



## Village of Delia - Province of Alberta

### By-Law #634-2018 – Smoke Free Bylaw

Being a bylaw of the Village of Delia, Alberta to regulate smoking and vaping in public places and work places.

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

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

**WHEREAS** Council has the authority to pass bylaws regarding the safety, health and welfare of people and considers it expedient and desirable for the health, safety, and welfare of citizens to regulate smoking and vaping of tobacco, cannabis and other substances in the Village of Delia;

**WHEREAS** the Federal Government of Canada has passed a bill making it legal to purchase and possess Cannabis and regulate the production of Cannabis;

**WHEREAS** the Provincial Government of Alberta has enacted an act restricting various locations where Cannabis consumption is permitted or prohibited, the distribution of Cannabis and the possession and private production of Cannabis;

**NOW THEREFORE** the Council of the Village of Delia enacts as follows:

#### 1) Short Title

The short title of this Bylaw shall be the “Smoke Free Bylaw”.

#### 2) Definitions

**“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;

**“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, 1<sup>st</sup> Sess, 42<sup>nd</sup> Parl, 2017);

**“Cannabis Plant”** means a plant that belongs to the genus Cannabis;

**“Consumption or Consume”** means the smoking, vaping or any other method of inhaling or exhaling tobacco or Cannabis as also defined under “Smoke or Smoking” or “Vape or Vaping”;

**“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;

**“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;

**“Municipality”** means the Village of Delia;

**“Officer”** means a Person appointed by the Village to enforce the provisions of this Bylaw including a Bylaw Enforcement Officer, Peace Officer or member of the Royal Canadian Mounted Police;

**“Operator”** includes the person responsible for the day to day operations of a public premises and a proprietor of a public premises;

**“Private Residence”** means a self-contained living premise for domestic use of one or more individuals and where access is provided from a separate private entrance from the exterior of a building or from a common hall, lobby or stairway and includes a parked recreational vehicle being utilized as a temporary residence, balconies, yards, gardens, decks, patios, private sidewalks, private driveways or other outside area whether or not covered by a roof;

**“Public, Outdoor or Special Event”** means an event that may require a Village permit or license issued under the Special Event section of this bylaw and which the public is invited or permitted to attend;

**“Public Place or Premises”** means any indoor place within the Village to which the public may have either expressed or implied access including but not limited to any publically owned or operated facility such as a curling rink, arena, campground, community centre, park, playground, sport field, school, office or shop and a 5 metre area around any of those places but does not include a private residence;

**“Smoke or Smoking”** means inhaling or exhaling the smoke produced by burning tobacco or cannabis or holding or otherwise having control of any device or thing containing lit tobacco or cannabis;

**“Specified Penalty”** has the same meaning as in the Provincial Offences Procedure Act, R.S.A. 2000 P-34 as amended and regulations thereunder;

**“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;

**“Vape or Vaping”** means 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 holding or otherwise having control of an electronic smoking device that is producing vapour, emissions or aerosol from tobacco, cannabis or any other substance;

**“Violation Ticket”** means a ticket issued pursuant to Part II of the Provincial Offenses Procedure Act, R.S.A. 2000 P-34, as amended and regulations thereunder and as referred to in this Bylaw;

**“Workplace”** includes the whole or any part of a building, structure, vehicle or passenger conveyance in which a business is carried on.

### **3) Prohibition**

- a) A person must not smoke or vape in a public place or premises, a workplace or a public vehicle or within 5 metres of any of these places.
- b) A person must not smoke cannabis or vape cannabis in any indoor or outdoor public place or premises, a workplace or a public vehicle. This includes 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.
- c) An employer, operator or proprietor must not permit a person to smoke or vape on premises controlled or owned by them where doing so is prohibited by this Bylaw.
- d) An owner or occupier of a property must ensure Cannabis plants are contained on the property away from public access in a secure structure or in a secure fence.

### **4) Special Events**

- a) Notwithstanding the prohibitions under this bylaw, a person may smoke or vape at an event for which a permit has been granted by the CAO, pursuant to existing Federal and Provincial laws.
- b) The CAO may impose conditions on any permit granted.
- c) The CAO may suspend or revoke any permit issued if the CAO determines that a permit holder or any person at an event for which a permit has been issued has contravened any federal or provincial legislation or any other municipal bylaw.
- d) The holder of a permit must ensure that:
  - i. Smoking or vaping or other consumption as listed under this bylaw is only permitted in a designated area, separate and fenced off from the remainder of the event;
  - ii. The sale of cannabis is not permitted in the area designated for smoking or vaping and
  - iii. Any advertising or other materials relating to the promotion of cannabis cannot be seen by a minor.

## **5) Offences**

- a) 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 offence pursuant to this Bylaw.
- b) In the case of an offence that is of a continuing nature, an offence shall constitute a separate offence in respect of each day, or part of a day, on which that contravention of the Bylaw continues.

## **6) Enforcement**

- a) 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, P-34.
- b) 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.

## **7) Penalty**

- a) Any corporation, company, partnership, proprietorship or society which contravenes a provision of this Bylaw is guilty of an offence and liable on summary conviction to a minimum fine of \$250 and not to exceed \$5000.
- b) Any individual who contravenes a provision of this Bylaw is guilty of an offence and liable on summary conviction to a minimum fine of \$250 and not to exceed \$5000.
- c) The Specified Penalty for an offence committed pursuant to this Bylaw is established as \$250.

## **8) Miscellaneous**

- a) 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.
- b) Nothing in this Bylaw relieves a Person from complying with any Federal, Provincial or Municipal legislation, bylaw, regulation, permit, order, license, approval or other direction.
- c) The expenses and costs of any enforcement action or measures taken by the Village are an amount owing to the Village by the person in contravention of this Bylaw.

- d) Where any contravention of this Bylaw occurs on property for which the person who committed the contravention is the registered owner, any unpaid enforcement expenses or costs may be added to the tax roll of that property in accordance with the Municipal Government Act.

**9) In Force**

This Bylaw shall take effect on the date of the third and final reading.

READ A FIRST TIME THIS 11<sup>th</sup> DAY OF October, 2018.

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Mayor David Sisley

\_\_\_\_\_  
Chief Administrative Officer  
Mark Nikota

READ A SECOND TIME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

READ A THIRD TIME AND FINALLY PASSED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor David Sisley

\_\_\_\_\_  
Chief Administrative Officer  
Mark Nikota