



TOWN OF BLACKFALDS  
BYLAW 1228/18

BEING A BYLAW OF THE TOWN OF BLACKFALDS, IN THE PROVINCE OF ALBERTA, TO  
REGULATE SMOKING AND VAPING OF CANNABIS AND TOBACCO PRODUCTS IN PUBLIC  
PLACES

**WHEREAS**, pursuant to section 7 of the *Municipal Government Act*, a council may pass bylaws for municipal purposes respecting the following matters:

- (a) the safety, health and welfare of people and the protection of people and property;
- (b) nuisances;
- (c) people, activities and things in, on or near a public place or a place that is open to the public; and
- (d) the enforcement of bylaws;

**AND WHEREAS**, pursuant to Section 10 of the *Tobacco and Smoking Reduction Act*:

- (a) nothing in the *Tobacco and Smoking Reduction Act* affects a municipality's power to make bylaws to regulate, restrict or prohibit smoking, and,
- (b) any conflict between the *Tobacco and Smoking Reduction Act* and a provision of a municipal bylaw that regulates, restricts or prohibits smoking shall be resolved in favor of the more restrictive provision;

**AND WHEREAS**, pursuant to Section 90.28(a) of the *Gaming, Liquor and Cannabis Act* no person may smoke or vape cannabis in any area or place where that person is prohibited from smoking under the *Tobacco and Smoking Reduction Act* or any other *Act* or the bylaws of a municipality;

**NOW THEREFORE** the Council of the Town of Blackfalds, in the Province of Alberta, duly assembled, enacts as follows:

**PART 1 – PURPOSE, DEFINITIONS AND INTERPRETATION**

**Bylaw Title**

1 This Bylaw shall be known as the "**Smoking and Vaping Bylaw**".

**Definitions**

2 In this Bylaw:

- (a) "**Building**" means an enclosed or substantially enclosed building or structure and, without limiting the generality of the foregoing, includes any bus or taxi shelter;
- (b) "**Cannabis**" has the meaning given to it in the *Cannabis Act* (Canada);
- (c) "**Chief Administrative Officer**" means the chief administrative officer of the Town or their delegate;
- (d) "**Electronic smoking device**" means a device or instrument, handheld or other, 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 and electronic cannabis delivery systems;
- (e) "**Municipal tag**" means a tag or similar document issued by the Town pursuant the *Municipal Government Act* that alleges a bylaw offence and provides a person with the opportunity to pay an amount to the Town in lieu of prosecution for the offence;
- (f) "**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;
- (g) "**Peace Officer**" means a bylaw enforcement officer appointed by the Town and includes a member of the Royal Canadian Mounted Police;
- (h) "**Person**" means any individual, firm, partnership, association; corporation, trustee, executor, administrator or other legal representative;
- (i) "**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, without in any way restricting foregoing, includes:
  - (i) all or any part of a building;
  - (ii) an outdoor place or area;
  - (iii) a bus, taxi or other vehicle that is used to transport members of the public for a fee;



- (j) **“Sidewalk”** means that part of a highway especially adapted to the use of or ordinarily used by pedestrians, and includes that part of a highway between
  - (i) the curb line, or
  - (ii) where there is no curb line, the edge of the roadway, and the adjacent property line, whether or not it is paved or improved;
- (k) **“Smoke”**, where used as a verb in respect of cannabis or a tobacco product, means inhaling or exhaling the smoke produced by lit cannabis or a tobacco product or holding or otherwise having control of lit cannabis or a tobacco product or any device or thing that contains lit cannabis or a tobacco product;
- (l) **“Surface parking lot”** means an outdoor area that is used for the parking of vehicles, but does not include any parking structure located above or below ground;
- (m) **“Tobacco product”** has the meaning given to it in the *Tobacco and Smoking Reduction Act*;
- (n) **“Town”** means the municipal corporation of the Town of Blackfalds and includes the geographical area within the boundaries of the Town where the context so requires;
- (o) **“Vape”**, where used as a verb in respect of cannabis or a tobacco product, means inhaling or exhaling the vapour, emissions or aerosol produced by, or holding or otherwise having control of, an electronic smoking device containing cannabis or a tobacco product;
- (p) **“Window”** means a window that can be opened to admit air;
- (q) **“Violation ticket”** has the meaning given to it in the *Provincial Offences Procedure Act*.

### **Rules of Interpretation**

- 3 The headings in this Bylaw are for guidance purposes and convenience only.
- 4 Every provision in this Bylaw is independent of all other provisions and if any provision of this Bylaw is declared invalid for any reason by a court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.
- 5 In this Bylaw, a citation of or reference to any enactment of the Province of Alberta or of Canada, or of any other bylaw of the Town, is a citation of or reference to that enactment or bylaw as amended, whether amended before or after the commencement of the enactment or bylaw in which the citation or reference occurs.
- 6 Nothing in this Bylaw relieves a person from complying with any provision of any provincial or federal legislation or regulation, other bylaw or any requirement of any lawful permit, order or licence.

## **PART 2 – SMOKING AND VAPING IN PUBLIC**

### **Cannabis Restrictions**

- 7 Subject to Section 8, no person may smoke or vape cannabis in a public place.

