

CITY OF ST. ALBERT

BYLAW 30/2018

A Bylaw to regulate consumption of cannabis within the City of St. Albert

WHEREAS:

- i. 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;
- ii. it is anticipated that the *Cannabis Act* will come into force in July, 2018 or shortly thereafter;
- iii. the Province of Alberta has enacted *An Act to Control and Regulate Cannabis* SA 2017 c21 which will place restrictions on the smoking and vaping of cannabis in public places;
- iv. pursuant to section 7 of the *Municipal Government Act* RSA 2000 cM-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. the enforcement of bylaws made under the *Municipal Government Act* or any other enactment;
- v. 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;

The Council of the City of St. Albert, duly assembled, hereby ENACTS AS FOLLOWS:

Title

1. This Bylaw may be referred to as the “Cannabis Consumption Bylaw”.

Definitions

2. In this Bylaw:

- a. “Building” means a fully or substantially enclosed structure constructed such that it may accommodate human occupation. A bus shelter is considered a Building for the purposes of this Bylaw;
- b. “Bylaw Enforcement Officer” means an individual appointed as such in accordance with Bylaw 21/2003, the Bylaw Enforcement Officer Bylaw;
- c. “Cannabis” has the meaning given to it in the *Cannabis Act*;
- d. “*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;
- e. “City” means the municipal corporation of the City of St. Albert or, where the context so requires, the area contained within the boundaries of the City;
- f. “City Manager” means the chief administrative officer of the City, or their designate;
- g. “Electronic Smoking Device” means an electronic device that may be used to deliver a vapour, emission, or aerosol to the person inhaling from the device, including but not limited to an electronic cigarette, vaporizer cigarette, cigar, cigarillo, or pipe;
- h. “Municipal 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;
- i. “Outdoor Public Event” means an outdoor market, festival, or concert that has been approved by the City;
- j. “Park” means any developed or undeveloped space owned, controlled, or maintained by the City that is:
 - i. dedicated for the common use and enjoyment of the public;
 - ii. intended to be used by members of the public for recreation and general enjoyment;
 - iii. preserved as a natural area;

- iv. designated or districted as park or park corridor land;
- v. dedicated as municipal reserve, environmental reserve, or a public utility lot pursuant to the *Municipal Government Act* RSA 2000 cM-26; or
- vi. that portion of a boulevard contiguous with, partially within, or fully within the property referenced in subsections (i) – (v) above.

For the purposes of this Bylaw, Parks include Sidewalks and trails contained within them, named Parks, open green spaces, and green spaces surrounding storm-water ponds and systems;

- k. “Patio” means an outdoor structure, including a balcony, that adjoins or is adjacent to a restaurant or lounge and is regularly used for the consumption of food and beverages by patrons of the adjoining restaurant or lounge;
- l. “Peace Officer” means a person employed for the purposes of preserving and maintaining the public peace, and includes:
 - i. a provincially appointed community Peace Officer for the City of St. Albert;
 - ii. a Bylaw Enforcement Officer authorized to enforce this Bylaw in accordance with their appointment; and
 - iii. a regular member of the Royal Canadian Mounted Police;
- m. “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, under, through, and includes the distinct material in which the structure or apparatus is mounted;
- n. “Private Living Accommodation” means any Building or portion thereof that is used as a residence or that is used exclusively by person(s) living in the residence. In a Building containing multiple residential units, common use areas such as parkades, washrooms, waiting rooms, meeting rooms, storage areas, fitness facilities, kitchens, eating areas, cloak rooms, and hallways shall not be considered parts of a Private Living Accommodation. For the purposes of this Bylaw, a room to let in a hotel, motel, lodge, or inn or any similar place, shall be considered a Private Living Accommodation;
- o. “Proprietor” means the owner of, or any person controlling, governing, or directing activities within a place referred to in this Bylaw;

