

BYLAW NO. 3345/2005

Being a bylaw of the City of Red Deer in the Province of Alberta respecting smoke free public places and workplaces.

WHEREAS the Council of The City of Red Deer has the authority to pass bylaws respecting:

- a) the safety, health and welfare of people and the protection of people and property;
- b) people, activities and things in, on or near a public place or place that is open to the public;
- c) businesses, business activities and persons engaged in business;

AND WHEREAS it has been determined that second hand smoke (exhaled smoke and the smoke from idling cigarettes, cigars and pipes) is a health hazard or discomfort for many persons.

¹AND WHEREAS Council deems it expedient and appropriate to limit the effects of second hand smoke for residents of and visitors to the City of Red Deer.

²AND WHEREAS Council deems it appropriate to limit the exposure that children and youth have to smoking in public places.

³AND 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 or vaping of cannabis in public places;

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

COUNCIL OF THE CITY OF RED DEER ENACTS AS FOLLOWS:

Short Title

1. This bylaw may be cited as the "Smoke Free Bylaw."

Definitions

2. In this Bylaw, the following terms shall have the meanings shown:

¹ 3345/A-2013

² 3345/A-2013

³ 3345/A-2018

- (a) ¹“Bingo Establishment” means any premises for which the Province of Alberta has issued a bingo license under the *Gaming and Liquor Act*.
- (b) ²“Cannabis” means cannabis plant, fresh cannabis, dried cannabis, cannabis oil and cannabis plant seeds and any other substance defined as cannabis in the Cannabis Act (Canada) and its regulations, as amended from time to time.
- (c) “Casino” means any premises for which the Province of Alberta has issued a casino license under the Gaming and Liquor Act.
- (d) “City” means the City of Red Deer.
- (e) “Drinking Establishment ” means a business the primary purpose of which is the sale of alcoholic beverages for consumption on the premises and the secondary purposes of which may include entertainment, dancing, music, the preparation and sale of food for consumption on the premises, take-out food services and the sale of alcoholic beverages for consumption away from the premises.
- (f) “Grandstand” means an open air seating facility primarily but not exclusively limited to use in watching sporting events.
- (g) "Offence Ticket" means a municipal ticket issued by the City allowing for the voluntary payment of a specified fine established by this Bylaw.
- (h) ³“Outdoor Public Event” means an outdoor market, festival, concert or parade requiring a City of Red Deer Special Event or Use of Streets Permit, and to which the public is invited or permitted to attend.
- (i) “Patio” means an outdoor area also known as a deck, terrace or rooftop, whether enclosed or not, that is open to the public or to which the public is customarily admitted or invited that is operated as part of a Restaurant or Drinking Establishment, but does not include an outdoor area or structure made available by a Restaurant or Drinking Establishment if:
 - (i) there is no seating of any kind provided in the area or on the structure,

¹ 3345/A-2006

² 3345/A-2018

³ 3345/B-2013

- (ii) there is no service of any kind provided in the area or on the structure; and
 - (iii) there is no food or drink permitted in the area or on the structure at any time.
- (j) ¹“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.
- (k) “Private Club” means an enclosed place or premises 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.
- (l) ²“Private Living Accommodation” means an area of a building used as a residence and includes a hotel or motel room while it is occupied by a guest.
- (m) “Proprietor” means the owner, operator, manager or any other person in charge or in control of a place or premises and includes:
 - (i) a person who is in charge of the place or premises at any particular time;
 - (ii) the owner or driver of a taxi-cab;
 - (iii) the owner or driver of a public bus or other form of public transportation;
 - (iv) the owner or driver of a school bus; and
 - (v) the Board of Trustees of a school, college or hospital.
- (n) “Public Building” means an enclosed or substantially enclosed building or structure to which the public is customarily admitted or invited. Without limiting the generality of the forgoing, public building includes bus shelters.
- (o) ³“Public Place” means any place to which the public has access as of right or by invitation, express or implied.

