

VILLAGE OF ROSEMARY
In the Province of Alberta



Bylaw No. 465-18
Tobacco & Cannabis Bylaw

WHEREAS it is deemed desirable and equitable to enact a Bylaw to provide for the control and regulation of the consumption of smoking products;

WHEREAS it is provided in and by the *Municipal Government Act R.S.A. 2000 Chapter M-26 as amended*, Section 7(a) provides for a Council to pass a Bylaw for purposes respecting the safety, health, and welfare of people and the protection of people and property;

WHEREAS the Tobacco and Smoking Reduction Act, being Chapter T-3.8 of the Statutes of Alberta, 2005, Section 10 allows for a Municipal Bylaw that is more restrictive than the *Act*;

WHEREAS it has been determined that non-smoking is the norm for the Province of Alberta;

NOW THEREFORE the Council of the Village of Rosemary in the Province of Alberta, duly assembled, enact as follows:

1. DEFINITIONS

This Bylaw may be cited as the “Tobacco & Cannabis Bylaw” of the Village of Rosemary (hereinafter called “the Village”).

- 1.1 **“Cannabis”** means cannabis plant, fresh cannabis, dried cannabis, cannabis oil, cannabis plant seeds, edible products and beverages that contain cannabis, and any other substance defined as cannabis in the *Cannabis Act (Canada)* and its regulations, as amended from time to time.
- 1.2 **“Chief Administrative Officer (CAO)”** means the person appointed to the position of Chief Administrative Officer for the Village by Council within the meaning of the *MGA*.
- 1.3 **“Council”** means the municipal Council of the Village of Rosemary duly elected under the *Local Authorities Election Act*.
- 1.4 **“Electronic Smoking Device”** means a handheld device containing a product that is vaporized and inhaled, and includes, but is not limited to, electronic cigarettes, e-cigarettes, personal vaporizers, and any other electronic delivery system for the consumption of legal or illegal products.
- 1.5 **“Peace Officer”** means:
 - 1.5.1 a member of the Royal Canadian Mounted Police;
 - 1.5.2 a Community Peace Officer as appointed by the Solicitor General of Alberta; or
 - 1.5.3 a Bylaw Enforcement Officer as appointed by the Village to enforce Bylaws of the Village.

- 1.6 **“Public Space”** means any park, green space, playground, sports field, recreational area, campground, “highway” as defined by the *Traffic Safety Act*, or any other place or area that is owned, operated, or leased by the Village or the Crown in Right of the Province of Alberta to which the public has access as of right or by invitation, expressed or implied.
- 1.7 **“Smoking”** means to inhale, exhale, burn or otherwise have control over an ignited cigarette, cigar, pipe, hookah pipe, electronic smoking device, or another implement designated to burn or heat tobacco, cannabis or any other substance for the purpose of inhaling or tasting its smoke or emissions, regardless of the legality or illegality of said product.
- 1.8 **“Smoking Product”** means any product intended to be consumed by inhaling the combusting material, or with an electronic smoking device, regardless of the legality or illegality of said product.
- 1.9 **“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.
- 1.10 **“Violation Tag”** means a notice or tag in the form as approved by the CAO, issued by the Village, allowing a voluntary payment option of a fine established under this Bylaw.
- 1.11 **“Violation Ticket”** means a ticket issued pursuant to Part 2 of the *Provincial Offences Procedures Act*, Revised Statutes of Alberta 2000, Chapter P-34 and any amendments or regulations thereto.

2. PROHIBITION

- 2.1 In addition to any places where smoking is prohibited in accordance with the *Tobacco and Smoking Reduction Act*, smoking is prohibited in any public space.
- 2.2 In addition to any products prohibited in accordance with the *Tobacco and Smoking Reduction Act*, the use of any smoking product in any public space is prohibited.
- 2.3 In addition to any products prohibited in accordance with the *Tobacco and Smoking Reduction Act* or the *Cannabis Act (Canada)*, the use or consumption of cannabis in any public space is prohibited.
- 2.4 No person shall smoke within the Village while in a motor vehicle when any minor is present in the vehicle regardless of whether or not the vehicle’s windows or doors are open; or where it is moving or stationary, while on any public space.
- 2.5 Village of Rosemary Council may, by resolution, designate a Smoking Area for Tobacco within a Public Space as long as:
- 2.5.1 it complies with all applicable provincial legislation;
- 2.5.2 it is not placed within 10 meters of the doorway, window, or air intake of a building or shelter; and

- 2.5.3 access to any Person under the age of 18 is prohibited.
- 2.6 Nothing in this Bylaw is intended to control or regulate property that is not owned, operated, or leased by the Village or the Crown in Right of the Province of Alberta.

3. PENALTIES AND ENFORCEMENT

- 3.1 Any person who violates any portion of this Bylaw is guilty of an offense and is liable upon summary conviction to a fine of not more than Ten Thousand (\$10,000.00) Dollars.
- 3.2 Where there is a specified penalty listed for an offence in Schedule "A" to this Bylaw, that amount is the minimum specified penalty for the offence.
- 3.3 In the case of an offense that is of a continuing nature, a contravention constitutes a separate offense in respect of each day or part of a day on which it continues.
- 3.4 The levying and payment of any fine provided in this Bylaw shall not relieve a person from the necessity of paying any fees, charges or costs from which that person is liable under the provisions of this Bylaw or any other Bylaw.
- 3.5 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:
- 3.5.1 a violation tag allowing a payment of the specified penalty to the Village; or
 - 3.5.2 a violation ticket allowing payment according to the provisions of the *Provincial offences Procedure Act*, Revised Statutes of Alberta 2000, Chapter P-34 and amendments thereto.
- 3.6 Service of a violation tag will be sufficient if it is personally serviced or served by regular mail to the person's last known mailing address.
- 3.7 If a violation ticket is issued in respect to an offence, the violation ticket may specify the fine amount established by this Bylaw of the offence or require a person to appear in Court without the alternative of making a voluntary payment.
- 3.8 A person who commits an offence may:
- 3.8.1 if a violation ticket is issued in respect of the offence; and
 - 3.8.2 if the violation ticket specified the fine amount established by this Bylaw for the 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.

4. SEVERABILITY

- 4.1 It is the intention of Council that each separate provision of the Bylaw shall be deemed independent to 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.

5. EFFECTIVE DATE AND READINGS

5.1 This Bylaw shall take effect effect on the date of 3rd and final reading.

Read a first time this 24th day of September, 2018.

Read a second time this 24th day of September, 2018

READ a third and final time this 24th day of September, 2018

VILLAGE OF ROSEMARY

MAYOR – William Marshall

CHIEF ADMINISTRATIVE OFFICER – Sharon Zacharias

Schedule "A" Attached To
Bylaw No. 465-18
Penalties

Offence	Section	Penalty 1st Offence	Penalty 2nd/Subsequent Offence
Smoking in Public Space	2.1	\$250.00	\$500.00
Use of Smoking Product in Public Space	2.2	\$250.00	\$500.00
Use or Consumption of Cannabis in Public Space	2.3	\$250.00	\$500.00
Smoking with a minor in a Vehicle in Public Space	2.4	\$250.00	\$500.00
Smoking Tobacco in a designated Smoking Area less than 10m of a doorway, window, or air intake	2.5.2	\$250.00	\$500.00
Smoking Tobacco in a designated Smoking Area with persons under the age of 18 present	2.5.3	\$500.00	\$750.00