

BYLAW 971

TOWN OF BEAVERLODGE

**THE MUNICIPAL COUNCIL OF THE TOWN OF BEAVERLODGE, IN THE PROVINCE OF
ALBERTA, DULY ASSEMBLED, ENACTS AS FOLLOWS:
TO ESTABLISH AND REGULATE SMOKING AND VAPING IN PUBLIC PLACES**

WHEREAS Section 7 (e) of the Municipal Government Act, being chapter M-26 of the Revised Statutes, Town of Beaverlodge Council may pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property, and services provided by or on behalf of a municipality;

AND WHEREAS pursuant to Section 10 of the Tobacco Reduction Act, SA 2005, Chapter T-3.8, municipalities are authorized to pass bylaws to regulate, restrict or prohibit smoking;

1. This Bylaw may be cited as the “Regulate Smoking and Vaping in Public Places”

INTERPRETATION

2. In this Bylaw:
 - (a) **“business”** means carrying on a commercial or industrial undertaking of any kind or nature or the provision of a professional, personal or other service and includes any activity carried on by an educational institution, municipality, or charitable organization;
 - (b) **“cannabis”** has the meaning given to that term in the federal Cannabis Act (Bill C-45, An Act respecting cannabis and to amend the *Controlled Drugs and Substances Act*, *the Criminal Code* and other Acts, 1st Sess, 42nd Parl, 2017). In this Bylaw, any reference to Cannabis means Medical Cannabis.
 - (c) **“electronic smoking device”** means an electronic devise that can be used to deliver a vapour, emission or aerosol to the person inhaling from the devise, including but not limited to an electronic cigarette, cigar, cigarillo, or pipe;
 - (d) **“employer”** includes any person who as the owner, proprietor, manager, superintendent or overseer of any activity, business, work, trade, occupation or profession, has control over or direction of, or is directly or indirectly responsible for the employment of a person therein;

- (e) **“operator”** includes the person responsible for the day to day operations of a public premises and a proprietor of a public premises;
- (f) **“outdoor skating rink”** means an outdoor ice surface that is designed for recreational skating or playing hockey;
- (g) **“peace officer”** means a member of the Royal Canadian Mounted Police, a Peace Officer appointed pursuant to the Peace Officer Act or a Bylaw Enforcement Officer.
- (h) **“playground / playground equipment”** means any kind of structure or apparatus which is customarily found in a park-like setting and which a person may engage in play-like activities such as climbing, swinging, hanging, crawling, jumping, stepping, whether over, across, under, through or upon for enjoyment, exercise and/or as part of relating to others of any age. Without restricting the generality thereof, playground equipment includes swings, slides, climbing apparatus, and municipally outdoor water parks, skateboard parks and outdoor ice skating surfaces.
- (i) **“proprietor”** means, where applicable:
 - (I) The person who ultimately controls, governs or directs the activity carried on within any premises referred to in this Bylaw and includes the person usually in charge thereof;
 - (II) A board of governors established pursuant to the Post-Secondary Learning Act, S.A. 2003, c. P-19.5; or
 - (III) A board of trustees elected pursuant to the provision of the School Act, R.S.A. 2000, c. S-3;
- (j) **“public premises”** means all or a part of a building, structure or other enclosed area to which members of the public have access as of right or by express or implied invitation.
- (k) **“skate park”** means an outdoor area which is designed and intended specifically for the use of skateboards, in-line skates, or other similar devices;
- (l) **“smoke”** or **“smoking”** means;
 - (i) Inhaling or exhaling the smoke produced by burning tobacco or cannabis; or
 - (ii) Holding or otherwise having control of any device or thing containing lit tobacco or cannabis;

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- (m) **“sports field”** means an outdoor area which is set apart and used for the playing of sporting activities;
- (n) **“temporary residence”** means:
- (i) A place that is used by a traveler in respect of which the traveler pays a fee;
 - (ii) A tent that is set up in an area where overnight camping is legally permitted; and
 - (iii) A motor home or other vehicle that is parked in an area that is not a highway or road and where overnight camping is legally permitted.
- (o) **“tobacco”** means a product composed in whole or in part of tobacco, including tobacco leaves and any extract of tobacco leaves, but does not include any product for use in nicotine replacement therapy;
- (p) **“vape” or “vaping”**, means:
- (i) Inhaling or exhaling the vapour, emissions or aerosol produced by an electronic smoking device or similar device containing tobacco, cannabis or any other substance, or
 - (ii) Holding or otherwise having control of an electronic smoking device that is producing vapour, emissions or aerosol from tobacco, cannabis or any other substance.
- (q) **“walking trails”** means facilities for walking and biking trails, park fences, trees, a picnic table, bridge, parking lot or gazebo.
- (r) **“workplace”** includes the whole or any part of a building, structure, vehicle or passenger conveyance in which a business is carried on but exclude;
- (i) Any part which constitutes public premises, and
 - (ii) Private residences.
- (s) **Violation Ticket** has the same meaning as the Provincial Offences Procedure Act, RSA 2000, and Chapter P-34, as amended or repealed and replaced from time to time.

