

A BYLAW OF THE REGIONAL MUNICIPALITY OF WOOD BUFFALO TO REGULATE SMOKING AND VAPING IN PUBLIC PLACES, WORK PLACES, AND PUBLIC TRANSPORTATION VEHICLES AND PROPERTY.

WHEREAS pursuant to Section 7(a) of the Municipal Government Act, R.S.A. 2000, c.M-26 (“the MGA”), a Council may pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property;

AND WHEREAS pursuant to Section 7(b) of the MGA, a Council may pass bylaws for municipal purposes respecting people, activities and things in, on or near a public place or place that is open to the public;

AND WHEREAS pursuant to Section 7(d) of the MGA, a Council may pass bylaws for municipal purposes respecting transport and transportation systems;

AND WHEREAS pursuant to Section 7(e) of the MGA, a Council may pass bylaws for municipal purposes respecting businesses, business activities and persons engaged in business;

AND WHEREAS pursuant to Section 7(i) of the MGA a Council may pass bylaws for municipal purposes respecting the enforcement of bylaws made under the Municipal Government Act or any other enactment including any or all of the matters listed therein;

AND WHEREAS health officials have determined that secondhand smoke is a health hazard and causes discomfort for many persons;

AND WHEREAS the smoke or vapour produced by the smoking or vaping of tobacco, cannabis and other substances is a nuisance for persons in public places, work places and public transportation vehicles and property;

AND WHEREAS the Regional Municipality of Wood Buffalo deems it expedient and appropriate to limit the effects of secondhand smoke in the Regional Municipality of Wood Buffalo by regulating smoking and vaping of tobacco, cannabis and other substances in public places workplaces and public transportation vehicles and property within the Regional Municipality of Wood Buffalo;

AND WHEREAS the federal government is proposing to pass the **Cannabis Act** not later than the summer of 2018;

NOW THEREFORE, the Regional Municipality of Wood Buffalo, in Council duly assembled, enacts as follows:

PART 1 – PURPOSE, DEFINITIONS AND INTERPRETATION

PURPOSE

1. The purpose of this Bylaw is to regulate smoking and vaping of tobacco, cannabis and other substances in public places, work places, public transportation vehicles, and public transportation property, to reduce exposure to secondhand smoke in the Regional Municipality of Wood Buffalo for the health, safety and welfare of the inhabitants.

SHORT TITLE

2. This Bylaw may be cited as the “Smoking and Vaping Bylaw”.

DEFINITIONS AND INTERPRETATION

3. For the purpose of administering the provisions of this Bylaw, the following definitions shall apply:
 - (a) “ASHTRAY” means a receptacle for ashes, butts or residue of tobacco or cannabis products;
 - (b) “BUILDING” has a meaning prescribed in the Land Use Bylaw 99/059, as amended, or replaced from time to time;
 - (c) “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 a charitable organisation;
 - (d) “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);
 - (e) “BYLAW OFFICER” means any duly appointed Bylaw Enforcement Officer of the Regional Municipality of Wood Buffalo or any member of the Royal Canadian Mounted Police;
 - (f) “CHIEF ADMINISTRATIVE OFFICER” has a meaning prescribed in the Municipal Government Act, as amended, or replaced from time to time;
 - (g) “CHILD CARE FACILITY” has a meaning prescribed in the Land Use Bylaw 99/059, as amended, or replaced from time to time;
 - (h) “COMMUNITY RECREATION FACILITY” has a meaning prescribed in the Land Use

Bylaw 99/059, as amended, or replaced from time to time;

