

TOWN OF ONOWAY
BYLAW NO 750-18

**A BYLAW FOR THE TOWN OF ONOWAY, IN THE PROVINCE OF ALBERTA
RESTRICTING THE CONSUMPTION OF CANNABIS WITHIN THE
CORPORATE BOUNDARIES OF THE TOWN OF ONOWAY**

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 Act*, 1st Sess, 42nd Parl, 2017) which will permit persons to possess cannabis if purchased from an authorized person;

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

AND WHEREAS, the Province of Alberta has enacted *An Act to Control and Regulate Cannabis*, S.A 2017, c.21 which will place restrictions on the **smoking or vaping of cannabis in public places**;

AND WHEREAS, Section 7, Part 2, Division 1 of the *Municipal Government Act, RSA 2000 Chapter M-26* authorizes a Council to pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and **property**; and respecting people activities and things in, on or near a **public place** or place that is open to the public;

AND WHEREAS, it is necessary to establish a bylaw to impose additional restrictions on the **smoking, vaping** and other forms of consumption of **cannabis in public places** to regulate a negative impact on the enjoyment of **public places**;

NOW THEREFORE, the Municipal Council of the Town of Onoway, in the Province of Alberta enacts as follows:

This Bylaw shall be cited as the “Cannabis Consumption”.

PART I

1.0 DEFINITIONS

1.1 In this Bylaw, except where otherwise defined or specified:

1.1.1 “CANNABIS” has the meaning given to it in the *Cannabis Act*.

1.1.2 “CANNABIS ACT” means Bill C-45, *An Act respecting cannabis and the amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts*, 1st Sess, 42nd Parl, 2017;

1.1.3 “CANNABIS PLANT” means a plant that belongs to the genus Cannabis.

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- 1.1.4 **“CAO”** means the Chief Administrative Officer for the Town of Onoway or his/her delegate.
- 1.1.5 **“MUNICIPAL TAG”** means a ticket alleging an offence is issued pursuant to the authority of a bylaw of the Municipality.
- 1.1.6 **“NOTICE”** means any notice issued pursuant to this Bylaw to remedy a condition that is not in compliance with any provision of this Bylaw or any applicable bylaw within the Municipality of Onoway including the Land Use Bylaw.
- 1.1.7 **“OCCUPY OR OCCUPIES”** means residing on or to be in apparent possession or control of **premises or property**.
- 1.1.8 **“OFFICER”** means Bylaw Enforcement Officers, **Peace Officers**, members of the Royal Canadian Mounted Police (R.C.M.P), as the context may require.
- 1.1.9 **“OWN”** or **“OWNER”** means:
- (i) In the case of land, to be registered under the Land Titles Act as the owner of the fee simple estate in a parcel of land; or
 - (ii) In the case of personal property, to be in lawful possession or have the right to exercise control over it or to be the registered owner of it.
- 1.1.10 **“PEACE OFFICER”** means a member of the Royal Canadian Mounted Police or a Community Peace Officer appointed pursuant to the provisions the *Police Act of Alberta R.S.A. 2000, Chapter P-17*, as amended or repealed and replaced from time to time.
- 1.1.11 **“PERSON”** means any individual, firm, partnership, association, corporation, trustee, executor, administrator or other legal representative.
- 1.1.12 **“PREMISES”** means any external surfaces of all structures and the whole or part of any parcel of real property, including property immediately adjacent to any structure and includes all forms of vegetation and including any property or structures owned or leased by the Municipality.
- 1.1.13 **“PROPERTY”** means:
- i. in the case of land, a parcel of land including any structures; or,
 - ii. in other cases, personal property.

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1.1.14 **“PUBLIC PLACE”** means:

- i. any place within the Municipality to which the public may have either expressed or implied access; and
- ii. any motor vehicle located in a public place or in any place open to public view.

1.1.15 **“SMOKE OR SMOKING”** means:

- i. inhaling or exhaling the smoke produced by burning or heating *cannabis*; or
- ii. holding or otherwise having control of any device or thing containing lit or heated *cannabis*.

1.1.16 **“STRUCTURE”** means any structure, including but not limited to a building, shed, accessory building or other similar types of construction.

1.1.17 **“TOWN”** means Town of Onoway.

1.1.18 **“VAPE OR VAPING ”** means:

- i. Inhaling or exhaling the vapour, emissions or aerosol produced by an electronic smoking device or similar device containing *cannabis*; or
- ii. Holding or otherwise having control of an electronic device that is producing vapour, emissions or aerosol from *cannabis*.

1.1.19 **“VIOLATION TAG”** means a tag or similar document issued by the Municipality pursuant to the *Municipal Government Act RSA 2000* as amended.

