

CITY OF CHESTERMERE

PROVINCE OF ALBERTA

BYLAW #009-15

(Amended by XX-XXX)

A Bylaw of the City of Chestermere, in the Province of Alberta, for the purpose of regulating and controlling smoking within the City of Chestermere.

WHEREAS the Municipality deems it necessary for the health, safety, welfare, and comfort of residents to pass a bylaw to regulate, and control smoking within the City of Chestermere; and

WHEREAS the Municipal Government Act R.S.A. 2000, c. M-26 and amendments thereto authorize the Municipality to pass bylaws to regulate activities on or near a public place or place that is open to the public;

NOW THEREFORE the Municipal Council of the City of Chestermere, in the Province of Alberta, duly assembled, enact as follows:

1. Title

This Bylaw may be cited as the City of Chestermere "Smoking Bylaw".

2. Definitions

In this Bylaw:

- a) "*Bike Park*" means an outdoor area which is designed and intended specifically for the use of bicycles, or other similar devices;
- b) "*Cannabis*" means the definition given to it in the *Cannabis Act*;
- c) "*Cannabis Act*" means Bill C-45, an Act respecting cannabis and to amend the *Controlled Drug and Substances Act*; the *Criminal Code of Canada* and other Acts, 1st Sess, 42nd Parl, 2017;
- d) "CAO" means the Chief Administrative Officer of Chestermere, Alberta appointed by Council, or his designate;

- e) "City" means the municipal corporation of the City of Chestermere, in the Province of Alberta, or the area within the City of Chestermere's corporate limits, as the context requires;
- f) "Child Care Facility" means any structure, building or business where the primary function is to provide care and support to minors;
- g) "Dog Park" means any Park or portion of a Park which has been designated as an "off leash area" by the City;
- h) "Electronic Smoking Device" means an electronic device that can be used to deliver nicotine or other substances to the Person inhaling from the device, and includes but is not limited to an electronic cigarette, cigar, cigarillo, or pipe;
- i) "Health Care Facility" means any building or structure, where the primary purpose is to provide medical care to individuals;
- j) "Municipal Government Act" means the *Municipal Government Act*, R.S.A. 2000, Chapter M-26, as amended or replaced from time to time;
- k) "Patio" means the outdoor sitting area of a restaurant or licensed premise;
- l) "Peace Officer" means a member of a Police Service, or a Peace Officer appointed pursuant to the Peace Officer Act, S.A. 2006, c. P-3.5 and the regulations thereof, as amended or replaced from time to time;
- m) "Person" means an individual or any business entity including a firm, partnership, association, corporation, company, or society;
- n) "Playground" means an outdoor area, intended for recreation use by children, upon which apparatus such as swings, and slides are placed;
- o) "Skate Park" means an outdoor area which is designed and intended specifically for the use of skateboards, inline skates, BMX bikes, or other similar devices;
- p) "Smoke" or "Smoking" means:
 - i. Inhaling or exhaling the smoke produced by lit, burning, ignited, or heated substances, including tobacco or Cannabis;
 - ii. Holding or otherwise having control of a lit, burning, ignited, or heated substance, including tobacco or Medically Prescribed Cannabis, for the purposes as described in Section 2(q)(i) of this bylaw;

- iii. Inhaling or exhaling the vapor, emissions, or aerosol produced by an Electronic Smoking Device or any other device containing a substance, including tobacco or Cannabis;
 - iv. Holding or otherwise having control of an Electronic Smoking Device or any other device that is capable of producing vapor, emissions, or aerosol from a substance, including tobacco or Cannabis.
- q) "*Sports Area*" means an outdoor area which is set apart and used for the playing of sporting activities;
- r) "*Skating Rink*" means an outdoor ice surface on which members of the public are permitted to skate, whether on payment of any fee or not, and includes public lakes, ponds, and outdoors rinks with boards or other ice support infrastructure;
- s) "*Water Spray Park*" means a structure or collection of structures that spray or release water which is designed and intended for recreational use.

3. Application

- a) Nothing in this Bylaw relieves a Person from complying with any provision of any federal or provincial law or regulation, other bylaw, or any requirement of any requirement of any lawful permit, order, or license.
- b) Any heading, sub-headings, or table of contents in this Bylaw are included for guidance purposes and convenience only and shall not form part of this Bylaw.
- c) Where this Bylaw refers to another Act, bylaw, regulation, or agency, it includes reference to any Act, bylaw, regulation, or agency that may be substituted consequently.
- d) All the schedules attached to this Bylaw shall form a part of this Bylaw.
- e) This Bylaw is gender-neutral and, accordingly, any reference to one gender includes the other.
- f) A copy of a record of the City, certified by a designated officer as a true copy of the original, shall be admitted in evidence as prima facie proof of the facts stated in the record without proof of the appointment or signature of the Person signing it.
- g) All offences created pursuant to this Bylaw are to be construed and considered to be strict liability offences.

