

**BYLAW NO. 2018-16**  
**BEING A BYLAW OF THE TOWN OF SUNDRE**  
**CANNABIS CONSUMPTION BYLAW**

**BEING A BYLAW OF THE TOWN OF SUNDRE, IN THE PROVINCE OF ALBERTA FOR THE PURPOSE OF RESTRICTING THE CONSUMPTION OF CANNABIS WITHIN THE CORPORATE BOUNDARIES OF THE TOWN OF SUNDRE**

**WHEREAS** the House of Commons has given three readings to the *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> Session 42<sup>nd</sup> Parliament, 2017 which will permit persons to possess Cannabis if purchased from an authorized person:

**AND WHEREAS** it is anticipated the *Cannabis Act* will come into force October 2018, or shortly thereafter;

**AND WHEREAS** the Province of Alberta has enacted *An Act to Control and Regulate Cannabis*, S.A. 2017, c.21 which will place restrictions on the smoking and vaping of Cannabis in public places;

**AND WHEREAS** Section 7, Part 2, Division 1 of the *Municipal Government Act*, RSA 2000 Chapter M-26 authorizes a Council to pass Bylaws for municipal purposes respecting the safety, health and welfare of people, and the protection of people and property; and respecting people, activities and things in, on or near a public place or place that is open to the public;

**AND WHEREAS** it necessary to establish a Bylaw to impose additional restrictions on the smoking, vaping and other forms of consumption of Cannabis in public places to regulate a negative impact on the enjoyment of public places;

**NOW THEREFORE**, the Council of the Town of Sundre in the Province of Alberta hereby enacts as follows:

**1.0 Title**

This Bylaw shall be cited as the "Cannabis Consumption Bylaw".

**2.0 Definitions:**

**2.1.0** "Cannabis" means a Cannabis plant, oils or other by-products and anything referred to and defined in "Schedule 1" of the *Cannabis Act*;

**2.2.0** "Cannabis Act" means 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> Session, 42<sup>nd</sup> Parliament, 2017;

- 2.3.0** “Cannabis Consumption” means to “Smoke or “Vape” or any other form of consumption of Cannabis;
- 2.4.0** “Cannabis Plant” means a plant that belongs to the genus Cannabis;
- 2.5.0** “Childcare Facility” means a building or structure or portion therein, used for the care, education or supervision of children;
- 2.6.0** “Eating and Drinking Establishment” means a business where food and beverages are sold for consumption on the premises, that may include the preparation and sale of food on the premises or for take away, and that may provide authorized liquor sales, and entertainment for patrons;
- 2.7.0** “Electronic Smoking Device” means an electronic device used to deliver Cannabis Smoke or vapours to the person inhaling from the device, but not limited to an electronic cigarette, vaporizer, cigar, cigarillo, pipe or bong;
- 2.8.0** “Gaming, Liquor and Cannabis Act” means Province of Alberta, Bill 26, *An Act to Control and Regulate Cannabis*;
- 2.9.0** “Grandstand” means an open-air seating facility, primarily, but not exclusively limited to use in watching sporting events;
- 2.10.0** “Hospital Property” means an institution providing medical and surgical treatment, and nursing care for sick or injured people, and includes medical centres or medical clinics;
- 2.11.0** “Hotel” includes hotels, motels, and inns;
- 2.12.0** “Municipal Tag” means a ticket alleging an offence is issued pursuant to the authority of a Bylaw of the Municipality;
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- 2.13.0** “Notice” means any Notice issued pursuant to this Bylaw to remedy a condition that is not in compliance with any provision of this Bylaw, or any applicable Bylaw within the Municipality of Sundre, including the Land Use Bylaw;
- 2.14.0** “Occupy or Occupies” means residing on, or to be in apparent possession or control of Premises or Property;
- 2.15.0** “Officer” means a Bylaw Enforcement Officer, Peace Officer, member of the Royal Canadian Mounted Police (R.C.M.P.), as the context may require;
- 2.16.0** “Outdoor Public Event” means an outdoor event that may require a Town of Sundre permit or license, and which the public is invited or permitted to attend;

- 2.17.0** "Peace Officer" means a member of the Royal Canadian Mounted Police or a Peace Officer appointed pursuant to the provisions of the *Police Act of Alberta* R.S.A. 2000, Chapter P-17, as amended or repealed and replaced from time to time;
- 2.18.0** "Parade Route" means a public procession moving through a pre-determined public space to celebrate a special day or event, and may include marching bands, floats, bicycles, vehicles, horses, etc.;
- 2.19.0** "Patio" means an outdoor area for use by an Eating and Drinking Establishment where food and beverages are served to patrons. If no seating or service is provided, and if no food and beverages are permitted in the outdoor area, the outdoor area shall not be deemed to be a Patio;
- 2.20.0** "Playground" means a structure or collection of structures designated and intended for recreational use by children, and where mounted in a distinct material such as sand, gravel, or wood chips, includes the material in which those structures are mounted;
- 2.21.0** "Premises" means any external surfaces of all structures and the whole or part of any parcel of real property, including property immediately adjacent to any structures and includes all a form of vegetation, and includes any property or structures owned or leased by the Municipality;
- 2.22.0** "Property" means, in the case of land, a parcel of land including any Structures; or, in other cases, personal Property;
- 2.23.0** "Private Living Accommodation" means-a self-contained living premises for the 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, but does not include any portion of such area used as a workplace with the exception of a hotel room or motel room;
- 2.24.0** "Private Club" means an enclosed place or premise that operates primarily for the benefit and pleasure of the members of a non-profit corporation, service club or branch of the Royal Canadian Legion;
- 2.25.0** "Private Residential Property" means "Private Living Accommodation" and private "Property";
- 2.26.0** "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:
- a. all members of the public are invited;
  - b. the proprietor has the right to exclude any particular persons;
  - c. payment, membership or the performance of some formality is required prior to access;
  - d. the public has access to the building only at certain times, or from time to time;

