

BYLAW 11/18

A BYLAW OF FLAGSTAFF COUNTY, IN THE PROVINCE OF ALBERTA, TO REGULATE AND CONTROL THE CONSUMPTION OF CANNABIS IN PUBLIC PLACES

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, 1st Sess, 42nd Parl, 2017) which will permit persons to possess cannabis if purchased from an authorized person;

AND WHEREAS the Cannabis Act will come into force in October 17, 2018;

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 or vaping of cannabis in public places;

AND WHEREAS pursuant to section 7 of the Municipal Government Act, R.S.A. 2000, c. M-26, Council may 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) and the enforcement of bylaws made under the Municipal Government Act or any other enactment;

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

NOW THEREFORE the Council of Flagstaff County, in the Province of Alberta, duly assembled, hereby enact as follows:

1. SHORT TITLE

- 1.1. This Bylaw may be cited as the "Cannabis Consumption Bylaw".

2. DEFINITIONS

- 2.1. In this Bylaw unless the context otherwise requires:

- (a) **cannabis** has the meaning given to it in the Cannabis Act;
- (b) **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, 1st Sess, 42nd Parl, 2017;
- (c) **Chief Administrative Officer (CAO)** means the person appointed by County Council as its chief administrative officer or that person's designate;
- (d) **electronic smoking device** means an electronic device that can be used to deliver a vapour, emission or aerosol to the person inhaling from the device, including but not limited to an electronic cigarette, cigar, cigarillo or pipe;
- (e) **municipal tag** means a notice or tag in the form as approved by the CAO, issued by the County, allowing voluntary payment option of a fine established under this Bylaw;
- (f) **Peace Officer** means:
 - (i) a member of the Royal Canadian Mounted Police;
 - (ii) a Community Peace Officer as appointed by the Solicitor General of Alberta; or
 - (iii) a Bylaw Enforcement Officer as appointed by the County to enforce Bylaws of the County.
- (g) **public place** includes any place to which the public has access as of right or by invitation, express or implied;
- (h) **smoke or smoking** means:
 - (i) inhaling or exhaling the smoke produced by burning or heating cannabis; or

- (ii) holding or otherwise having control of any device or thing containing lit or heated cannabis;
- (i) **vape or vaping** means:
 - (i) inhaling or exhaling the vapour, emissions or aerosol produced by an electronic smoking device or similar device containing cannabis, or
 - (ii) holding or otherwise having control of an electronic smoking device that is producing vapour, emissions or aerosol from cannabis.
- (j) **violation ticket** means a ticket issued pursuant to the Provincial Offences Procedures Act, Revised Statutes of Alberta 2000, Chapter P-34 and any amendments or regulations thereto.

3. PROHIBITION

3.1. No person shall smoke, vape or consume cannabis in any public place.

4. EXEMPTION FOR MEDICAL CANNABIS

- 4.1. A person who is entitled to possess cannabis pursuant to a medical document issued pursuant to the Access to Cannabis for Medical Purposes Regulations, SOR/2016-230 is not subject to this Bylaw.
- 4.2. A person referred to in subsection (4.1) must, on demand of a Peace Officer, produce a copy of the person's medical document.
- 4.3. A person referred to in subsection (4.1) is subject to the Tobacco and Smoking Reduction Act.

5. OFFENCES

- 5.1. 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.

6. FINES AND PENALTIES

- 6.1. A Person who is guilty of an offence is liable upon summary conviction to a fine in an amount:
 - (a) not less than the specified penalty established in Schedule "A"; and
 - (b) not exceeding \$10,000.00; and
 - (c) to imprisonment for not more than six (6) months for non-payment of a fine.
- 6.2. Without restricting the generality of Section 6.1 above, the fine amounts set out in Schedule "A" are established as specified penalties for use on Municipal Tags and Violation Tickets, if a voluntary payment option is offered.
- 6.3. Notwithstanding Section 6.1, any Person who commits a second or subsequent offence under this Bylaw within one (1) year of conviction of a first offence under this Bylaw, is liable on summary conviction to double the fine, or be required to a Court appearance, set out in Schedule "A" for the offence, respectively.

7. MUNICIPAL TAG

- 7.1. A Peace Officer is hereby authorized and empowered to issue a Municipal Tag to any Person whom the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 7.2. A Municipal Tag shall be issued and served to a Person:
 - (a) either personally; or
 - (b) by mailing a copy, via registered mail, to such person at their last known postal address.
- 7.3. A Municipal Tag shall be in a form approved by the CAO and shall state:
 - (a) the name of the Person to whom the Municipal Tag is issued;
 - (b) particulars of the contravention under this Bylaw;
 - (c) the specified penalty for the offence as set out in Schedule "A" herein;

- (d) that the specified penalty shall be paid within fourteen (14) days of the issuance of the Municipal Tag in order to avoid prosecution; and
- (e) any other information as may be required by the CAO.

- 7.4. Where a Municipal Tag has been issued under this Bylaw, the Person to whom the Municipal Tag has been issued may, in lieu of being prosecuted for the offence, pay to the County the penalty within the time period indicated on the Municipal Tag.
- 7.5. If a Municipal Tag has been issued and the specified penalty on the Municipal Tag has not been paid within the prescribed time, a Peace Officer may issue a Violation Ticket to the Person to whom the Municipal Tag was issued.
- 7.6. Notwithstanding the above, a Peace Officer may immediately issue a Violation Ticket to any Person whom the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.

8. VIOLATION TICKET

- 8.1. A Peace Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to the Provincial Offences Procedures Act to any Person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 8.2. If a Violation Ticket is issued in respect of an offence, the Violation Ticket may:
- (a) state the specified penalty for the offence as set out in Schedule "A" attached hereto; or
 - (b) require a Person to appear in Provincial Court without the alternative of making a voluntary payment.
- 8.3. 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 states the specified penalty established by this Bylaw for the offence, as set out in Schedule "A" herein;

make a voluntary payment by submitting to a Clerk of the Provincial Court, on or before the initial appearance date indicated on the Violation Ticket, the specified penalty set out on the Violation Ticket.

- 8.4. When a Clerk of the Provincial Court records the receipt of a voluntary payment pursuant to Section 8.3 above and the Provincial Offences Procedure Act, the act of recording constitutes acceptance of the guilty plea and also constitutes a conviction and the imposition of a fine in the amount of the specified penalty.

9. SCHEDULES

- 9.1 The following schedules attached hereto shall form part of this Bylaw:

- (a) Schedule "A" – Specified Penalties;


10. COMING INTO FORCE


- 10.1 This bylaw comes into force on the day the Cannabis Act comes into force.

READ A FIRST TIME IN COUNCIL this 26 day of September, 2018

READ A SECOND TIME IN COUNCIL this 26 day of September, 2018

READ A THIRD TIME IN COUNCIL AND PASSED this 26 day of September, 2018


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Reeve


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Chief Administrative Officer

SCHEDULE "A"
SPECIFIED PENALTIES

Section Reference	Description	First Offence	Second Offence	Third Offence
6	Consumption of Cannabis in a Public Place	\$200	\$400	Court