

**BYLAW NUMBER 2018 – 19
BEING A BYLAW OF THE TOWN OF CALMAR
RESPECTING SMOKE FREE PUBLIC
PLACES AND WORKPLACES
IN THE TOWN OF CALMAR**

WHEREAS, health officials have determined that second hand tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars and pipes) and smoking is a health hazard or discomfort for many persons;

AND WHEREAS, Council of the Town of Calmar deems it expedient and appropriate to limit the effects of second hand smoke for residents of and visitors to the Town of Calmar

AND WHEREAS, Council deems it appropriate to limit the exposure that children and youth have to smoking in public places

AND WHEREAS, Council deems it expedient and appropriate to regulate smoking and tobacco use in public places and workplaces within the Town of Calmar; and in accordance with the *Municipal Government Act R.5.A. 2000 c. M-26 as amended*, has the authority to pass bylaws respecting:

- a) the safety, health and welfare of people and the protection of people and property;
- b) people, activities and things in, on or near a public place or place that is open to the public;
- c) businesses, business activities and persons engaged in business.

NOW THEREFORE THE COUNCIL OF THE TOWN OF CALMAR IN THE PROVINCE OF ALBERTA, DULY ASSEMBLED, HEREBY ENACTS AS FOLLOWS:

1. This Bylaw may be cited as the **"Smoking Bylaw"**.

INTERPRETATION

2. (1) In this Bylaw unless the context otherwise requires:
 - (a) "Ashtray" means a receptacle for tobacco ashes and for cigar and cigarette butts;
 - (b) "Building" includes anything constructed or placed on, in, over or under land, whether permanent or temporary, into which a Person could enter;
 - (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 organization;
 - (d) "Cannabis" means cannabis plant, fresh cannabis, dried cannabis, cannabis oil and cannabis plant seeds and any other substance defined as cannabis in the Cannabis Act (Canada) and its regulations, as amended from time to time and includes edible products that contain cannabis.



- (e) "Cannabis Accessory" means cannabis accessory as defined in the Cannabis Act (Canada) and its regulations, as amended from time to time;
- (f) "Cannabis" Infused Product means a product infused with cannabis that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments and tinctures;
- (g) "Child care Facility" has a meaning prescribed in the Land Use Bylaw;
- (h) "Community Recreation Facility" has a meaning prescribed in the Land Use Bylaw;
- (i) "Council" means the Council of the Town of Calmar;
- (j) "Designated Public Place" means a place prescribed in Section 3;
- (k) "Building" includes anything constructed or placed on, in, over or under land, whether means a Town owned outdoor location of land, fenced or otherwise, identified by signage, where the general public come to walk their dogs or if signage permits, walk their dogs off leash at their own risk and liability;
- (l) "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;
- (m) "Educational Institution" means a public or private school or post-secondary institution;
- (n) "Employee" includes a person who performs any work for or supplies any services to any Employer;
- (o) "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;
- (p) "Enclosed Walkway" means any pedway, bridge, hallway, connecting stairway, or similar structure that is physically enclosed;
- (q) "Electronic Smoking Device" means an electronic device that can be used to deliver a vapor, emission or aerosol to the person inhaling from the device, including but not limited to an electronic cigarette, cigar, cigarillo or pipe;
- (r) "Grandstand" means an open air seating facility primarily but not exclusively limited to use in watching sporting events;
- (s) "Hotel" includes hotels, motels and inns;
- (t) "Municipal Building" means any of the buildings owned, leased, operated or occupied by the Town of Calmar;
- (u) "Municipal Manager" means the Chief Administrative Officer or his/her delegate;
- (v) "Municipal Tag" means a ticket or similar document issued by the Municipal pursuant to the *Municipal Government Act R.S.A. 2000, c. M-26 as amended*, and as referred to in Section 8 below;
- (w) "Municipality" means the Municipality of Calmar;

KR
WJH

- (x) "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 premises 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;
- (y) "Outdoor Public Event" means an outdoor market, festival, fair, display, exhibition, fundraiser, race, concert or parade requiring a municipal permit, and to which the public is invited or permitted to attend;
- (z) "Outdoor Public Place" means an outdoor
 - i) Beach;
 - ii) Grandstand ;
 - iii) Park;
 - iv) Playground;
 - v) Pool;
 - vi) Seasonal Multipurpose Pad;
 - vii) Skate or Bicycle Park;
 - viii) Sports Field;
 - ix) Dog park;
 - x) Trail;
 - xi) Water Playground;

open to the public from time to time;

