

BYLAW 1598-18

A BYLAW of the County of Stettler No. 6, in the Province of Alberta, in accordance with the Municipal Government Act Chapter M-26 Revised Statutes of Alberta 2000 and amendments thereto, to establish prohibitions and prescribed penalties in relation to the smoking and vaping of tobacco or other substances within the County of Stettler No. 6.

WHEREAS pursuant to Sections 7, 8, and 545 of the Municipal Government Act, RSA 2000 c m-26, Council may pass bylaws for municipal purposes as set out in section 3 of the Municipal Government Act including bylaws relating to matters including the safety, health and welfare of people, the protection of people and property and people, activities and things in or near public places or places open to the public, nuisances, the creation of offences, prescribe fines and penalties and order compliance with orders or directions of the municipality;

WHEREAS pursuant to Parts 2 and 3 of the Provincial Offences Procedure Act, RSA 2000 c P-34, municipal bylaws may be enforced by way of violation tickets issued in accordance with the Act and the Procedures Regulation, AR 63/2017;

NOW THEREFORE the Council of the County of Stettler No. 6 duly assembled, enacts the following:

1. TITLE

- 1.1. This Bylaw may be referred to as the "Cannabis Consumption Bylaw".

2. INTREPRETATIONS

- 2.1. This bylaw shall be interpreted in accordance with the following rules:

- 2.1.1. The preamble, headings and side bar titles in this bylaw are for ease of reference only;
- 2.1.2. References to an enactment, which includes a bylaw, means the most current version of the enactment, and includes the provisions in any related regulations, orders, or other legislative instruments;
- 2.1.3. The singular shall include the plural, and feminine include the masculine, as the context requires;
- 2.1.4. If any part of this bylaw is determined to be unenforceable, the remainder shall remain in force and be interpreted as if the offending portion had never been part of the bylaw;
- 2.1.5. If an enactment contains prescriptive provisions that are less restrictive than the ones in this bylaw, or exceptions that are less prescriptive than the ones in this bylaw, the provision in this bylaw governs.

3. DEFINITIONS

Words in this bylaw have the meanings set out in this section as may be further defined in the Land Use Bylaw No. 1443-10 as emended from time to time:

- 3.1. "Building Code" means the Building Code Regulation, AR 31/2015, enacted under the authority of the Safety Codes Act, RSA 2000 c S-1;
- 3.2. "Cannabis" as prescribed in the Cannabis Act
- 3.3. "Cannabis Act" means Cannabis Act S.C. 2018, c.16
- 3.4. "Chief Administrative Officer" means the County's chief administrative officer or delegate;
- 3.5. "County" means the County of Stettler No. 6
- 3.6. "Community Facility" as prescribed in the Land Use Bylaw 1443-10, as amended or replaced from time to time;

