

**SMOKING BYLAW NO. 2003/18/P
OF THE
TOWN OF DRAYTON VALLEY**

Bylaw No 2003/18/P of the Town of Drayton Valley, in the Province of Alberta, to regulate smoking within the Town of Drayton Valley.

Whereas continued exposure to environmental tobacco smoke in public places and workplaces is an unacceptable health risk; and

Whereas it is desirable to promote the health and well being of persons, especially children, in the Municipality; and

Whereas it is the intent of Council to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke in an enclosed public area; and

Whereas Part II-s-7 (a & b) of the Municipal Government Act (R.S.A. 2000 M-26 *as amended*) authorizes the Council of a local Municipality to pass a Bylaw regulating the smoking of tobacco in public places or workplaces and designating public places or workplaces in which smoking tobacco or holding lighted tobacco is prohibited;

This Bylaw shall be known as the “Smoking Bylaw”.

The Council of the Town of Drayton Valley hereby enacts as follows:

PART 1 Definitions

1. **Public place** means the whole or part of an indoor area whether enclosed, covered by a roof or not, which has access as of right, express or implied for the public.
2. **“enclosed”** means a public place closed in by a roof or ceiling and walls (including glass) with an appropriate opening or openings for ingress or egress, which openings are equipped with doors which are kept closed except when actually in use for ingress or egress;
3. **“outdoor patio”** means an area located within a public place that is used in conjunction with a restaurant or take-out eating establishment, where unenclosed seating accommodation is provided or where meals or refreshments are consumed by the public;
4. **“minor”** shall mean a person under the age of eighteen (18) and be consistent with the definition for “minor” as contained within the *Gaming and Liquor Act* of the Province of Alberta;
5. **“smoke or smoking”** includes the carrying of a lighted cigar or cigarette, pipe or any other lighted smoking equipment;

6. **“workplace”** means a building or part of a building in which one or more employees work, including employees’ eating and lounge areas, includes a public transit vehicle (including a taxi cab or livery cab).
7. **“town”** means the Town of Drayton Valley;
8. **“Municipal Manager”** means the Chief Administrative Officer of the Town or his delegate;
9. **“Bylaw Enforcement Officer”** means a Bylaw Enforcement Officer appointed by the Municipal Manager to do any act or perform any duties under this bylaw and includes a member of the Royal Canadian Mounted Police and, when authorized, a Special Constable;
10. **“Violation Tag”** means a ticket or similar document issued by the Municipality pursuant to the Municipal Government Act, R.S.A. 2000, c. M-26, as amended and as referred to in Part V below;
11. **“Violation Ticket”** means a ticket issued pursuant to Part II of the Provincial Offences Procedure Act, R.S.A. 2000 c. P-34, as amended and regulations thereunder, and as referred to in Part VI below;
12. **“Employee”** includes a person who:
 - (i) performs any work for or supplies any services to any Employer; or
 - (ii) receives any instructions or training in the activity, business, work, trade, occupation or profession of the Employer;
13. **“Employer”** includes any person who as the owner, proprietor, manager, superintendent or overseer of any activity, business, work, trade, occupation or profession, has control over or direction or, or is directly or indirectly responsible for the employment of a person therein;
14. **“Proprietor”** means the owner, or his agent or representative of a Designated Public Place referred to in this bylaw, and includes any person in charge thereof or anyone who controls, governs or directs the activity carried on therein.

PART II Workplaces

15. Where a workplace is also a public place, the provisions of this Bylaw respecting public places shall prevail.
16. Every employer shall;
 - a. prohibit smoking in the workplace,
 - b. conspicuously post no smoking signs on the premises;

- c. conspicuously post signs at every entrance to the workplace indicating that smoking is prohibited in the workplace.

PART III Public Places

- 17. No person shall smoke in public places as defined in PART I, unless access to that Public Place is restricted to 18 years of age and over.
- 18. This Bylaw does not override any existing Provincial and Federal Legislation .

PART IV Penalties

- 19. Any person who contravenes any provision of this bylaw is guilty of an offence and is liable to a penalty as set out in Schedule "A" herein.
- 20. Notwithstanding Section 14 of this bylaw, any person who commits a second or subsequent offence under this bylaw within one (1) year of committing the first offence may be liable to a fine of not less than nor more than the sum as set out in Section "A" of this bylaw.
- 21. Under no circumstances shall any person contravening any provision of this bylaw be subject to the penalty of imprisonment.