1.1.20 **“VIOLATION TICKET”** means the same as in the *Provincial Offences Procedure Act, R.S.A 2000, Chapter P-34* as amended or repealed and replaced from time to time.

PART II

2.0 PROHIBITION

2.1 A person must not **smoke, attempt to smoke, vape** or consume what appears to be **cannabis in any public place within town limits.**

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- 2.2 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 this bylaw.
- 2.2.1 A **person** referred to in Section 2.2 must, on demand of an **officer**, produce a copy of the **person's** medical document.
- 2.3 A **person** who **owns** or **occupies** a **property** must ensure the **cannabis plants** are contained on the **property** away from public access in a secure **structure** or in a secure fence.
- 2.4 No **person** may transport what appears to be **cannabis** in a vehicle unless it is contained in closed packaging that is out of the reach of the driver and other occupants of the vehicle.

PART III

3.0 POWERS OF PEACE OFFICERS

3.1 Property Inspections

- 3.1.1 The Medical Officer of Health, a **Peace Officer**, **CAO** or designate are hereby authorized in accordance with Section 542 of the *Municipal Government Act* to enter into any **premises** or **property** after giving reasonable **notice** to the **owner** of the **premises** or **property** to be inspected; and to inspect for conditions that may contravene or fail to comply with the provisions of this Bylaw.
- 3.1.2 A **Peace Officer**, when investigating an alleged contravention of this Bylaw may also issue a **violation ticket**.

3.2 Penalties and Enforcement

- 3.2.1 Any **person** who contravenes any sections and provisions of this Bylaw is guilty of an offence and is liable for the penalty set out in Schedule A of this Bylaw.
- 3.2.2 When a **person** is alleged to have contravened any provision of this Bylaw, a **Peace Officer** may issue a **violation ticket** pursuant to the *Provincial Offences Procedure Act, R.S.A 2000 c. P-24*.
- 3.2.3 A **person** who is guilty of an offence is liable to a fine in an amount not less than that established by Schedule A of this Bylaw, and not exceeding \$10,000 and to imprisonment for not more than six months for non-payment of a fine.

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- 3.2.4 If a **municipal tag** is issued in respect of an offence the **municipal tag** must specify the fine amount established by Schedule A of this Bylaw for the offence.
- 3.2.5 A **person** who commits an offence may, if a **municipal tag** is issued in respect of the offence, pay the fine amount established by this Bylaw for the offence and if the amount is paid on or before the required date, the **person** will not be prosecuted for the offence.
- 3.2.6 If a **violation ticket** is issued in respect of an offence, the **violation ticket** may:
- i. specify the fine amount established by this Bylaw for the offence; or
 - ii. require a **person** to appear in court without the alternative of making a voluntary payment.
- 3.2.7 A **person** who commits an offence may:
- i. if a **violation ticket** is 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 specified fine.
- 3.2.8 In the case of an offence that is of a continuing nature, a contravention constitutes a separate offence in respect of each day, or part of a day, on which the offence continues and any **person** guilty of such an offence is liable to a fine in an amount not less than that established by this Bylaw for each such day.
- 3.2.9 A **person** shall not obstruct or hinder any **person** in the exercise of performance of the **person's** powers pursuant to this Bylaw.

3.3 Inspection Records

- 3.3.1 A copy of a record of the Municipality, certified as a true copy of the original, shall be admitted in evidence as prima facie proof of the facts stated in the record without proof of the appointment or signature of the person signing it.
- 3.3.2 Nothing in this Bylaw relieves a **person** from complying with any provision of any federal, provincial or municipal law or regulation or any requirement of any lawful permit, order or license.

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3.4 Enactment

- 3.4.1 If any section or part of this Bylaw are found in any court of law to be illegal or beyond the power of Council to enact, such section or parts shall be deemed to be severable and all other section or parts of this Bylaw shall be deemed to be separate and independent there from and to be enacted as such.

That this Bylaw shall come into full force and effect upon the date of the final reading thereof and signed in accordance with the *Municipal Government Act* and the coming into effect of both:

Bill C-45 *Cannabis Act* of the House of Commons of Canada; and


Bill 26 of the Alberta Legislature.

READ a first time the 4th day of October, 2018.

READ a second time the 4th day of October, 2018.

READ a third time and finally passed the 4th day of October, 2018.


Judy Tracy, Mayor


Wendy Wildman
Chief Administrative Officer

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Schedule A – Penalties

Section	Specified Penalty
2.1	\$287.00
2.2.1	\$287.00
2.3	\$287.00
2.4	\$287.00
3.2.9	\$500.00