

**BYLAW NO. 1959/2023
TOWN OF REDCLIFF**

A BYLAW OF THE TOWN OF REDCLIFF, IN THE PROVINCE OF ALBERTA, TO REGULATE PUBLIC PLACES AND WORKPLACES WITHIN THE TOWN OF REDCLIFF TO BE SMOKE-FREE.

WHEREAS pursuant to the Municipal Government Act, R.S.A. 2000, Chapter M-26, Council may pass a Bylaw respecting the safety, health and welfare of people, and the protection of people and property, and for purposes respecting nuisances.

AND WHEREAS it has been determined second-hand smoke produced from tobacco consumption, cannabis consumption, vaping, and other similar activities can be a nuisance and is a health hazard for inhabitants of the Town of Redcliff.

AND WHEREAS the Council of the Town of Redcliff, duly assembled, deem it is in the best interest of promoting the health, safety, and welfare of the public to regulate the locations where vaping and the smoking of tobacco, cannabis, and related substances can occur within the municipal corporate limits.

NOW THEREFORE, the Council of the Town of Redcliff in open meeting assembled, enacts as follows:

**PART 1
SHORT TITLE & DEFINITIONS**

SHORT TITLE

- (1) This Bylaw may be cited as the "Smoke-Free Bylaw".

DEFINITIONS

- (2) The following Acts and Regulations are referenced in this Bylaw and are referred to in this Bylaw by their short title as listed below:

	Act or Regulation	Short Title
(a)	Controlled Drugs and Substances Act, R.S.C. 1996, Chapter 19, and its regulations, as amended or replaced	Controlled Drugs and Substances Act
(b)	Provincial Offences Procedure Act, R.S.A. 2000 Chapter P-34, and its regulations, as amended or replaced	Provincial Offences Procedure Act
(c)	Alberta Gaming, Liquor and Cannabis Act, R.S.A 2000, Chapter G-1, and its regulations, as amended or replaced	Gaming, Liquor and Cannabis Act



(d)	Alberta Tobacco, Smoking and Vaping Reduction Act, R.S.A. 2005, Chapter T-3.8, and its regulations, as amended or replaced	Alberta Tobacco, Smoking and Vaping Reduction Act
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DEFINITIONS

- (3) Any word or expression that is specifically defined in the Acts and Regulations listed in Section (2) are adopted for the purposes of the interpretation and application of this Bylaw and have the same meaning under this Bylaw as defined in those statutes, unless otherwise specifically defined differently in this Bylaw or unless the context necessarily implies a different meaning.
- (4) In this Bylaw:
- (a) **BYLAW ENFORCEMENT OFFICER** means a person appointed by **Council** as a **Bylaw Enforcement Officer** for the **Town** or their designate;
 - (b) **CAMPGROUND** means any area designated by **Council** as a site intended for use by camping accommodation units on a temporary basis.
 - (c) **CANNABIS** has the same meaning as in the Controlled Drugs and Substances Act.
 - (d) **CAO** means the person appointed to the position of Chief Administrative Officer for the Town, by Council, within the meaning of the *Municipal Government Act* of Alberta.
 - (e) **COMMON ACCESS DOOR** means a building access and or egress door that may be used by the public or workers to access a **Public Place** or **Workplace**.
 - (f) **COUNCIL** means the Mayor and Councillors of the Town of Redcliff duly elected pursuant to the provisions of the *Local Authorities Election Act* of Alberta.
 - (g) **DESIGNATED SMOKING/ VAPING AREA** means a specified area where **Smoking/ Vaping** is permitted, and which **Minors** are not permitted to enter.
 - (h) **DISPOSE** means the dumping, discharging, throwing, dropping, discarding, abandoning, spilling, leaking, pumping, pouring, emitting, or emptying of any substance or material.
 - (i) **HOTEL** means an overnight accommodation facility, including an inn, guesthouse or bed and breakfast.
 - (j) **LICENSED PREMISES** means licensed premises as defined under the Gaming, Liquor and Cannabis Act, including an outdoor eating, or drinking area that is part of or operated in conjunction with the premises.
 - (k) **MINOR** means a person under the age of 18 years.
 - (l) **MUNICIPAL BUILDING** means any of the buildings owned, leased, operated, or occupied by the Town.

