

# **TOWN OF WAINWRIGHT BYLAW 2021 - 11**

## **A BYLAW OF THE TOWN OF WAINWRIGHT RESPECTING SMOKE-FREE PUBLIC PLACES AND WORKPLACES**

**WHEREAS**, health officials have determined that second-hand tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars, pipes and e-cigarettes) is a health hazard or discomfort for many persons;

**AND WHEREAS** the Council of the Town of Wainwright deems it expedient and appropriate to limit the effects of second-hand smoke and smoking for residents and visitors to the municipality and to protect youth and other vulnerable populations from these public health hazards;

**AND WHEREAS**, the Council of the Town of Wainwright deems it expedient and appropriate to regulate the smoking of tobacco products in public places within the Town of Wainwright; and, in accordance with the *Municipal Government Act R.S.A. 2000 c. M-26 as amended*, 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, and
- c) Businesses, business activities and persons engaged in business;

**AND WHEREAS**, the Council of the Town of Wainwright wishes to enact a bylaw to restrict the use of electronic cigarettes in the same manner as smoking;

**NOW THEREFORE**, the Council of the Town of Wainwright, in the Province of Alberta, duly assembled, hereby enacts as follows:

### **SECTION 1 – SHORT TITLE**

- 1.1 This bylaw may be cited as the “Smoking Bylaw”.

### **SECTION 2 – DEFINITIONS**

In this Bylaw:

- 2.1 “Ashtray” means a receptacle for tobacco ashes and for cigar and cigarette butts;
- 2.2 “Building” includes anything constructed or placed on, in, over or under land, whether permanent or temporary, into which a person could enter;
- 2.3 “CAO” means the Chief Administrative Officer for the Town of Wainwright or his or her delegate;
- 2.4 “Council” means the Council of the Town of Wainwright;
- 2.5 “Designated Public Place” means a place prescribed in Section 3;
- 2.6 “Educational Institution” means a public or private school or post secondary institution;
- 2.7 “Electronic Cigarette” means a handheld device containing a liquid that is vaporized and inhaled, and includes but is not limited to electronic cigarettes, e-cigarettes, vaporizer cigarettes, personal vaporizers and electronic nicotine/non-nicotine delivery systems;

- 2.8 "Electronic Cigarette Retailer" means a fully enclosed premises where the sole function of the premises is the sale of electronic cigarette products, and for which a valid Town business license has been issued pursuant to Bylaw 2011-12, or any Bylaws thereafter;
- 2.9 "Employee" includes a person who:
- a) Performs any work for or supplies any services to any employer, or
  - b) Receives any instructions or training in the activity, business, work, trade, occupation or profession of the employer;
- 2.10 "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 of, or is directly or indirectly responsible for the employment of a person therein;
- 2.11 "Enclosed Walkway" means any pedway, bridge, hallway, connecting stairway, or similar structure that is physically enclosed;
- 2.12 "Grandstand" means an open-air seating facility primarily but not exclusively limited to use in watching sporting events;
- 2.13 "Hotel" includes hotels, motels and inns;
- 2.14 "Municipal 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 Section 8 below;
- 2.15 "Outdoor Patio" means an area outside of a building intended for the consumption of food or beverages by patrons of a business providing such food or beverages and includes:
- a) A public premises where food or beverages are served that is not fully contained within an enclosed building, and
  - b) An outside extension of an eating or drinking establishment regardless of whether it is covered;
- 2.16 "Outdoor Public Event" means an outdoor market, festival, fair, display, exhibition, fundraiser, race, concert or parade requiring a municipal permit, and to which the public is invited or permitted to attend;
- 2.17 "Outdoor Public Place" means an outdoor
- a) Beach;
  - b) Grandstand;
  - c) Park;
  - d) Playground;
  - e) Pool;
  - f) Seasonal Multipurpose Pad;
  - g) Skate or Bicycle Park;
  - h) Sports Field;
  - i) Trail;
  - j) Water Playground;
- Open to the public from time to time;
- 2.18 "Park" means public space controlled by the Municipality and set aside as a park to be used for rest, recreation, exercise, pleasure, amusement and enjoyment, and includes municipal trails;
- 2.19 "Playground" means a structure or collection of structures designed and intended for recreational use by children and, where mounted



in a distinct material such as sand, rubber, gravel, or wood chips, includes the material in which those structures are mounted;