### **Medical Cannabis Exception**

- 8 A person who is entitled to possess cannabis pursuant to a medical document issued pursuant to the *Access to Cannabis for Medical Purposes Regulations (Canada)* may smoke or vape cannabis in accordance with that medical document and the *Gaming, Liquor and Cannabis Act*.
- 9 A person referred to in Section 8 must, on demand of a Peace Officer, produce a copy of the person’s medical document.

### **Tobacco Restrictions**

- 10 Subject to Section 11, no person may smoke or vape a tobacco product in a public place.
- 11 A person may smoke or vape a tobacco product on a sidewalk or on a surface parking lot provided that the person is:
  - i. more than 5 metres from a doorway, window or air intake of a building or patio, and
  - ii. more than 10 metres from:

1. a playground,
2. a public park,
3. a sports or playing field,
4. an outdoor pool or spray park,
5. a skateboard or bicycle park, or
6. an outdoor theatre.

### **Owners and Operators**

- 12 Except as provided in this Part, no person who owns or operates a public place may permit a person to smoke or vape cannabis or a tobacco product in a public place.

## **PART 3 – ENFORCEMENT**

### **Offence**

- 13 A person who contravenes any provision of this Bylaw is guilty of an offence.

### **Vicarious Liability**

- 14 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 exercising the powers or performing the duties on behalf of the person under their agency relationship.

### **Corporations and Partnerships**

- 15 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.
- 16 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**

- 17 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.
- 18 Without restricting the generality of subsection (1) the fine amounts set out in Schedule "A" are established for use on municipal tags and violation tickets if a voluntary payment option is offered.

### **Municipal Tag**

- 19 A Peace Officer is hereby authorized and empowered to issue a municipal tag to any person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 20 A municipal tag may be issued to such person:
- i. either personally; or
  - ii. by mailing a copy to such person at his or her last known post office address.
- 21 The municipal tag shall be in a form approved by the Chief Administrative Officer and shall state:
- i. the name of the person;
  - ii. the offence;
  - iii. the specified penalty established by this Bylaw for the offence;
  - iv. that the penalty shall be paid within 14 days of the issuance of the municipal tag; and
  - v. any other information as may be required by the Chief Administrative Officer.

### **Payment in Lieu of Prosecution**

- 22 Where a municipal tag is issued pursuant to this Bylaw, the person to whom the municipal tag is issued may, in lieu of being prosecuted for the offence, pay to the Town the penalty specified within the time period indicated on the municipal tag.





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**Violation Ticket**

- 23 If a municipal tag has been issued and if the specified penalty has not been paid within the prescribed time, then a Peace Officer is hereby authorized and empowered to issue a violation ticket pursuant to the *Provincial Offences Procedure Act*.
- 24 Notwithstanding Section 23, a Peace Officer is hereby authorized and empowered to immediately issue a violation ticket pursuant to the *Provincial Offences Procedure Act* to any person who the peace officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 25 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.

**Voluntary Payment**

- 26 A person who commits an offence may:
  - i. if a violation ticket is issued in respect of the offence; and
  - ii. if the violation ticket specifies the fine amount established by this Bylaw for the offence;
    - a. make a voluntary payment by submitting to a clerk of the provincial court, on or before the initial appearance date indicated on the violation ticket, the specified penalty set out on the violation ticket.

**PART 4 – TRANSITIONAL**

**Enactment**

27 This Bylaw shall come into force and effect on October 17, 2018.

READ for the first time this 25<sup>th</sup> day of SEPTEMBER, A.D. 2018.

(RES 267/18)

Richard Poole  
MAYOR RICHARD POOLE

[Signature]  
CAO MYRON THOMPSON

READ for the second time this 9<sup>th</sup> day of OCTOBER, A.D. 2018.

(RES 276/18)

Richard Poole  
MAYOR RICHARD POOLE

[Signature]  
CAO MYRON THOMPSON

READ for the third and final time this 9<sup>th</sup> day of OCTOBER, A.D. 2018.

(RES 277/18)

Richard Poole  
MAYOR RICHARD POOLE

[Signature]  
CAO MYRON THOMPSON

**SCHEDULE "A"- OFFENCES AND PENALTIES**

Part	Section	Description	First Offence	Subsequent Offence*
2	7	Smoke or vape cannabis in public place	\$250	not less than \$500
2	9	Failure to produce medical document	\$250	not less than \$500
2	10	Smoke or vape tobacco product in public place	\$250	not less than \$500
2	12	Owner/Operator permit a person to smoke or vape in public place	\$250	not less than \$500
3	17	A person who is guilty of an offence is liable to a fine in an amount not less than that established	Not Exceeding \$10,000	

\* **Subsequent offences are based on successful prosecution of the First Offense**, Meaning the Town must first obtain a conviction on the First Offence, and not just issue multiple tickets.

Bylaw Enforcement will, for repeat offenders, issue a ticket with a summons to appear in court without the opportunity to pay a fine to the clerk of the court, rather than issue subsequent offence tickets.

The Town will seek a higher fine in the sentencing phase of the prosecution if the court found the person guilty.