

**BY-LAW NO. 1/2019
COUNTY OF FORTY MILE NO. 8**

**A BY-LAW OF THE COUNTY OF FORTY MILE NO. 8 TO REGULATE SMOKING
AND VAPING IN PUBLIC AREAS, WORK PLACES AND PUBLIC PROPERTY.**

WHEREAS, pursuant to Section 7(a) of the Municipal Government Act R.S.A. 2000, C. M-26 (the "MGA"), a Council may pass bylaws for municipal purposes respecting safety, health and welfare of people and the protection of people and property;

AND WHEREAS, pursuant to 7 (b) of the MGA, a Council may pass bylaws for municipal purpose respecting people activities and things in, on, or near a public place that is open to the public;

AND WHEREAS, pursuant to Section 7 (d) of the MGA, a Council may pass bylaws for municipal purposes respecting transport and transportation systems;

AND WHEREAS, pursuant to Section 7 (e) of the MGA, a Council may pass bylaws for municipal purposes respecting business activities and persons engaged in business;

AND WHEREAS, pursuant to Section 7 (i) of the MGA, a Council may pass bylaws for municipal purposes respecting enforcement of bylaws made under the Municipal Government Act or any other enactment including any or all of the matters listed therein;

AND WHEREAS, health officials have determined that second hand smoke is a health hazard and causes discomfort for many persons;

AND WHEREAS, the smoke or vapor produced by the smoking or vaping of tobacco, cannabis, and other substances is a nuisance for persons in public places, work places, and public transportation vehicles and property;

AND WHEREAS, the County of Forty No. 8 deems it expedient and appropriate to limit the effects of second hand smoke in the County of Forty No. 8 by regulating smoking and vaping tobacco, cannabis, and other substances in public places, workplaces, and public transportation vehicles and property within the County of Forty Mile No. 8.

NOW THEREFORE, the Council of the County of Forty Mile No. 8 of the Province of Alberta, duly assembled enacts as follows:

PART 1 - PURPOSE, DEFINITIONS, AND INTERPRETATION

PURPOSE

- 1) The purpose of this Bylaw is to regulate smoking and vaping of tobacco, cannabis, and other substances in public places, work places, public transportation vehicles, and public transportation property, to reduce exposure to second hand smoke in the County of Forty Mile No. 8 for the health, safety, and welfare of inhabitants.

SHORT TITLE

- 2) This By-Law may be cited as the "Smoking and Vaping Bylaw".

DEFINITIONS AND INTERPRETATION

- 3) For the purpose of administering the provisions of this Bylaw, the following definitions shall apply;

- a) "ASHTRAY" means a receptacle for ashes, butts, or residue of tobacco or cannabis products;
- b) "BUILDING" has a meaning in the Land Use Bylaw 10/2009, as amended or replaced from time to time;
- c) "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 , municipality, or a charitable organization;
- d) "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 Substance Act, the Criminal Code and other Acts;
- e) "MUNICIPAL ENFORCEMENT OFFICER" means any duly appointed Bylaw Enforcement Officer of the County of Forty Mile No. 8 or any member of the Royal Canadian Mounted Police;
- f) "CHIEF ADMINISTRATIVE OFFICER" has a meaning prescribed in the Municipal Government Act, as amended, or replaced from time to time;
- g) "COMMUNITY RECREATION FACILITY" means an indoor recreation facility intended to serve the community at large;
- h) "COUNCIL" has a meaning prescribed in the Municipal Government Act, as amended, or replaced from time to time;
- i) "DRINKING ESTABLISHMENT" means a business where the primary purpose is the sale of alcoholic beverages for consumption on the premises and secondary purposes of which may include entertainment, dancing, music, the preparation and sale of food consumption on the premises;
- j) "EDUCATIONAL SERVICE FACILITY" means a publicly or privately owned supported development used for educating and includes administrative officers.
- k) "ELECTRONIC SMOKING DEVICE" means an electronic device that can be used to deliver vapor, emission or aerosol to the person inhaling from the device, including but not limited to an electronic cigarette, cigar, cigarillo or pipe;
- l) "EMPLOYEE" means a person who:
 - i) Performs any work for, supplies any services or fulfills any contractual obligations to any employer; or
 - ii) Receives any instruction in the activity, business, work, trade, occupation or profession of the employer;
- m) "EMPLOYER" means any person who, as the owner, proprietor, manager, superintendent, or overseer of any activity, business, work, trade, occupation or profession, has control over the direction of, or is directly or indirectly responsible for the employment of a person therein;

