

TOWN OF HIGH RIVER
IN THE PROVINCE OF ALBERTA
BYLAW 4545/2018 – SMOKING BYLAW

A BYLAW OF THE TOWN OF HIGH RIVER TO CONTROL AND REGULATE ALL FORMS OF SMOKING OR VAPOURIZING.

WHEREAS the *Municipal Government Act, RSA 2000*, provides that a Council may pass a bylaw for purposes respecting the safety, health and welfare of people and the protection of people and property;

AND WHEREAS the *Tobacco and Smoking Reduction Act, RSA 2005*, provides that a Council may create a bylaw to regulate, restrict or prohibit Smoking;

AND WHEREAS health risks associated with secondary Tobacco Smoke are well established;

AND WHEREAS the Smoke or Vapour produced by the Smoking or Vaporizing of Tobacco and other substances in Public Places and Public Spaces is a nuisance for persons in those areas;

AND WHEREAS the Council considers it expedient and desirable for the health, safety and welfare of the inhabitants to regulate Smoking and Vaporizing of Tobacco and other substances in the Town of High River;

NOW THEREFORE, the Town of High River Council, duly assembled, enacts as follows:

PART I – PURPOSE, DEFINITIONS, INTERPRETATION AND APPLICATION

Purpose

1. The purpose of this Bylaw is to regulate all forms of Smoking and Vaporizing within the Town of High River.

Short Title

2. This Bylaw may be cited as the “Smoking Bylaw”.

Definitions

3. Words used in this Bylaw have the same meaning as defined in the *Municipal Government Act*, and the *Tobacco and Smoking Reduction Act* with the following changes or additions:
 - (a) **“Building”** means anything constructed or placed on, in, over, or under land, whether permanent or temporary, into which a person could enter.
 - (b) **“Bylaw”** means Bylaw 4545/2018 also known as the Smoking Bylaw.
 - (c) **“Council”** means the governing body of the Town.
 - (d) **“Green Space”** means any park space, whether manicured or natural, which is municipally owned and is not a Play Surface or Sport Field, including the paved and unpaved pathway network, manicured and natural park spaces and community gardens.
 - (e) **“Minor”** means a person who is under 18 years of age.
 - (f) **“Operator”** includes the person responsible for the day to day operations of a Public Place or the Proprietor of a Public Place.
 - (g) **“Peace Officer”** means a Peace Officer as defined in the *Provincial Offences Procedure Act, RSA 2000*.
 - (h) **“Play Surface”** means any park space intended for play, including:
 - a. a playground, an outdoor area upon which apparatus such as swings, slides, and other children’s play equipment are placed,
 - b. outdoor skating rink designed for recreational skating or playing hockey,
 - c. skate or bike park, an outdoor area which is designed and intended specifically for the use of skateboards, in-line skates, bicycles, scooters or other similar devices,

- d. spray park, an outdoor water park designed to spray water, or
 - e. any similar play spaces.
- (i) **“Proprietor”** means a person, board, or other body, who ultimately controls, governs, or directs the activity carried on within any Public Place referred to in this Bylaw and also includes the Operator of that Public Place.
- (j) **“Public Place”** is defined in the *Tobacco and Smoking Reduction Act* as “all or any part of a Building, structure or other enclosed area to which members of the public have access as of right or by express or implied invitation, including:
- a. the common areas of a multi-unit residential facility, including patios, pools, other recreation areas, and enclosed parking garages,
 - b. a group living facility,
 - c. an outdoor bus or taxi shelter,
 - d. licensed premises,
 - e. a restaurant, and
 - f. a hotel.”
- (k) **“Public Vehicle”** means a bus, taxi, or vehicle that is used to transport members of the public for a fee.
- (l) **“Smoke”** or **“Smoking”** means holding or otherwise having control of any device or thing which creates Smoke, Vapour, emission or aerosol whether intended for inhalation or not, including (but not limited to) lit or engaged cigarettes, cigarillos, cigars, pipes, vape, electronic Smoking Devices or other similar devices.
- (m) **“Smoking Device”** means any device containing a substance and 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, Vape, bong or pipe of any kind.
- (n) **“Specified Penalty”** means an amount that can be paid by a person who is issued a violation ticket and is authorized to make a voluntary payment without a Court appearance.
- (o) **“Sport Field”** means an outdoor area which is set apart and used for general fitness or the playing of sporting activities, including:
- a. running tracks,
 - b. sport courts (for example, basketball, tennis or pickleball courts),
 - c. fitness parks where outdoor fitness equipment has been installed for public use, and
 - d. playing fields (for example, soccer flats, football fields and baseball diamonds).
- (p) **“Tobacco”** means a product composed in whole or in part of Tobacco, including Tobacco leaves and any extract of Tobacco leaves, but does not include any product for use in nicotine replacement therapy.
- (q) **“Town”** means the municipal corporation of the Town of High River.
- (r) **“Town Manager”** means the head of the municipal organization of the Town or his or her delegate.
- (s) **“Vape”, “Vaping”, “Vapour”, or “Vaporizing”** means holding or otherwise having control of a Smoking Device that is producing Vapour, emissions or aerosol from Tobacco or any other substance, regardless of whether the substance is being inhaled or exhaled.
- (t) **“Workplace”** 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. This includes private businesses, charities and organizations as well as publicly owned or operated facilities, such as recreation centres, municipal offices, museums, educational facilities and health or specialized care facilities.

