



Town of Bentley

By-law No. 204/2018

Being a By-law of the Town of Bentley, in the Province of Alberta, to restrict the consumption of cannabis in public places.

Whereas, the Federal Government has passed Bill C-45, an act respecting Cannabis and amended the Controlled Drugs and Substances Act, the Criminal Code and other Act, which will permit persons to possess cannabis if purchased from an authorized person;

And Whereas, Province of Alberta has enacted an act to control and regulate cannabis, S.A. 2017, c 21, which will place restrictions on the smoking and consuming of cannabis in public places;

And Whereas, pursuant to section 7 of the Municipal Government Act, R.S.A. 2000, c M-26 and amendments thereto, Council may pass by-laws respecting the safety, health and welfare of people and the protection of people and property, activities and things in, on or near a public place or place that is open to the public, and the enforcement of by-laws made under the Municipal Government Act or any other enactment;

And Whereas, Council deems it necessary to impose additional restrictions on the smoking and all forms of consumption of cannabis in public places to prevent behaviours and conduct that may have a negative impact on the enjoyment of public places;

Now Therefore, Council of the Town of Bentley, duly assembled, enacts as follows:

Title

1. This By-law may be cited as the *“Cannabis Consumption By-law”*

Definitions

2. In this section, including this section, unless the context otherwise requires:
 - a. “Cannabis” means the meaning given to it in the Cannabis Act;
 - b. “Cannabis Act” means Bill C-45, an act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts, of the 1st Session of the 42nd Parliament, 2017;


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- c. "Chief Administrative Officer" means the Chief Administrative Officer of the Town of Bentley, appointed by Council or the Chief Administrative Officer's authorized designate;
- d. "Council" means the Municipal Council of the Town of Bentley;
- e. "Medical Document" means a medical document provided by a care practitioner to a person who is under their professional treatment pursuant to Section 8 of the Access to Cannabis for Medical Purposes Regulations;
- f. "Municipal Tag" means a form of ticket prescribed by the Town for a by-law offence providing a person with the opportunity to pay an amount to the Town in lieu of prosecution;
- g. "Peace Officers" for the purposes of this by-law means;
 - I. A member of the Royal Canadian Mounted Police;
 - II. A By-law Officer as appointed by the Town to enforce by-laws of the Town
 - III. A Community Peace Officer as appointed by the Solicitor General of Alberta and authorized by the Town.
- h. "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;
- i. "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 Cannabis for the purpose of inhaling or tasting of its smoke or emissions;
- j. "Town" means the Corporation of the Town of Bentley or the area contained within the corporate boundaries of the Town, as the context requires;
- k. "Violation Ticket" has the same meaning as in the Provincial Offences Procedure Act, R.S.A. 2000, Chapter M-34, as amended or repealed or replaced, from time to time;

General Interpretation

- 3. All schedules attached to this By-law form part of this By-law;


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4. Headings or sub-headings are inserted for ease of reference and guidance purposes only and do not form part of this by-law.
5. Where this by-law cites or refers to any act, regulation, code or other by-law, the citation or reference is to the act, regulation, code or other by-law as amended, whether amended before or after the commencement of this by-law and includes reference to any act, regulation, code or other by-law that may be substituted in its place.
6. Each provision of this by-law is independent of all other provisions and if any provision is declared invalid for any reason by a court of competent jurisdiction, all other provisions of this by-law remain valid and enforceable.
7. Nothing in this by-law 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.

Offences

Smoke or Consume Cannabis in Public Place

8. No person shall smoke or consume Cannabis in any public place.

Smoke or Consume Cannabis on Private Property

9. No person shall smoke or consume Cannabis on private property without the consent or permission of the owner of the private property.
10. 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 like 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.

Smoke or Consume Cannabis on Town Property

11. No person shall smoke or consume Cannabis on any property owned by the Town, including, but not limited to, parks, playgrounds, streets, boulevards, sidewalks, green spaces, recreation facilities, libraries and other property used by the general public.


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Medical Cannabis

12. A person who is entitled to possess Cannabis pursuant to a Medical Document is not subject to this by-law.
13. A person referred to in Section 13 must, on demand of a Peace Officer, produce a copy of the person's Medical Document.
14. A person referred to in Section 12 is subject to the Town of Bentley Smoke Free By-law, as amended from time to time.

