

**BYLAW NO. 18-21
TOWN OF STRATHMORE
IN THE PROVINCE OF ALBERTA**

**BEING A BYLAW OF THE TOWN OF STRATHMORE IN THE PROVINCE OF ALBERTA
TO REGULATE SMOKING IN PUBLIC PLACES**

WHEREAS the Town of Strathmore operates multiple facilities within the Town and deems it appropriate to protect the health and wellness of the public utilizing these facilities; and

WHEREAS it is the desire of Council to limit the effects of known health hazards or discomfort from second hand smoke by regulating smoking in public places and work places;

AND WHEREAS the *Municipal Government Act, being Chapter M-26, of the Revised Statutes of Alberta 2000* and amendments thereto provides authority for the Town to regulate such matters;

NOW THEREFORE BE IT RESOLVED THAT the Municipal Council of the Town of Strathmore, in the Province of Alberta duly assembled **HEREBY ENACTS AS FOLLOWS:**

1. SHORT TITLE:

1.1 This Bylaw may be cited as the **“Smoking Bylaw”**.

2. DEFINITIONS

2.1 In this Bylaw:

- (a) **“Building”** means anything constructed or placed on, in, over or under land, highway whether permanent or temporary, into which a person could enter;
- (b) **“Cannabis”** has the meaning given to it in the *Cannabis Act*;
- (c) **“CAO”** means the Chief Administrative Office or his designate;
- (d) **“Common Area”** means a portion of a Public Building or an area immediately ancillary and adjoining a Public Building that is accessible to the public including but not limited to the following:
 - (i) patios;
 - (ii) pools;
 - (iii) recreational areas;
 - (iv) washrooms;
 - (v) corridors;

- (vi) reception areas;
 - (vii) elevators;
 - (viii) escalators;
 - (ix) foyers;
 - (x) hallways;
 - (xi) stairways;
 - (xii) lobbies;
 - (xiii) laundry rooms; or
 - (xiv) enclosed parking garages.
- (e) **“Council”** means the elected Mayor and Councillors for the Town of Strathmore;
- (f) **“Designated Public Place”** means any:
- (i) municipal building and the area within 10 metres of an entrance or exit to any municipal building,
 - (ii) public building and the area within 5 metres of an entrance or exit to any public building,
 - (iii) where there is a combination of municipal and public buildings the greater distance shall apply,
 - (iv) public sidewalk and area within 10 metres of a public sidewalk,
 - (v) public pathway and area within 10 metres of a public pathway,
 - (vi) outdoor public event,
 - (vii) outdoor public place,
 - (viii) public transportation vehicle,
 - (ix) public transportation vehicle shelter.
- (g) **“Grandstand/Bleachers”** means an open-air seating facility that is primarily, but not exclusively, used for watching sporting events;
- (h) **“Municipal Building”** means any building owned, leased, operated or occupied by the Town;
- (i) **“Nuisance Odour”** means any odour caused by smoke, decomposing materials, animal feces or other airborne matter that is excessive and deemed to be offensive, or reasonably interferes with the lawful enjoyment of another person's property;
- (j) **“Outdoor Patio”** means any area outside of a building intended for the consumption of food or beverages by patrons of any business providing such food or beverages, and includes:

- (i) any public premises that is not fully contained within a building; and
 - (ii) any outside extension of an eating or drinking establishment regardless of whether it is covered or not;
- (k) **“Outdoor Public Event”** means any outdoor event “requiring a municipal permit” to which the public is invited or permitted to attend, including but not limited to:
- (i) markets;
 - (ii) festivals;
 - (iii) fairs;
 - (iv) displays;
 - (v) exhibitions;
 - (vi) fundraisers;
 - (vii) races;
 - (viii) concerts; or
 - (ix) parades.
- (l) **“Outdoor Public Place”** means any outdoor location that is open to the public from time to time, including but not limited to:
- (i) outdoor patios;
 - (ii) grandstands;
 - (iii) playgrounds;
 - (iv) water playgrounds;
 - (v) skate parks;
 - (vi) bicycle parks;
 - (vii) seasonal multipurpose pads,
 - (viii) sports fields;
 - (ix) dog/animal off leash areas and designated parks; and
 - (x) canal areas used as public spaces.
- (m) **“Peace Officer”** means:
- (i) a member of the Royal Canadian Mounted Police;
 - (ii) Community Peace Officer as appointed by the Solicitor General of Alberta; or
 - (iii) a Bylaw Enforcement Officer as appointed by the Town to enforce bylaws of the Town.
- (n) **“Person”** means any:
- (i) individual;