- n) "MUNICIPALITY" means the County of Forty Mile No. 8;
- o) "OUTDOOR PATIO" means an area outside of a building intended for the consumption of food and beverages by patrons of a business providing such food or beverages, and includes:
 - i) a public premise where food or beverages are served that is not fully contained within an enclosed building; and
 - ii) an outside extension of an eating or drinking establishment regardless of whether it is covered;
- p) "OUTDOOR RECREATION FACILITY" means development providing facilities which are available to the public at large for sports, an active recreation conducted outdoors;
- q) "OUTDOOR SKATING RINK" means an outdoor ice surface that is designed for recreational skating or playing hockey;
- r) "PARK" means the development of land for recreational activities of the general public which do not require major buildings or facilities and include picnic areas, playgrounds, pedestrian and bicycle paths, landscaped areas, and public washrooms;
- s) "PERSON" includes an individual, business, proprietorship, corporation, society, non-profit organization, or government agency;
- t) "PLACE OF WORSHIP" means a development and any related meeting halls used for spiritual worship and related religious, charitable, educational or social activities;
- u) "PLAYGROUND" means an outdoor area upon which apparatus such as swings and slides are placed;
- v) "PRIVATE RESIDENCE" means a self-contained living premise 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, stairway, but does not include any portion of such area used as a workplace with the exception of a hotel room or motel room;
- w) "PROPRIETOR" means, in addition to the meaning prescribed in the MGA, where applicable:
 - i) the person who ultimately controls, governs or directs the activity carried on within any premises referred to in this Bylaw and includes the person usually in charge thereof
- x) "PUBLIC" means any person other than the owner, lessee, proprietor, or employer of a particular building or place;
- y) "PUBLIC BUILDING" means any enclosed building or structure to which the public can and does have access by right or by invitation, whether or not:
 - i. all members of the public are invited;
 - ii. the proprietor has the right to exclude any particular person;
 - iii. the public has access to the building at certain times, or from time to time;

- z) "PUBLIC PLACE" means any place to which the public has access, regardless of whether or not access is granted by means of membership or admission fee and includes:
- drinking establishment;
 - restaurant/food service;
 - place of worship;
 - community recreation facility;
 - community halls;
 - educational service facility;
 - public transportation vehicles;
 - public building and all areas with 10 meters of an entrance or exit to a public building;
 - work places and all areas within 10 meters of an entrance or exit to a work place;
 - outdoor recreation facility; and
 - parks
- aa) "PUBLIC TRANSPORTATION VEHICLE" means a school bus or private for hire vehicle or other similar vehicle which is being used, or is subject to use, by passenger or passengers for a fee
- bb) "SMOKE OR SMOKING" means:
- i. Inhaling or exhaling the smoke produced by burning tobacco or cannabis; or
 - ii. The carrying, holding, or otherwise controlling of any lit smoking equipment, such as cigar, cigarette or pipe containing tobacco, cannabis, or any other such substances;
- cc) "SPORTING FIELD" means an outdoor area which is set apart and used for the playing and observing of a sporting activity;
- dd) "TRADITIONAL PIPE CEREMONIES" means any cultural or religious ceremony involving pipes or the use or consumption of tobacco products;
- ee) "TOBACCO" means a product composed in whole or in part of tobacco including tobacco leaves any extract of tobacco leaves, but does not include any product for use in nicotine replacement therapy;
- ff) "VAPE OR VAPING" means:
- Inhaling or exhaling the vapor, 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 vapor, emissions or aerosol from tobacco, cannabis, or any other substance;
- gg) "VIOLATION TICKET" means a ticket issued pursuant to Part II of the Provincial Offences Procedures Act, R.S.A. 2000 c. P-34 as amended or replaced from time to time, and as referred to in Part 6 of this Bylaw;
- hh) "WORKPLACE" means any enclosed area of a building or structure in which an employee works and includes washrooms, corridors, eating areas, reception areas, foyers, hallways, stairways, enclosed walkways, lobbies, laundry room utilized by an employee.

4. 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 its place.
5. Each provision of this Bylaw is independent of all other provisions and if any provision is declared invalid for any reason by a court or competent jurisdiction, all other provisions of the Bylaw remain valid and enforceable.
6. Nothing in this Bylaw relieves a person from complying with any provision of any federal, provincial, or municipal law or regulation or any requirements of any lawful permit, order, or licence.

