

**VILLAGE OF LONGVIEW
BYLAW 414-18**

**A BYLAW OF THE VILLAGE OF LONGVIEW IN THE PROVINCE OF ALBERTA
TO REGULATE SMOKING AND VAPING**

WHEREAS pursuant to the provisions of the *Municipal Government Act (MGA)*, Revised Statutes of Alberta 2000, Chapter M-26 and amendments thereto, Council may pass a bylaw for municipal purposes respecting the safety, health and welfare of people and the protection of people and property, people activities and things in, on or near a designated public place or place that is open to the public, and persons engaged in business, business activities and businesses in the municipality; and

WHEREAS the smoke or vapour produced by the smoking and vaping of tobacco, cannabis and other substances in public premises is a nuisance for persons in those premises;

WHEREAS Council deems it expedient and desirable for the health, safety and welfare of the inhabitants to regulate smoking and vaping of tobacco, cannabis and other substances in the Village of Longview .

NOW THEREFORE the Council of the Village of Longview enacts as follows:

1. **SHORT TITLE** this Bylaw may be known as the "Smoking & Vaping Bylaw".
2. **DEFINITIONS** in this Bylaw, unless the context otherwise requires:
 - 2.1. **"business"** means carrying on a commercial or industrial undertaking of any kind or nature or the provision of a professional, personal or other service and includes any activity carried on by an educational institutions, municipality, or charitable organization;
 - 2.2. **"cannabis"** has the meaning given to it in the *Cannabis Act*
 - 2.3. **"Cannabis Act"** means Bill-45, an Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal code and other Acts, 1st Sess., 42nd Part, 2017;
 - 2.4. **"Chief Administrative Officer"** (CAO) means the person appointed to the position of chief administrative officer for the Village of Longview, by Council, within the meaning of the *MGA*;
 - 2.5. **"common area"** means any areas forming part of a private residence, building or structure that are deemed to be a public building and include but are not limited to:
 - a. washrooms;
 - b. corridors;
 - c. reception areas;
 - d. elevators;
 - e. escalators;
 - f. foyers;
 - g. hallways;
 - h. stairways;
 - i. lobbies;

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- j. laundry rooms; or
 - k. enclosed parking garages;
- 2.6. **“Council”** means the Mayor and Councillors duly elected pursuant to the provisions of the *Local Authorities Election Act*;
- 2.7. **“employee”** means any person who performs work for or supplies any services to any employer;
- 2.8. **“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;
- 2.9. **“electronic smoking device”** means an electronic device that 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;
- 2.10. **“outdoor pool”** means a structure that contains water which is designed and intended for recreational use, and includes a wading pool;
- 2.11. **“special event”** means any outdoor event requiring a municipal permit to which the public is invited or permitted to attend;
- 2.12. **“outdoor skating rink”** means an outdoor ice surface that is designed for recreational skating or playing hockey;
- 2.13. **“pathway”** means a multi-purpose thoroughfare accessible to the public which is improved by asphalt, concrete, brick, stone, shale, gravel or any other surface treatment whether it is located in an open space, and which may include any bridge or structure with which it is contiguous;
- 2.14. **“Peace Officer”** means any member of the Royal Canadian Mounted Police, a Peace Officer of the Village of Longview, or any other peace officer sworn in by the Province of Alberta.
- 2.15. **“person”** means a natural person or any business entity, including but not limited to:
- i. an association;
 - ii. a corporation;
 - iii. a firm;
 - iv. a partnership;
 - v. a society; or
 - vi. a legal entity.
- 2.16. **“playground”** means an outdoor area upon which apparatus such as swings, and slides are placed;
- 2.17. **“private residence”** means any self-contained living premise, or part thereof, for domestic use with a separate private entrance from the exterior of the building or from a common

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hall, lobby or stairway, except:

- a. when a business is operated within a private residence then a private residence is considered a workplace during all hours of operation; and
 - b. when a private residence contains two or more private residences and includes common areas, then the common areas are considered a public premises;
- 2.18. **“proprietor”** means the owner, or his 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:
- a. a 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;
 - b. a regional health authority board appointed pursuant to the provisions of the *Regional Health Authorities Act*, R.S.A. 2000, R-10, or a hospital board appointed pursuant to the *Hospitals Act*, R.S.A. 2000, C. H-12; and
 - c. a board of trustees elected pursuant to the provisions of the *School Act*, R.S.A. 2000, c. S-3 or a board of governors established pursuant to the *Post-Secondary Learning Act*, S.A. 2003, c. P-19.5.
- 2.19. **“public”** means any person other than the owner, lessee, proprietor or employer of a building, structure or place;
- 2.20. **“public sidewalk”** means that part of a highway or open space especially adapted to the use of or ordinarily used by pedestrians;
- 2.21. **“public premises”** means 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;
- 2.22. **“public vehicle”** means a bus, taxi or other vehicle that is used to transport members of the public for a fee;
- 2.23. **“skate park”** means an outdoor area which is designed and intended specifically for the use of skateboards, in-line skates, or other similar devices;
- 2.24. **“smoke” or “smoking”** means:
- a. the inhalation or exhaling the smoke produced by burning of tobacco or cannabis or;
 - b. the holding or otherwise having control of any device or thing containing lit tobacco or cannabis;
- 2.25. **“sports field”** means an outdoor area which is set apart and used for the playing of sporting activities;

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- 2.26. **"taxi"** means any taxi, limousine or private for hire vehicle.
- 2.27. **"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;
- 2.28. **"vape" or "vaping"** means:
- a. the inhaling or exhaling the vapour, emissions or aerosol produced by an electronic smoking device containing tobacco, cannabis or any other substance; or
 - b. having or otherwise having control of an electronic smoking device that is producing vapour, emissions or aerosol from tobacco or cannabis;
- 2.29. **"Village"** means the Village of Longview, a municipal corporation in the Province of Alberta, and where the context so requires, means the area of land within the corporate boundaries, thereof;
- 2.30. **"violation tag"** means a notice or tag in a form as approved by the CAO, issued by the Village, allowing a voluntary payment option of a fine established under this Bylaw;
- 2.31. **"violation ticket"** means a ticket issued pursuant to the *Provincial Offences Procedure Act*, and any amendments or regulations thereto;
- 2.32. **"spray park"** means a structure or collection of structures designed and intended for recreational use by children that sprays or releases water;
- 2.33. **"workplace"** means the whole or any part of a building, structure, vehicle or passenger conveyance in which a business is carried on but excludes:
- a. any part which constitutes public premises; and
 - b. private residences.

3. APPLICATION

- 3.1. No person shall smoke or vape:
- a. in a public premises, a workplace or a public vehicle;
 - b. in, on or within 10 metres of a:
 - i. childcare facility;
 - ii. community hall;
 - iii. library;
 - iv. outdoor pool;
 - v. outdoor skating rink;
 - vi. playground;
 - vii. school;

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- viii. sports field; or
- ix. spray park.

to which the public has access as of right or by express or implied invitation; or

c. within 5 metres of an entrance or exit to a public premises.

- 3.2. An employer, operator or proprietor shall not permit a person to smoke or vape on premises controlled or owned by them where doing so is prohibited by this Bylaw.
- 3.3. No person shall smoke or vape within the Village of Longview while in a motor vehicle when any minor is present in the vehicle regardless of whether the vehicle's windows or doors are open; or where it is moving or stationary, while on public property.
- 3.4. This Bylaw does not apply to a building, structure, vehicle, or portion thereof which is used as a private residence.
- 3.5. This Bylaw does not apply to a temporary residence as defined in the *Act to Control and Regulate Cannabis*, R.S.A. 2017, c-17.

4. EXEMPTION FOR SPECIAL EVENTS

- 4.1. Notwithstanding Section 3.1, a person may smoke or vape at an event for which a permit has been granted by the Village.
- 4.2. The CAO, or delegate may impose conditions on any permit pursuant to Section 4.1.
- 4.3. The CAO, or delegate may suspend or revoke any permit issued pursuant to Section 4.1 if the CAO determines that a permit holder or any person at an event for which a permit has been issued has contravened any federal or provincial legislation or any other municipal bylaw.
- 4.4. The holder of the permit issued pursuant to Section 4.1 must ensure that:
 - a. the smoking and vaping is only permitted in a designated area, separate and fenced off from the remainder of the event;
 - b. alcohol is not to be consumed in the area designated for the smoking and vaping;
 - c. the sale of tobaccos or cannabis is not permitted in the area designated for the smoking and vaping; and
 - d. there is no advertising or other materials relating to the promotion of tobacco or cannabis within the designated area.

