

City of Lacombe
Bylaw 461

A Bylaw of the City of Lacombe, in the Province of Alberta (hereinafter referred to as “the Municipality”), to regulate the consumption and use of cannabis and tobacco in public places.

WHEREAS, pursuant to the Municipal Government Act, R.S.A. 2000, c M-26, Section 7, a municipality has the authority to pass bylaws respecting:

- a) The safety, health and welfare of people and the protection of people and property;
- b) People, activities and things in, on or near a public place or place that is open to the public;
- c) Businesses, business activities and persons engaged in business;
- d) The enforcement of bylaws made under the Municipal Government Act or any other enactment.

WHEREAS the House of Commons has given three readings to the Cannabis Act (Bill C-45, an Act respecting Cannabis and to amend the Controlled Drugs and Substances Act, The Criminal Code and other Acts, 1st Sess, 42nd Parl, 2017) which will permit persons to possess and use Cannabis if purchased from an authorized person;

WHEREAS it is anticipated that the Cannabis Act will come into force in October, 2018 or shortly thereafter;

WHEREAS the Province of Alberta has enacted an Act to Control and Regulate Cannabis SA 2017 c21 which is anticipated to be proclaimed in force in October 2018 and will amend the Gaming and Liquor Act and will place restrictions on the smoking and vaping of Cannabis in public places;

WHEREAS the Province of Alberta has enacted a Tobacco and Smoking Reduction Act S. A. 2005, c T-3.8 which provides for a municipality’s power to make a bylaw to regulate, restrict, or prohibit smoking;

WHEREAS it has been determined that second hand smoke (exhaled smoke and the smoke from idling cigarettes, cigars, pipes, hookahs and electronic cigarettes) is a health hazard and causes discomfort for many persons; and

WHEREAS Council deems it expedient and appropriate to limit the effects of second hand smoke for residents of and visitors to the City of Lacombe;

WHEREAS Council deems it appropriate to limit the exposure of minors to smoke in public areas;

NOW THEREFORE, the Council of the City of Lacombe, duly assembled hereby enacts as follows:

1. BYLAW TITLE

- 1.1. The Bylaw shall be referred to as the “Cannabis and Tobacco Consumption Bylaw”.

2. DEFINITIONS

In this Bylaw:

- 2.1. “Building” means a fully or substantially enclosed structure constructed such that it may accommodate human occupation. A bus shelter shall be considered a Building for the purposes of this Bylaw;
- 2.2. “Bylaw” means a City Bylaw;
- 2.3. “CAO” means the City’s Chief Administrative Officer;
- 2.4. “Cannabis” has the meaning given to that term in the federal Cannabis Act (Bill C-45, An Act respecting Cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts, 1st Sess, 42nd Parl, 2017);
- 2.5. “City” means the municipal corporation of the City of Lacombe or, where the context so requires, the area contained within the boundaries of the City;
- 2.6. “Council” means the City’s municipal Council;
- 2.7. “Designated Public Place” means any place to which the public has access, regardless of whether or not access is granted by means of membership or admission fees, and includes:
 - (i) Public Buildings and the areas within ten (10) meters or if located downtown as per Schedule C, areas located five (5) meters of an entrance or exit to a Public Building;
 - (ii) Public Transportation Vehicles and all areas within ten (10) meters of a Public Transportation shelter;
 - (iii) Workplaces and those areas within ten (10) meters or if located downtown as per Schedule C, the areas located five (5) meter of an entrance or exit to a Workplace, other than locations designated by the Proprietor or the City as a Designated Smoking Area;
 - (iv) City Parks, Playgrounds, Trails, Sports Parks or Fields and the areas within ten (10) meters of an entrance or exit to the venue;
 - (v) Public or private school property, childcare facilities, Burman University;
 - (vi) City owned facilities, Licensed Food & Beverage Establishments, Patios, Private Clubs, Restaurants, Sidewalk Cafes; and
 - (vii) Seasonal Skating Rink, Skate Park, Bike Park, Spray Park, Splash Park, Outdoor Theatre Space, Grandstands, public markets, Trails, municipal facilities, or on the grounds of an Outdoor Public Event.
- 2.8. “Designated Smoking Areas” means an area that has been designated as a Smoking area and that is outside of the ten (10) meter range of the Designated Public Places, or if located downtown as per Schedule C, the five (5) meter range of Designated Public Places;
- 2.9. “Electronic Smoking Device” means an electronic device used to deliver nicotine, Cannabis or other substances to the person inhaling from the device and includes, but is not limited to, an electronic cigarette, vaporizer cigarette, personal vaporizer, cigar, cigarillo, or pipe;
- 2.10. “Grandstands” means an open air seating facility primarily but not exclusively limited to use in watching sporting events;