PART 2 - PROHIBITION

7. A person must not smoke or vape in any public place, a workplace, a public transportation vehicle within the Municipality regardless of whether or not a 'No Smoking No Vaping' sign is posted.
8. A proprietor and/or employer shall not permit smoking or vaping in a public place, whether or not a 'No Smoking No Vaping' sign is posted or visible.
9. A person must not smoke or vape in, on, or within 10 meters of:
 - a) an entrance or exit to an educational service facility;
 - b) an entrance or exit to a child care facility;
 - c) an entrance or exit to a place of worship;
 - d) an entrance or exit to a community recreation facility;
 - e) outdoor skating rink;
 - f) playground;
 - g) sports field;
 - h) an entrance or exit to a community hall;
 - i) an entrance or exit of a workplace;
10. Every proprietor or employer of a public place shall:
 - a) ensure compliance with the Bylaw;
 - b) prohibit smoking and vaping in the public places;
 - c) post 'No Smoking No Vaping' signs in accordance with Part 3 of this Bylaw.
11. Every proprietor or employer shall inform each employee that smoking and vaping are prohibited in the public place.
12. A proprietor or employer who takes, ensures that, the following steps are taken shall be deemed to have complied with the obligation described in Section 10:
 - a) advises a person who is smoking or vaping that smoking or vaping are not allowed and requests them to extinguish any tobacco or cannabis product, electronic smoking device or other smoking equipment;
 - b) asks any person who is smoking or vaping who refuses to comply with such a request to leave the premises;
 - c) refuses to provide any further service to such person; and
 - d) immediately reports to a Municipal Enforcement Officer any person who is smoking or vaping, and who refuses to extinguish any lit tobacco or cannabis product, electronic smoking device or other smoking equipment, and who refuses to leave the premises when requested to do so.
13. No person shall smoke or vape inside any vehicle that is used as a public transportation vehicle, regardless of whether the vehicle is on or off duty.

PART 3 - SIGNS

14. The proprietor and/or employer of a public place shall ensure that signs are posted in a prominent, clearly visible location and in accordance with this Bylaw so as to clearly identify that smoking and vaping is prohibited.

PART 4 - OFFENCES

15. 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.

PART 5 - PENALTIES

16. Any person who fails or neglects to perform the duties or requirements imposed upon it under the provisions of this Bylaw is guilty of any offence and liable on summary conviction to a fine not exceeding ten thousand dollars (\$10,000.00).
17. The specified fine for an offence committed pursuant to this Bylaw shall be two hundred fifty dollars (\$250.00) for each such occurrence.
18. Any person convicted of an offence shall also be liable, in default of payment of any fine, to imprisonment for up to six (6) months.
19. In the case of an offence that is of a continuing nature, a contravention shall constitute a separate offence in respect of each day, or part of a day, on which that offence 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 day.

PART 6 - VIOLATION TICKET

20. A Municipal Enforcement Officer is hereby authorized and empowered to issue a violation ticket pursuant to Part II of the Provincial Offences Procedure Act, R.S.A. 2000, c. P-34, as amended, or replaced from time to time, to any person who the Municipal Enforcement Officer has reasonable grounds to believe has contravened any provisions of this Bylaw.

PART 7 - EXEMPTION

21. Traditional pipe ceremonies are exempt from this Bylaw.
22. Despite any other provisions of this Bylaw a person may, inside enclosed premises where the primary function of the premises is the sale of electronic smoking devices, use an electronic smoking device to sample product, other than tobacco or cannabis prior to purchase.

PART 8 - SEVERABILITY

23. If any section of this Bylaw or parts thereof are found in a 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.

PART 9 - ENFORCEMENT

24. For the enforcement of this Bylaw, the Municipal Enforcement Officer, upon producing proper identification, may enter any public place and may make examinations, investigations and inquiries.

25. Where a Municipal Enforcement Officer has reason to believe that a person has contravened any provisions of this bylaw, he or she may serve upon such person:

- a) a violation ticket requiring a person to appear in Court with the alternative of making a voluntary payment in lieu of prosecution: or
- b) a violation ticket requiring a person to appear in Court without the alternative of making a voluntary payment.

26. This Bylaw comes to effect when it is passed.

RECEIVED FIRST READING THIS 30th DAY OF JANUARY, 2019 A. D.

First Reading moved by

ACKNOWLEDGEMENT OF FIRST READING:

Chairman

County Administrator

RECEIVED SECOND AND THIRD READINGS THIS 30th DAY OF JANUARY, 2019 A. D.

Second Reading moved by

Third Reading moved by

**ACKNOWLEDGMENT OF SECOND AND
THIRD READINGS:**

Reeve

County Administrator