- 3.7. “designated officer” means the Chief Administrative Officer, a peace officer or any other designated officer of the municipality appointed by bylaw in accordance with the Municipal Government Act;
- 3.8. “electronic smoking device” means a handheld device containing a liquid substance that is vaporized and inhaled to simulate the experience of smoking including but not limited to an electronic cigarette, cigar, cigarillo or pipe;;
- 3.9. “enactment” has the same meaning as it does in the Interpretation Act, RSA 2000, c I-8, and includes statutes, regulations and bylaws;
- 3.10. “green space” is defined as any land, designated as “Municipal Reserve” or “Environmental Reserve” as prescribed in the Land Use Bylaw 1443-10, as amended, or replaced from time to time;
- 3.11. “Gaming, Liquor and Cannabis Act” means Gaming, Liquor and Cannabis Act RSA 2000, c. G-1
- 3.12. “hotel” has the same meaning as defined in the Land Use Bylaw 1443-10, as amended or replaced from time to time;
- 3.13. “manager” has the same meaning as in the Tobacco and Smoking Reduction Act;
- 3.14. “Municipal Government Act” means the Municipal Government Act, RSA 2000 c M-26;
- 3.15. “Recreation Facility - Outdoor” has the same meaning as defined in the Land Use Bylaw 1443-10, as amended from time to time;
- 3.16. “patio” means an outside area intended for the consumption of food and beverages by persons patronizing a business that provides food and beverages;
- 3.17. “peace officer” has the same meaning as it does in the Peace Officer Act, SA 2006, c P-3.5;
- 3.18. “person” includes an individual, an incorporated entity, partnership or other form of business form or organization that operates as an entity distinct from the individuals operating the business;
- 3.19. “playground” means an area designated for the recreation of children located on sand, rubber crumb or other soft material and containing wooden, metal or plastic children’s play structures;
- 3.20. “private residence” means the place where a person ordinarily and habitually resides and intends to return to if temporarily absent;
- 3.21. “Provincial Offences Procedure Act” means the Provincial Offences Procedure Act, RSA 2000 c P-34;
- 3.22. “public place” means any building, structure or other indoor space, or a designated outdoor space, whether publicly or privately owned or controlled, to which members of the public have access as of right, or are expressly or impliedly invited to use the space, with or without payment, and includes but is not limited to:
 - 3.22.1. all locations defined as a public place under the Tobacco and Smoking Reduction Act, and any other enactment that prohibits smoking or vaping of cannabis;
 - 3.22.2. school buildings or structures, parking areas or lots, and school grounds;
 - 3.22.3. playgrounds;
 - 3.22.4. spray parks;
 - 3.22.5. skateboard or bicycle parks;

- 3.22.6. skating rinks;
 - 3.22.7. sports fields;
 - 3.22.8. recreation facilities - outdoor;
 - 3.22.9. swimming pools;
 - 3.22.10. community facilities;
 - 3.22.11. theatres;
 - 3.22.12. non-residential patios;
 - 3.22.13. sidewalks;
 - 3.22.14. green spaces;
 - 3.22.15. County owned property;
 - 3.22.16. zoos or animal conservation areas; and
 - 3.22.17. Events and markets operating under County licenses, permits or approvals, including, but not limited to, 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, or a person's private residence;
- 3.23. "skating rinks" means a structure bounded by fencing or natural boundaries into which water is poured or is naturally occurring, and on which the public is permitted to skate, but may be used for other recreational purposes in non-winter months;
- 3.24. "skateboard or bicycle park" mean a place dedicated to the use of skateboard or bicycle recreation;
- 3.25. "smoke" or "smoking" means:
- 3.25.1. inhaling or exhaling the smoke produced by burning or heating cannabis; or
 - 3.25.2. Holding or otherwise having control of any device or thing containing lit or heated cannabis;
- 3.26. "sports field" means any area designed or designated as an area for playing organized outdoor sports such as football, soccer, baseball, tennis, pickleball, volleyball or basketball;
- 3.27. "spray park" means a recreational area with features and structures that spray or release water;
- 3.28. "subsequent offence" means an offence committed by a person within one year from the date on which a person was convicted of, or voluntarily paid a fine for the same offence;
- 3.29. "Tobacco and Smoking Reduction Act" means the Tobacco and Smoking Reduction Act, SA 2005, c T-3.8;
- 3.30. "vape" or "vaping" means:
- 3.30.1. Inhaling or exhaling vapour, emissions or aerosol produced by an electronic smoking device or similar device containing cannabis; or
 - 3.30.2. Holding or otherwise having control of an electronic smoking device that is producing vapour, emissions or aerosol from cannabis.

- 3.31. "violation ticket" has the same meaning as it does under the Provincial Offences Procedure Act.

4. PROHIBITIONS AND EXCEPTIONS

- 4.1. No person may smoke or vape in a public place;
- 4.2. No person may smoke or vape in, at or on parking or public restroom areas that are adjacent to or used in conjunction with a public place.

5. MEDICAL CANNABIS

- 5.1. A person who is entitled to possess cannabis pursuant to a medical document issued pursuant to the Access to Cannabis for Medical Purposes Regulations, SOR/2016-230 is not subject to the Bylaw.
- 5.2. A person referred to in section 5.1 must, on demand of a peace officer, produce a copy of the person's medical document.

