

**CITY OF BEAUMONT
BYLAW 937-19**

SMOKE-FREE PUBLIC PLACES BYLAW

**A BYLAW OF THE CITY OF BEAUMONT, IN THE PROVINCE OF ALBERTA, FOR THE
PURPOSE OF CONTROLLING AND REGULATING SMOKE-FREE PUBLIC PLACES AND
WORKPLACES.**

WHEREAS, the Province of Alberta has enacted the *Tobacco and Smoking Reduction Act* SA 2005 cT-3.8, which will place restrictions on the Smoking of Tobacco in public places;

AND WHEREAS, pursuant to Section 7 of the *Municipal Government Act* R.S.A. 2000 c. M-26, Statutes of Alberta and amendments thereto allows a Council to pass bylaws respecting the safety, health and welfare of people; and the protection of people and property; and people, activities, and things in, on, or near a public place or place that is open to the public;

AND WHEREAS, second hand smoke is known to cause detrimental health-related effects;

AND WHEREAS, Council deems it necessary to impose additional restrictions on Smoking, vaping and other forms of the consumption of Tobacco in public places to prevent behaviors and conduct that may have a negative impact on the enjoyment of public places;

NOW THEREFORE, pursuant to the provisions of the *Municipal Government Act*, the Council of the City of Beaumont, in the Province of Alberta, duly assembled, enacts as follows:

1. TITLE

This Bylaw may be cited as the "**Smoke-Free Public Places Bylaw.**"

2. DEFINITIONS

In this Bylaw:

- A. "Building" includes anything constructed or placed on, in, over or under land, whether permanent or temporary, into which a Person could enter;
- B. "Chief Administrative Officer" means the person appointed by City Council as its chief administrative officer or that person's designate;
- C. "City" means the municipal corporation of the City of Beaumont or, where the context so requires, the area contained within the boundaries of the City;
- D. "Electronic Smoking Device" means an electronic device that can be used to deliver nicotine, marijuana, or other substance to the person inhaling from the device and includes, but is not limited to, an electronic cigarette, vaporizer cigarette, personal vaporizer, cigar, cigarillo or pipe;
- E. "Open Space" means any parcel of land or body of water which is set aside and reserved for public use, including municipal and environmental reserve lands, parks, dog parks, playgrounds, trails and paths;

- F. "Outdoor Public Event" means an outdoor market, festival or concert;
- G. "Park" means an area of space provided for recreational uses, set aside for human enjoyment;
- H. "Patio" means an outdoor area or structure, including a balcony, that adjoins or is adjacent to a restaurant or lounge and is used for the consumption of food and beverages by patrons of the adjoining restaurant or lounge;
- I. "Peace Officer" means, a member of a police service as per *the Police Act*, R.S.A. 2000, c. P-17, a Community Peace Officer appointed by the City as per *the Peace Officer Act*, S.A. 2006, c. P-3.5, and a Bylaw Officer, appointed by the City, pursuant to *the Municipal Government Act*, R.S.A. 2000, c. M-26;
- J. "Person" includes an individual, proprietorship, corporation or society;
- K. "Playground" means any kind of structure or collection of structures which is designed and intended for recreational uses such as climbing, swinging, hanging, crawling, jumping, stepping whether over, across, under, through and includes the distinct material in which the structure or apparatus is mounted;
- L. "Proprietor" means the owner of, or any person controlling, governing or directing activities within, a place referred to in this Bylaw;
- M. "Public Vehicle" means a bus, taxi or other vehicle that is used to transport members of the public;
- N. "Residence" means a place used by a person as a permanent private dwelling, including any private land adjacent to the private dwelling or structure on that private land that is used for the convenience or enjoyment of the occupants of the dwelling;
- O. "Seasonal Skating Rink" means an outdoor ice surface that is designed and intended for recreational skating or playing hockey and includes public lakes, ponds and outdoor rinks;
- P. "Skate Park" means an area designed and intended specifically for use of skateboards, in-line skates or similar devices;
- Q. "Sports Field" means an area designed and intended for use in a specific sporting event and includes, but is not limited to, a soccer pitch, football field, rugby pitch, baseball diamond, tennis court and similar areas, but does not include golf courses;
- R. "Smoking" means:
 - i. inhaling or exhaling the smoke produced by burning or heating tobacco, cannabis or other product; or
 - ii. holding or otherwise having control of any device or thing containing lit or heated tobacco, cannabis or other product, including the use or activation of an Electronic Smoking Device;

- S. "Temporary Residence" means:
- i. a tent that is set up in an area where overnight camping is legally permitted; and
 - ii. a motor home or other vehicle that is parked in an area that is not a highway or road and where overnight camping is legally permitted.
 - iii. For clarity, this shall not include a campsite outside of a tent, motor home or other vehicle located on a campsite;
- T. "Trail" means a marked or established path or route, either owned or maintained by the City, or to which the public otherwise has an express or implied right of access;
- U. "Violation Tag" means, a City-issued notice that alleges a Bylaw offence and provides a person with the opportunity to pay an amount to the City in lieu of prosecution for the offence;
- V. "Violation Ticket" means, a ticket issued pursuant to Part 2 or 3 as applicable, of the *Provincial Offences Procedure Act*, R.S.A. 2000, c. P-34 and the regulations there under;
- W. "Window" means a window that can be opened to admit air.

