

SUMMER VILLAGE OF BIRCHCLIFF CANNABIS CONSUMPTION BYLAW BY-LAW 214-18

BEING A BYLAW OF THE SUMMER VILLAGE OF BIRCHCLIFF RESPECTING THE CONSUMPTION OF CANNABIS WITHIN THE SUMMER VILLAGE.

WHEREAS, pursuant to *Act to Control and Regulate Cannabis*, S.A. 2017, Chapter 21 and amendments thereto, a Municipal Council may pass Bylaws regarding the public consumption on Cannabis.

AND WHEREAS the Municipal Government Act, R.S.A. 2000 Chapter M-26 as amended, authorized Council 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 WHEREAS Council deems it expedient and appropriate to regulate the consumption of Cannabis within the Summer Village of Birchcliff to protect people from being negatively impacted by the smoke, vapour, emissions or aerosols from Cannabis and to prevent behaviors, activities and conduct that may have a negative impact on the enjoyment of property in public places within the Summer Village of Birchcliff.

NOW THEREFORE, the Council of the Summer Village of Birchcliff, in the Province of Alberta, duly assembled, enacts as follows:

TITLE

1. This Bylaw may be cited as “The Cannabis Consumption Bylaw”.

DEFINITIONS

- 2 In this Bylaw, the following terms have the following meanings:
 - (a) **“Bylaw Enforcement Officer”** means a Person appointed pursuant to the Summer Village of Birchcliff Bylaw Number 129-99 to enforce the provisions of this Bylaw and other Bylaws of the Summer Village;
 - (b) **“Cannabis”** has the same meaning as in the *Act to Control and Regulate Cannabis*, S.A. 2017, Chapter 21 and any amendments thereto, and included leaves stems, buds, oil and other parts or derivatives of the Cannabis plant;
 - (c) **“Chief Administrative Officer”** means the Chief Administrative Officer of the Summer Village of Birchcliff within the meaning of the *Municipal Government Act*, or his/her designate;
 - (d) **“Consumption”** or **“Consume”** means the smoking, vaping, or any other method of inhaling or exhaling Cannabis and includes the holding or otherwise having control of any device or thing containing lit or heated Cannabis or which is producing vapour, emissions or aerosol from Cannabis;
 - (e) **“Council”** means the Municipal Council of the Summer Village of Birchcliff;

- (f) **“Municipal Government Act”** means the *Municipal Government Act*, R.S.A. 2000, Chapter M-26 as amended together with all regulations passed thereunder;
- (g) **“Peace Officer”** means an individual appointed pursuant to the Peace Officer Act, S.A. 2006, Chapter P-36, and any amendments thereto;
- (h) **“Person”** includes an individual, proprietorship, corporation, company, partnership or society;
- (i) **“Private Residence”** means a self-contained living premise for domestic use of one or more individuals and where access is provided from a separate private entrance from the exterior of a building or from a common hall, lobby or stairway and includes a parked recreational vehicle being utilized as a temporary residence, balconies, yards, gardens, decks, patios, private sidewalks, private driveways or other outside area whether or not covered by a roof;
- (j) **“Public Place”** means any property, whether publicly or privately owned. To which members of the public have access as of right or by express or implied invitation, whether on payment of any fee or not;
- (k) **“Specified Penalty”** has the same meaning as *Provincial Offences Procedure Act*, R.S.A. 2000 Chapter P-34, as amended and regulations thereunder;
- (l) **“Violation Ticket”** means a ticket issued pursuant to Part II of the Provincial Offences Procedure Act, R.S.A. 2000 Chapter P-34, as amended and regulations thereunder, and as referred to in the Violation Ticket Section of this Bylaw; and
- (m) **“Summer Village”** means the Summer Village of Birchcliff.

GENERAL PROVISIONS

- 2. Consumption of Cannabis is prohibited within the Summer Village unless consumed at a Private Residence.
- 3. No Person may consume Cannabis in contravention of this Bylaw.
- 4. No Person who owns, occupies, leases, rents or controls a premises may permit or allow the consumption of Cannabis on or in that premises in contravention of this Bylaw.

OFFENCES

- 5. Any Person who contravenes any provision of this Bylaw is guilty of an offence.
- 6. No person shall smoke or consume Cannabis in any Public Place.
- 7. No person shall smoke or consume Cannabis on private property without the consent or permission of the owner of the private property.
- 8. No person shall smoke or consume cannabis on private property which has been clearly marked by a sign, containing the words “Private Property: No smoking or consuming Cannabis,” or words or symbols or the combination of words and symbols, to the effect, erected by the owner, tenant, or their agent, at the entrance to, or within the boundaries of, such private property, unless such person has

obtained the permission of the property owner, tenant, occupant, or person in charge of the said private property.