- (aa) "Park" means public space controlled by the Municipality and set aside as a park to be used for rest, recreation, exercise, pleasure, amusement and enjoyment, and includes municipal trails ;
- (ab) "Peace Officer" means a person appointed as a Bylaw Enforcement Officer pursuant to the Municipal Government Act, to do any act or perform any duties under this bylaw and includes a member of the Royal Canadian Mounted Police, municipal police service and, when authorized, a Special Constable;
- (ac) "Person" includes an individual, proprietorship, corporation or society;
- (ad) "Place of Worship" means a development and any related meeting halls used for spiritual worship and related religious, charitable, educational or social activities;
- (ae) "Playground" means a structure or collection of structures designed and intended for recreational use by children and, where mounted in a distinct material such as sand, rubber, gravel, or wood chips, includes the material in which those structures are mounted;
- (af) "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;
- (ag) "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;

KE
WJY

- i) a private residence is a workplace if a home business is operated from the residence and the owner of the business has employees who work in the residence but do not live in the residence; and
 - ii) only that part of a private residence in which the business is operated is a workplace for the purposes of this bylaw;
- (ah) "Proprietor" means the owner, or his agent or representative of a Designated Public Place referred to in this bylaw, and includes any person in charge thereof or anyone who controls, governs or directs the activity carried on therein, where applicable includes;
 - 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; and
 - ii) the Board of Governors, Board of Trustees, or President of an Educational Institution;
- (ai) "Public" means any person other than the owner, lessee, proprietor or employer of a particular building or place;
- (aj) "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 classes of the public are invited;
 - ii) the proprietor has the right to exclude any particular person;
 - 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 subsection 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:

- vii) that portion of the building containing the private residence shall be deemed to not be a public building;
 - viii) If a building contains two or more private residences, those common areas of the building including patios, pools, other recreational areas, washrooms, corridors, reception areas, elevators, escalators, foyers, hallways, stairways, lobbies, laundry rooms and enclosed parking garages shall be deemed to be a public building;
- (aj) "Public Transportation Vehicle" means a school bus, a bus, a taxicab, limousine or other similar vehicle which is being used by a passenger or passengers for hire or which is being offered for hire;

HR
Weg

- (ak) "Public Transportation Vehicle Property" means any premises owned, used or occupied by the Municipality for the purposes of providing transit services, including public transportation vehicle shelters;
- (al) "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;
- (am) "Seasonal Multi-Purpose Pad" means a surface on which members of the public are permitted to skate or engage in other physical activities, whether on payment of a fee or not, and includes, public lakes, ponds, outdoor rinks with boards or other ice support infrastructure and outdoor basketball courts;
- (an) "Skate or Bicycle Park" means an area designed and intended specifically for the use of one or more of the following:
 - i) skateboards;
 - ii) bicycles;
 - iii) in-line skates; or similar devices;
- (ao) "Sign" means a sign as prescribed in Section 5;
- (ap) "Sports Field" means an area designed and intended for use in a specific sporting event, including spectator seating areas, and includes a soccer pitch, football field, rugby pitch, baseball diamond, tennis court and similar areas;
- (aq) "Smoke" or "Smoking" means to inhale, exhale, burn, or have control over a lighted cigarette, cigar, pipe, hookah pipe, or other lighted or heated device or apparatus designed to burn or heat tobacco, cannabis, shisha or any other weed or substance for the purpose of inhaling or tasting its emissions.
- (ar) "Vape" or "Vaping" means:
 - i) inhaling or exhaling the vapor, 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 vapor, emissions or aerosol from tobacco, cannabis or any other substance;
- (as) "Vehicle" means anything that is designed to transport persons or objects; or, any mode of transportation powered by combustible engine, self-propelled, solar, wind, pedal, or electricity. Including, but not limited to, bicycles, power assisted bicycles, mopeds, motorcycles, cars, suv, trucks, agricultural vehicles, maintenance equipment, and medical mobility vehicles;
- (at) "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* and regulations thereunder, and as referred to in Section 9 of this bylaw;
- (au) "Water Playground" means a structure, collection of structures, or outdoor flat pad, that spray or release water which is designed and intended for recreational use;

K2
WJY

- (av) "Workplace" means any enclosed area of a building or structure in which an employee performs 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 hotel rooms, washrooms, corridors, lounges, eating areas, outdoor patios, reception areas, elevators, escalators, foyers, hallways, stairways, enclosed walkways, amenity areas, lobbies, laundry rooms, enclosed parking garages and work vehicles. Without limiting the generality of the foregoing:
- 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 clause iii) below, if an employee works in any portion of a building for any period of time, the entire building shall be deemed to be a workplace;
 - iii) a private residence shall not be deemed to be a workplace but that part of a private residence in which a home business is operated is a workplace if the home business is operated from the residence and the owner of the business has employees who work in the residence but do not live in the residence; and
 - iv) a workplace includes any group living facility and all of its adjoining units, rooms and apartments;
- (aw) "Window" means a window that can be opened to admit air.
- (ax) "Work Vehicle" means a vehicle owned or leased by an employer and used by employees during the course of employment.