Penalties and Powers of Peace Officer

15. Any person who contravenes any provision of this by-law by doing any act or thing which the person is prohibited from doing, or by failing to do any act or thing the person is required to do is guilty of an offence pursuant to the by-law.
16. Any person who breaches any section of this by-law is guilty of an offence and liable to:
 - a. Payment of the penalty specified in Schedule "A" attached 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;and in default of payment of any penalty, to imprisonment for up to six (6) months.
17. Any Peace Officer who has reasonable and probable grounds to believe that any person has contravened any provision of this by-law, may issue and serve;
 - a. a Municipal Tag allowing payment of the specified penalty to the Town, which payment will be accepted by the Town in lieu of prosecution for the offence, or
 - b. a Violation Ticket, allowing a voluntary payment of the specified penalty to the Provincial Court, or requiring a person to appear in court without the alternative of making a voluntary payment;

and the recording of the payment of a specified penalty made to the Town pursuant to a Municipal Tag or the Provincial Court of Alberta, pursuant to a Violation Ticket, shall constitute an acceptance of a guilty plea and conviction for the offence.


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18. Service of a Municipal Tag shall be sufficient if it is:
- a. personally served, or
 - b. sent and serviced by regular mail to the person's last know mailing address.
19. If a Municipal Tax is issued in respect of an offence, the Municipal Tag must set out the specified penalty amount for the contravention established by this by-law. The specified penalty amount may be reduced by the amount prescribed in Schedule "A" of this by-law. If paid to the Town of Bentley within ten (10) days of the date of service of the Municipal Tag, and payment of the reduced amount shall be accepted by the Town in full satisfaction of the Municipal Tag.
20. After the expiry of ten (10) days from the date of service of the Municipal Tag, the full specified penalty amount must be paid and may be paid to the Town of Bentley at any time before a Violation Ticket is issued.
21. If a Municipal Tag has been issued and served on a person, the ten (10) days has expired and the specified penalty amount has not been paid, a Violation Ticket may be issued to the alleged offender.
22. Nothing in this by-law shall prevent a Peace Officer from immediately issuing and serving a Violation Ticket on a person for a contravention of this by-law, even if a Municipal Tag has not been issued.
23. Nothing in this By-law shall prevent a Peace Officer from immediately laying an information instead of issuing a violation ticket.

Severability and Repeal

24. It is the intention of Council that each provision of this by-law should be considered as being separate and severable from all other provisions. Should any section or provision of this by-law be found to have been improperly enacted, then such section or provision shall be regarded as being severable from the rest of this by-law and that the by-law remaining after such severance shall remain effective and enforceable.
25. A copy of by-law of the Town, certified by the Chief Administrative Officer 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.
26. Schedule "A" may, from time to time, be amended by a resolution of Council.


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This by-law shall take effect on the final date of passing and upon signing by the Mayor and Chief Administrative Officer.

READ a first time in Council, assembled, this 13th day of November, 2018.

READ a second time in Council, assembled, this 13th day of November, 2018

READ a third time in Council, assembled, and passed this 13th day of November, 2018



Deputy Mayor Lloyd Carefoot



CAO Elizabeth Smart

By-law No. 204/2018

Schedule "A"

Offence Description	Section	Initial & Repeated Offences	Specified Penalty	Prescribed Reduction Amount (if paid in 10 days)	Early Payment Amount (if paid within 10 days)
Smoke or consume Cannabis in a Public Place	8	1st Offence	\$250.00	(\$75.00)	\$175.00
		2nd Offence	\$500.00	(\$150.00)	\$350.00
		3rd and subsequent Offences	\$1,000.00	(\$300.00)	\$700.00
Smoke or consume Cannabis on private Property without the consent of permission of the property owner	9	1st Offence	\$250.00	(\$75.00)	\$175.00
		2nd Offence	\$500.00	(\$150.00)	\$350.00
		3rd and subsequent Offences	\$1,000.00	(\$300.00)	\$700.00
Smoke or consume Cannabis on private Property marked by a sign prohibiting smoking or consuming cannabis	10	1st Offence	\$250.00	(\$75.00)	\$175.00
		2nd Offence	\$500.00	(\$150.00)	\$350.00
		3rd and subsequent Offences	\$1,000.00	(\$300.00)	\$700.00
Smoke or consume Cannabis on any property owned by the Town	11	1st Offence	\$250.00	(\$75.00)	\$175.00
		2nd Offence	\$500.00	(\$150.00)	\$350.00
		3rd and subsequent Offences	\$1,000.00	(\$300.00)	\$700.00