- 2.11. “Licensed Food & Beverage Establishments” means an establishment for the sale of alcohol for consumption on the premises and where a license has been issued by Alberta Gaming, Liquor and Cannabis Commission and may include the preparation and sale of food;
- 2.12. “Minor” means a person under the age of 18 years;
- 2.13. “Municipal Ticket” means a ticket issued on behalf of the City, in a form prescribed by the Chief Administrative Officer, that allows for voluntary payment to the City of a fine amount established by this Bylaw within a set time period, in lieu of prosecution for the offence;
- 2.14. “Outdoor Public Event” means an outdoor market, festival, concert or sporting occasion;
- 2.15. “Outdoor Theatre Space” means an area with identified seating areas within a Park, that is designated for performances;
- 2.16. “Patios” means an outdoor area for use by a Drinking Establishment or Restaurant where food and beverages are served to patrons. If no seating or service is provided, and if no food and beverages are permitted in the outdoor area, the outdoor area shall not be deemed to be a patio;
- 2.17. “Peace Officer” means a Bylaw Enforcement Officer appointed pursuant to the Peace Officer Act, S.A. 2006, c. P-3.5, or a member of the Lacombe Police Service;
- 2.18. “Playground” means any kind of structure or collection of structures which is designed and intended for recreational uses such as climbing, swinging, hanging, crawling, jumping, stepping whether over, across, under, through and includes the distinct material in which the structure or apparatus is mounted;
- 2.19. “Private Clubs” means an enclosed place or premises that operates primarily for the benefit and pleasure of the members of a non-profit corporation, service club or branch of the Royal Canadian Legion;
- 2.20. “Private Residence” means any Building or portion thereof that is used by a person as a permanent private dwelling and ; this includes the yard and accessory Buildings. In a Building containing multiple residential units, common use areas such as parkades, washrooms, waiting rooms, meeting rooms, storage areas, fitness facilities, kitchens, eating areas, cloak rooms and hallways shall not be considered parts of a Private Residence;
- 2.21. “Proprietor” means the owner of, or any person controlling, governing or directing activities within, a Building referred to in this Bylaw;
- 2.22. “Public Buildings” means an enclosed or substantially enclosed Building or structure to which the public is customarily admitted or invited;
- 2.23. “Public Park” means public space controlled by the City and set aside as a park to be used for rest, recreation, exercise, pleasure, amusement and enjoyment, and includes:
- (i) Playgrounds
 - (ii) Cemeteries
 - (iii) Natural Areas
 - (iv) Sports Fields
 - (v) Pathways
 - (vi) Park Roadways
 - (vii) but does not include golf courses

- 2.24. "Public Place" includes any place to which the public has access as of right or by invitation, expressly or implied;
- 2.25. "Public Transportation Vehicles" means any vehicle used for the transportation of people upon the payment of a fee and includes a bus, taxi cab, limousine or other similar vehicle;
- 2.26. "Restaurants" means a business where food and beverages are prepared and served for consumption on-site by the public and may include a take-out component as an accessory development;
- 2.27. "Seasonal Skating Rink" means an outdoor ice surface on which members of the public are permitted to skate, whether on payment of any fee or not, and includes public lakes, ponds, and outdoor rinks with boards or other ice support infrastructure;
- 2.28. "Sidewalk" means a hard surfaced path that is not a trail or laneway for pedestrians at the side of a street or road.
- 2.29. "Sidewalk Cafes" means an outdoor area, located on a public sidewalk, to which the public is invited or permitted access and which abuts and is operated as part of a Restaurant;
- 2.30. "Skate Park" means an area designated and intended specifically for the use of skateboards, in-line skates, or similar devices;
- 2.31. "Smoke" or "Smoking" means to inhale, to exhale, burn or have control of a lighted cigarette, lighted cigar, lighted pipe, a hookah, an electronic cigarette or vape, or other lighted smoking implement designed to burn or heat Tobacco, Cannabis, or any other weed or substance for the purpose of inhaling or tasting of its smoke or emissions;
- 2.32. "Sports Field" means land within The City and controlled by the City which is set apart and used for the playing of a sport including baseball diamonds, field hockey or cricket pitches, and rugby, soccer or football fields;
- 2.33. "Spray Park" means a structure or collection of structures that spray or release water which is designed and intended for recreation use;
- 2.34. "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;
- 2.35. "Trails" means multi-purpose thoroughfare controlled by the City and set aside for use by pedestrians, cyclists and persons using wheeled conveyances, which is improved by asphalt, concrete, mulch, brick or any other surface, whether or not it is located in a Park, and includes any bridge or structure with which it is contiguous. For this bylaw, Sidewalks and laneways are excluded in this definition of Trails;
- 2.36. "Vape" or "Vaping" means
- a. inhaling or exhaling the vapour, emissions or aerosol produced by an Electronic Smoking Device or similar device containing Tobacco, Cannabis or any other substance, or
 - b. holding or otherwise having control of an Electronic Smoking Device that is producing vapour, emissions or aerosol from Tobacco, Cannabis or any other substance.
- 2.37. "Violation Ticket" means a ticket issues pursuant to the Provincial Offences Procedure Act, RSA 2000, c.P-34, as amended, and any regulations thereunder;