- (m) **PARK AND RECREATIONAL AREA** means any indoor or outdoor space controlled, developed, or designated by the **Town** to be used for rest, recreation, exercise, pleasure, amusement, or enjoyment, including a public park, playground, sports field, campground common area, recreational area, pool, arena, skate or bicycle park, ice rink, water playground, court, or pathway in the trail system, but excludes individual campsites.
- (n) **PEACE OFFICER** means **Peace Officer** as defined in Provincial Offences Procedure Act.
- (o) **PERSON** means any corporation, firm, partnership, association, or registered company, as well as a natural **Person**.
- (p) **PRIVATE RESIDENCE** means a self-contained living premise for 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. A **Private Residence** also includes an individual campsite in a campground.
 - (i) a **Private Residence** is a **Workplace** if a home business is operated from the residence only at the time when employees or patrons who do not live in the residence are present; and
 - (ii) only that part of a **Private Residence** in which the business is operated is a **Workplace** for the purposes of this Bylaw.
- (q) **PROPRIETOR** means the owner, tenant, or occupant of a property or part of a property or their agent or representative, and includes any **Person** in charge thereof or any **Person** who controls, manages, governs or directs the activity carried on therein.
- (r) **PUBLIC VEHICLE** means transit buses, school buses, chartered buses, **Town** vehicles, and taxis, except when the only person in the taxi is the taxi driver.
- (s) **PUBLIC PLACE** means all or any part of a property, building, structure, or other indoor or outdoor area to which members of the public have access as of right or by express or implied invitation including:
 - (i) Common areas of a multi-unit residential facility, including parks, patios, pools, other recreation areas and enclosed parking garages;
 - (ii) An outdoor bus or taxi shelter;
 - (iii) School buildings, grounds, and parking areas;
 - (iv) **Licensed Premises**;
 - (v) **Restaurants**;
 - (vi) Outdoor areas of a **Restaurant**, such as a patio, where eating or consumption of alcohol is permitted;
 - (vii) **Hotels**;
 - (viii) **Park and Recreational Areas**;
 - (ix) Libraries;



- (x) **Municipal Buildings;**
 - (xi) Public entrances to multi-unit residential facilities, public buildings, **Licensed Premises, Restaurants, Hotels, Workplaces**, and commercial buildings; and
 - (xii) A walkway, patio, or deck on the site of a **Public Place** used by the public to access the **Public Place**;
- but does not include a **Private Residence**, sidewalk, roadway, or street, or parking lot.
- (t) **RESTAURANT** means a place where food or beverages are prepared for consumption on the premises.
 - (u) **SMOKE OR SMOKING** means to inhale, exhale, burn, smoke, vape, hold, or otherwise have control over a lit or active cigarette, e-cigarette, vaporizer, cigar, pipe, hookah pipe, or other lighted or heated device or apparatus designed to burn or heat tobacco, cannabis, shisha, e-liquid, concentrate, dried herb, or any other substance for the purpose of inhaling or tasting omissions; irrespective of whether the **Person** is inhaling or exhaling the smoke or vapor emitted from it.
 - (v) **TOBACCO PRODUCT** means, subject to the regulations, a product composed in whole or in part of tobacco, including tobacco leaves, any extract of tobacco leaves and compressed tobacco, but does not include.
 - (i) Any solid, liquid or gas substance referred to in vaping product, or
 - (ii) any product for use in nicotine replacement therapy.
 - (w) **TOWN** means the municipal corporation of the **Town** of Redcliff, or the area contained within the **Town** boundaries as the context requires.
 - (x) **VAPE** means to inhale or exhale the vapor produced by a vaping product.
 - (y) **VAPING PRODUCT** means, subject to the regulations,
 - (i) A product or device that contains a power source and heating element intended for vaporizing a substance referred to in subclause (ii) for inhalation,
 - (ii) A solid, liquid or gas substance, whether or not the solid, liquid or gas substance contains nicotine, that is intended for use in a product or device referred to in subclause (i) and that, on being heated, produces a vapor, but does not include a controlled substance within the meaning of the *Controlled Drugs and Substances Act* (Canada), cannabis as defined in the *Cannabis Act* (Canada), compressed tobacco that is intended to be consumed by inhalation through a device that heats the compressed tobacco, or a drug as defined in the *Food and Drugs Act* (Canada).
 - (z) **VIOLATION TAG** means a notice or tag in such a form as may be prescribed from time to time by the CAO, issued by the Town, allowing a voluntary payment option of a fine established under this Bylaw directly to the Town.
 - (aa) **VIOLATION TICKET** means a summons by means of a violation ticket (Part 2) or an offence notice by means of a violation ticket (Part 3) in accordance with the provisions of the *Provincial Offences Procedure Act of Alberta*.

- (bb) **WORKPLACE** means all or any part of a property, building, structure or other enclosed area in which employees perform the duties of 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, and includes reception areas, corridors, lobbies, stairwells, elevators, escalators, eating areas, washrooms, lounges, storage areas, laundry rooms, enclosed parking garages, walkways and decks on the site used to access the **Workplace**, and work vehicles.