¹ 3345/A-2013

² 3345/A-2006

³ 3345/A-2018

- (p) “Public Transportation Vehicle” means any vehicle used for the transportation of people upon the payment of a fee.
- (q) “Restaurant” means an enclosed place or premises the primary purpose of which is the preparation and sale of food for consumption on the premises, and the secondary purpose of which may include the sale of alcohol or non alcohol beverages, take out food services and catering. A Restaurant does not include a Drinking Establishment but does include any premises in respect of which a “Class A” Liquor License has been issued and where minors are not prohibited by the terms of the license.
- (r) “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 a Restaurant.
- (s) ¹“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 infrastructure.
- (t) ²“Skate Park” means an area designated and intended specifically for the use of skateboards, in-line skates, or similar devices.
- (u) ³“Sports Field” means an outdoor area designed and intended for use in a specific sporting event and includes soccer fields, baseball diamonds, tennis courts, and similar areas but does not include golf courses.
- (v) ⁴“Smoke” or “Smoking” means to inhale from, exhale, burn, hold or have control over:
- (i) a cigarette, cigar, pipe, cigarillo other form of lit Tobacco or Cannabis; or
 - (ii) hooka pipe, electronic smoking device, or other similar device that is producing vapour, emissions or aerosol from Tobacco or Cannabis
- (w) ⁵“Tobacco” means a product composed in whole or in part of tobacco, including tobacco leaves and any extract of tobacco leaves.

¹ 3345/A-2013

² 3345/A-2013

³ 3345/A-2013

⁴ 3345/A-2018

⁵ 3345/A-2018

- (x) ¹"Toboggan Hill" means an outdoor area signed or used as a toboggan site.
- (y) "Violation Ticket" means a violation ticket as defined in the Provincial Offences Procedure Act
- (z) ²"Water Spray Park" means a structure or collection of structures that spray or release water which is designed and intended for recreation use.
- (aa) ³"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.

Purpose

- 2.1⁴ The purpose of this bylaw is to regulate smoking in public places in order to promote the safe, enjoyable and reasonable use of such property for the benefit of all citizens.

Regulation of Smoking

3. ⁵Except as permitted in Section 4, no person shall Smoke or otherwise consume Cannabis in any Public Place.
4. ⁶A person who is entitled to possess Cannabis pursuant to a medical document under the Access to Cannabis for Medical Purposes Regulations is not subject to this Section 3 but must comply with the regulations in this bylaw governing the Smoking of Tobacco and other substances when Smoking Cannabis.
5. ⁷No person shall Smoke Tobacco or any other weed or substance in any indoor place to which the public is ordinarily invited or permitted to attend or in any of the following places:

¹ 3345/A-2013

² 3345/A-2013

³ 3345/A-2006

⁴ 3345/A-2013

⁵ 3345/A-2018

⁶ 3345/A-2018

⁷ 3345/A-2018

Bingo Establishment
 Casino
 Drinking Establishment
 Grandstand
 Outdoor Public Event
 Patio
 Private Club
 Public Building
 Public Transportation Vehicle
 Restaurant
 Sidewalk Cafe
 Work Place

- 5.1¹ For greater certainty, no designated smoking area as described in Section 5 of the Tobacco Reduction Act, SA 2005, CH. T-3.8 is permitted in any of the places listed in Section 5² of this bylaw.
- 5.2³ Notwithstanding anything contained in this bylaw, the prohibitions set out in Section 5⁴ do not apply to any Private Living Accommodation.
- 5.3⁵ No person shall Smoke Tobacco or any other weed or substance within ten metres of a Playground, 'Seasonal Skating Rink, Skate Park, Sports Field, Water Spray Park or Toboggan Hill.
6. (1) No Proprietor of a place where smoking is prohibited by Section 5⁶ shall permit smoking in that place.
- (2) A Proprietor who takes the following steps or ensures that the following steps are taken shall be deemed to have complied with the obligation described in Section 64(1)⁷:
- (a)⁸ advise a smoker that smoking is not allowed and request the smoker to put out any lit substance;
- (b) ask any smoker who refuses to comply with such a request to leave the premises;
- (c) refuse to provide any further service to such person; and

¹ 3345/A-2006, 3345/A-2010

² 3345/A-2018

³ 3345/A-2006

⁴ 3345/A-2018

⁵ 3345/A-2018

⁶ 3345/A-2018

⁷ 3345/A-2018

⁸ 3345/A-2013

(d)¹ immediately report to the RCMP any smoker who refuses to put out any lit substance or refuses to leave the premises when requested to do so.