- 2.20 "Peace Officer" means a member of the Royal Canadian Mounted Police or Community Peace Officer appointed under the Peace Officer Act, S.A. 2006, chapter p-3.5. and amendments thereto, or a Bylaw Enforcement Officer appointed for or by the Town;
- 2.21 "Person" includes an individual, proprietorship, corporation or society;
- 2.22 "Private Residence" means a self-contained living premise for domestic use of one or more persons and is provided with a separate private entrance from the exterior of a building or from a common hall, lobby or stairway;
- a) only that part of a private residence in which the business is operated is a workplace for the purposes of this bylaw; and
  - b) a private residence is a workplace if a home business is operated from the residence and the owner of the business has employees who work in the residence but do not live in the residence;
- 2.23 "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, where applicable includes:
- a) The 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 Authority Act, and
  - c) The board of governors, board of trustees, or president of an educational institution;
- 2.24 "Public" means any person other than the owner, lessee, proprietor or employer of a particular building or place;
- 2.25 "Public Building" means any enclosed building or structure as defined in this bylaw to which the public can and does have access by right or by invitation, whether or not:
- a) All classes of the public are invited,
  - b) The proprietor has the right to exclude any particular person,
  - c) Payment, membership or the performance of some formality is required prior to access,
  - d) The public has access to the building only at certain times, or from time to time, or
  - e) A member of the public has access only if they are a member or if they are accompanied by a member.

If the public has access only to a portion of the building or structure, the entire building or structure shall be deemed to be a public building except that where a building includes a private residence, the following shall apply:

- a) That portion of the building containing the private residence shall be deemed to not be a public building, and
- b) If a building contains two or more private residences, those common areas of the building including washrooms, corridors, reception areas, elevators, escalators, foyers, hallways, stairways, lobbies, laundry rooms, and enclosed parking garages shall be deemed to be a public building;



- 2.26 "Public Transportation Vehicle" means a school bus, a bus owned or operated by or on behalf of the Town of Wainwright, a taxicab, limousine or other similar vehicle which is being used by a passenger or passengers for hire or which is being offered for hire;
- 2.27 "Public Transportation Vehicle Shelter" means any structure with a roof designed to protect a passenger from the elements while waiting for a school bus, a bus owned or operated by or on behalf of the Town of Wainwright, a taxicab, limousine or other similar vehicles;
- 2.28 "Seasonal Multi-Purpose Pad" means a surface on which members of the public are permitted to skate or engage in other physical activities, whether on payment of a fee or not, and includes, public lakes, ponds, outdoor rinks with boards or other ice support infrastructure and outdoor basketball courts;
- 2.29 "Sign" means a sign as prescribed in Section 5;
- 2.30 "Smoke" or "Smoking" means to inhale, exhale, burn, or have control over a lighted cigarette, cigar, pipe, hookah pipe, or other lighted or heated device or apparatus designed to burn or heat tobacco, cannabis, shisha or any other weed or substance for the purpose of inhaling or tasting its emissions;
- 2.31 "Sports Field" means an area designed and intended for use in a specific sporting event, including spectator seating areas, and includes a soccer pitch, football field, rugby pitch, baseball diamond, tennis court and similar areas;
- 2.32 "Town" means the Town of Wainwright;
- 2.33 "Town Building" means any of the buildings owned, leased, operated or occupied by the Town of Wainwright;
- 2.34 "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 Section 8;
- 2.35 "Water Playground" means a structure or collection of structures that spray or release water which is designed and intended for recreational use;
- 2.36 "Workplace" means any enclosed area of a building or structure in which an employee performs 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 hotel rooms, washrooms, corridors, lounges, eating areas, outdoor patios, reception areas, elevators, escalators, foyers, hallways, stairways, enclosed walkways, amenity areas, lobbies, laundry rooms, enclosed parking garages and work vehicles. Without limiting the generality of the foregoing:
- a) A place is a workplace whether or not the employee is employed by the proprietor of the premises at which the employee works;
  - b) Subject to clause c) below, if an employee works in any portion of a building for any period of time, the entire building shall be deemed to be a workplace;
  - c) A private residence shall not be deemed to be a workplace but that part of a private residence in which a home business is operated is a workplace if the home business is operated from the residence and the owner of the business has employees who work in the residence but do not live in the residence.



