

TOWN OF BANFF
BYLAW #467
SMOKE FREE PUBLIC PLACES BYLAW

TO REGULATE SMOKING IN PUBLIC PLACES IN THE TOWN OF BANFF

WHEREAS the Province of Alberta has enacted the *Tobacco Smoking and Vaping Reduction Act*, which places restrictions on the Smoking and Vaping of Tobacco in public places;

AND WHEREAS Council deems it expedient and appropriate to regulate smoking and vaping in public places within the Town of Banff pursuant to Section 7 of the *Municipal Government Act R.S.A. 2000 c. M-26 as amended*, and has the authority to 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) businesses, business activities and persons engaged in business;

AND WHEREAS Council deems it appropriate to impose additional restrictions on smoking and vaping in order to limit the known detrimental health-related effects of second-hand smoke for residents and visitors including youth and vulnerable populations, and to reduce negative impacts from these public health hazards on the enjoyment of public places;

NOW THEREFORE the Council of the Town of Banff, in the Province of Alberta, duly assembled, enacts as follows:

1.0 CITATION

- 1.1 This Bylaw may be cited as the “Smoke Free Public Places Bylaw”.

2.0 DEFINITION

- 2.1 In this Bylaw, any reference to a named act is a reference to an Act of the Legislature of Alberta, as amended from time to time.
- 2.2 The following definitions will apply to the corresponding words if the first letter of that word is capitalized in this Bylaw:
- a) **Building** means anything constructed or placed on, in, over or under land, whether permanent or temporary, into which a person could enter;
 - b) **Common Area** means an area forming part of a private residence, building or structure that are deemed to be a public building and include but are not limited to:
 - i. Patios
 - ii. Pools
 - iii. Recreational areas
 - iv. Washrooms
 - v. Corridors

- vi. Reception Areas
- vii. Elevators
- viii. Escalators
- ix. Foyers
- x. Hallways
- xi. Stairways
- xii. Lobbies
- xiii. Laundry rooms or
- xiv. Enclosed parking garages

c) **Council** means the Mayor and Councillors duly elected in the Town of Banff pursuant to the provisions of the *Local Authorities Election Act*;

d) **Designated Public Place** means any:

- i. Municipal building and the area within 5 metres of an entrance or exit to any municipal building;
- ii. Public building and the area within 5 metres of an entrance or exit to any public building
- iii. Workplace and the area within 5 metres of an entrance or an exit to any workplace
- iv. Public sidewalk and area within 5 metres of a public sidewalk
- v. Public pathway and area within 5 metres of a public pathway
- vi. Outdoor public event
- vii. Outdoor public place
- viii. Public transportation vehicle; or
- ix. Public transportation shelter/transit stop

e) **Employee** means any person who performs work for or supplies any services to any employer;

f) **Employer** means any person who, as the owner, proprietor, manager, superintendent or overseer of an activity, business, work, trade, occupation or profession, has control over or direction of, or is directly or indirectly responsible for, the employment of a person therein;

g) **Municipal Building** means any building owned, leased, operated or occupied by the Town;

h) **Outdoor Patio** means any area outside of a building intended for the consumption of food or beverages by patrons of any business providing such food and beverages, and includes:

- i. any public premises that is not fully contained within a building; and
- ii. any outside extension of an eating or drinking establishment regardless of whether it is covered or not;

i) **Outdoor Public Event** means any outdoor event requiring a municipal permit to which the public is invited or permitted to attend, including but not limited to:

- i. markets
- ii. festivals
- iii. fairs
- iv. displays
- v. exhibitions
- vi. fundraisers
- vii. races

- viii. concerts; or
- ix. parades

j) Outdoor Public Place means any outdoor location that is open to the public from time to time, including but not limited to:

- i. outdoor patios
- ii. playgrounds
- iii. park/parkette
- iv. skate parks
- v. bicycle parks
- vi. sports courts
- vii. sports fields
- viii. baseball diamonds
- ix. ice rinks
- x. dog parks
- xi. Pedestrian Zones

k) Park means public space controlled by the Municipality and set aside as a park to be used for rest, recreation, exercise, and enjoyment and includes municipal trails

l) Peace Officer means the following persons while that person is in the exercise of or discharge of their powers or duties: a Community Peace Officer appointed under the Police Act, a member of the Royal Canadian Mounted Police, or a park warden appointed under the Parks Canada Agency Act (Canada).

m) Pedestrian Zone means an area intended for pedestrian movement that includes either a closed off road or a shared use road intended for active modes of transportation, including non motorized vehicles.

n) Person includes a corporation and the heirs, executors, administrators or other legal representative of a person.

o) Playground means an outdoor area upon which a structure or collection of structures designed and intended for recreational use by children are placed.

p) Private residence means any self-contained living premise for domestic use with a separate private entrance from the exterior of the building or from a common hall, lobby or stairway, except:

- i. When a business is operated within a private residence then a private residence is considered a workplace during all hours of operation; and
- ii. When a private residence contains two or more private residences and includes common areas, then the common areas are considered a public building;

q) Proprietor means the owner, or their agent or representative, of a designated public place and includes any person in charge thereof or anyone who controls, governs or directs the activity carried on therein, and where applicable includes:

- 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;
- ii. a hospital board appointed pursuant to the provincial *Hospitals Act*;

- iii. a board of governors established pursuant to the provincial *Post Secondary Learning Act*; or;
 - iv. a board of trustees elected pursuant to the provisions of the provincial *School Act*;
- r) **Public** means any person other than the owner, lessee, proprietor or employer of a building, structure or place;
- s) **Public Building** means any building or structure to which the public has access as of right or by invitation, express or implied, whether or not:
- i. the public has been invited;
 - ii. the proprietor has the right to exclude any particular person;
 - iii. payment, membership or the performance of some formality is required prior to access;
 - iv. the public has access to the building only at certain times, or from time to time;
 - v. a member of the public has access only if they are a member or if they are accompanied by a member;
 - vi. Subject to subsection vii and viii below, if the public has access only to a portion of the building or structure, the entire building or structure shall be deemed to be a Public Building;

Where a building includes a private residence, the following shall apply:

- vii. that portion of the building containing the private residence shall be deemed to not be a public building;
 - viii. If a building contains two or more private residences, those common areas of the building including patios, pools, other recreational areas, washrooms, corridors, reception areas, elevators, escalators, foyers, hallways, stairways, lobbies, laundry rooms and enclosed parking garages shall be deemed to be a public building;
- t) **Public Sidewalk** means that part of a Street especially adapted to the use of or ordinarily used by pedestrians, and includes that part of a Street 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.
- u) **Public Transportation Vehicle** means a vehicle which is being used by a passenger or passengers or which is being offered for hire for a passenger or passengers, including but not limited to:
- i. a school bus
 - ii. a bus;
 - iii. a taxicab
 - iv. a limousine; or
 - v. other similar vehicles
- v) **Public Transportation Vehicle Shelter** means any structure with a roof designed to protect a passenger from the elements while waiting for a public transportation vehicle
- w) **Smoke or Smoking** means to inhale, exhale, burn, or have control over a lighted cigarette, cigar, pipe, hookah pipe, or other lighted or heated device or apparatus designed to burn,

heat, or vaporize tobacco or any other substance for the purpose of inhaling or tasting its emissions;

- x) **Trail** means a mixed use pathway accessible to the public within the boundaries of the Town of Banff, whether or not it is located in an open space, and includes any bridge or structure with which it is contiguous;
- y) **Town of Banff or Town** means the Corporation of the Town of Banff and, where the context requires, the land included within the boundaries of the Town of Banff;
- z) **Town Manager** means a person appointed as Chief Administrative Officer by Council or the person designated by the Town Manager to carry out a particular duty;
- aa) **Violation Ticket** means any ticket or tag in a form approved by the Town of Banff, authorized under the Provincial Offences Procedures Act, issued for any offence in which a penalty may be paid out of court in lieu of appearing to answer a summons.

3.0 GENERAL PROVISIONS

- 3.1 No person shall smoke in a Designated Public Place, whether or not a “No Smoking” sign is posted or visible.
- 3.2 No proprietor or employer shall permit smoking in a Designated Public Place, whether or not a “No Smoking” sign is posted or visible.
- 3.3 No person shall smoke within 10 metres of any child under the age of 18 who is not under their direct custody, care or control.

4.0 VIOLATIONS AND ENFORCEMENT

- 4.1 Any Person who contravenes the provisions of this bylaw is guilty of an offence and is liable for the penalty as set out in the *Town of Banff Fees and Charges* bylaw.
- 4.2 In lieu of prosecution, the Person named in the Town of Banff Notice of Offence may elect to voluntarily make payment to the Town of the penalty amount specified in the Violation Ticket.
- 4.3 If the payment specified in the Town of Banff Notice of Offence is not paid in accordance with the terms of the ticket and in the time required by the ticket, a prosecution may be commenced for the alleged contravention of the bylaw.

5.0 EXEMPTIONS

- 5.1 The ceremonial use of tobacco is exempt from the general provisions outlined in Section 3 of this Bylaw provided the ceremonial use is performed in relation to a traditional indigenous activity or practice.

6.0 SEVERABILITY

- 6.1 If any clause in this Bylaw is found to be invalid, it shall be severed from the remainder of the Bylaw and shall not invalidate the whole Bylaw.

7.0 ENACTMENT

7.1 This Bylaw comes into force on Wednesday, February 01, 2023.

7.2 The Town Manager is authorized to consolidate Bylaw 467 – Smoke Free Public Places Bylaw.

READ A FIRST TIME this 12th day of September 2022.

READ A SECOND TIME, as amended, this 12th day of December, 2022.

READ A THIRD TIME, as amended, this 12th day of December, 2022.

SIGNED AND PASSED this 12th day of December, 2022.

On Original

Corrie DiManno
Mayor

On Original

Kelly Gibson
Town Manager