

BYLAW 27-2022 SMOKING AND VAPING BYLAW

Section 7 of the Municipal Government Act allows a municipality to pass bylaws respecting the safety, health and welfare of people;

Section 10 of the Tobacco, Smoking and Vaping Reduction Act allows a municipality to regulate, restrict or prohibit smoking or vaping, and specifies that where the provisions in the bylaw and Act differ, the more restrictive provision prevails; and

Therefore Council enacts:

PART I – DEFINITIONS AND INTERPRETATION

- | | |
|-------------|--|
| Purpose | 1 The purpose of this bylaw is to establish prohibitions and prescribed penalties in relation to the smoking and vaping of tobacco, cannabis, and other substances to promote the safe, healthy, and reasonable use of public places for all persons in Strathcona County. |
| Definitions | 2 In this bylaw: <ul style="list-style-type: none">(a) "bylaw enforcement officer" means an individual appointed or authorized by the Chief Commissioner to enforce County bylaws, including a peace officer and a police officer;(b) "Chief Commissioner" means the chief administrative officer of the County, or delegate;(c) "County" means the municipal corporation of Strathcona County, a specialized municipality established under the authority of the <i>Municipal Government Act</i>, RSA 2000, c M-26 and Order in Council 761/95;(d) "hotel" has the same meaning as in the Tobacco, Smoking and Vaping Reduction Act;(e) "Indigenous Peoples" is a collective name for the original peoples of North America and their descendants. The Canadian Constitution recognizes three groups of Indigenous Peoples which are First Nation, Inuit, and Métis: each with unique histories, languages, cultural practices, and spiritual beliefs;(f) "manager" means an employer or other person who, directly or indirectly, controls, directs, or is responsible for a place or who controls the activities in the place;(g) "Municipal Government Act" means the <i>Municipal Government Act</i>, RSA 2000, c M-26;(h) "outdoor recreation area" means any County-owned or -managed lands and parks open to members of the public engaging in outdoor sporting or recreation activities, |

including camping, canoeing, snowshoeing, skiing, golfing, and hiking;

- (i) "peace officer" means a person appointed as a peace officer by the Province of Alberta under the authority of the *Peace Officer Act*, SA 2006, c P-3.5, and with the authority to enforce this bylaw, and includes a police officer;
 - (j) "Provincial Offences Procedure Act" means the *Provincial Offences Procedure Act*, RSA 2000 c P-34;
 - (k) "public place" means any indoor space, outdoor space, or designated outdoor space, whether publicly or privately owned or controlled, to which members of the public have access as of right or by express or implied invitation, with or without payment, including:
 - (i) all locations where smoking or vaping is prohibited in the Tobacco, Smoking and Vaping Reduction Act, and any other enactment that prohibits smoking or vaping of tobacco, cannabis, or other substances;
 - (ii) in or within 10 metres of:
 - (A) playgrounds;
 - (B) sports or playing fields;
 - (C) spray parks;
 - (D) skateboard or bicycle parks;
 - (E) zoos or animal conservation areas;
 - (F) outdoor theatres;
 - (G) public pools or splash pads;
 - (H) skating rinks; and
 - (I) outdoor recreation areas;
- and
- (iii) events and markets operating under County licences, permits, or approvals, including holiday celebrations, concerts, parades, organized sporting events, and farmers markets

but does not include a highway as defined under the *Traffic Safety Act*, RSA 2000 c T-6, private functions or events that are closed to the public, or a person's private residence;

- (l) "smoke" means to inhale, exhale, hold, or control a burning or lit substance, contained in paper, a receptacle, or another transfer mechanism, that emanates vapours, emissions, or odours when the substance is burned or lit;
- (m) "Tobacco, Smoking and Vaping Reduction Act" means the *Tobacco, Smoking and Vaping Reduction Act*, SA 2005, c T-3.8;

- (n) "vape" means to inhale or exhale the vapour produced by a vaping product; and
- (o) "vaping product" means:
 - (i) a solid, liquid, or gas substance, whether or not the solid, liquid, or gas substance contains nicotine or cannabis, that is intended for use in a product or device referred to in subclause (ii) and that, on being heated, produces a vapour;
 - (ii) a product or device that contains a power source and heating element intended for vaporizing a substance referred to in subclause (i) for inhalation; and
 - (iii) a cartridge or component for a product or device referred to in subclause (ii);
- (p) "workplace" means all or any part of a building, structure, or other enclosed area in which employees perform the duties or their employment, whether or not members of the public have access to the building, structure, or area as of right or by express or implied invitation, including reception areas, corridors, lobbies, stairwells, elevators, escalators, eating areas, washrooms, lounges, storage areas, laundry rooms, enclosed parking garages, and work vehicles; and
- (q) "work vehicle" means a vehicle owned or leased by an employer and used by employees during the course of their employment.

Interpretation

- 3 The following rules apply to interpretation of this bylaw:
 - (a) the word "including" means "including, but not limited to";
 - (b) headings, titles, and margin notes in this bylaw are for ease of reference only;
 - (c) references to one gender includes all genders, and the singular includes the plural as the context requires;
 - (d) every provision of this bylaw is independent of all other provisions and if any provision of this bylaw is declared invalid by a Court, all other provisions of this bylaw remain valid and enforceable;
 - (e) references to bylaws and enactments in this bylaw include amendments and replacement bylaws and enactments, and regulations and orders thereunder; and
 - (f) all offences under this bylaw are strict liability offences.

