

Smoking Bylaw Amendment Recommendations

The following is a summary of Administration's Smoking Bylaw amendment recommendations and their corresponding rationale. These have been developed based on a review of the bylaws that regulate smoking in eleven Alberta Municipalities, namely:

Municipality	Bylaw Number	Passed	Amended (most recently)
Airdrie	B-44/2004	2004	2011
Calgary	57M92	1993	2015
Camrose	2877-16	2016	n/a
Edmonton	14614	2007	2015
Grande Prairie	C-1278	2012	n/a
Leduc	754-2010	2010	n/a
Lethbridge	3896	2007	n/a
Medicine Hat	4136	2003	n/a
	4053	2011	n/a
Red Deer	3345/2205	2005	2014 ¹
Spruce Grove	C-470-03	2003	n/a
Regional Municipality of Wood Buffalo	07/042	2007	n/a

(collectively, the "Comparator Municipalities" or "CMs")

Relevant Legislation:

1. *Tobacco and Smoking Reduction Act* SA 2005 cH T-3 (the "Act"); and
2. *Alberta Tobacco and Smoking Reduction Regulation* 350/220,

(collectively, the "Legislation").

¹ In 2014 the Red Deer Smoking Bylaw was reviewed but not amended as it was determined that the definition of smoking was broad enough to cover electronic smoking products.

Topic	Description	Comparator Municipalities (CM's)	Recommendation(s)	Rationale
Electronic Smoking Devices (ESDs)	Electronic Smoking Device means an electronic device used to deliver nicotine, marijuana or other substances to the person inhaling from the device and includes, but is not limited to, an electronic cigarette, vaporizer cigarette, personal vaporizer, cigar, cigarillo or pipe.	<p>Camrose, Calgary, Edmonton, and Red Deer address the use of ESDs within their respective bylaws. All of these CMs prohibit the use of ESDs in the same manner as they prohibit smoking in general.</p> <p>Of the above noted CMs, Calgary and Edmonton have included an exemption within their respective bylaws which permit the use of ESDs within electronic cigarette retail locations, for the purpose of testing the same or sampling products.</p>	<p>That the definition of ESD be added to the Smoking Bylaw and use of the ESDs be prohibited in the same manner as smoking.</p> <p>That an exemption be added to the Smoking Bylaw which permits ESDs within ESD retail locations for the purpose of testing the same or sampling products.</p>	<p>These amendments are in line with the trend that the noted CMs have followed in the last two years. Further, Alberta Health Services have advised that there are no quality controls for making ESDs and they have not been tested or fully evaluated for safety and quality. Consequently, this recommendation follows a cautious approach with the City following the lead of a number of municipalities in the province.</p> <p>The recommendation for the inclusion of an exemption is based upon information provided by the City of Calgary which indicates that the City, in amending their bylaw, monitored the use of ESDs in ESD retail locations and concluded that sampling of ESDs within a retail location is not an issue for adjacent businesses.</p>
Outdoor Recreational Facilities (ORFs)	ORFs may include a(n): 1. outdoor pool; 2. playground; 3. seasonal skating rink; 4. skate park; 5. sports field; 6. beach; 7. park; 8. lake; 9. pond; 10. toboggan hill; or 11. trail system.	<p>Calgary, Camrose, Edmonton, Grande Prairie, and Medicine Hat prohibit smoking within a prescribed distance from ORFs 1,2,3,4 and 5.</p> <p>The City of Camrose, in addition to the prohibition on smoking within a prescribed distance from the ORFs listed above, prohibit smoking within a prescribed distance from ORF 10.</p> <p>Of the above noted CMs Medicine Hat has the most strictly drafted bylaw, which, in addition to the ORFs listed above, prohibits smoking within a prescribed distance from ORFs 6,7,8,9 and 11.</p>	<p>That the definitions of the following ORFs be added to the Smoking Bylaw: 1. outdoor pool; 2. playground; 3. seasonal skating rink; 4. skate park; and 5. sports field.</p> <p>That the City prohibit smoking within 5 metres of such ORFs.</p>	<p>These amendments are in line with the trend that the noted CMs have followed in the last two years. It strikes a balance between the rights of individuals to smoke and the rights of individuals to engage in recreational activities free from second hand smoke.</p> <p>At the January 9, 2017 Council meeting there was a discussion regarding the potential difficulty of enforcing certain provisions (prohibition on smoking around passive or non-recreational park space and trail systems) of the Smoking Bylaw as well as the desire to acknowledge the rights of individuals to smoke by not effectively creating a blanket prohibition on outdoor smoking. This direction was incorporated into the final recommendation to Council, with the removal of parks and the Red Willow Trail System from the list of ORFs around which smoking will be prohibited.</p>

Topic	Description	Comparator Municipalities (CM's)	Recommendation(s)	Rationale
Removal of Inoperative or Redundant Provisions	Since its enactment in 2004, certain provisions of the Smoking Bylaw have been rendered inoperative or redundant as a result of subsequent amendments made to the Legislation. These sections of the Smoking Bylaw should be removed or amended, as the case may be, so as to bring them in line with the Legislation.	N/A	<p>That the Smoking Bylaw be amended as follows:</p> <p>Section 2</p> <ul style="list-style-type: none"> remove the definition of Designated Smoking Area; remove the definition of Hospital (if this amendment is completed, Hospitals will be caught under the definition of Building); remove the definition of Licensed Gaming Event; amend the definition of Private Living Accommodation to remove the reference to hotels (and the like). remove the definition Seniors Living Facility; and remove the definition of Workplace. <p>Section 3</p> <ul style="list-style-type: none"> remove the prohibition on smoking within 3 metres of a Building (the prescribed distance under the Legislation is a more strict 5 metres); and remove Hospital from the places where smoking is not prohibited. <p>Section 4, which discussed Proprietors responsibilities with respect to Designated Smoking Areas be removed.</p> <p>Section 5, which permits smoking in Seniors Living Facilities be removed.</p> <p>Section 6, which permits smoking within Workplaces be removed.</p> <p>Section 7, which permits smoking within Licensed Gaming Events be removed.</p> <p>Section 8, which permits smoking within Lounges be removed.</p>	<p>Section 10 of the Act provides that where there is a conflict between the Legislation and a provision of a municipal bylaw that regulates, restraints, or prohibits smoking, the more restrictive provision prevails. The recommended amendments will bring the Smoking Bylaw in line with the Legislation, ensure that both enactments mirror each other more closely and eliminate any redundancy between the two enactments.</p> <p>The removal the redundancies affects enforcement of such provisions insofar as offending parties will be dealt with under Legislation rather than the Smoking Bylaw. Currently, the City's enforcement officers all have the requisite appointment to enforce the Legislation.</p>