Interpretation

4. References in this Bylaw to any statute, regulation, or other Bylaw, refer to the current laws at the time this Bylaw was enacted and as they are amended from time to time, including successor legislation.
5. Headings and sub-headings in this Bylaw are included for convenience only and shall not be considered in interpreting the substantive content of this Bylaw.
6. The preamble paragraphs that precede the numbered paragraphs of this Bylaw are an integral and necessary part of this Bylaw and not a mere recital.
7. Every provision of this Bylaw is independent of all provisions and it is the intention of the Council that if any provision of this Bylaw is declared invalid by a court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.
8. All schedules attached to this Bylaw form part of this Bylaw.

Application

9. A person must not Smoke:
 - a. anywhere that Smoking is already prohibited through the *Tobacco and Smoking Reduction Act*, including:
 - i. in a Public Place,
 - ii. in a Workplace,
 - iii. in a vehicle in which a Minor is present, and
 - iv. in a Public Vehicle
 - b. and:
 - i. in, on, or within 5 metres of a:
 1. Play Surface; or
 2. Sports Fieldto which the public has access as of right or by express or implied invitation;
 - ii. within 5 metres of a doorway, window, or air intake of a Public Place or Workplace.

Exception

10. This Bylaw does not apply to a Building, structure, vehicle, or portion thereof which is used as a private residence.
11. Smoking may be permitted in a Public Place as specified in Section 5 of the *Tobacco and Smoking Reduction Act*.

Offences

12. 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.

Enforcement

13. Where a Peace Officer believes that a person has contravened any provision of this Bylaw, the Peace Officer may commence proceedings against the person by issuing a violation ticket in accordance with the *Provincial Offences Procedure Act*.
14. This section shall not prevent a Peace Officer from issuing a violation ticket requiring a court appearance of the defendant pursuant to the *Provincial Offences Procedures Act* or from providing educational information instead of issuing a violation ticket.

Penalty

15. Where there is a Specified Penalty listed for an offence in Schedule "A" to this Bylaw, that amount is the Specified Penalty for the offence.

16. Where there is a minimum penalty listed for an offence in Schedule "A" to this Bylaw, that amount is the minimum penalty for the offence.

PART II - GENERAL

Effective Date

17. This Bylaw comes into effect when it is passed by the Council.

Repeals

18. Bylaw No 4057/2003, being the previous Smoking Bylaw, is hereby repealed.

READ A FIRST TIME THIS 24 DAY OF September, 2018.

J. A. M. MAYOR/DEPUTY MAYOR

J. A. M. TOWN MANAGER

READ A SECOND TIME THIS 9 DAY OF October, 2018.

J. A. M. MAYOR/DEPUTY MAYOR

J. A. M. TOWN MANAGER

READ A THIRD TIME THIS 9 DAY OF October, 2018.

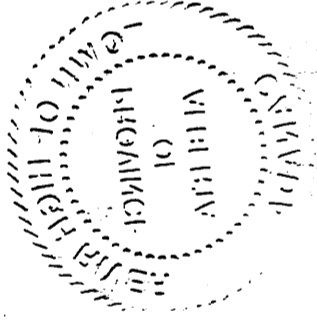
J. A. M. MAYOR/DEPUTY MAYOR

J. A. M. TOWN MANAGER

SIGNED AND PASSED THIS 24 DAY OF October, 2018.

J. A. M. MAYOR/DEPUTY MAYOR

J. A. M. TOWN MANAGER



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SCHEDULE “A” – PENALTIES

Section	Description of Offence	Minimum Penalty	Specified Penalty
9	Smoke where prohibited	\$150	\$200

In the event of a second offence within a twelve (12) month period, the minimum and specified penalty shall double. In the event of a third and subsequent offences within a twelve (12) month period, the minimum and specified penalty shall triple.