- e. a member of the public has access only if they are a member or if they are accompanied by a member;
- f. subject to subsections (g) and (h) 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:

- g. that portion of the building containing the private residence shall be deemed not to be a public building;
- h. if a building contains two or more private residences, those common areas of the building, including washrooms, corridors, reception areas, elevators, escalators, foyers, hallways, stairways, lobbies, laundry rooms and enclosed parking garages, shall be deemed to be a public building;

**2.27.0** “Public Park” means Public Space controlled by the Town of Sundre and set aside as a park to be used for rest, recreation, exercise, pleasure, amusement, enjoyment, camping and includes the Town’s walking trail and pathway systems;

**2.28.0** “Public Place” means any indoor or outdoor area, whether privately or publicly owned, to which the public have access by right or by invitation, expressed or implied, whether by payment of money or not, and includes lands owned or leased, or under Town’s management and control, within the Town of Sundre including:

- a. Any land developed, used or managed by the Town as a public park, green spaces, public structures or street furniture, sports or athletic field, playground or recreational area;
- b. Any land developed, used for sidewalks, streets, alleys, and lanes;
- c. Any land acquired by the Town through subdivision as Municipal Reserve or Environmental Reserve;
- d. Any land developed, used or managed by the Town as a parking lot;
- e. Any land developed by the Town as a pathway or trail;
- f. Any land developed, used or managed by the Town for public utility (water treatment plant, sewage disposal/lagoon).

**2.29.0** “Residential Care Facility” means a building or portion thereof that forms a part of a senior citizen’s lodge, long term care facility, independent living facility, assisted living facility, or nursing home;

**2.30.0** “Seasonal 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 outdoor rinks with boards or other ice support infrastructures;

**2.31.0** “Sidewalk Café” means an outdoor area, located on a public sidewalk, to which the public is invited or permitted access, and which abuts and is operated as part of an Eating and Drinking Establishment;

**2.32.0** "Skate Park" means an area designated and intended specifically for the use of skateboards, in-line skates, or similar devices;

**2.33.0** "Smoke or Smoking" means to inhale or exhale, burn or have control over a lighted paper tube containing Cannabis, pipe, hookah pipe or other lighted or heated device or apparatus designed to burn or heat Cannabis (bong) for the purpose of inhaling or tasting its emissions. Cannabis Smoke is produced by burning or heating Cannabis; or holding or otherwise having control of any device or thing containing lit or heated Cannabis;

**2.34.0** "Sports Field" means an outdoor area designated and intended for use in specific sporting event and includes soccer fields, baseball diamonds, tennis courts, and similar areas, excepting golf courses;

**2.35.0** "Structure" means any structure, including but not limited to a building, shed, accessory building or other similar types of construction;

**2.36.0** "Town" means the Town of Sundre;

**2.37.0** "Vape or Vaping" means inhaling or exhaling the vapour, emissions or aerosol produced by an electronic smoking device containing Cannabis, or holding or otherwise having control of an electronic device that is producing vapour, emissions or aerosol from Cannabis;

**2.38.0** "Violation Tag" means a tag or similar document issued by the Municipality pursuant to the *Municipal Government Act* RSA 2000 as amended;

**2.39.0** "Violation Ticket" means the same as in the *Provincial Offences Procedure Act*, R.S.A. 2000, Chapter P-34 as amended or repealed and replaced from time to time; and

**2.40.0** "Work Place" means all or any part of a building, structure or other enclosed area in which employees perform 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 reception areas, corridors, lobbies, stairwells, elevators, escalators, eating areas, washrooms, lounges, storage areas, laundry rooms, enclosed parking garages and work vehicles.

### **3.0 Purpose**

**3.1.0** The purpose of this Bylaw is to regulate the consumption of Cannabis in all forms, in Public Places in order to promote the safe, enjoyable and reasonable use of such property for the benefit of all citizens.

#### **4.0 Consumption of Cannabis on Private Residential Property**

- 4.1.0** The consumption of Cannabis in any form will be allowed on private residential property, subject to provincial restrictions or property policies. All persons must ensure they comply with any smoking policies set by property owners (such as condominium boards, apartment managers and landlords).
- 4.2.0** Property owners and managers are responsible for setting policies allowing or prohibiting the consumption of Cannabis in any form, in or on their premises.