4. Prohibitions

- a) No Person shall carry or possess a lit cigarette, cigar, pipe, burn tobacco, or use Cannabis, Mu'assel, or use on Electronic Smoking Device in any manger in, on, or within ten (10) metres of the following:
 - i. All municipally owned parks;
 - ii. All municipally owned beaches;
 - iii. A Dog Park;
 - iv. A Playground;
 - v. A Skate Park;
 - vi. A Sports or Playing Field;
 - vii. A Skating Rink;
 - viii. A Water Spray Park;
 - ix. An Outdoor Theatre;
 - x. A Healthcare Facility;
 - xi. A School,
 - xii. A Childcare Facility
 - xiii. A Sporting Event
 - xiv. A cultural event, unless the use is required by an event presenter
 - xv. The patio of a restaurant or licensed premise
 - xvi. The air intake of any public or privately-owned building or structure

5. Exceptions

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.

6. Penalties

- a) Every Person who contravenes any of the provisions of this Bylaw by doing any act or thing which the Person is prohibited from doing is guilty of an offence.
- b) Any person who is convicted of an offence pursuant to this Bylaw is liable on summary conviction to a fine not exceeding \$10,000.00.
- c) 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.
- d) 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.

7. Violation Tickets

- a) Where a Peace Officer believes that a Person has contravened, any provision of this Bylaw, they may commence proceedings by issuing a violation ticket in accordance with the *Provincial Offences Procedure Act*
- b) This Section shall not prevent any Officer from issuing a violation ticket requiring the court appearance of the defendant, pursuant to the provisions of the *Provincial Offences Procedure Act*, or from laying an information instead of issuing a violation ticket.

8. Prosecutions

- a) In a prosecution for a contravention of this Bylaw, it is not necessary that a witness testify to the precise description, kind, brand, or name of the cigarette, cigar, pipe, tobacco, Cannabis, Mu'assel, or Electronic Smoking Device being used in a prohibited place.

9. Severability

- a) If any Section or parts of this Bylaw are found in any court of law to be illegal or beyond the power of Council to enact, such Section or parts shall be deemed to be severable and all other Section or parts of this Bylaw shall be deemed to be separate and independent there from and to be enacted as such.

This Bylaw shall come into full force and effect upon the date of the third and final reading.

Bylaw No. 044-08 is hereby repealed in its entirety.

READ A FIRST TIME this 19th day of April, 2022.

READ A SECOND TIME this 19th day of April, 2022.

READ A THIRD TIME this 3rd day of May, 2022.

Resolution Numbers

235-15

236-15

366-15

MAYOR

CITY DIRECTOR

SCHEDULE "A"

| Section | Offence | Minimum Penalty | Specified Penalty |
|----------------|--|------------------------|--------------------------|
| 4(1)(a) | Smoke or use cannabis in, on, or within 10 metres of a city park | \$100.00 | \$200.00 |
| 4(1)(b) | Smoke or cannabis in, on, or within 10 metres of a municipal beach | \$100.00 | \$200.00 |
| 4(1)(c) | Smoke or use cannabis in, on, or within 10 metres of a dog park | \$100.00 | \$200.00 |
| 4(1)(d) | Smoke or cannabis in, on, or within 10 metres of a playground | \$100.00 | \$200.00 |
| 4(1)(e) | Smoke or Cannabis in, on, or within 10 metres of a skatepark | \$100.00 | \$200.00 |
| 4(1)(f) | Smoking or use Cannabis in, on, or within 10 metres of a sports or playing field | \$100.00 | \$200.00 |
| 4(1)(g) | Smoking or use Cannabis in, on, or within 10 metres of a Skating rink | \$100.00 | \$200.00 |
| 4(1)(h) | Smoking or Cannabis in, on, or within 10 metres of a Water Spray Park | \$100.00 | \$200.00 |
| 4(1)(i) | Smoking or use Cannabis in, on, or within 10 metres of outdoor theatre | \$100.00 | \$200.00 |
| 4(1)(j) | Smoking or use Cannabis in, on, or within 10 metres of a Health-care or Child-care Facility | \$100.00 | \$200.00 |
| 4(1)(k) | Smoking or use Cannabis in, on, or within 10 metres of any school | \$100.00 | \$200.00 |
| 4(1)(l) | Smoking or use Cannabis in, on, or within 10 metres of sporting event | \$100.00 | \$200.00 |
| 4(1)(m) | Authorized Smoking or use Cannabis at, in, on, or within 10 metres of a Cultural event | \$100.00 | \$200.00 |
| 4(1)(n) | Smoking or use Cannabis in, on, or within 10 metres of a patio owned by a restaurant or licensed premise | \$100.00 | \$200.00 |
| 4(1)(o) | Smoking or use Cannabis in, on, or within 10 metres of the air intake of a public or private building | \$100.00 | \$200.00 |