Rights of Indigenous Peoples

- 4 Nothing in this bylaw abrogates or derogates from the rights of Indigenous Peoples participating in cultural or spiritual practices.

PART II – SMOKING AND VAPING PROHIBITIONS

Prohibitions and Exceptions	5	A person is not permitted to smoke or vape in, at, or on a public place, except for the following locations: (a) an outdoor recreation area designated as a dog off-leash park; (b) golf courses; and (c) a hotel room where smoking is permitted in accordance with the Tobacco, Smoking and Vaping Reduction Act.
Prescribed Distances	6	A person is not permitted to smoke or vape within 10 metres of the boundaries of: (a) a doorway, window, or air intake; or (b) a workplace.
Designated Zones	7	(1) The Chief Commissioner may designate additional non-smoking and non-vaping areas by placing signage indicating the prohibition. (2) To designate additional non-smoking and non-vaping areas, the Chief Commissioner must place signage indicating that a designated area is a non-smoking or non-vaping area. (3) No person may smoke or vape at, in, or on a designated non-smoking or no-vaping area.
Manager Permitting Others to Smoke or Vape	8	A manager may not permit any person to smoke or vape in an area where smoking or vaping is prohibited under this bylaw.

PART III – ENFORCEMENT

Offences	9	A person who contravenes a provision of this bylaw is guilty of an offence.
Continuing Offence	10	If an offence is of a continuing nature, each day or part thereof that a person fails to comply with the requirements of this bylaw constitutes a new offence.
Obstructing Officer	11	Any person who interferes with or obstructs a bylaw enforcement officer in the execution of the bylaw enforcement officer's duties under this bylaw is guilty of an offence.
Providing False Information	12	Any person who provides false information to a bylaw enforcement officer is guilty of an offence.
Enforcement Options	13	Nothing in this bylaw precludes a bylaw enforcement officer or a peace officer from taking any enforcement measure available in

another bylaw or enactment, in addition to issuing a municipal tag or violation ticket for an offence.

- 14 A bylaw enforcement officer is a designated officer of the municipality with the power to conduct inspections, take enforcement action, and order any person to remedy a contravention pursuant to the Municipal Government Act, or as provided for and in accordance with any other enactment or bylaw.
- Municipal Tags
- 15 A bylaw enforcement officer may issue and serve a municipal tag on any person the officer has reasonable and probable grounds to believe has contravened a provision of this bylaw by:
- (a) personally serving the municipal tag on the person; or
 - (b) mailing a copy of the municipal tag by pre-paid post to the address provided by a person on a vaping permit application, or a person's last known postal address.
- Form of Municipal Tag
- 16 A municipal tag must be in a form approved by the Chief Commissioner and must state:
- (a) the name of the person to whom the municipal tag is issued;
 - (b) the particulars of the contravention of the bylaw;
 - (c) the specified penalty for the offence as set out in Schedule "A";
 - (d) that the specified penalty must be paid within thirty (30) days of the issuance of the municipal tag in order to avoid prosecution; and
 - (e) any other information as may be required by the Chief Commissioner.
- 17 If a municipal tag is issued for a second or subsequent offence within a two-year period, the specified penalty is the amount specified in Schedule "A" for a "Violation Ticket".
- Violation Tickets
- 18 If a municipal tag has been issued and the specified penalty on the municipal tag has not been paid within the prescribed time, a peace officer may issue a violation ticket to the person to whom the municipal tag was issued.
- 19 A peace officer is authorized to issue a violation ticket under the Provincial Offences Procedure Act to any person the peace officer believes on reasonable and probable grounds has committed an offence under this bylaw.
- 20 A peace officer may, in the officer's sole discretion, elect to issue and serve a violation ticket without first issuing a municipal tag.

21 If a violation ticket is issued it must be in the prescribed form and must:

(a) state the specified penalty for the offence as set out in Schedule "A" of this bylaw; or

(b) require the person to appear in Provincial Court with or without the alternative of making a voluntary payment.

Fine Amounts

22 Any person guilty of an offence under this bylaw is liable on summary conviction to a penalty in an amount not less than the amount specified in Schedule "A" of this bylaw, or if not prescribed in Schedule "A", not more than \$10,000, and any other penalties as may be prescribed in default of payment in relation to proceedings taken under the Provincial Offences Procedure Act.

FIRST READING: _____

SECOND READING: _____

THIRD READING: _____

SIGNED THIS ____ day of _____, 20____.

MAYOR

DIRECTOR, LEGISLATIVE AND LEGAL
SERVICES

SCHEDULE "A"
BYLAW 27-2022
SMOKING BYLAW
SPECIFIED PENALTIES

Section	Offence	Municipal Tag	Violation Ticket		
			First Offence	Second Offence Within two year period	Third or more Offences Within two year period
5	Smoking or vaping where prohibited	\$80	\$100	\$200	\$400
6(a)	Smoking or vaping within 10m of a doorway, window, or air intake	\$80	\$100	\$200	\$400
6(b)	Smoking or vaping within 10m of a workplace	\$80	\$100	\$200	\$400
7(3)	Smoking or vaping in a designated no-smoking or no-vaping area	\$60	\$75	\$150	\$300
8	Permit a person to smoke or vape where smoking or vaping is prohibited	\$160	\$200	\$400	\$800
11	Interfere with or obstruct a bylaw enforcement officer	\$400	\$500	\$1000	\$2000
12	Provide false information to a bylaw enforcement officer	\$400	\$500	\$1000	\$2000