

TOWN OF PILOT BUTTE

BYLAW No. 13 - 2018

A BYLAW TO REGULATE SMOKING IN THE TOWN OF PILOT BUTTE

THE COUNCIL OF THE TOWN OF PILOT BUTTE ENACTS AS FOLLOWS:

Purpose

1. The purpose of this bylaw is regulate smoking in public places.

Authority

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

Definitions

3. In this Bylaw:
 - a. **"Town"** means the Town of Pilot Butte as a municipal corporation as well as the geographical area, as the context requires;
 - b. **"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. a public building or facility, including any part of a public building or facility that is rented out for private events;
 - ii. a building, enclosed place or facility owned or leased by a private club that restricts admission to members and guests;
 - c. **"licensed premises"** means any of the following places:
 - i. the portion of a place for which a restaurant permit, tavern permit or special use permit has been issued pursuant *The Alcohol and Gaming Regulation Act, 1997*; and
 - ii. the portion of a tent or other portable shelter used in conjunction with an event which is open to the public or to which the public is customarily admitted or invited and for which a permit or an endorsement or extension to an existing permit has been issued pursuant to *The Alcohol and Gaming Regulation Act, 1997*;
 - d. **"outdoor public event"** means any outdoor area of Town owned, controlled or operated property including 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 Town property which is leased to a third party;
or
 - iii. any event for which a Town rental or use permit is required;

- e. **“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, municipal or environmental reserve, 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 an outdoor public event is no longer excluded;
- f. **“outdoor recreation facility”** means any Town owned, controlled or operated playground, athletic field, spray pad, skating rink, skate park, picnic table, gazebo, running track, hard or soft surface court or athletic field, pathway or park;
- g. **“outdoor 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;
- h. **“owner”** means any owner, lessee or operator;
- i. **“restaurant”** means any of the following places:
 - i. an enclosed public place for which a public eating establishment license has been issued pursuant *The Public Health Act, 1994*;
 - ii. the portion of a tent or other portable shelter used in connection with a community event that is open to the public or to which the public is customarily admitted or invited and for which a temporary food service license has been issued pursuant to *The Public Health Act, 1994*;
 - iii. a public place in which food is served or sold for the purpose of consumption at the premises and to which the public is customarily admitted or invited, commonly described as a restaurant, café, concession or similar description;
- j. **“sidewalk”** means the sidewalk constructed on or adjacent to a part of a street or that portion of a street intended primarily for use by pedestrians;
- k. **“smoke or smoking”** means to inhale, exhale burn, or carry a lighted cigarette, cigar, pipe, water pipe, electronic cigarette or other lighted smoking equipment that burns tobacco or other weed or substance;

- l. "street" means any street, alley or other road designed and intended for use by the general public for the passage of vehicles, and includes any area primarily intended to be used for the parking of vehicles and the necessary passageways on that area; and does not include a public square or plaza or any part thereof;
- m. "vape or vaping" means the use of an electronic cigarette, vapourizer, or any other heated smoking equipment used to vapourize any substance whether or not it contains nicotine.

Outdoor Public Seating Areas

4. No person shall smoke or vape in any outdoor seating area.
5. The owner of any area to which section 4 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.
6. Signs required pursuant to section 5 must:
 - a) be at least 30 centimeters by 15 centimeters in size;
 - b) include, in black or red on a white background, the international symbol to designate "No Smoking", with the symbol occupying at least 25% of the size of the sign;
 - c) include the words: "Smoking and Vaping Prohibited" or "No Smoking or Vaping", or other similar wording, in black on a white background; and
 - d) be clearly visible.
7. The absence of a sign as required by sections 5 & 6 does not relieve any person from compliance with section 4 of this Bylaw.
8. No owner of an area to which section 4 applies shall permit smoking or vaping with that area.

Outdoor Public Place

9. No person shall smoke or vape in a public place.

Public Places

10. No person shall smoke or vape within ten (10) metres outside of any doorway, window or air intake of an enclosed public place.
11. No person shall vape in any enclosed public place.

Exemptions

- 12. Nothing in the 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.

- 13. The onus to prove that the exemption in section 12 applies shall be on the person alleged to be in violation.

- 14. Council may consider and approve any further exemption for an outdoor public event.

Enforcement

15. Any person who contravenes any provision of this Bylaw is guilty of an offence punishable on summary conviction by a fine in an amount not exceeding:

- a) Two thousand dollars (\$2,000) in the case of an individual;
- b) Five thousand dollars (\$5,000) in the case of a corporation;

Or in default of payment by an individual, by imprisonment for a term of not more than thirty (30) days.

16. For the purpose of enforcement of the this Bylaw and sections 362,363 and 364 of *The Municipalities Act*, the following persons are designated officers:

- a) any member of the Royal Canadian Mounted Police;
- b) any person designated by the Town as a Bylaw Enforcement Officer or a Community Safety Officer; and
- c) any tobacco enforcement officer appointed under *The Tobacco Control Act* or any public health officer appointed under *The Public Health Act, 1994*.

17. This bylaw shall come into force on Oct 9, 2018.



[Signature]
MAYOR

[Signature]
ADMINISTRATOR

CERTIFIED TRUE COPY OF A BYLAW PASSED
BY RESOLUTION OF COUNCIL OF THE TOWN
OF PILOT BUTTE AT A MEETING HELD THE
09 DAY OF Oct, 2018 AD.

[Signature]
ADMINISTRATOR