- p. "Recreational Amenities" include outdoor pools, spray parks, Playgrounds, Seasonal Skating Rinks, Skate Parks, Sports Fields, Akinsdale & Kinex Arenas, Servus Credit Union Place, and Fountain Park Recreation Centre;
- q. "Schedule" means a schedule attached to and forming part of this Bylaw;
- r. "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;
- s. "Sidewalk" means a walkway that the public is ordinarily entitled to use and that is especially adapted to the use of or ordinarily used by pedestrians which is between:
 - i. the curb line, or
 - ii. where there is no curb line, the edge of the roadway,and the adjacent property line, whether or not it is paved or improved;
- t. "Skate Park" means an area designed and intended specifically for use of skateboards, in-line skates, or similar devices;
- u. "Smoke" or "Smoking" means:
 - i. inhaling or exhaling the smoke produced by lit, burning, ignited, or heated Cannabis;
 - ii. holding or otherwise having control of lit, burning, ignited, or heated Cannabis, or any device or thing containing lit, burning, ignited, or heated Cannabis;
 - iii. inhaling or exhaling the vapour, emissions, or aerosol produced by an Electronic Smoking Device or similar device containing Cannabis; or
 - iv. holding or otherwise having control of an Electronic Smoking Device or similar device that is producing vapour, emissions, or aerosol from Cannabis;
- v. "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, pickleball court, and similar areas, but does not include golf courses; and

- w. "Violation Ticket" means a violation ticket issued in accordance with the *Provincial Offences Procedure Act* RSA 2000 cP-34.

Interpretation

3. Headings or subheadings are inserted for ease of reference and guidance purposes only and do not form part of this Bylaw.
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. If any provision of this Bylaw is declared invalid for any reason by a court of competent jurisdiction, all other provisions of this Bylaw will 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 other requirement of any lawful permit, order, or license.

Prohibitions – Smoking and Vaping

7. Except as permitted in this Bylaw, no person shall engage in Cannabis Smoking activity.
8. A person who is 18 years of age or older may Smoke Cannabis:
 - a. inside a Private Living Accommodation;
 - b. on or within a private residential property;
 - c. in an area specifically reserved for Smoking by the Proprietor of an Outdoor Public Event; and
 - d. while travelling on a Sidewalk that is at least 5 metres away from:
 - i. a(n) doorway, window, or air intake of a Building;
 - ii. a Patio;
 - iii. a Park; and
 - iv. St. Albert Place, transit centers, Recreational Amenities, fire halls, recycle yards, police stations and civic work places.

9. The City Manager may designate any public place, or portion of a public place, as a no-Smoking area or a Smoking area.

Offence

10. A person who contravenes any provision of this Bylaw is guilty of an offence.

Continuing Offence

11. 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.

Fines and Penalties

12. A person who is guilty of an offence under this Bylaw is liable:
- a. to a specified fine of \$250.00; or
 - b. on summary conviction, to a fine not exceeding \$10,000.00 or to an order of imprisonment for not more than one (1) year, or both.

Municipal Violation Tag

13. 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.
14. Where a Municipal Violation Tag is issued, the fine amount indicated thereon may be paid as directed in lieu of prosecution.

Violation Ticket

15. A Peace Officer may issue, with respect to an offence under this Bylaw, a Violation Ticket:
- a. specifying the fine amount established by this Bylaw; or
 - b. requiring an appearance in court without the option of making a voluntary payment.
16. Where a Violation Ticket specifies a fine amount, a voluntary payment equal to the specified fine amount may be made as directed.

General

17. Without restricting any other power, duty, or function granted by this Bylaw, the City Manager may:

- a. carry out whatever inspections are reasonably required to determine compliance with this Bylaw; and
- b. delegate any powers, duties, and functions under this Bylaw to a City employee.

18. A copy of a record of the City, certified by the City Manager 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.

19. The burden of proving, on a balance of probabilities, that an exception referred to by this Bylaw applies in a particular case is on the person alleging such exception.

Coming into Force

20. This Bylaw will come into force on such date as the *Cannabis Act*, or its specific enabling provisions, comes into force.

READ a First time this ____ day of _____ 2018.

READ a Second time this ____ day of _____ 2018.

READ a Third time this ____ day of _____ 2018.

SIGNED AND PASSED this ____ day of _____ 2018.

MAYOR

CHIEF LEGISLATIVE OFFICER