#### **5.0 Prohibition**

- 5.1.0** A person must not Smoke, attempt to Smoke, Vape or consume what appears to be Cannabis in any Public Building or Public Place, including but not limited to: Child Care Facilities, Eating and Drinking Establishments, Grandstands, Hotels, Hospital Property, Outdoor Public Events, Parade Routes, Patios, Private Clubs, Public Buildings, Public Parks, including trails and pathways, Residential Care Facilities, Schools, Sidewalk Cafes, Work Places, or any other Public Place or Public Building within Town limits.
- 5.2.0** No person shall consume Cannabis in any form within ten (10) metres of a playground, park, seasonal skating rink, skate park, bike park, or sports field.
- 5.3.0** An owner or occupier of a Property must ensure that Cannabis Plants are contained on the Property, away from public access, in a secure Structure, or in a secure fence.
- 5.4.0** No person may transport what appears to be Cannabis in a vehicle, unless it is contained in closed packaging that is out of the reach of the driver and other occupants of the vehicle.

#### **6.0 Signage**

- 6.1.0** Signs prohibiting the consumption of Cannabis in any form shall be posted on all Public Places, Structures, Building, and Parks.

#### **7.0 Powers of Peace Officers**

##### **7.1.0 Inspections**

- 7.1.1** The Medical Officer of Health, a Peace Officer, CAO or designate are hereby authorized in accordance with Section 542 of the *Municipal Government Act*, to enter into any Premises or Property, after giving reasonable notice to the owner of the Premises or Property to be inspected, to inspect for conditions that may contravene or fail to comply with the provisions of this Bylaw.

**7.1.2** A Peace Officer, when investigating an alleged contravention of the Bylaw, may also issue a Violation Ticket.

## **8.0 Penalties and Enforcement**

**8.1.0** Any person who contravenes any sections and provisions of this Bylaw is guilty of an offence, and is liable for the penalty set out in Schedule A of this Bylaw.

**8.2.0** When a person is alleged to have contravened any provision of this Bylaw, a Peace Officer may issue a Violation Ticket pursuant to the *Provincial Offences Procedure Act*, R.S.A. 2000 c.P-24.

**8.3.0** A person who is guilty of an offence is liable to a fine established by Schedule A of this Bylaw.

**8.4.0** A person found guilty of an offence under the *Municipal Government Act*, RSA 2000 as amended, Section 566(1) is liable to a fine of not more than \$10 000 or to imprisonment for not more than one year, or to both fine and imprisonment.

**8.5.0** If a Municipal Tag is issued in respect of an offence, the Municipal Tag must specify the fine amount established by Schedule A of this Bylaw for the offence.

**8.6.0** A person who commits an offence may, if a Municipal Tag is issued in respect of the offence, pay the fine amount established by this Bylaw for the offence, and if the amount is paid on or before the required date, the person will not be prosecuted for the offence.

**8.7.0** If a Violation Ticket is issued in respect of an offence, the Violation Ticket may:

- a) Specify the fine amount established by the Bylaw for the offence, or
- b) Require a person to appear in court without the alternative of making a voluntary payment.

**8.9.0** A person who commits an offence may:

- a) If a Violation Ticket is issued in respect of the offence, and
- b) If the Violation Ticket specifies the fine amount established by this Bylaw for the offence, make a voluntary payment equal to the specified fine.

**8.10.0** In the case of an offence that is of a continuing nature, a contravention constitutes a separate offence in respect of each day, or part of a day, on which the offence continues, and any 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 day.

**8.11.0** A person shall not obstruct or hinder any person in the exercise of performance of the persons' powers pursuant to this Bylaw.



**9.0 Inspections**

**9.1.0** A copy of a record of the Municipality, certified 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.

**9.2.0** Nothing in this Bylaw relieves a person from complying with any provisions of any federal, provincial, or municipal law or regulation, or any requirement of any lawful permit, order or license.

**10.0 Effectiveness and Review**

**10.1.0** If any section 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.

**10.2.0** This Bylaw shall be reviewed within its fourth year, being 2022, or as deemed necessary.

**10.3.0** This Bylaw shall take full force and effect on the day the Cannabis Act comes into force.

Read for a first time on this 15th day of October, 2018. Motion # 407-18-10-15.

Read for the second time on this 15th day of October, 2018. Motion # 408-18-10-15.

Received Unanimous Consent for third Reading this 15th day of October, 2018.

Motion # 409-18-10-15

Read for the third time on this 15th day of October, 2018. Motion # 410-18-10-15.



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Mayor Terry Leslie



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Chief Administrative Officer



SCHEDULE "A" - PENALTIES

Section	Specified Penalty
5.1.0	\$250.00
5.2.0	\$250.00
5.3.0	\$250.00
5.4.0	\$250.00

Second Offense	\$500.00
Third and Subsequent Offense	\$1,000.00

