



VILLAGE OF LINDEN

BYLAW NUMBER # 2018-02

BEING A BYLAW OF THE VILLAGE OF LINDEN IN THE PROVINCE OF ALBERTA TO REGULATE SMOKING AND VAPING

WHEREAS the health risks associated with secondary tobacco smoke are well established;

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

AND WHEREAS Council considers it expedient and desirable for the health, safety and welfare of the inhabitants to regulate smoking and vaping of tobacco, cannabis and other substances in the Village of Linden.;

NOW, THEREFORE, THE COUNCIL OF THE VILLAGE OF LINDEN ENACTS AS FOLLOWS:

SHORT TITLE

1. This Bylaw may be cited as the "Smoking and Vaping Bylaw"

DEFINITIONS AND INTERPRETATION

2. (1) In this Bylaw:
 - a. "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 charitable organization;
 - b. "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);
 - c. "Village" means the Village of Linden, a municipal corporation in the province of Alberta, or the area contained within the boundaries of the Village of Linden, as the context may require;
 - d. "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;
 - e. "employer" includes 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;
 - f. "officer" means a Bylaw Enforcement appointed pursuant to Bylaw 01-05, a Peace Officer appointed pursuant to the *Peace Officer Act*, S.A. 2006, c. P-3.5.

W

- g. "operator" includes the person responsible for the day to day operations of a public premises and a proprietor of a public premises;
- h. "outdoor skating rink" means an outdoor ice surface that is designed for recreational skating or playing hockey;
- i. "playground" means an outdoor area upon which apparatus such as swings and slides are place;
- j. "proprietor" means, 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 board of trustees elected pursuant to the provisions of the School Act, R.S.A. 2000, c S-3;
- k. "public premises" means all or any part of a building, structure or other enclosed area to which members of the public have access as of right or by express or implied invitation;
- l. "public vehicle" means a bus, taxi or other vehicle that is used to transport members of the public for a fee;
- m. "skate park" means an outdoor area which is designed and intended specifically for the use of skateboards, in-line skates, or other similar devices;
- n. "smoke" or "smoking" means:
 - i. Inhaling or exhaling the smoke produced by burning tobacco or cannabis; or
 - ii. Holding or otherwise having control of any device or thing containing lit tobacco or cannabis;
- o. "sports field" means an outdoor area which is set apart and used for the playing of sporting activities;
- p. "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;
- q. "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 sub stance'.
- r. "workplace" includes the whole or any part of a building, structure, vehicle or passenger conveyance in which a business is carried on but excludes:

- i. any part which constitutes public premises, and
 - ii. private residences.
- (2) all schedules attached to this Bylaw form part of this Bylaw.
- (3) Headings or sub-headings are inserted for ease of reference and guidance purposes only and do not form part of this Bylaw.
- (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 requirement of any lawful permit, order or license.

PROHIBITION

- 3. A person must not smoke or vape:
 - a. In public premises, a workplace or a public vehicle;
 - b. In, on or within 5 meters of a:
 - i. outdoor skating rink;
 - ii. playground;
 - iii. skate park;
 - iv. sports field;to which the public has access as of right or by express or implied invitation;
 - c. within 5 meters of an entrance or exit to a public premises.

EXCEPTIONS

- 4. (1) Despite any other provision of this Bylaw a person may, inside an enclosed premises where the primary function of the premises is the sale of electronic smoking devices, use an electronic smoking device to sample a product, other than tobacco or cannabis, prior to purchase.
- (2) Section 4 does not apply to an employer, operator or proprietor who allows a person to use an electronic smoking device to sample a product, other than tobacco or cannabis, prior to purchase inside an enclosed premises where the primary function of the premises is the sale of electronic smoking devices.
- (3) Despite any other provision of this Bylaw a person may smoke or vape tobacco in a location designated as a smoking room pursuant to section 5 of the Tobacco and Smoking Reduction Act, S.A. 2005, c. T-3.8.

OFFENSES

- 5. 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 offense pursuant to this Bylaw.
- 

ENFORCEMENT

6. (1) Where an officer believes that a person has contravened any provision of this Bylaw, the officer may commence proceedings against the person by issuing a violation ticket in accordance with the Provincial Offences Procedure Act, R.S.A. 2000, c P-34.
- (2) This section shall not prevent an officer from issuing a violation ticket requiring a court appearance of the defendant pursuant to the Provincial Offences Procedures Act or from laying an information instead of issuing a violation ticket.

PENALTY

7. (1) Where there is a specified penalty listed for an offence in Schedule A to this Bylaw, that amount is the specified penalty for the offence.
- (2) Where there is a minimum penalty listed for an offence in Schedule A to this Bylaw, that amount is the minimum penalty for the offence.
- (3) In this section, "specified penalty" means an amount that can be paid by a person who is issued a violation ticket and is authorized to make a voluntary payment without a court appearance.

COMING INTO FORCE

This Bylaw comes into force on the day it is passed.

READ A FIRST TIME THIS 23 DAY OF April, 2018

READ A SECOND TIME THIS 28th DAY OF May, 2018.

READ A THIRD TIME AND PASSED THIS 28th DAY OF May, 2018.



Mayor



CHIEF ADMINISTRATIVE OFFICER

SCHEDULE "A"

PENALTIES

Section	Description of Offence	Minimum Penalty	Specified Penalty
3	Smoke or vape were prohibited	\$50	\$100

α W