- d) A workplace includes any group living facility and all of its adjoining units, rooms and apartments;

2.37 "Window" means a window that can be opened to admit air;

2.38 "Work Vehicle" means a vehicle owned or leased by an employer and used by employees during the course of employment;

### **SECTION 3 – GENERAL PROVISIONS**

3.1 The following are Designated Public Places for the purposes of this bylaw:

- a) Public Buildings and those areas within 5m of an entrance or exit to a Public Building;
- b) Town Buildings and those areas within 5m of an entrance or exit to a Town Building;
- c) Public Transportation Vehicles and Public Transportation Vehicle Shelters;
- d) Outdoor Public Events;
- e) Outdoor Public Places;
- f) Workplaces and those areas within 5m of an entrance or exit to a Workplace.

3.2 Electronic Cigarette Retailers are not considered public places for the purpose of this bylaw.

3.3 No person shall smoke in a Designated Public Place, whether or not a "No Smoking" sign is posted or visible.

3.4 No proprietor or employer shall permit smoking in a Designated Public Place, whether or not a "No Smoking" sign is posted or visible.

3.5 Nothing in this Bylaw relieves a person from complying with any federal or provincial law or regulation, other bylaw or any requirements of any lawful permit, order, or license.

3.6 Where this Bylaw refers to another Act, regulation or agency, it includes reference to any Act, regulation or agency that may be substituted therefore.

### **SECTION 4 – ASHTRAYS**

4.1 The proprietor and employer of every Designated Public Place shall ensure that no ashtrays are placed or allowed to remain in any Designated Public Place.

4.2 The proprietor and employer of every Designated Public Place shall, if employees or members of the public from time to time gather to smoke at a location outside the Designated Public Place, ensure that ashtrays are placed more than 5m from the entrance or exit of the Designated Public Place.

### **SECTION 5 – SIGNS**

5.1 The CAO may, at their discretion, require the Proprietor of a Designated Public Building or Outdoor Patio, or the Lessee of the land upon which a Designated Public Building or Outdoor Patio is located, or the Registered Owner of a Public Transportation Vehicle, to install in such Designated Public Building or Outdoor Patio or Public Transportation Vehicle signage, provided that such signage is in accordance with Federal signage regulation, indicating smoking is prohibited and of a size, character, quality and number satisfactory to the Municipal Manager.



- 5.2 No person shall remove, alter, conceal, deface or destroy any sign posted pursuant to Section 5.1 of this bylaw without permission in writing from the CAO.

## **SECTION 6 – SEVERABILITY**

- 6.1 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.

## **SECTION 7 – VIOLATION TICKETS**

- 7.1 A Peace Officer is hereby authorized and empowered to immediately issue a violation ticket to any person who the Peace Officer has reasonable grounds to believe has contravened any provision of this bylaw.
- 7.2 Violation tickets are to be issued in accordance with Section 8 of this Bylaw.
- 7.3 A municipal tag may be issued to such person:
- a) Either personally;
  - b) By mailing a copy to such person at his last known post office address, or
  - c) If upon a corporation, by serving the municipal tag by mailing a copy by registered mail, or serving a person who is the agent, representative, or a person in charge of the Designated Public Place.
- 7.4 Any corporation, which fails or neglects to perform the duties or requirements imposed upon it under the provisions of this bylaw is guilty of an offence and liable on summary conviction to a fine as specified in Schedule A of this Bylaw but not exceeding ten thousand dollars (\$10,000.00).
- 7.5 Any individual, other than a corporation, who contravenes any of the provisions or requirements of this bylaw is guilty of an offence and liable on summary conviction to a fine specified in Schedule A of this Bylaw but not exceeding one thousand dollars (\$1,000.00).
- 7.6 In the case of an offence that is of a continuing nature, a contravention shall constitute a separate offence in respect of each day, or part of a day, on which that offence continues.