- (ii) proprietorship;
 - (iii) corporation; or
 - (iv) society.
- (o) **“Playground”** means a structure or collection of structures designed and intended for recreational use by children and includes the material in which such structures are mounted when that material is a distinct material such as:
 - (i) sand;
 - (ii) rubber;
 - (iii) gravel; or
 - (iv) wood chips.
- (p) **“Private Residence”** means any self-contained living premise for domestic use with a separate private entrance from the exterior of the building or from a common hall, lobby or stairway, except:
 - (i) when a business is operated within a private residence then a private residence is considered a workplace during all hours of operation; and
 - (ii) when a private residence contains two or more private residences and includes common areas, then the common areas are considered a Public Building.
- (q) **“Proprietor/Proprietorship”** means the owner, agent or representative, of a designated public place, and includes any person in charge thereof or anyone who controls, governs or directs the activity carried on therein, and where applicable includes:
 - (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 Regional Health Authority Board appointed pursuant to the provisions of the *Regional Health Authorities Act*; and
 - (iii) the Board of Governors, Board of Trustees, or President of a public school, private school, or post-secondary institution.
- (r) **“Public Building”** means any building or structure to which the public has access as of right or by invitation, express or implied, whether or not:
 - (i) the public has been invited;
 - (ii) the public has access only at certain times, or from time to time;
 - (iii) the public has access only if they are a member or accompanied by a member;

- (iv) payment, membership or the performance of some formality is required prior to access;
 - (v) a proprietor has the right to exclude any particular person;
 - (vi) the public has access to only a portion of the building or structure; or
 - (vii) the building or structure is a private residence if it contains two or more private residences and includes common areas.
- (s) **“Public Pathway”** means a multi-purpose thoroughfare accessible to the public which is improved by asphalt, concrete, brick, stone, shale, gravel or any other surface treatment whether or not it is located in an open space, and includes any bridge or structure with which it is contiguous;
- (t) **“Public Transportation Vehicle”** means a vehicle which is being used by a passenger or passengers or which is being offered for hire for a passenger or passengers, including but not limited to:
- (i) a school bus;
 - (ii) a bus;
 - (iii) a taxicab;
 - (iv) a limousine; or
 - (v) other similar vehicles.
- (u) **“Seasonal Multi-Purpose Pad”** means a surface on which members of the public are permitted to engage in physical activities, whether on payment of a fee or not, and includes, but is not limited to:
- (i) outdoor basketball courts;
 - (ii) lakes;
 - (iii) ponds;
 - (iv) outdoor rinks; or
 - (v) other ice support infrastructure.
- (v) **“Skate Park or Bicycle Park”** means an area designed and intended specifically for the use of one or more of the following:
- (i) skateboards;
 - (ii) bicycles;
 - (iii) in-line skates; or
 - (iv) similar devices.
- (w) **“Sports Field”** means an area designed and intended for use in a specific sporting event, including spectator seating areas, and includes, but is not limited to:
- (i) soccer pitches;

- (ii) football fields;
 - (iii) rugby pitches;
 - (iv) baseball diamonds;
 - (v) softball diamonds;
 - (vi) lacrosse fields;
 - (vii) tennis courts; or
 - (viii) other similar areas.
- (x) **“Smoke or Smoking”** means to inhale, exhale, burn, or have control over a lighted cigarette, cigar, pipe, hookah pipe, or other lighted or heated device or apparatus designed to burn, heat, or vaporize, tobacco, cannabis, any other plant material (or material derived from plant material), or any other substance for the purpose of inhaling or tasting its emissions;
- (y) **“Town”** means The Town of Strathmore, a municipal corporation in the Province of Alberta and includes the area contained within the boundaries of the municipality where the context requires;
- (z) **“Vape or Vaping”** means:
- (i) inhaling or exhaling the vapour, emissions or aerosol produced by an electronic smoking device or similar device; or
 - (ii) holding or otherwise having control of an electronic smoking device that is producing vapour, emissions or aerosol;
- (aa) **“Violation Ticket”** means a ticket issued pursuant to Part II of the *Provincial Offences Procedure Act*, and any amendments or regulations thereto;
- (bb) **“Water Playground”** means a structure or collection of structures designed and intended for recreational use by children that sprays or releases water;
- (cc) **“Workplace - Public Access”** means any enclosed area of a building or area in which an employee performs the duties of their employment, whether or not the employee is employed by the proprietor of the building at which the employee works, or whether or not members of the public have access by right, or by express or implied invitation, and includes but is not limited to:
- (i) a private residence during any hours a business is operated from the private residence;
 - (ii) hotel or motel rooms;
 - (iii) washrooms;
 - (iv) corridors;
 - (v) lounges;