GENERAL PROVISIONS

3. (1) Subject to Section 3.2, 3.4, 3.5, 3.6 the following are Designated Public Places for the purposes of this bylaw:
- (a) Public Buildings and those areas within 5m of an entrance or exit to a Public Building;
 - (b) Municipal Buildings and those areas within 5 m of an entrance or exit to a Municipal Building;
 - (c) Public Transportation Vehicles and Public Transportation Vehicle Property;
 - (d) Outdoor Public Events as described in Section 2.16;
 - (e) Outdoor Public Places as described in Section 2.17;
 - (f) Outdoor patio as described in section 2.23;
 - (g) Water playground and those areas within 10 m of an entrance or exit;
 - (h) Educational Institution areas within 30 m of an entrance or exit;
 - (i) Workplaces and those areas within 5 m of an entrance or exit to a Workplace;
 - (j) Dog Park and those areas within 5 m of an entrance or exit;



- (k) Sports Field and those areas within 5 m of an entrance or exit;
 - (l) Outdoor skating rink and those areas within 5 m of an entrance or exit;
 - (m) Community recreation facility and those areas within 5 m of an entrance or exit;
 - (n) Child care facility and those areas within 10 m of an entrance or exit;
 - (o) Private Club areas within 5 m of an entrance or exit;
 - (p) Business and those areas within 10 m of an entrance or exit;
 - (q) Drinking Establishment and those areas within 10 m of an entrance or exit;
 - (r) Seasonal Multi-Purpose Pad and those areas within 10 m of an entrance or exit;
 - (s) Restaurants and those areas within 5 m of an entrance or exit to a Workplace; and
 - (t) Place of Worship and those areas within 5 m of an entrance or exit.
- (2) No person shall smoke, vape, operate an electronic smoking device, containing any smoke able substance in a Designated Public Place, whether or not a "No Smoking, No Vaping, No Electronic Smoking Devices" signs are posted or visible.
 - (3) No proprietor or employer shall permit smoking, vaping, operation of an electronic smoking device, containing any smoke able substance in a Designated Public Place, whether or not a " No Smoking, No Vaping, No Electronic Smoking Devices" signs are posted or visible.
 - (4) No person shall smoke, vape, operate an electronic smoking device, with any smoke able cannabis substance on any public roadway, sidewalk, public place, public vehicle, outdoor skating rink, community recreational facility, outdoor public event, or in any vehicle with passengers under the age of 18.
 - (5) No person shall smoke, vape, operate an electronic smoking device, with any smoke able tobacco or cannabis substance in any vehicle with passengers under the age of 18.
 - (6) No person may dispose of ashes, butts or residue of tobacco or cannabis products in anything other than an ashtray, as defined within this Bylaw. Any person who does not comply with this Section is guilty of an offense.
 - (7) No person shall have on their possessions any cannabis accessory while in a public place, public roadway, public sidewalk, or any vehicle with passengers under the age of 18.

ASHTRAYS

- 4. (1) The proprietor and employer of every Designated Public Place shall ensure that no ashtrays are placed or allowed to remain in any Designated Public Place.
- (2) The proprietor and employer of every Designated Public Place shall, if employees or members of the public from time to time gather to smoke at a location outside the Designated Public Place, ensure that ashtrays are placed more than 5 m from the entrance or exit of the Designated Public Place.

Handwritten signature/initials

SIGNS



NO SMOKING NO VAPING

5. (1) The proprietor and employer of every Designated Public Place shall ensure that signs are posted conspicuously and in accordance with this bylaw so as to clearly identify that smoking or vaping is prohibited.
- (2) The proprietor and employer of every Workplace, Public Building or Municipal Building shall ensure that:
- (a) signs are posted at every entrance, window or air intake to the Workplace, Public Building, Municipal Building, public vehicles and work vehicles and in the case of a public place or workplace, at a height of not less than 1m and not more than 2.4m, as measured from the floor of the entrance;
 - (b) be posted inside each public place, workplace or public vehicle in such numbers and locations as the manager of the public place, workplace or public vehicle reasonably considers adequate to ensure that the public and employees are aware of the prohibition;
 - (c) signs are posted at the entrance to each washroom where said washroom is not fully contained within a Workplace, Public Building or Municipal Building that has been signed in accordance with Section 5.2(a);
 - (d) signs are posted in the vicinity of any seating area where food or beverages are sold or consumed where said seating area is not fully contained within a Workplace, Public Building or Municipal Building that has been signed in accordance with Section 5.2(a);
 - (e) where there is no public entrance to a place or premises mentioned in Section 3, signs prohibiting smoking shall be posted in a prominent location on or near the premises in such manner as to be readily visible to any member of the public using such place or premises.
- (3) The signs referred to in this bylaw shall:
- (a) include the following graphic symbol to indicate the areas where smoking or vaping is prohibited pursuant to this bylaw: It must depict the symbol in black or red on a contrasting background that makes the symbol clearly legible in whatever lighting is used in the public place, workplace or public vehicle;
 - (b) contain the text "no smoking or vaping" in capital or lower case letters, which must be set out in a style and size that is clearly legible and be set out on a contrasting background that makes the text clearly legible in whatever lighting is used in the public place, workplace or public vehicle;