6. ENFORCEMENT

- 6.1. A person who contravenes this bylaw is guilty of an offence
- 6.2. 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.
- 6.3. No person may provide false information to a peace officer.
- 6.4. No person may interfere with or obstruct a peace officer performing the peace officer's duties under this bylaw.
- 6.5. No person may interfere with or obstruct a peace officer performing the peace officer's duties under this bylaw.
- 6.6. A peace officer is a designated officer of the municipality and has the power to conduct inspections, take enforcement action, and order any person to remedy a contravention of this bylaw in accordance with the Municipal Government Act, or as provided for in any other enactment or bylaw.
- 6.7. If a peace officer has reasonable and probable grounds to believe that a person has committed an offence under this bylaw, a peace officer may issue and serve a violation ticket on the person, with or without a voluntary payment option, in accordance with the requirements and procedures under the Provincial Offences Procedure Act.
- 6.8. In addition to any other enforcement measures in this bylaw, if the Chief Administrative Officer or other designated officer of the municipality believes on reasonable grounds that a person is contravening a provision of this bylaw, the Chief Administrative Officer or other designated officer may in accordance with the authority and procedures under the Municipal Government Act, by written order direct that person to, within a specified period of time:
 - 6.8.1. Cease contravening the bylaw; and
 - 6.8.2. Take any action or measure necessary to cease the contravention of this bylaw and to prevent a recurrence of such contravention.
 - 6.8.3. Service of a written order shall be effected on a person in accordance with the rules for service provided for in the Alberta Rules of Court.
 - 6.8.4. If a person fails to comply with a written order to comply with this bylaw, the municipality may undertake any action or measure necessary to secure compliance in accordance with the requirements and procedures in the Municipal Government Act.

7. PENALTIES

- 7.1. A person guilty of an offence is liable to not more than the maximum penalty for the offence prescribed by the Tobacco and Smoking Reduction Act, or any other applicable enactment, but if a voluntary payment option is offered, the following fine amounts shall be stated and imposed on a violation ticket:
 - 7.1.1. \$250.00 for a first offence;
 - 7.1.2. \$500.00 for a second offence within one (1) year of the first offence; and
 - 7.1.3. \$750.00 for a third and any subsequent offence within one (1) year of a prior offence.
- 7.2. Nothing in this bylaw precludes a peace officer from issuing a violation ticket without a voluntary payment option, or taking any other enforcement measure prescribed by this bylaw, or another bylaw or enactment, ticket for an offence under this bylaw.
- 7.3. A violation ticket will be in the form prescribed in the Provincial Offences Procedure Act and will specify whether a voluntary payment option is available or require the person to appear at Provincial Court on a specified date.

8. GENERAL MATTERS

- 8.1. Nothing in this bylaw fetters or impairs the Chief Administrative Officer’s power to exercise the Chief Administrative Officer’s powers under any bylaw or an enactment, and the Chief Administrative Officers may delegate any of the Chief Administrative Officer’s powers under this bylaw to a County employee or designated officer.
- 8.2. In a prosecution under this bylaw, a witness is not required to identify the substance smoked or vaped to make out the offence.
- 8.3. The onus of proving an exception applies in a particular case is on the person alleging the exception on a balance of probabilities
- 8.4. A copy of a County record certified by the Chief Administrative Officer as a true copy of the original record shall be admitted in evidence as prima facie proof of the facts stated in the record, absent proof to the contrary, without proof of the signatory’s authority or appointment.
- 8.5. This Bylaw come into effect upon the third and final reading hereof.

READ A FIRST TIME this 8th day of August, 2018 A.D. on a motion of Councillor Nibourg.
Carried

READ A SECOND TIME this 12th day of September, 2018 A.D. on a motion of Councillor Nixon.
Carried

READ A THIRD TIME this 10th day of October, 2018 A.D. on a motion of Councillor Gendre.
Carried

DATED this 10th day of October, 2018 A.D.

Reeve

Chief Administrative Officer

