

BY-LAW NO. 3-2018
OF THE
TOWN OF VERMILION
IN THE PROVINCE OF ALBERTA

BEING A BY-LAW OF THE TOWN OF VERMILION
FOR THE PURPOSE OF REDUCING THE IMPACTS OF SMOKING AND VAPING
WITHIN THE TOWN OF VERMILION

WHEREAS, it has been determined that smoke or vapour produced by the smoking or vaping of tobacco or cannabis in public spaces is a potential health hazard or can cause discomfort for persons in those public spaces;

AND WHEREAS the community desires an environment where the exposure to environmental smoke or vapour is the exception as opposed to the norm;

AND WHEREAS the Council deems it expedient and appropriate to regulate smoking and vaping in all forms in public places and workplaces within the Town of Vermilion;

AND WHEREAS Council, in accordance with the Municipal Government Act R.S.A 2000 c.M-26 as amended, has the authority to pass By-Laws respecting:

- a) The Safety, Health and Welfare of people and protection of people and property;
- b) People, Activities and things in, on or near a public place or place that is open to the public;
- c) Businesses, business activities and persons engaged in business;

NOW THEREFORE, The Council of the Town of Vermilion, duly assembled, hereby enacts as follows:

1. DEFINITIONS

- a) "AMUSEMENT FACILITY" means development for amusement pastimes and may incorporate entertainment establishments as an accessory use. This term refers to uses such as billiard parlors, bingo halls, Casinos and bowling alleys.
- 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).
- c) "CORPORATION" means a registered business entity under the Business Corporations Act, RSA 2000, Chapter B-9, as Amended.
- d) "COUNCIL" means the Council for the Town of Vermilion.
- e) "ELECTRONIC SMOKING DEVICE" means an electronic device that can be used to deliver a vapour, emission or aerosol to the person inhaling from the device, including but not limited to an electronic cigarette, cigar, cigarillo or pipe.
- f) "ENTERTAINMENT ESTABLISHMENT" means development providing dramatic, musical, dancing or cabaret entertainment and/or facilities for alcoholic beverage consumption, and includes supplementary food service. This term refers to uses such as theatres, cinemas, auditoriums, cabarets, nightclubs, theatre restaurants, beverage rooms and cocktail lounges.
- g) "OFFICE" means a place where business is carried on.
- h) "OUTDOOR PUBLIC EVENT" means an outdoor market, festival, fair, display, exhibition, fundraiser, race, concert or parade, and to which the public, including children, is invited or permitted to attend.

- i) "OUTDOOR PUBLIC PLACE" means:
- i. Beach;
 - ii. Grandstand;
 - iii. Park;
 - iv. Playground;
 - v. Patio;
 - vi. Skate Park (space for Skateboards, in-line skates, or similar devices);
 - vii. Sports Fields (not including Golf Courses);
 - viii. Water Spray parks; and
 - ix. Fairgrounds (or other outdoor area where a Fair is in progress).
- j) "PEACE OFFICER" means Town of Vermilion Peace Officer, any Peace Officer contracted by the Town of Vermilion, Member of the Royal Canadian Mounted Police, Sheriff.
- k) "PLACE OF PUBLIC ASSEMBLY" means a building or portion thereof used for the gathering together of persons for such purposes as deliberation, worship or business, including the walkways of shopping malls.
- l) "PROPRIETOR" means the owner, or his agent or representative, of premises referred to in this By-Law and includes any person in charge thereof or anyone who controls, operates, governs or directs the activity carried on therein.
- m) "PROVINCIAL/FEDERAL FUNDED INSTITUTIONS" means an enclosed indoor area or space used as a facility for carrying out the responsibilities designated by their governing authority and includes but is not limited to facilities governed by Lakeland College, Alberta Fire Training School, Vermilion & District Housing Foundation, Buffalo Trail Regional Division #28, East Central Alberta Catholic Separate Schools Regional Division #16, Alberta Health Services, Provincial Facility, Federal Facility, and the Royal Canadian Mounted Police.
- n) "PUBLIC AREA" means all or any 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.
- o) "PUBLIC HOUSING" means residential accommodation operated by the Vermilion & District Housing Foundation.
- p) "PUBLIC BUILDING" means a building structure or other enclosed area owned and/or operated by the Town of Vermilion.
- q) "PUBLIC TRANSPORTATION" means a vehicle licensed under the Motor Vehicle Administration Act by or on behalf of a person for the transportation of member of the public for a fee, including buses and taxis but not including a private passenger vehicle, unless part of a "Ride-Hailing Service".
- r) "PUBLIC VEHICLES" means a vehicle licensed under the Motor Vehicle Administration Act, a self-propelled or pull type equipment that is owned and/or operated by employees or agents of the Town of Vermilion.
- s) "RECEPTION AREA" means the public space used by an office or establishment for the receiving or greeting of customers, clients or other persons dealing with such office or establishments.
- t) "RESTAURANT" means a development where primarily food and beverages are prepared and served, including but not limited to cafes, lunch and tea rooms, ice cream parlors, takeout restaurants and eating areas, including associated Patios.
- u) "RETAIL SHOP" means a building or part of a building, booth stall or place where goods and/or services are exposed or offered for retail sale.

