

TOWN OF VIKING

BYLAW 2018-670

BEING A BYLAW OF TOWN OF VIKING (hereinafter referred to as "the Municipality") IN THE PROVINCE OF ALBERTA TO REGULATE SMOKING AND VAPING OF CANNABIS, OR CANNABIS PRODUCTS IN PUBLIC PLACES.

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(i) of the MGA a Council may pass bylaws for municipal purposes respecting the enforcement of bylaws made under the MGA or any other enactment including any or all of the matters listed therein;

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

AND WHEREAS the Municipality deems it expedient and appropriate to limit the effects of secondhand smoke in the Municipality by regulating smoking and vaping of cannabis and other cannabis related substances in public places;

NOW THEREFORE, THE COUNCIL OF THE MUNICIPALITY DULY ASSEMBLED, HEREBY ENACTS AS FOLLOWS:

PART 1 – PURPOSE, DEFINITIONS AND INTERPRETATION

PURPOSE

1. The purpose of this Bylaw is to regulate smoking and vaping of cannabis and other cannabis related substances in public places to reduce exposure to secondhand smoke in the Municipality 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) "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 Part, 2017);
 - b) "BYLAW OFFICER" means any duly appointed Bylaw Enforcement Officer or Peace Officer of the Municipality or any member of the Royal Canadian Mounted Police;

- c) "COUNCIL" has a meaning prescribed in the MGA, as amended, or replaced from time to time;
- d) "DAY CARE FACILITY" has a meaning prescribed in the Land Use Bylaw 1222, as amended, or replaced from time to time;
- e) "EATING AND DRINKING ESTABLISHMENT" has a meaning prescribed in the Town of Viking Land Use Bylaw as amended, or replaced from time to time;
- f) "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.
- g) "LICENSED GAMING ESTABLISHMENT" means any premises for which the Province of Alberta has a bingo licence or casino licence issued under the *Gaming Liquor & Cannabis Act*;
- h) "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;
- i) "PARK" has a meaning prescribed in the Town of Viking Land Use Bylaw , as amended, or replaced from time to time; for the purposes of this Bylaw, "PARK" shall also include all in town "WALKING PATHS".
- j) "PERSON" includes an individual, business, proprietorship, corporation, society, non-profit organization, or government agency;
- k) "PLACE OF WORSHIP" means a development and any related meeting halls used for spiritual worship and related religious, charitable, educational or social activities;
- l) "PLAYGROUND" means an outdoor area upon which apparatus such as swings and slides are placed;
- m) "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;
- n) "PUBLIC" means any person other than the owner, lessee, proprietor or employer of a particular building or place;

- o) "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 (i) and (ii) 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;
- p) "RECREATION FACILITY" has a meaning prescribed in the Town of Viking Land Use Bylaw, as amended, or replaced from time to time;
- q) "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;
- r) "SCHOOL" has a meaning prescribed in the Town of Viking Land Use Bylaw, as amended, or replaced from time to time;

- s) "SMOKE" or "SMOKING" means:
 - i. the carrying, holding or otherwise controlling of any lit smoking equipment, cigarette or pipe containing cannabis or any other such substances; or
 - ii. inhaling or exhaling the smoke produced by burning cannabis.
 - t) "VAPE" or "VAPING" means:
 - i. inhaling or exhaling the vapour, emissions or aerosol produced by an electronic smoking device or similar device containing cannabis or any other related substance; or
 - ii. holding or otherwise having control of an electronic smoking device that is producing vapour, emissions or aerosol from cannabis or any other related substance;
 - u) "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;
 - v) "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.
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. No person shall smoke or vape in, on or within any of the following places:
- i. a day care/day home/playschool;
 - ii. an eating and drinking establishment;
 - iii. a licensed gaming establishment;
 - iv. an outdoor patio;
 - v. a park;
 - vi. a walking trail;
 - vii. a place of worship;
 - viii. a playground;
 - ix. a public building or place including a museum and grounds;
 - x. a recreation facility, including a golf course;
 - xi. a restaurant;
 - xii. a school;
 - xiii. a workplace.
8. No person shall smoke or vape in any area or place where that person is prohibited from smoking or vaping under the *Tobacco and Smoking Reduction Act*, SA 2005, c. T-3.8.

PART 4 – OFFENCES

9. 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.

PART 5 – PENALTIES

10. Any person who fails or neglects to perform the duties or requirements imposed upon it under the provisions of this Bylaw is guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars (\$10,000.00).
11. The specified fine for an offence committed pursuant to this Bylaw shall be two hundred fifty dollars (\$250.00) for each such occurrence.
12. Any person convicted of an offence shall also be liable, in default of payment of any fine, to imprisonment for up to six (6) months.
13. In the case of an offence that is of a continuing nature, a contravention shall constitute a separate offence in respect of each day, or part of a day, on which

that offence continues and a person guilty of such an offence is liable to a fine in an amount not less than that established by this Bylaw for each such day.

PART 6 – VIOLATION TICKET

14. A Bylaw Officer is hereby authorized and empowered to issue a violation ticket 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, to any person who the Bylaw Officer has reasonable grounds to believe has contravened any provision of this Bylaw.

PART 7 – SEVERABILITY

15. If any section or sections of this Bylaw or parts thereof are found in any court of law to be illegal or beyond the power of Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this Bylaw shall be deemed to be separate and independent therefrom and to be enacted as such.

PART 8 – ENFORCEMENT

16. For the enforcement of this Bylaw, a Bylaw Officer, upon producing proper identification, may enter any public place and may make examinations, investigations and inquiries.
17. No Bylaw Officer may enter a workplace that is also a private residence without the consent of the occupant or without first obtaining and producing a warrant.
18. Where a Bylaw Officer has reason to believe that a person has contravened any provision of this bylaw, he or she may serve upon such person:
 - a) a violation ticket requiring a person to appear in Court with the alternative of making a voluntary payment in lieu of prosecution; or
 - b) a violation ticket requiring a person to appear in Court without the alternative of making a voluntary payment.

PART 9 – REPEAL AND COMING INTO EFFECT

19. This Bylaw comes into effect when it is passed.

READ a first time this 19th day of November, A.D. 2018.

READ a second time this 19th day of November, A.D. 2018.

READ a third and final time this 19th day of November, A.D. 2018.