PART 2 REGULATIONS

SMOKING AND VAPING PROHIBITED

- (5) No person shall **Smoke or vape** in a:
- (a) **Public Place**;
 - (b) **Public Vehicle**;
 - (c) vehicle with a **Minor**;
 - (d) **Workplace**; or
 - (e) Within 5 metres (approximately 16 feet) of:
 - (i) The boundary of a Park and Recreational Area; or
 - (ii) Any entrance, exit, doorway, openable window, or air intake of a **Public Place** or **Workplace**.
 - (f) Any other place that is prescribed or otherwise described in the regulations.
- Regardless of whether or not a "No Smoking" sign is posted or visible.
- (6) No **Proprietor** shall permit smoking in any place listed previously in Section (5), whether or not a "No Smoking" sign is posted or visible.

SMOKING AND VAPING PERMITTED

- (7) Smoking and/ or vaping is permitted, unless otherwise stated in this Bylaw:
- (a) In a **Private Residence**;
 - (b) Along a sidewalk, roadway, or street;
 - (c) In a parking lot; and
 - (d) In a **Designated Smoking/ Vaping Area**.



DESIGNATED SMOKING AND VAPING AREAS

- (8) A **Proprietor**, at their discretion, may apply for a Development Permit to create a **Designated Smoking/ Vaping Area** in a **Public Place** or **Workplace**.
- (9) A **Designated Smoking/ Vaping Area** must:
- (a) Be screened from the view of the general public,
 - (b) Not be closed in by a roof or ceiling and walls that prevent natural air circulation;
 - (c) Be equipped with one or more doors which are kept closed except when actually in use for ingress or egress;
 - (d) Be 5 metres (approximately 16 feet) from any **Common Access Door**, openable window, or air intake of a **Public Place** or **Workplace**; and
 - (e) Not include food or beverage service.
 - (f) Not have cleanup or trash removed while smoking is permitted.
- (10) Notwithstanding sections (5)(e) and (9)(d), a **Designated Smoking/ Vaping Area** may be placed within 3 metres (approximately 10 feet) of a door provided that:
- (a) The door is not a **Common Access Door** to the **Public Place** or **Workplace**;
 - (b) Warning signs are posted on or adjacent to the door on the side that is away from the **Designated Smoking Area**, that the door opens to a **Designated Smoking/ Vaping Area**;
 - (c) The door has a functioning automatic closer and is only open when the door is being used for access and egress from the **Designated Smoking/ Vaping Area**; and
 - (d) The door is in an area that is at least 5 metres (approximately 16 feet) away where **Minors** are permitted on the side of the door away from the **Designated Smoking/ Vaping Area**.
- (11) No **Proprietor** shall permit a **Minor** to enter a **Designated Smoking/ Vaping Area**.

SIGNAGE

- (12) A **Proprietor** shall ensure that signs indicating smoking is prohibited are conspicuously and continuously posted, and clearly visible and legible to all persons entering the property.
- (13) A **Proprietor** of a property or part of a property in which smoking is permitted shall ensure signs indicating a **Designated Smoking/ Vaping Area** are conspicuously and continuously posted, and clearly visible and legible to all persons entering the property or part of the property.
- (14) Only a **Proprietor** or a **Person** acting under the **Proprietor's** instructions shall remove, alter, deface, conceal or destroy a sign that is posted or displayed under this Bylaw.

LITTERING

- (15) No **Person** shall **Dispose** of or allow the **Disposing** of any product or substance, or part of a product or substance, **Smoked** or used to **Smoke**, anywhere in the **Town**, other than in:



- (a) a garbage receptacle provided for the containment of litter for material that is not burning, or
- (b) In a special receptacle provided for and marked for the receiving of burning materials.

PART 3 OFFENCES, ENFORCEMENT & PENALTIES

OFFENCES

- (16) Any **Person** who breaches or contravenes any provision of this Bylaw is guilty of an offence.