- (vi) eating areas;
- (vii) outdoor patios;
- (viii) reception areas;
- (ix) elevators;
- (x) escalators;
- (xi) foyers;
- (xii) hallways;
- (xiii) stairways;
- (xiv) amenity areas;
- (xv) lobbies;
- (xvi) laundry rooms;
- (xvii) enclosed parking garages;
- (xviii) pedways;
- (xix) bridges; or
- (xx) connecting stairways.

BYLAW INFORMATION

3. SMOKING

- 3.1 No person shall Smoke in a Designated Public Place with or without “no smoking” signs posted or visible.
- 3.2 No person shall smoke within 10 metres of any child under the age of 18 who is not under their direct custody, care or control.
- 3.3 No person shall smoke within the Town of Strathmore while in a motor vehicle when any minor is present in the vehicle regardless of whether or not the vehicle’s windows or doors are open; or where it is moving or stationary, while on public property such as a road, lane Highway or bridge forming part of a highway.

4. DESIGNATED SMOKING AREAS

- 4.1 The CAO or designate may designate a portion of any Designated Public Place as a designated smoking area:
 - (a) if the restrictions of this bylaw reasonably create an undue hardship for the users of any designated public place;
 - (b) where the presence of multiple public sidewalks or public pathways leading to a municipal building, public building or workplace create an unreasonable

restriction;

- (c) if there are no reasonable alternatives to establishing a designated smoking area;
- (d) if the presence of a designated smoking area would not reasonably create a risk to the health and wellbeing of the general public; and
- (e) provided that the designated smoking area does not exceed a 6-metre diameter.

4.2 An Owner or Proprietor of a Designated Public Place may apply for a permit to designate an area of the premises as a designated smoking area.

5. SIGNAGE

5.1 The Proprietor or Employer of any Designated Public Place shall ensure all signs prohibiting smoking are posted:

- (a) conspicuously and clearly visible to any Person entering a Designated Public Place;
- (b) in a prominent location so as to be readily visible on or near any Designated Public Place where there is no public entrance;
- (c) inside each Designated Public Place in such numbers and locations as the proprietor or employer reasonably considers adequate to ensure that the Public and employees are aware of the prohibition;
- (d) at each entrance, window that can be opened, or air intake to a designated public place at a height of not less than one meter and not more than 2.4 metres, as measured from the floor of the entrance;
- (e) at the entrance to any washroom that is not fully contained within a designated public place that has been signed in accordance with Section 5.1(c); and
- (f) in the vicinity of any seating area where food or beverages are sold or consumed where the seating area is not fully contained within a Designated Public Place that has been signed in accordance with Section 5.1(c).

5.2 All posted signs prohibiting smoking must:

- (a) be at least 20 cm by 26 cm and must have a surface area of not less than 520 cm² when posted in a Designated Public Place;

- (b) contain the graphic symbol set out in Schedule “B” of this Bylaw, which must depict the symbol in black or red on a contrasting background that makes the symbol clearly legible in whatever lighting is used in the Designated Public Place; and
- (c) contain the text “no smoking” in capital or lower-case letters, which must:
 - (i) be set out in a style and size that is clearly legible; and
 - (ii) be set out on a contrasting background that makes the text clearly legible in whatever lighting is used in the Designated Public Place.

5.3 A sign must be posted at or near every designated smoking area that:

- (a) clearly identifies that smoking is permitted within a 6-metre diameter of that area;
- (b) is clearly visible to persons at or near a designated smoking area;
- (c) is at least 20 cm by 26 cm and must have a surface area of not less than 520 cm² when posted in a Designated Public Place;
- (d) contains the graphic symbol set out in Schedule “C” of this Bylaw, which must
 - (i) depict the symbol in green or black on a contrasting background that makes the symbol clearly legible in whatever lighting is used in the designated smoking area; and
 - (ii) be of a size that makes it clearly discernible to the persons to whom it is directed; and
- (e) contains the text “smoking permitted” in capital or lower-case letters, which must
 - (i) be set out in a style and size that is clearly legible; and
 - (ii) be set out on a contrasting background that makes the text clearly legible in whatever lighting is used in the designated smoking area.