- v) "SMOKE" or "SMOKING" means:
 - i. inhaling or exhaling the smoke produced by burning tobacco, cannabis or any other substance; or
 - ii. holding or otherwise having control of any device or thing containing lit tobacco, cannabis or any other substance.
 - w) "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;
 - x) "TOWN" means the Town of Vermilion.
 - y) "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.
2. No person shall smoke or vape:
- a) in any public area;
 - b) in a bank, financial institution, or office;
 - c) in an elevator or on an escalator in any building or part thereof;
 - d) in a vehicle used for public transportation within the corporate limits of the Town;
 - e) in a school bus while transporting students within the corporate limits of the Town;
 - f) in a place of public assembly;
 - g) in an outdoor public place, which is being used for a children's event, or where children are present;
 - h) at outdoor public events;
 - i) in any public housing;
 - j) in reception areas;
 - k) within five (5) metres of a doorway, window or air intake of a building or patio;
 - l) in a public building;
 - m) in a public vehicle;
 - n) in a restaurant;
 - o) in an enclosed indoor amusement facility or entertainment establishment; and
 - p) in a Provincial/Federal funded institution, except in areas designated by the proprietor as areas in which smoking and vaping are permitted in accordance with this By-Law.
3. Home Occupations and private residences, as defined in the Town of Vermilion Land Use By-Law, are excluded from the requirements of this By-Law.
4. Nothing in this By-Law prohibits a person from smoking or vaping within five (5) metres of a doorway, window or air intake of a building designed, intended and used exclusively as a private residence, in accordance with the Town of Vermilion Land Use By-Law.
5. The proprietor of a Provincial/Federal Funded Institution may designate an enclosed separately vented indoor area, or designated outdoor area where smoking or vaping is permitted.

6. Any area designated by the proprietor of a Provincial/Federal Funded Institution as an area in which smoking and vaping is permitted in accordance with this By-Law shall be identified by conspicuously posting signage clearly identifying the area in which smoking and vaping are permitted and shall be in the following format:
 - a) Smoking permitted in this area only.
7. All areas, building or vehicles where smoking or vaping is prohibited under this By-Law shall be clearly identified by conspicuously posting signage identifying the area, building or vehicle in which smoking and vaping are prohibited and shall be in the following format:
 - a) This building is Smoke Free;
 - b) No Smoking; or
 - c) No Smoking except as posted.
8. The proprietor of an area, building or vehicle where smoking or vaping is prohibited under this By-Law must not permit a person to smoke or vape in that area, building or vehicle.
9. The proprietor of an area, building or vehicle where smoking or vaping is prohibited under this By-Law must ensure that signs indicating that smoking and vaping are prohibited are posted and continuously displayed in accordance with this By-Law.
10. The proprietor of an area, building or vehicle where smoking and vaping are permitted under this By-Law must ensure that signs indicating that smoking and vaping are permitted are posted and continuously displayed in accordance with this By-Law.
11. Nothing in this By-Law relieves a person from complying with any provision of any federal, provincial or municipal law or regulation or any requirement of any lawful permit, order or licence.
12. Despite any other provision of this By-Law a person may smoke or vape tobacco in a location designated as a smoking room pursuant to section 5 of the Tobacco and Smoking Reduction Act, S.A. 2005, c. T-3.8.
13. Where, under this By-Law, a sign is required to be posted identifying the area, building or vehicle in which smoking and vaping are prohibited or where smoking and vaping are permitted, such sign shall:
 - a) Carry the text in capital or lowercase letters or a combination thereof as follows:
 - i. This building is Smoke Free;
 - ii. No Smoking; or
 - iii. No Smoking except as posted.
 - b) Consist of two (2) contrasting colours, or if the letter is to be applied directly to a surface or to be mounted on a clear panel, the lettering shall contrast to the background colour; and
 - c) Each sign shall be accompanied by the text "Town of Vermilion By-Law 3-2018.
14. Notwithstanding the foregoing, the following graphic symbol with red circle and red line across may be used to indicate an area where no smoking or vaping is permitted:

Each symbol shall be accompanied by the text "Town of Vermilion By-Law 3-2018



15. Notwithstanding the foregoing, the following graphic symbol with a green circle may be used to indicate an area where smoking or vaping is permitted:

Each symbol shall be accompanied by the text "Town of Vermilion By-Law 3-2018"



16. Notwithstanding that the foregoing symbols are a cigarette, it is meant to represent a device or thing containing lit tobacco, cannabis or any other substance or an electronic smoking device.
17. PENALTY
- a) Any person who contravenes any provision of this By-Law is guilty of an offence and on summary conviction is liable to a fine of not more than one thousand (\$1,000) dollars.
 - b) Any Corporation which fails or neglects to perform the duties or requirements imposed upon it under the provisions of this By-Law is guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand (\$10,000) dollars.
 - c) Where any Peace Officer believes that any person or corporation has committed a breach of any of the provisions of this By-Law as set out in Schedule "A" hereto he/she may serve upon such person a notice.
 - d) Service of any such notice shall be sufficient if it is:
 - i. Personally served;
 - ii. Serviced by double registered mail
 - e) Upon production of any such notice within fourteen days from the date of service of such notice, together with the payment of the sum specified in Schedule "A" hereto to The Town of Vermilion, an official receipt of such payment shall be issued, and subject to the provisions of Section 17(f) and 17(g) below, such payment shall be accepted in lieu of prosecution:
 - i. If the person upon whom any such notice is served fails to pay the said sum within the time allotted, the person shall be summoned to a court of law.
 - f) Nothing in this By-Law shall:
 - i. Prevent any person from exercising his or her right to defend any charge of committing a breach of any Section of this By-Law.
 - ii. Prevent any person from laying information or complaint against any other person (whether such other person has made a payment under the provisions of Section 17(e) or not, for committing a breach of any Section of this By-Law as set out.
 - g) Where any person has made a payment pursuant to Section 17(e) and is subsequently prosecuted for the offence in respect of which such payment has been made, such payment shall be refunded.
 - h) It is the intention of Town Council that each separate provision of this By-Law shall be deemed independent of all other provisions herein and it is further the intention of Town Council that if any provisions of this By-Law be declared invalid, all other provisions thereof shall remain valid and enforceable.

18. INSPECTION

- a) For the purposes of determining if the provisions of this By-Law are being complied with, a Peace Officer is a designated officer for the purpose of section 542 of the Municipal Government Act of Alberta and may inspect such places or premises at all reasonable times.

19. Notwithstanding anything contained in this By-Law, the prohibitions do not apply to any Private Living Accommodation that meets the requirements of the Town of Vermilion Land use By-Law, as amended.

20. Schedule "A" is attached to and forms a part of this By-Law.

21. Should any clause be found unsupportable in a court of law; the remainder of the clauses shall remain in force and effect.

22. By-Law 1-99 and 15-67 and amendments thereto are hereby rescinded upon this By-Law receiving third reading.

23. This By-Law comes into effect upon receiving third reading.

READ A FIRST TIME IN COUNCIL THIS ___ DAY OF _____, A.D. 2018

Mayor

Chief Administrative Officer

READ A SECOND TIME IN COUNCIL THIS ___ DAY OF _____, A.D. 2018

Mayor

Chief Administrative Officer

READ A THIRD TIME IN COUNCIL THIS ___ DAY OF _____, A.D. 2018

Mayor

Chief Administrative Officer

SCHEDULE "A"

OFFENCE	PENALTY
Smoking in a prohibited area	\$250.00
Failing to post a required sign	\$200.00