VIOLATION TAGS, PENALTIES AND ENFORCEMENT

- (17) No Person shall willfully obstruct, hinder, or interfere with a Peace Officer or any other Person authorized to enforce and engaged in in the enforcement of the provisions of this Bylaw.
- (18) A Person who is found guilty of an offence under this Bylaw is liable to pay a fine of not less than the specified penalty for that offence and not more than two thousand dollars (\$2,000.00) or, in default of payment of a fine, to imprisonment for a period not more than six (6) months.
- (19) Where a Peace Officer believes on reasonable and probable grounds that an offence has taken place consisting of a breach or contravention of this Bylaw, the Peace Officer may commence proceedings against a Person by issuing a **Violation Ticket** in accordance with the provisions of the *Provincial Offences Procedure Act of Alberta*.
- (20) If a **Violation Ticket** is issued pursuant to this Bylaw that an offence has taken place consisting of a breach or contravention of this Bylaw, the **Violation Ticket** may provide for a specified penalty, which specified penalty shall be the amount set out in Schedule "A" of this Bylaw in the case of any offence listed in that Schedule "A" of this Bylaw.
- (21) Where a Peace Officer believes on reasonable and probable grounds that an offence has taken place consisting of a breach or contravention of this Bylaw, the Peace Officer may serve upon a Person a **Violation Tag**.
- (22) If a **Violation Tag** is issued pursuant to this Bylaw that an offence has taken place consisting of a breach or contravention of this Bylaw, the **Violation Tag** shall provide for an amount of money that the Town will accept as payment for the alleged offence, which amount of money shall be the specified penalty set out in Schedule "A" of this Bylaw.
- (23) Service of any **Violation Tag** under this Bylaw on a Person shall be sufficient if the **Violation Tag** is:
- (a) Personally served; or
 - (b) Served by registered mail.

- (24) Upon issuance and service of a **Violation Tag** under this Bylaw to a Person, the amount of money the Town will accept as payment for the alleged offence shall be the amount of money set out in **Violation Tag** and upon payment of that amount of money to a Person authorized by the CAO to receive that payment there shall be issued an official receipt therefor by the Town and the payment shall be accepted in lieu of commencing proceedings for the alleged offence.
- (25) Nothing in this Bylaw shall be read or construed as:
- (a) Preventing any Person for exercising that Person's right to defend an allegation that the Person has committed an offence under this Bylaw; or

Preventing any Peace Officer from issuing a summons by means of a Violation Ticket (Part 2) or an offence notice by means of a Violation Ticket (Part 3) in accordance with the provisions of the *Provincial Offences Procedure Act of Alberta* or otherwise initiating court process in any manner permitted by law in respect of an alleged offence for which a Violation Tag may be issued, including, but not limited to, for alleged offences under this Bylaw where a Violation Tag has already been issued to a Person, but that Person has not paid the amount set out in the Violation Tag to the Person authorized by the CAO to receive that payment. SEVERABILITY

- (26) Each separate provision of this Bylaw shall be deemed to be independent of all other provisions and if any provision of this Bylaw is deemed or declared to be invalid by a Court of competent jurisdiction, then all other provisions of this Bylaw shall remain valid and enforceable.
- (27) When there is a conflict between a provision of this Bylaw and the Alberta Tobacco, Smoking and Vaping Reduction Act, the more restrictive provision prevails.
- (28) It is the intention of Council that if any portion of this Bylaw be declared invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this Bylaw shall remain valid and enforceable.
- (29) If any provision of the Bylaw provides for an exception or an exemption, the onus or burden of establishing the exception or exemption in any Court proceedings shall be on the person charged with the offence under the Bylaw.

GENERAL

- (30) Any person who contravenes any provision of this Bylaw by:
- (a) Doing any act or thing which the Person is prohibited from doing; or
- (b) Failing to do any act or thing the Person is required to do;

is guilty of an offence and any offence created pursuant to this Bylaw is a strict liability offence for the purposes of prosecution under this Bylaw.

- (31) All references in this Bylaw will be read with such changes in number and gender as may be appropriate.



(32) Bylaw No. 1868/2018 is hereby repealed.

(33) This Bylaw shall come into force on the date of the third and final reading.

READ a first time this 11th day of September 2023 A.D.

READ a second time this 25th day of September 2023 A.D.

READ a third time this 25th day of September 2023 A.D.

PASSED and **SIGNED** this 6th day of NOVEMBER 2023 A.D.



MAYOR



MUNICIPAL MANAGER

Schedule "A": Fines

Nature of Offence	Section	Penalty
Smoking in a prohibited area	(5)	\$100.00
Proprietor allowing Smoking in a prohibited area	(6)	\$500.00
Designated Smoking Area not set up or located in adherence with the regulations of this bylaw.	(8), (9), (10)	\$1,000.00
Per incident of a Proprietor allowing a Minor to enter a Designated Smoking Area	(11)	\$100.00
Proprietor allowing the serving beverages or food in a Designated Smoking Area	(9)(e)	\$250.00
Proprietor allowing Persons under his employ to clean up the Designated Smoking Area or remove trash from the Designated Smoking Area while smoking is permitted.	(9)(f)	\$250.00
Failure to comply with no Smoking signage requirements	(12), (14)	\$50.00
Failure to comply with Designated Smoking Area signage requirements	(10)(b), (13), (14)	\$250.00
Improper disposal of Smoking products or substances including starting a fire or spilling of substances.	(15)	\$500.00