PART V Violation Tags

- 22. A Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Tag to any person, who the Bylaw Officer has reasonable and probable grounds to believe has contravened any provision of this bylaw.
- 23. A violation tag may be issued to such person:
 - (a) either personally;
 - (b) by mailing a copy to such person at his last known mailing address, or
 - (c) if upon a corporation, by serving the violation tag by mailing a copy by registered mail, or serving a person who is the agent, representative, or a person in charge of the Public Place.
- 24. The violation tag shall be in a form approved by the Municipal Manager and shall state:
 - (a) the name of the person;
 - (b) the offence;
 - (c) the municipal or legal description of the land on or near where the offence took place;

- (d) the appropriate penalty for the offence as specified in Schedule “A” of this bylaw;
 - (e) that the penalty shall be paid within 30 days of the issuance of the Violation Tag; and,
 - (f) any other information as may be required by the Municipal Manager or by the provisions of the Municipal Government Act or the Provincial Offences Procedures Act.
25. Where a contravention of this bylaw is of a continuing nature, further Violation Tags may be issued by the Bylaw Enforcement Officer, provided, however, that no more than one Violation Tag shall be issued for each day that the contravention continues.
26. Where a Violation Tag is issued pursuant to Section 17 of this bylaw, the person to whom the Violation Tag is issued may, in lieu of being prosecuted for the offence, pay to the Municipal Treasurer the penalty specified on the Violation Tag.
27. Nothing in this bylaw shall prevent a Bylaw Enforcement Officer from immediately issuing a Violation Ticket.

PART VI Violation Ticket

28. In those cases where a Violation Tag has been issued and if the penalty specified on a Violation Tag has not been paid within the prescribed time, then a Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to Part II of the Provincial Offences Procedure Act, R.S.a. 2000, c.P-34 as amended.
29. Notwithstanding Part V of this bylaw, a Bylaw Enforcement Officer is hereby authorized and empowered to immediately issue a Violation Ticket pursuant to Part Part II of the Provincial Offences Procedure Act, R.S.a. 2000, c.P-34 as Amended, to any person who the bylaw officer has reasonable grounds to believe has contravened any provision of this bylaw.

PART VII Severability

30. If any section or sections of this bylaw or parts thereof are found in any court of law to be illegal or beyond the power of Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this bylaw shall be deemed to be separate and independent therefrom and to be enacted as such.

PART VIII Enforcement

- 31. For the enforcement of this bylaw, a Bylaw Enforcement Officer, upon producing proper identification, may, at all reasonable hours, enter any Designated Public Place and may make examinations, investigations and inquiries.
- 32. No Bylaw Enforcement Officer may enter a Private Residence without the consent of the occupant or without first obtaining and producing a warrant.

PART IX General

- 33. Without restricting any other power, duty or function granted by this bylaw, the Municipal Manager may:
 - (a) carry out whatever inspections are reasonably required to determine compliance with this bylaw; and
 - (b) delegate any powers, duties or functions under this bylaw to an employee of the Town.

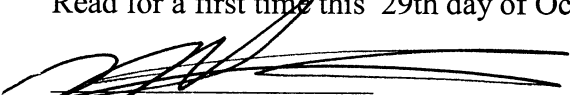
PART X Proof of Exception

- 34. A person, who alleges that a workplace, legislative, licensed gaming event or bar is not subject to the prohibition in this Bylaw has the burden of proving the exception applies, on a balance of probabilities.

PART XI Enactment

This Bylaw comes into force and effect July 1, 2004.

Read for a first time this 29th day of October, 2003




Mayor



Municipal Manager

Read for a second time this 19th day of November, 2003



Mayor

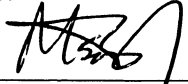


Municipal Manager

Read for a third and final time this 7th day of January, 2004



Mayor



Municipal Manager

**BYLAW 2003/18/P
SCHEDULE "A"**

PENALTIES

<u>Offence</u>	<u>Penalties</u>
<u>First Offences – Penalties for Violation Tickets</u>	
Person smoking in Public Place	\$ 200.00
Proprietor or employer permitting smoking in a Work Place	\$ 200.00
Proprietor/employer's failure to ensure proper signs	\$ 200.00
Any other offence	\$ 200.00
 <u>Second or Subsequent Offences Within One (1) Year of Committing First Offence – Penalties for Violation Tickets</u>	
All Offences	\$ 500.00
 <u>First, Second or Subsequent Offences – Penalties for Violation Tags</u>	
All Offences	\$ 200.00