9. No person shall smoke or consume Cannabis on any property owned by the Summer Village, including but not limited to, parks, playgrounds, streets, boulevards, sidewalks, green spaces, recreation facilities and other property regularly used by the general public.
10. In the case of an offence that is of a continuing nature, an offence shall constitute a separate offence in respect of each day, or part of a day, on which that contravention of the Bylaw continues.
11. It is the intention of Council that all offences created by this Bylaw be interpreted to be strict liability offences.

MEDICAL CANNABIS

12. A person who is entitled to possess Cannabis pursuant to a Medical Document is not subject to this Bylaw.
13. A person referred to in Section 12 must, on demand of a Peace Officer, produce a copy of the person's Medical Document.

PENALTIES

14. Any individual who contravenes a provision of this Bylaw is guilty of an offence and liable on summary conviction to a fine not exceeding One Thousand (\$1,000.00) dollars and for a second or subsequent offence, to a fine of not more than Five Thousand (\$5,000.00) dollars.
15. Any person who breaches any section of this Bylaw is guilty of an offence and liable to:
 - a) payment of the penalty specified in Schedule "A" hereto; or
 - b) 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.

ENFORCEMENT

16. An Officer is a "designated Officer" for the purposes of Sections 542 – 545 of the *Municipal Government Act*.
17. For the purpose of enforcing this Bylaw, an Officer, upon producing proper identification, may at all reasonable hours, enter any place where consumption of Cannabis is prohibited and carry out inspections, remedies, enforcement or other actions in accordance with Section 542 of the *Municipal Government Act*.

MUNICIPAL TAGS

18. An Officer is hereby authorized to issue a Municipal Tag to any Person who the Officer has reasonable and probable ground to believe has contravened any provision of this Bylaw.

19. A Municipal Tag may be issued to such Person:

- a) either Personally;
- b) by mailing a copy of the Municipal Tag to such Person at his/her last known postal address,

and such service shall be deemed to be good and sufficient for the purpose of this Bylaw.

20. Where a Municipal Tag has been mailed, it shall be deemed to have been received fourteen (14) days after mailing.

21. The Municipal Tag shall be in form approved by the CAO and shall state:

- a) the name of the Person;
- b) the nature of the offence including the relevant Bylaw provision(s);
- 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 Penalties Section of this Bylaw;
- e) that the penalty shall be paid within thirty (30) days of the issuance of the Municipal Tag;
- f) any other information as may be required by the CAO.

22. Where a Municipal Tag is issued pursuant to Municipal Tags Section of this Bylaw, the Person to whom the Municipal Tag is issued may, in lieu of being prosecuted for the offence, pay the penalty specified on the Municipal Tag to the Summer Village within the period indicated on the Municipal Tag.

23. Nothing in the Bylaw shall prevent an Officer from immediately issuing a Violation Ticket.

VIOLATION TICKET

24. In those cases where a Municipal Tag has been issued and if the penalty specified on a Municipal Tag has not been paid within the prescribed time, an Officer is hereby authorized to issue a Violation Ticket.

25. Notwithstanding the above, an Officer is hereby authorized to immediately issue a Violation Ticket to any Person who the Officer has reasonable grounds to believe has contravened any provision of this Bylaw.

MISCELLANEOUS

26. If any section or sections of this Bylaw or parts thereto are found in any court of law to be illegal or beyond the power of Council to enact, such section or sections or parts 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.

27. Nothing in this Bylaw relieves a Person from complying with any Federal, Provincial or Municipal legislation, Bylaw, regulation, permit, order, license, approval or other direction.
28. The expenses and costs of any enforcement action or measures taken by the Summer Village are an amount owing to the Summer Village by the Person in contravention of this Bylaw.
29. Where any contravention of this Bylaw occurs on property for which the Person who committed the contravention is the registered owner, any unpaid enforcement expense's or costs may be added to the tax roll of that property in accordance with the *Municipal Government Act*.
30. This Bylaw comes into force upon Third Reading being given.

READ a first time this 21st day of February, 2019.

READ a second time this 21st day of February, 2019.

READ a third and final time this 21st day of February, 2019.

Roger Dufresne, Mayor

Phyllis Forsyth, C.A.O.

Schedule “A” – Specified Penalties

Offence Description	Section	Penalty Offences	Penalty Amount
Smoke or consume Cannabis in Public Place	6	a) First Offence b) Second Offence – within one year c) Third & subsequent offences – within one year	a) \$250 b) \$500 c) \$1,000
Smoke or consume Cannabis on private property without consent or permission of property owner	7	a) First Offence b) Second Offence – within one year c) Third & subsequent offences – within one year	a) \$250 b) \$500 c) \$1,000
Smoke or consume Cannabis on private property marked by a sign prohibiting smoking or consuming Cannabis	8	a) First Offence b) Second Offence – within one year c) Third & subsequent offences – within one year	a) \$250 b) \$500 c) \$1,000
Smoke or consume Cannabis on any property owned by the Summer Village	9	a) First Offence b) Second Offence – within one year c) Third & subsequent offences – within one year	a) \$250 b) \$500 c) \$1,000