5.4 Notwithstanding that the graphic symbol as per section 5.2(b) and 5.3(d) is a cigarette; it shall be deemed to also include a reference to a lit:

- (a) vapour device,
- (b) cigar;

- (c) cigarette;
- (d) pipe; or
- (e) any other smoking equipment.

5.5 No person shall remove, alter, conceal, deface or destroy any sign posted pursuant to this bylaw.

6. ODOURS

6.1 No Person shall cause, permit, or engage in any activity that allows any nuisance odour to originate from a Private Residence that reasonably interferes with the lawful enjoyment of any other person's property.

7. PENALTIES AND ENFORCEMENT

7.1 Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable on summary conviction to a fine of not more than Ten Thousand (\$10,000.00) Dollars.

7.2 Where there is a specified penalty listed for an offence in Schedule "A" to this Bylaw, that amount is the minimum specified penalty for the offence.

7.3 In the case of an offence that is of a continuing nature, a contravention constitutes a separate offence in respect of each day or part of a day on which it continues.

7.4 The levying and payment of any fine provided in this Bylaw shall not relieve a person from the necessity of paying any fees, charges or costs from which that person is liable under the provisions of this Bylaw or any other Bylaw.

7.5 Any Peace Officer who has reasonable and probable grounds to believe that any person has contravened any provision of this Bylaw may issue and serve:

- (a) a violation tag allowing a payment of the specified penalty to the Town; or
- (b) a violation ticket allowing payment according to the provisions of the *Provincial Offences Procedure Act*, Revised Statutes of Alberta 2000, Chapter P-34 and amendments thereto.

7.6 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 specified the fine amount established by this Bylaw for the offence;

make a voluntary payment equal to the specified fine by delivering the Violation Ticket and the specified fine to the Municipal address specified on the Violation Ticket.

8. GENERAL

- 8.1 Any Person who contravenes any provision of this Bylaw by:
 - (a) doing any act or thing which the person is prohibited from doing; or
 - (b) failing to do any act or thing the person is required to do;
is guilty of an offence and any offence created pursuant to this Bylaw is a strict liability offence for the purposes of prosecution under this Bylaw.
- 8.2 Nothing in this Bylaw relieves a Person from complying with any provision of any federal or provincial law or regulation, other Bylaw, or any requirement of any lawful permit, order or license.
- 8.3 Words in the singular include the plural and words in the plural include the singular.
- 8.4 Schedule "A" shall form a part of this Bylaw and may, from time to time, be amended by Council.
- 8.5 No provision of this Bylaw or any action taken pursuant to any provision of this Bylaw shall restrict, limit, prevent or preclude the Town from pursuing any other remedy in relation to a premise as provided by the *Municipal Government Act*, or any other law of the Province of Alberta.
- 8.6 **If any section of this Bylaw is found to be illegal or beyond the power of Council to enact, such section shall be deemed to be severable from all other sections of this Bylaw.**

9. ENACTMENT

9.1 This Bylaw comes into full force and effect upon third and final reading.

READ A FIRST TIME THIS 17th day of October 2018.

READ A SECOND TIME THIS 17th day of October 2018.

READ A THIRD AND FINAL TIME THIS _____ day of October 2018.

MAYOR

Chief Administrative Officer

Schedule "A"

SECTION	OFFENCE	PENALTY	SECOND & SUBSEQUENT PENALTY
3.1	Smoking in a Designated Public Place	\$250.00	\$500.00
3.2	Person smoking within 10 meters of any child not under their direct custody, care or control	\$250.00	\$500.00
3.3	Smoking with minor in motor vehicle in public place	\$250.00	\$500.00
5.2	Fail to post proper signage prohibiting smoking in a Designated Public Place	\$500.00	\$1000.00
5.5	Remove, alter, conceal, deface or destroy smoking sign in a Designated Public Place	\$500.00	\$1000.00
6.1	Nuisance Odour – 1st Offence 2nd Offence within 1 year 3rd and all subsequent offences within 1 year	\$250.00 \$500.00 \$1,000.00	

Schedule "B"

EXAMPLES - Smoking Not Permitted Signs



Schedule "C"

EXAMPLES - Smoking Permitted Signs

