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Town of Nipawin
Bylaw No. 1049/18

**A BYLAW OF THE TOWN OF NIPAWIN IN THE PROVINCE OF
SASKATCHEWAN TO REGULATE SMOKING AND VAPING IN PUBLIC PLACES**

The Council of the Town of Nipawin in the Province of Saskatchewan, enacts as follows:

Purpose

The purpose of this Bylaw is to regulate smoking and vaping in public places.

Authority

The authority for this bylaw is section 8 of *The Municipalities Act* and section 15 of *The Tobacco Control Act*.

1. Short Title

This Bylaw may be cited as The Smoking Control Bylaw.

2. Definitions

2.1 Enclosed Public Place means all or any part of a building or other enclosed place or conveyance to which the public is customarily admitted or invited and includes:

- (i) an outdoor bus shelter;
- (ii) a public building or facility, including any part of a public building or facility that is rented out for private events;
- (iii) a vehicle that:
 - (a) is used or made available for public transit or as a commercial vehicle; and
 - (b) is used to transport members of the public; but only during any period that the vehicle is made available for hire, including any break period;
- (iv) a building, enclosed place or facility owned or leased by a private club that restricts admission to members and guests; and
- (v) the common areas of a multi-unit residential building;

2.2 Nicotine or Cannabis Delivery Device means any product which when smoked causes nicotine or cannabis to permeate the environment without restriction and includes electronic nicotine devices such as electronic cigarettes.

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- 2.3 Outdoor Public Event** means any outdoor area of Town owned, controlled or operated property including any sidewalk or street, being used for any public event where the public is invited to gather, including but not limited to:
- (i) a market, contest, festival, celebration, fair, exhibition or concert; or
 - (ii) an outdoor public event held on any Town property which is leased to a third party; or
 - (iii) any event for which a City rental or use permit is required;
- 2.4 Outdoor Public Place** means any outdoor area of Town owned, controlled or operated property that is open to the public or to which the public is customarily admitted or invited, and includes any outdoor recreational facility, utility easement, floodplain or buffer strip but does not include a street or sidewalk except during any outdoor public event, in which case a street or sidewalk being used as part of an outdoor public event is no longer excluded.
- 2.5 Outdoor Public Seating Area** means an outdoor area or structure commonly referred to as a patio, deck, terrace or rooftop, whether enclosed or not, that is open to the public or to which the public is customarily admitted or invited that is operated as part of a restaurant or licensed premises, but does not include an outdoor area or structure made available by a restaurant or licensed premises if:
- (i) there is no seating of any kind provided in the area or in the structure;
 - (ii) there is no service of any kind provided in the area or in the structure; and
 - (iii) there is no food or drink permitted in the area or in the structure at any time;
- 2.5 Outdoor Recreational Facility** means any outdoor Town owned, controlled or operated playground, athletic field, spray pad, swimming pool, skating rink, skate park, picnic table, picnic shelter, gazebo, off leash area, outdoor exercise facility, running track, open-air stadium or other sports facility, hard surface court or athletic field, golf course, multi-use pathway or park.
- 2.6 Smoke/Smoking** means to inhale, exhale, burn, carry or control a lighted cigar, cigarette, pipe, or any other equipment used to smoke any tobacco or non-tobacco substance including but not limited to cigarettes, tobacco and cannabis, and includes the use of a hookah pipe, water pipe, or bong.
- 2.7 Town** means the Town of Nipawin.
- 2.8 Town Facility** means any building (or the portion of any building), or any vehicle owned, occupied, or operated by the Town.
- 2.9 Vape/Vaping** means the use of an electronic cigarette, vapourizer, or any other heated smoking equipment used to vaporize any substance whether or not it contains nicotine.

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3. POLICY

3.1 No person shall smoke or vape:

- i. Within any enclosed public place;
- ii. At any outdoor public event;
- iii. Within any outdoor public place;
- iv. Within any outdoor public seating area;
- v. Within any outdoor recreational facility, or within ten (10) meters of the perimeter of any outdoor recreational facility; or
- vi. In any Town facility or within three (3) meters of any entryway to any Town facility, as established by section 4.1 of *The Tobacco Control Regulations*.

3.2 The owner of any area to which section 3(1)(iv) applies shall ensure that signs indicating that smoking and vaping is prohibited are displayed in a conspicuous location at all entrances to the outdoor public area and at least one sign in a conspicuous location in each outdoor seating or waiting area.

3.3 Signs required pursuant to section 3.2 must:

- i. be at least 12.7 centimetres x 12.7 centimetres in size;
- ii. include, in black or red on a white background, the international symbol designating no smoking, with the symbol having a diameter of at least 9 centimetres;
- iii. include the words: "Smoking and Vaping Prohibited" or "No Smoking or Vaping", or other similar wording, in black on a white background; and
- iv. be clearly visible.

3.4 The absence of a sign as required by section 3.2 does not relieve any person from compliance with section 3.2 of this Bylaw.

3.5 No owner of an area to which section 3.2 applies shall permit smoking or vaping within that area.

4. Exemptions

4.1 Nothing in this Bylaw prohibits a person from smoking or vaping for the purposes of traditional spiritual or cultural practices or ceremonies, if smoking or vaping is an integral part of the traditional spiritual or cultural practices or ceremonies being carried out with the consent of the owner of that place.

- 4.2 The onus to prove that the exemption in section 4 applies shall be on the person alleged to be in violation.
- 4.3 Section 3(1)(ii) does not apply to any places exempted from the application of section 11(2) of *The Tobacco Control Act*.
- 4.4 Nothing in this Bylaw prohibits a person from vaping for the sole purpose of testing the device, or sampling products used with the device, prior to purchase within a vape retail store.
- 4.5 Council may consider and approve any further exemption for an outdoor public event.

5. Offences and Penalties

- 5.1 Any person who contravenes any provisions of this Bylaw is guilty of an offence and liable to a penalty of Seventy-Five Dollars (\$75.00).
- 5.2 The Notice of Violation shall be in a form approved by the Chief Administrative Officer and may be given to such person personally or by mail. The notice shall require the person to appear at the Town Office and pay the appropriate penalty specified in lawful money of Canada.

Compliance with such notice within the period of time prescribed therein shall relieve such person from liability to prosecution in respect of such infraction.

- 5.3 For the purpose of enforcement of this Bylaw, the following persons are designated Officers:
- (a) Any member of the RCMP
 - (b) Any person employed by the Town of Nipawin in the following positions:
 - (i) Chief Administrative Officer
 - (ii) Fire Chief
 - (iii) Bylaw Enforcement Officer

6. Bylaw No. 1035/18 is hereby repealed.

7. This Bylaw shall come into full force and take effect upon final adoption by Council.



READ A THIRD TIME AND
FINALLY ADOPTED THIS

10 DAY OF September
A.D., 2018



Mayor



Chief Administrative Officer