- 2.38. "Workplace" means all or any part of a Building, structure or other enclosed area in which employees perform the duties of their employment, whether or not members of the public have access to the Building, structure or area as of right or by express or implied invitation, and includes reception areas, corridors, lobbies, stairwells, elevators, escalators, eating areas, washrooms, lounges, storage areas, laundry rooms, enclosed parking garages and work vehicles;

3. CANNABIS SMOKING

- 3.1. No person shall Smoke, Vape, or consume Cannabis in any Public Place.
- 3.2. Notwithstanding anything contained in this Bylaw, the prohibitions set out in Section 3.1 do not apply to a person in a Private Residence.
- 3.3. No Minor shall Smoke, Vape or Consume Cannabis within the City via any means.

4. MEDICAL CANNABIS

- 4.1. A person who is entitled to possess Cannabis pursuant to a medical document issued pursuant to the Access to Cannabis for Medical Purposes Regulations SOR/2016-230 is not subject to Section 3 of this Bylaw.
- 4.2. A person referred to in subsection 4.1 is still subject to Section 5 "TOBACCO SMOKING" of this Bylaw.
- 4.3. A person referred to in subsection 4.1 must, on request by a Peace Officer, produce a copy of the person's medical document as issued pursuant to the Access to Cannabis for Medical Purposes Regulations SOR/2016-230.

5. TOBACCO SMOKING:

- 5.1. No person shall Smoke Tobacco on or in a Designated Public Place.
- 5.2. No Minor shall Smoke, vape, or consume Tobacco within the City. This includes Electronic Smoking Devices, cigars, cigarettes, pipes or Vaping.
- 5.3. No person shall use Electronic Smoking Devices or engage in Smoking or Vaping activity in or on Designated Public Place.
- 5.4. Smoking Tobacco on a City Sidewalk is allowed beyond the ten (10) meter distance or if located downtown as per Schedule C, the five (5) metre of any Designated Public Place beyond ten (10) meters or if located downtown as per Schedule C, the five (5) metre of any door, window or air intake of any Public Building.
- 5.5. Designated Smoking Areas, if allowed by the Proprietor, will be clearly marked outside of the ten(10) meter zone, or if located downtown as per Schedule C, the five (5) meter zone of a Designated Public Place.
- 5.6. The prohibitions set out in Section 5, with the exception of subsection 5.2, do not apply to a Private Residence.
- 5.7. No Proprietor of a Designated Public Place where Smoking is prohibited by section 5 shall permit Smoking in that place.
- 5.8. A Proprietor who takes the following steps, or ensures that the following steps are taken, shall be deemed to have complied with the obligation described in section 5.7:

- (i) Advise a person who is smoking that Smoking is not allowed and request the person to put out any lit smoke, cigarette, cigar, pipe, Electronic Smoking Device, or vaping device;
 - (ii) Ask any person who is smoking, and who refuses to comply with such a request, to leave the premises;
 - (iii) Refuse to provide any further service to a person who is Smoking until they comply with this Bylaw;
 - (iv) Immediately report to a Peace Officer a person who refuses to put out lit Tobacco and who refuses to leave the premises when requested to do so;
- 5.9. No Proprietor of a place where Smoking is prohibited by this Bylaw shall permit ashtrays to be placed, or, to remain in that place.