3. INTERPRETATION

All schedules attached to this Bylaw form part of this Bylaw.

- A. Headings or sub-headings are inserted for ease of reference and guidance purposes only and do not form part of this Bylaw.
- B. 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 place.
- C. 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.
- D. 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.

4. GENERAL PROVISIONS

- A. Unless an exception applies under this Bylaw, no person may engage in Smoking:
 - i. within a Building, other than a Residence or a Temporary Residence;
 - ii. on the grounds of an Outdoor Public Event, except in an area specifically reserved for Smoking by the Proprietor of the Outdoor Public Event;

- iii. in a Camp Ground;
 - iv. on a Patio;
 - v. inside a Public Vehicle;
 - vi. at a Playground;
 - vii. in an Open Space;
 - viii. in any Park;
 - ix. at a Seasonal Skating Rink;
 - x. at a Skate Park;
 - xi. at a Sports Field; and
 - xii. on any Trails located within the City.
- B. Unless an exception applies under this Bylaw, no person may engage in Smoking within 6 meters of a(n):
- i. doorway, window or air intake of a Building, other than a Residence or a Temporary Residence;
- C. A Proprietor of a place where Smoking is prohibited by this Bylaw shall not permit any individual to Smoke in that place.

5. LEGISLATIVE EXCEPTIONS

- A. Subject to the provisions of this section, a Proprietor of a place where Smoking is otherwise prohibited by this Part may permit Smoking in that place when Smoking is permitted pursuant to provincial or federal legislation or powers exercised pursuant to such legislation.
- B. If Smoking is permitted pursuant to this section, no Proprietor shall:
- i. allow smoke to enter any place where Smoking is prohibited;
 - ii. fail to clearly and prominently display signage at each entrance to a place where smoking is permitted which indicates that smoking is permitted inside; or
 - iii. allow any person under 18 years of age to enter or remain in a Building or other designated area where Smoking is permitted.

6. PENALTIES AND ENFORCEMENT

- A. A person who contravenes any provision of this Bylaw is guilty of an offence and shall be liable to the specified penalty set out in Schedule A.
- B. A Peace Officer may issue, with respect to an offence under this Bylaw, a Municipal Violation Tag specifying the fine amount established by this Bylaw.
- C. Where a Municipal Violation Tag is issued, the fine amount indicated thereon may be paid as directed in lieu of prosecution.

- D. A Peace Officer may issue a Violation Ticket with a specified penalty pursuant to the Provincial Offences Procedure Act, R.S.A. 2000.
- E. Where a Violation Ticket is issued, a voluntary payment equal to the specified fine amount may be made as directed.
- F. Nothing in this Bylaw shall preclude a Peace Officer from issuing a Violation Ticket for a mandatory court appearance to any person who contravenes any provision of this Bylaw.
- G. In the case of an offence that is of a continuing nature, a contravention of a provision of this Bylaw constitutes a separate offence with respect to each day, or part of a day, during which the contravention continues, and a person guilty of such an offence is liable to a fine in an amount not less than that established by this Bylaw for each such separate offence.
- H. For the enforcement of this Bylaw, a Peace Officer, upon producing proper identification, may at all reasonable hours, enter any Building and may make examinations, investigations and inquiries.

7. FORCE AND EFFECT

- A. This Bylaw shall come into force effective on January 1, 2020 and upon final reading and having been signed by the Mayor and City Clerk.
- B. Should any provision of this Bylaw be determined to be invalid, then such provisions shall be severed and the remaining Bylaw shall remain valid and enforceable.
- C. Bylaw 593-03 - Smoke-Free Public Places and any amendments thereto is hereby repealed.

READ A FIRST TIME IN COUNCIL THIS 22ND DAY OF JANUARY, 2019

READ A SECOND TIME IN COUNCIL THIS 26TH DAY OF NOVEMBER, 2019

READ A THIRD AND FINAL TIME IN COUNCIL THIS 26TH DAY OF NOVEMBER, 2019



Mayor



City Clerk

**CITY OF BEAUMONT
BYLAW 937-19**

SMOKE-FREE PUBLIC PLACES BYLAW

Schedule A
Offences and Penalties

Section	Offence	Fine
4(A)	Smoking in a prohibited area or space	\$250.00
4(B)	Smoking within 6 meters of a prohibited area or space	\$250.00
4(C)	Proprietor allow Smoking in prohibited area	\$500.00
5(B)(i)	Proprietor allow smoke to enter a place where Smoking is prohibited	\$250.00
5(B)(ii)	Failure to display proper signage	\$250.00
5.2 (iii)	Proprietor allow a person under 18 years of age to enter or remain in a Public Place where Smoking is permitted	\$500.00