GENERAL

3. (a) All schedules attached to this Bylaw form part of this Bylaw;
- (b) Headings or sub-headings are inserted for ease of reference and guidance purposes only and do not form part of this Bylaw.

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- (c) Where this Bylaw cites or refers to any act, regulation, code or other bylaw, the citation or reference is to the act, regulation, code or other bylaw as amended, whether amended before or after the commencement of this Bylaw, and includes reference to any act, regulation, code or other bylaw that may be substituted in its place.
- (d) Nothing in this Bylaw relieves a person from complying with any provision of federal, provincial or municipal law or regulation or any requirement of any lawful permit, order or license.
- (e) Each section of this Bylaw shall be read and construed as being separated and severable from each other section. Furthermore, should any section or part of this Bylaw be found to have been improperly enacted for any reason, then such section or part shall be regarded as being severable from the rest of the Bylaw and the Bylaw remaining after such severance shall be effective and enforceable.

PROHIBITION

Smoking or vaping recreational cannabis is prohibited in the Town of Beaverlodge, as per Bylaw 972.

- 4. A person must not smoke or vape:
 - (a) in a public premise, and workplace;
 - (b) In, or within 5 meters of a:
 - (i) outdoor skating rink;
 - (ii) playground and equipment;
 - (iii) Skate park;
 - (iv) Sports field;
 - (v) Walking trails

To which public has access as of right or by express or implied invitation;

- (c) within 5 meters of an entrance or exit to a public premise.
 - (d) Nothing in this bylaw shall prohibit a person from smoking in a residence.
- 5. An employer, operator or proprietor must not permit a person to smoke or vape on premises controlled or owned by them where doing so is prohibited by this Bylaw.

EXCEPTIONS

6. (a) Despite any other provision of this Bylaw a person may, inside an enclosed premise where the primary function of the premises is the sale of electronic smoking device, use an electronic smoking device to sample a product, other than tobacco or cannabis, prior to purchase.
- (b) Section 5 does not apply to an employer, operator, or proprietor who allows a person to use an electronic smoking device to sample a product, other than tobacco or cannabis, prior to purchase inside an enclosed premise where the primary function of the premises is the sale of electronic smoking devices.
- (c) Despite any other provision of this Bylaw a person may smoke or vape tobacco only in a location designated as a smoking room pursuant to section 5 of the Tobacco and Smoking Reduction Act, S.A. 205, C. T - 3.8.

OFFENCES

7. Any person who contravenes any provision of this Bylaw by doing any act or thing which the person is prohibited from doing, or by failing to do any act or thing the person is required to do, is guilty of an offence pursuant to this Bylaw.

ENFORCEMENT

8. (a) A Peace Officer may issue a Violation Ticket pursuant to the Provincial *Offences Procedure Act, R.S.A. 2000, c. P-34.* to any person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- (b) If a Violation Ticket is issued in respect of an offence, the Violation Ticket may:
 - (i) Specify the fine amount established by this Bylaw for the offence; or
 - (ii) Require a person to appear in court without the alternative of making a voluntary payment if the Peace Office believes that such appearance is in the public interest.

PENALTY

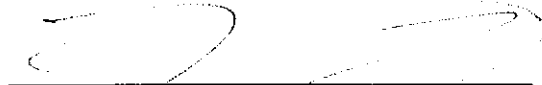
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9. (a) Where there is a specified penalty listed for an offence in Schedule A to this Bylaw, the amount is the specified penalty for the offence.
- (b) Where there is a minimum penalty listed for an offence in Schedule A to the Bylaw, that amount is the minimum penalty for the offence.
- (c) In this section, “specified penalty” means an amount that can be paid by a person who is issued a violation ticket and is authorized to make a voluntary payment without a Court appearance.

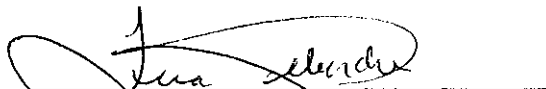
READ a First time this 30 day of July, 2018

READ a Second time this 24 day of September, 2018

READ a Third time this 24 day of September, 2018



Mayor Gary Rycroft



Acting CAO, Tina Letendre

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SCHEDULE "A "

PENALTIES

Section	Description of Offence	Minimum Penalty	Specified Penalty
4	Smoke or vape where prohibited	\$250.00	\$500.00
5	Permit person to smoke or vape where prohibited	\$500.00	\$1000.00