## **SECTION 8 – ENFORCEMENT**

- 8.1 Service of an offence ticket shall be sufficient if it is:
- a) Personally served;
  - b) Mailed by registered mail to the address of the registered owner of the property or person who has contravened the Bylaw;
  - c) If upon a corporation, by serving the municipal tag by mailing a copy by registered mail, or serving a person who is the agent, representative, or a person in charge of the Designated Public Place.

The municipal tag shall be in a form approved by the Municipal Manager and shall state:

- a) The name and address of the offender if ascertainable;
- b) The offence;
- c) The location, date and time of the offence;

- d) If the penalty specified in the offence ticket is not paid within thirty (30) days of issuance, then a Peace Officer is hereby authorized to issue a violation ticket regarding the offence in accordance with the provisions of the Provincial Offences Procedure Act, Chapter 21, S.A. 1988 and amendments thereto.

8.2 Where a municipal tag is issued pursuant to Section 7 of this bylaw, the person to whom the municipal tag is issued may, in lieu of being prosecuted for the offence, pay to the Municipality the penalty specified within the time period indicated on the municipal tag.

8.3 Nothing in this bylaw shall prevent a Peace Officer from immediately issuing a violation ticket.

## SECTION 9 – REPEAL

9.1 This bylaw shall repeal Bylaw 2017 – 06.

## SECTION 10 – EFFECTIVE DATE

10.1 This bylaw shall come into full force and effect upon passing of the third reading.

READ a First Time in Council this 7<sup>th</sup> day of September, 2021.

  
Mayor

  
CAO

READ a Second Time in Council this 21<sup>ST</sup> day of September 2021.

  
Mayor

  
CAO

READ a Third Time in Council this 21<sup>ST</sup> day of September 2021:

  
Mayor

  
CAO



**SCHEDULE A**

<b>SECTION</b>	<b>PROVISION</b>	<b>PENALTY</b>	
3.3	No person shall smoke in a designated public place, whether or not a "No Smoking" sign is posted or visible	1 <sup>st</sup> Offence	\$150.00
		2 <sup>nd</sup> Offence	\$300.00
		3 <sup>rd</sup> Offence	\$600.00
3.4	No proprietor or employer shall permit smoking in a designated public place, whether or not a "No Smoking" sign is posted or visible	1 <sup>st</sup> Offence	\$150.00
		2 <sup>nd</sup> Offence	\$300.00
		3 <sup>rd</sup> Offence	\$600.00
4.2	The proprietor and employer of every Designated Public Place shall, if employees or members of the public from time to time gather to smoke at a location outside the Designated Public Place, ensure that ashtrays are placed more than 5m from the entrance or exit of the Designated Public Place.	1 <sup>st</sup> Offence	\$150.00
		2 <sup>nd</sup> Offence	\$300.00
		3 <sup>rd</sup> Offence	\$600.00
5.1	The CAO may, at their discretion, require the Proprietor of a Designated Public Building or Outdoor Patio, or the Lessee of the land upon which a Designated Public Building or Outdoor Patio is located, or the Registered Owner of a Public Transportation Vehicle, to install in such Designated Public Building or Outdoor Patio or Public Transportation Vehicle signage, provided that such signage is in accordance with Federal signage regulation, indicating smoking is prohibited and of a size, character, quality and number satisfactory to the Municipal Manager.	1 <sup>st</sup> Offence	\$150.00
		2 <sup>nd</sup> Offence	\$300.00
		3 <sup>rd</sup> Offence	\$600.00
5.2	No person shall remove, alter, conceal, deface or destroy any sign posted pursuant to Section 5.1 of this bylaw without permission in writing from the CAO	1 <sup>st</sup> Offence	\$150.00
		2 <sup>nd</sup> Offence	\$300.00
		3 <sup>rd</sup> Offence	\$600.00