- (i) “COUNCIL” has a meaning prescribed in the Municipal Government Act, as amended, or replaced from time to time;
- (j) “DRINKING ESTABLISHMENT” means a business where the primary purpose is the sale of alcoholic beverages for consumption on the premises and the secondary purposes of which may include entertainment, dancing, music, the preparation and sale of food for consumption on the premises, take-out food services and the sale of alcoholic beverages for consumption away from the premises;
- (k) “EDUCATIONAL SERVICE FACILITY” has a meaning prescribed in the Land Use Bylaw 99/059, as amended, or replaced from time to time;
- (l) “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;
- (m) “EMPLOYEE” means a person who:
 - i. Performs any work for, supplies any services or fulfills any contractual obligations to any employer; or
 - ii. receives any instructions or training in the activity, business, work, trade, occupation or profession of the employer;
- (n) “EMPLOYER” means 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;
- (o) “LICENSED GAMING ESTABLISHMENT” means any premises for which the Province of Alberta has a bingo licence or casino licence issued under the Gaming and Liquor Act;
- (p) “MUNICIPALITY” means the Regional Municipality of Wood Buffalo;
- (q) “OUTDOOR PATIO” means an area outside of a building intended for the consumption of food or beverages by patrons of a business providing such food or beverages, and includes:
 - i. a public premise where food or beverages are served that is not fully contained within an enclosed building; and
 - ii. an outside extension of an eating or drinking establishment regardless of whether it is covered;
- (r) “OUTDOOR POOL” means a structure that contains water which is designed and

intended for recreational use, and includes a spray park or a wading pool;

- (s) “OUTDOOR RECREATION FACILITY” has a meaning prescribed in the Land Use Bylaw 99/059, as amended, or replaced from time to time;
- (t) “OUTDOOR SKATING RINK” means an outdoor ice surface that is designed for recreational skating or playing hockey;
- (u) “PARK” has a meaning prescribed in the Land Use Bylaw 99/059, as amended, or replaced from time to time;
- (v) “PERSON” includes an individual, business, proprietorship, corporation, society, non-profit organization, or government agency;
- (w) “PLACE OF WORSHIP” means a development and any related meeting halls used for spiritual worship and related religious, charitable, educational or social activities;
- (x) “PLAYGROUND” means an outdoor area upon which apparatus such as swings and slides are placed;
- (y) “PRIVATE CLUB” means an enclosed place or premise that operates primarily for the benefit and pleasure of the members of a non-profit corporation or service club;
- (z) “PRIVATE RESIDENCE” means a self-contained living premises for the domestic use of one or more persons and is provided with a separate private entrance from the exterior of a building or from a common hall, lobby or stairway, but does not include any portion of such area used as a workplace with the exception of a hotel room or motel room;
- (aa) “PROPRIETOR” means, in addition to the meaning prescribed in the MGA, 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 hospital board appointed pursuant to the Hospitals Act, R.S.A. 2000, C. – H-12;
 - iii. a board of governors established pursuant to the Post Secondary Learning Act S.A. 2003, C. P-195; or
 - iv. a board of trustees elected pursuant to the provisions of the School Act, R.S.A. 2000, c. S-3;
- (bb) “PUBLIC” means any person other than the owner, lessee, proprietor or employer of a particular building or place;
- (cc) “PUBLIC BUILDING” means any enclosed building or structure as defined in this

bylaw to which the public can and does have access by right or by invitation, whether or not:

- i. all members of the public are invited;
- ii. the proprietor has the right to exclude any particular persons;
- iii. payment, membership or the performance of some formality is required prior to access;
- iv. the public has access to the building only at certain times, or from time to time;
- v. a member of the public has access only if they are a member or if they are accompanied by a member;
- vi. subject to subsections (vii) and (viii) below, if the public has access only to a portion of the building or structure, the entire building or structure shall be deemed to be a public building;

Where a building includes a private residence, the following shall apply:

- i. that portion of the building containing the private residence shall be deemed not to be a public building;
- ii. if a building contains two or more private residences, those common areas of the building, including washrooms, corridors, reception areas, elevators, escalators, foyers, hallways, stairways, lobbies, laundry rooms and enclosed parking garages, shall be deemed to be a public building;

(dd) "PUBLIC PLACE" means any place to which the public has access, regardless of whether or not access is granted by means of membership or admission fees, and includes:

- i. licensed gaming establishments;
- ii. drinking establishments;
- iii. restaurants;
- iv. outdoor patios;
- v. private clubs;
- vi. place of worship;
- vii. community recreation facility;
- viii. child care facility;
- ix. educational service facility;
- x. public transportation vehicles and public transportation property and all areas within 10 metres of public transportation property;
- xi. public buildings and all areas within 10 metres of an entrance or exit to a public building;
- xii. work places and all areas within 10 metres of an entrance or exit to a work place;
- xiii. outdoor recreation facility; and
- xiv. park.