5. MEDICAL CANNABIS

- 5.1. Notwithstanding this Bylaw, the smoking, vaping of cannabis for medicinal purposes

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pursuant to a medical document issued pursuant to the Access to Cannabis for Medical Purposes Regulations, SOR/2016-230 is subject to this Bylaw.

- 5.2. A person referred to in Section 5.1 must, on demand of a Peace Officer, produce a copy of the person's medical document. A person who cannot produce such a document upon demand by a Peace Officer is guilty of an offence under this Bylaw.

6. PENALTIES AND ENFORCEMENT

- 6.1. Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable on summary conviction to a fine of not more than Ten Thousand (\$10,000) Dollars or in default of payment one (1) year imprisonment, or to both fine and imprisonment in such amounts.

- 6.2. Where a Peace Officer believes that a person has contravened any provision of this Bylaw, he may commence proceedings by issuing a violation ticket in accordance with the *Provincial Offences Procedures Act*.

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

- 6.4. Where there is a specified penalty listing for an offence in Schedule "A" to this Bylaw, that amount is the specified penalty for the offence.

- a. Notwithstanding Sections 6.3 and 6.4 of this Bylaw, the minimum and specified penalties for a second offence against this Bylaw within a one (1) year period shall be double the amounts listed in Schedule "A" for the offence, and the minimum and specified penalties for a third or subsequent offence against this Bylaw within a one year period shall be triple the amounts listed in Schedule "A" for the offence.

- 6.5. Any Peace Officer who has reasonable and probable grounds to believe that any person has contravened any provision of this Bylaw may issue and serve:

- a. a violation tag allowing a payment of the specified penalty to the Village; or
b. a violation ticket allowing payment according to the provisions of the *Provincial Offences Procedure Act*, R.S.A. 2000, c. P-34 and amendments thereto.

- 6.6. Service of a violation tag will be sufficient if it is:

- a. personally served; or
b. served by regular mail to the person's last known mailing address.

- 6.7. If a violation ticket is issued in respect to an offence, the violation ticket may:

- a. specify the fine amount established by this Bylaw for the offence; or
b. require a person to appear in Court without the alternative of making a voluntary payment.

- 6.8. A person who commits an offence may:

- a. if a violation ticket is issued in respect of the offence; and
b. if the violation ticket specified the fine amount established by this Bylaw for the

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offence;
make a voluntary payment equal to the specified fine by delivering the violation ticket
and the specified fine to the Provincial Courthouse specified on the violation ticket.

7. SEVERABILITY

7.1. It is the intention of Council that each separate provision of this Bylaw shall be deemed independent of all other provisions herein and it is the further intention of Council that if any provision of this Bylaw is declared invalid, all other provisions hereof shall remain valid and enforceable.

8. GENERAL

8.1. It is the intention of Council that all offences created pursuant to this Bylaw be considered and construed as being "strict liability" offences.

8.2. Nothing in this Bylaw relieves a Person from complying with any provision of any federal or provincial law or regulation, other Bylaw, or any requirement of any lawful permit, order or license.

8.3. Schedule "A" shall form a part of this Bylaw and may, from time to time, be amended by Council.

8.4. No provision of this Bylaw or any action taken pursuant to any provision of this Bylaw shall restrict, limit, prevent or preclude the Village from pursuing any other remedy in relation to a premise as provided by the *Municipal Government Act*, or any other law of the Province of Alberta.

THIS BYLAW comes into full force and effect on the date of its third and final reading.

READ A FIRST TIME 16th day of October, 2018

READ A SECOND TIME 16th day of October, 2018

READ A THIRD TIME 16th day of October, 2018

Kathie Wight
MAYOR

Sue Harwood
CHIEF ADMINISTRATIVE OFFICER

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Schedule "A"

Specified Penalties

SECTION	OFFENCE	MINIMUM PENALTY	SPECIFIED PENALTY
3.1	Smoking or vaping of tobacco or cannabis in designated public place	\$150.00	\$300.00
3.2	Permit smoking or vaping of tobacco or cannabis in designated public place	\$250.00	\$500.00
3.3	Smoking or vaping of tobacco or cannabis with minor in motor vehicle in public place	\$250.00	\$500.00