Handwritten signature/initials

(4) Size of Signs:

- (a) a sign posted under this Bylaw in a public place or a workplace other than a work vehicle must be at least 20 cm by 26 cm and must have a surface area of not less than 520 cm²;
- (b) a sign posted under the Bylaw in a public vehicle or work vehicle must be at least 10 cm by 10 cm and must have a surface area of not less than 100 cm²;
- (c) notwithstanding that the graphic symbol in Subsection 5.3 is a cigarette, it shall be deemed to include a reference to a lighted cigar, cigarette, pipe or other lighted smoking equipment;
- (d) no person shall remove, alter, conceal, deface or destroy any sign posted pursuant to this bylaw.

PENALTIES

6. (1) Any corporation which 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).
- (2) Any individual, other than a corporation, who contravenes this bylaw is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars (\$1,000) and for a second subsequent offence, to a fine of not more than five thousand (\$5,000) dollars.
- (3) The specified fine for an offence committed pursuant to this bylaw is established at:
- i) Individual \$ 250
 - ii) Corporations \$ 1,000
- (4) 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.

MUNICIPAL TAGS

7. (1) A Peace Officer is hereby authorized and empowered to issue a municipal tag to any person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this bylaw.
- (2) A municipal tag may be issued to such person:
- (a) either personally;
 - (b) by mailing a copy to such person at his last known post office address, or
 - (c) if upon a corporation, by serving the municipal tag by mailing a copy by registered mail, or serving a person who is the agent, representative, or a person in charge of the Designated Public Place.
- (3) The municipal tag shall be in a form approved by the Municipal Manager and shall state:
- (a) the name of the person;
 - (b) the offence;

- (c) the municipal or legal description of the land on or near where the offence took place;
 - (d) the appropriate penalty for the offence as specified in Section 6 of this bylaw;
 - (e) that the penalty shall be paid within 30 days of the issuance of the municipal tag;
 - (f) any other information as may be required by the Municipal Manager.
- (4) Where a municipal tag is issued pursuant to Section 7 of this bylaw, the person to whom the municipal tag is issued may, in lieu of being prosecuted for the offence, pay the penalty to the Municipality the penalty specified within the time period indicated on the municipal tag.
 - (5) Nothing in this bylaw shall prevent a Peace Officer from immediately issuing a violation ticket.

VIOLATION TICKET

- 8. (1) In those cases where a municipal tag has been issued and if the penalty specified on a municipal tag has not been paid within the prescribed time, then a Peace 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*.
- (2) Notwithstanding Section 7 of this bylaw, a Peace Officer is hereby authorized and empowered to immediately issue a violation ticket pursuant to *Part II of the Provincial Offences Procedure Act, R.S.A. 2000, c. P-34 as amended*, to any person who the Peace Officer has reasonable grounds to believe has contravened any provision of this bylaw.

SEVERABILITY

- 9. 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.

ENFORCEMENT

- 10. (1) For the enforcement of this bylaw, a Peace Officer, upon producing proper identification, may at all reasonable hours, enter any Designated Public Place and may make examinations, investigations and inquiries.
- (2) A Peace Officer is a Designated Officer for the purposes of ss. 542 - 545 of the *Municipal Government Act, R.S.A. 2000, c.M-26 as amended*.

EFFECTIVE DATE

- 11. (1) Bylaw 95 - 19 is hereby rescinded.
- (2) This bylaw shall come into effect on the date of third and final reading.

PR
WJY

READ A FIRST TIME THIS 1st DAY OF October, 2018.

Mayor *W. J. Polinski*

Town Manager *Kathy Dodberg, CLM*

READ A SECOND TIME THIS 15th DAY OF October, 2018.

READ A THIRD TIME AND FINALLY PASSED THIS 15th DAY OF October, 2018.

Mayor *W. J. Polinski*

Town Manager *Kathy Dodberg, CLM*

This Bylaw signed this 15th day of October, 2018.