(ee) "PUBLIC TRANSPORTATION VEHICLE" means a school bus, bus, taxi, limousine, or private for hire vehicle, airplane or other similar vehicle which is being used, or is subject to use, by a passenger or passengers for a fee;

- (ff) “PUBLIC TRANSPORTATION PROPERTY” means any premises owned, used or occupied by the Municipality for the purposes of providing transit services, including public transportation vehicle shelters;
- (gg) “PUBLIC TRANSPORTATION VEHICLE SHELTER” means any structure with a roof designed to protect a passenger from the elements while waiting for a school bus, bus, taxi, limousine, airplane or other similar vehicles;
- (hh) “RESTAURANT” means an enclosed place or premises, the primary purpose of which is the preparation and sale of food for consumption on the premises, the secondary purpose of which may include the sale of alcoholic or non-alcoholic beverages, takeout food services and catering. A restaurant does not include a drinking establishment, but does include any premises for which a Class A liquor license has been issued for the sale and consumption of liquor in premises open to the public, and where minors are not prohibited by the terms of the license;
- (ii) “SKATE PARK” means an outdoor area which is designed and intended specifically for the use of skateboards, in-line skates, or other similar devices;
- (jj) “SMOKE” or “SMOKING” means:
- i. inhaling or exhaling the smoke produced by burning tobacco or cannabis; or
 - ii. the carrying, holding or otherwise controlling of any lit smoking equipment, such as cigar, cigarette or pipe containing tobacco, cannabis or any other such substances;
- (kk) “SPORTS FIELD” means an outdoor area which is set apart and used for the playing of sporting activities;
- (ll) “TRADITIONAL PIPE CEREMONIES” means any cultural or religious ceremony involving pipes or the use or consumption of tobacco products;
- (mm) “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;
- (nn) “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;
- (oo) “VIOLATION TICKET” means a ticket issued pursuant to Part II of the Provincial

Offences Procedure Act, R.S.A. 2000 c. P-34, as amended or replaced from time to time, and regulations thereunder, and as referred to in Part 6 of this bylaw;

- (pp) “WORKPLACE” means any enclosed area of a building or structure in which an employee works and includes washrooms, corridors, lounges, eating areas, outdoor patios, reception areas, elevators, escalators, foyers, hallways, stairways, enclosed walkways, amenity areas, lobbies, laundry rooms and enclosed parking garages utilized by an employee. For clarification purposes:
- i. a place is a workplace whether or not the employee is employed by the proprietor of the premises at which the employee works;
 - ii. subject to subsection iv below, if an employee works in any portion of a building, the entire building shall be deemed to be a workplace;
 - iii. home offices that employ non-residents or that require public access shall be deemed to be a workplace; and
 - iv. any portion of a building that is used exclusively as a private residence, including a hotel room or a motel room shall not be deemed to be a workplace.
4. 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.
 5. Each provision of this Bylaw is independent of all other provisions and if any provision is declared invalid for any reason by a court of competent jurisdiction, all other provisions of this Bylaw remain valid and enforceable.
 6. Nothing in this Bylaw relieves a person from complying with any provision of any federal, provincial or municipal law or regulation or any requirements of any lawful permit, order or license.

PART 2 – PROHIBITION

7. A person must not smoke or vape in any public place, a workplace, a public transportation vehicle or any public transportation property within the Municipality regardless of whether or not a ‘No Smoking No Vaping’ sign is posted.
8. A proprietor and/or employer shall not permit smoking or vaping in public place, whether or not a ‘No Smoking No Vaping’ sign is posted or visible.
9. A person must not smoke or vape in, on or within 10 metres of:
 - a) an entrance or exit to an educational service facility;
 - b) an entrance or exit to a child care facility;
 - c) An entrance or exit to a place of worship;
 - d) an entrance or exist to a community recreation facility;
 - e) outdoor pool;

- f) outdoor skating rink;
- g) playground;
- h) skate park;
- i) sports field;
- j) tennis court.

10. Every proprietor or employer of a public place shall:

- a) ensure compliance with this Bylaw;

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