation; or

(c) contravene any provision of the *Criminal Code*, R.S.C., 1985, c. C-46 concerning indecent acts, indecent exhibition, or public nudity.

3.9 No person may dress or undress in a Park or Public Place, except in a place specifically provided for that purpose.

3.10 Except where otherwise directed by a Peace Officer, Bylaw Enforcement Officer, or other person authorized by the City, no person shall enter or remain in a City Parkade except:

(a) the owner or driver of a vehicle for the purpose of parking that vehicle at, or removing that vehicle from, the City Parkade, or for the purpose of attending at that vehicle while it is parked at the City Parkade;

(b) the passenger of a vehicle referred to in subsection (a), while that vehicle is being parked at, remains parked at, or is being removed from the City Parkade;

(c) a Peace Officer or Bylaw Enforcement Officer while carrying out his or her duties; or

(d) an officer, employee, contractor, or agent of the City for the purpose of inspecting, maintaining, administering, or constructing improvements within a City Parkade.

3.11 No person shall place, leave, keep, store, distribute, or scatter, or cause or permit to be placed, left, kept, stored, distributed, or scattered, any personal chattels or belongings, including any tent, sleeping bag, backpack, suitcase, or shopping cart, on or in any sidewalk, Highway, Park or other Public Place.

(a) A Peace Officer or Bylaw Enforcement Officer may remove, detain, impound, or cause the removal, detention, or impounding, of any object unlawfully occupying the sidewalk, Highway, Park, or Public Place in contravention of this Bylaw.

(b) After the detention, removal, or impoundment of an object under this section, a person entitled to the object may obtain its release by:

(i) signing an undertaking that the person will not again place the object on or in any sidewalk, Highway, Park, or other Public Place; and

(ii) paying the City the fees prescribed in Schedule “B”.

(c) The Director of Engineering must cause the detained object to be discarded as garbage if the person entitled to the possession of the object does not

obtain the release of the object under subsection 3.11(b) within 30 days of the date of detention.

3.12 No person shall consume liquor in any Park or other Public Place, unless within the licensed area of an Event Site or Establishment.

3.13 No person may interfere with, hinder, or obstruct any Peace Officer or employee of the City, including a Bylaw Enforcement Officer, in the exercise or performance of his or her powers, duties, or functions.

3.14 Except in an area specifically designated for smoking, no person shall smoke in any Park, City Parkade, on any property owned or leased by the City, or within 10m of any Establishment, public transit exchange, transit shelter or transit stop

4. Exemptions

Peace Officers, Bylaw Enforcement Officers, on-duty City employees and persons authorized by the City who, through their actions, impede or obstruct the free movement of persons or vehicular traffic on Highways or in Public Places, are excluded from the prohibitions and penalties contained in this Bylaw.

5. Enforcement

Bylaw Enforcement Officers and Peace Officers are hereby authorized to enforce this Bylaw by means of a Municipal Ticket Information, or if authorized to do so, by means of a Bylaw Offence Notice.

6. Penalty

Every person who violates any of the provisions of this Bylaw, or who causes, suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this Bylaw, or who neglects or refrains from doing anything required to be done by any of the provisions of this Bylaw, or who carries out or who suffers, causes or permits to be carried out any development in a manner prohibited by or contrary to any of the provisions of this Bylaw, or who fails to comply with any order, direction or notice given under this Bylaw in addition to any other penalties provided for in this Bylaw, shall be liable on summary conviction to a fine not exceeding Ten Thousand Dollars ($10,000.00); or, if an information is laid by means of a Municipal Ticket Information or a Bylaw Offence Notice, in accordance with the procedure set out in the *Community Charter* or the *Local Government Bylaw Notice Enforcement Act*, a fine as stipulated in Schedule "A" of this Bylaw.

7. Jurisdiction

This Bylaw is applicable to and enforceable in the entire City.

8. Severability

If any section or subsection of this Bylaw is found to be invalid by a court of competent jurisdiction, the section or subsection may be severed from the Bylaw without affecting the validity of the remainder of the Bylaw.

9. Schedules

Council authorizes that Schedule ‘A’ and ‘B’ may be omitted and established by resolution where the schedule can be more conveniently contained in a resolution.

10. Repeal

“Public Nuisance Bylaw 2003 No. 5648” is hereby repealed.

PASSED FIRST READING: _____
PASSED SECOND READING: _____
PASSED THIRD READING: _____
ADOPTED: _____

_____
MAYOR

_____
CORPORATE OFFICER

SCHEDULE A

Fines for tickets issued pursuant to this Bylaw shall be as follows:

DESCRIPTION OF OFFENCE	SECTION #	AMOUNT OF FINE
Disturb peace, quiet and enjoyment of the community	3.1	$250.00
Impede or obstruct a person	3.2	$250.00
Impede or obstruct free movement of persons or vehicles	3.3	$250.00
Participate in fight or similar physical confrontation	3.4	$250.00
Deposit or throw bottles, broken glass or other rubbish	3.5	$250.00
Place graffiti on walls, fences or other surfaces	3.6	$500.00
Urinate, vomit, or defecate on Highway or in Public Place	3.7	$250.00
Engage in Nudity or Indecent Act	3.8	$250.00
Dress or Undress in Public Park, Swimming Pool, or Beach	3.9	$250.00
Unlawfully Enter or Remain in a City Parkade	3.10	$250.00
Chattel Obstruction	3.11	$250.00
Unlawful Consumption of Liquor in Park or Public Place	3.12	$250.00
Obstruct City Employee, Bylaw Enforcement Officer, or Peace Officer	3.13	$250.00
Smoke in any Park or Public Place	3.14	$150.00

SCHEDULE B

Fees payable before the release of an impounded object pursuant to section 3.11(b)(ii) of this Bylaw shall be as follows:

DATE OF RELEASE PAYMENT	FEE PAYABLE PER OBJECT
Within 7 Calendar Days of Date of Impound	$15
Within 14 Calendar Days of Date of Impound	$30
After 14 Calendar Days of Date of Impound	$45