6. SIGNAGE

- 6.1. Every Proprietor of a place or premises mentioned in Section 5 shall ensure that signs prohibiting Smoking are posted in proximity to all of the public entrances to such place. Such signs shall be in general conformity with the form specified in Schedule 'B' which is attached to and forms part of this Bylaw.
- 6.2. Where there is no public entrance to a place or premises mentioned in Section 5, signs prohibiting Smoking shall be posted by the Proprietor in a prominent location on or near the premises in such a manner as to be readily visible to any member of the public using such place or premises.
- 6.3. Notwithstanding that the graphic symbol in Schedule 'B' is a cigarette; it shall be deemed to include reference to a lit cigar, cigarette, pipe, vaping device, Electronic Smoking Device or other lit Smoking equipment.
- 6.4. No person shall remove, alter, conceal, deface or destroy any sign posted pursuant to this Bylaw.

7. ENFORCEMENT

- 7.1. Where an Peace Officer has reasonable grounds to believe that a person has contravened any provisions of this Bylaw, the Peace Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to that person pursuant to the Provincial Offences Procedure Act, RSA 2000, c P-34.
- 7.2. Any person who breaches any section of this Bylaw is guilty of an offence and liable to:
- (i) payment of the penalty specified in Schedule 'A' hereto; or
 - (ii) for any offence for which there is no penalty specified, to a penalty of not less than \$200.00 and not more than \$10,000.00,
- and in default of payment of any penalty, to imprisonment for up to 6 months.
- 7.3. Section 7.1 shall not prevent a Peace Officer from issuing a Violation Ticket requiring a court appearance of the defendant pursuant to the Provincial Offences Procedures Act or from laying an information instead of issuing a Violation Ticket.
- 7.4. A person who commits an offence may:
- (i) if a Violation Ticket issued in respect of the offence; and

- (ii) if the Violation Ticket specifies the fine amount established by this Bylaw for the offence, make a voluntary payment equal to the fine specified by delivering the Violation Ticket and the specified fine to the Provincial Court specified on the Violation Ticket.

7.5. In addition to issuing a Violation Ticket to a Minor under section 3.3 or section 5.2 of this Bylaw, a Peace Officer may seize any Cannabis and Tobacco products and paraphernalia for Smoking or Vaping from the Minor.

8. SCHEDULES

8.1. Schedule 'A' and Schedule 'B' as attached from part of this Bylaw.

9. EFFECTIVE DATE

9.1. This Bylaw shall come into force and effect when it receives third reading and is duly signed.

10. SEVERABILITY

- 10.1. If any portion of this Bylaw is declared invalid by a court of competent jurisdiction, then the invalid portion must be severed and the remainder of the Bylaw is deemed valid.
- 10.2. The Tobacco and Smoking Reduction Act S.O.A. 2005, c T-3.8, will enforce any violations related to Smoking outside of this Bylaw.

INTRODUCED AND GIVEN FIRST READING THIS 9th day of July, 2018.

GIVEN SECOND READING THIS 9th day of July, 2018.

GIVEN THIRD AND FINAL READING THIS 24th day of September, 2018.

Original Signed
Mayor

Original Signed
Chief Administrative Officer

City of Lacombe Bylaw 461
Schedule A

PENALTIES

CANNABIS SMOKING

1 st Offence:	\$250
2 nd Offence:	\$500
3 rd and Subsequent Offences:	\$1,000

TOBACCO SMOKING

1 st Offence:	\$250
2 nd Offence:	\$500
3 rd and Subsequent Offences:	\$1,000

UNCERTIFIED COPY

City of Lacombe Bylaw 461
Schedule B

SIGNS



NO SMOKING
THE CITY OF LACOMBE
BYLAW 461

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City of Lacombe Bylaw 461
Schedule C



Legend

- 5m Buffer Buildings
- Building Footprints
- Parcel



Disclaimer:
This map is for reference use only. Data provided are derived from multiple sources with varying levels of accuracy. The City of Lacombe GIS Division disclaims all responsibility for the accuracy or completeness of the data shown herein.
Coordinate System: NAD 1983 STN 11K Date: 2018-05-11