7. No Proprietor of a place where smoking is prohibited by this bylaw shall permit ashtrays to be placed or to remain in that place.

7.1² Nothing in this bylaw affects the rights of people respecting traditional spiritual practices or ceremonies.

Signs required

8. (1) Every Proprietor of a place or premises mentioned in Section 5³ shall ensure that signs prohibiting smoking are posted in proximity to all of the public entrances to such place. Such signs shall be in general conformity with the form specified in Schedule "A".

(2) Where there is no public entrance to a place or premises mentioned in Section 5⁴, signs prohibiting smoking shall be posted in a prominent location on or near the premises in such manner as to be readily visible to any member of the public using such place or premises.

9. No person shall remove, alter, conceal, deface or destroy any sign posted pursuant to this bylaw.

Inspections

10. (1) For the purpose of determining if the provisions of this Bylaw are being complied with, a City Bylaw Enforcement Officer or a member of the RCMP is a designated officer for the purposes of section 542 of the *Municipal Government Act* of Alberta and may inspect such places or premises at all reasonable times.

(2) ⁵A person referred to in Section 4 of this bylaw must, on demand of a City Bylaw Enforcement Officer or a member of the RCMP, produce a copy of the person's medical document.

Enforcement

11. ⁶Any person who contravenes a provision of this Bylaw is guilty of an offence and is liable upon conviction:

¹ 3345/A-2013

² 3345/A-2013

³ 3345/A-2018

⁴ 3345/A-2018

⁵ 3345/A-2018

⁶ 3345/A-2018

- a) for a first offence, to a fine of \$200.00
 - b) for a second offence, to a fine of \$500.00; and
 - c) for a third or subsequent office, to a fine of not less than \$500.00 and not more than \$2,500.00
12. An individual who is convicted of an offence shall also be liable, in default of payment of any fine, to imprisonment for up to six months
13. Each day that an offence continues shall constitute a separate offence.
14. ¹Where a Bylaw Enforcement Officer or a member of the RCMP has reason to believe that a person has contravened any provision of this Bylaw, he or she may serve upon such person:
- a) an Offence Ticket allowing payment to the City of the specified fine set out in Section 11 (a) and (b), which payment shall be accepted by the City in lieu of prosecution for the offence; or
 - b) for a first offence or second offence, a Violation Ticket requiring a person to appear in Court with the alternative of making a voluntary payment; or
 - c) for a third or subsequent offence, a Violation Ticket requiring a person to appear in Court without the alternative of making a voluntary payment
15. If a Violation Ticket containing a specified penalty is issued to a person for a breach of this bylaw, the person may make a voluntary payment equal to the specified fine by delivering the Violation Ticket and the specified fine to the Provincial Court Office specified on the Violation Ticket within the required time. In that event, the voluntary payment will be accepted as a guilty plea and no court appearance is required.

Severability

16. Should any provision of this bylaw be found to be invalid it is the intention of Council for the City that such invalid portion be severed and that the remainder of the bylaw be given full force and effect.

Effective Date

17. This bylaw shall come into effect on June 1, 2006 and Bylaw 3286/2001, The Smoking Bylaw, is repealed as of June 1, 2006.

¹ 3345/A-2018

18. ¹Section 3 of this bylaw shall come into effect on the day the *Cannabis Act* comes into force.

READ A FIRST TIME IN OPEN COUNCIL this 24th day of May 2005.

READ A SECOND TIME IN OPEN COUNCIL this 24th day of May 2005.

READ A THIRD TIME IN OPEN COUNCIL this 20th day of June 2005.

AND SIGNED BY THE MAYOR AND CITY CLERK this 20th day of June 2005.

“Morris Flewwelling”

MAYOR

“Kelly Kloss”

CITY CLERK

¹ 3345/A-2018

SCHEDULE "A"



**NO SMOKING
THE CITY OF RED DEER**