

**City of Chestermere
Province of Alberta**

Bylaw Number 009-15

Being a Bylaw of the City of Chestermere, in the Province of Alberta for the purpose of regulating, and controlling smoking within the City of Chestermere.

WHEREAS the Municipality deems it necessary for the health, safety, welfare, and comfort of inhabitants to pass a bylaw to regulate, and control smoking within the City of Chestermere; and

WHEREAS the Municipal Government Act R.S.A. 2000, c. M-26 and amendments thereto authorize the Municipality to pass bylaws to regulate activities on or near a public place or place that is open to the public;

NOW THEREFORE, the Municipal Council of the City of Chestermere, in the Province of Alberta, duly assembled, enact as follows:

1. TITLE

(1) This Bylaw may be cited as the City of Chestermere "Smoking Bylaw".

2. DEFINITIONS

In this Bylaw:

(a) "Anniversary Park" means the property located at 208 West Chestermere Drive, specifically Lot 84MR, Block 4, Plan 1212339;

(b) "Bike park" means an outdoor area which is designed and intended specifically for the use of bicycles, or other similar devices;

(c) "CAO" means the Chief Administrative Officer of Chestermere, Alberta appointed by Council, or his designate;

(d) "Cove Beach" means the property with a Rural Legal Land Address of NW-23-24-28 W4, Plan 0112752;

(e) "Dog park" means any Park or portion of a Park which has been designated as an "off leash area" by the CAO;

(f) "Electronic smoking device" means an electronic device that can be used to deliver nicotine or other substances to the person inhaling from the device, and includes but is not limited to an electronic cigarette, cigar, cigarillo or pipe;

(g) "John Peake Park" means the property located at 100 John Morris Way, specifically Lot 1MR, Block 50, Plan 0915288;

(h) "Municipal Government Act" means the *Municipal Government Act*, R.S.A. 2000, Chapter M-26, as amended or replaced from time to time;

(i) "Peace Officer" means a member of a Police Service, or a Peace Officer appointed pursuant to the Peace Officer Act, S.A. 2006, c. P-3.5 and the regulations thereof, as amended or replaced from time to time;

(j) "Person" means an individual or any business entity including a firm, partnership, association, corporation, company or society;

(k) "Playground" means an outdoor area, intended for recreation use by children, upon which apparatus such as swings and slides are placed;

(l) "Skate park" means an outdoor area which is designed and intended specifically for the use of skateboards, inline skates, bmx bikes, or other similar devices;

(m) "Sports area" means an outdoor area which is set apart and used for the playing of sporting activities;

(n) "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 outdoors rinks with boards or other ice support infrastructure;

(o) "Sunset Beach" means the property located at 421 East Chestermere Drive, specifically Lot 78, Block 3, Plan 9913295.

(p) "City" means the municipal corporation of the City of Chestermere, in the Province of Alberta, or the area within the City of Chestermere's corporate limits, as the context requires;

(q) "Water Spray Park" means a structure or collection of structures that spray or release water which is designed and intended for recreational use.

3. APPLICATION

(1) Nothing in this Bylaw relieves a person from complying with any provision of any federal or provincial law or regulation, other bylaw or any requirement of any lawful permit, order or licence.

(2) Any heading, sub-headings, or tables of contents in this Bylaw are included for guidance purposes and convenience only, and shall not form part of this Bylaw.

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

(4) All the schedules attached to this Bylaw shall form a part of this Bylaw.

(5) This bylaw is gender-neutral and, accordingly, any reference to one gender includes the other.

(6) A copy of a record of the City, certified by a designated 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.

(7) All offences created pursuant to this Bylaw are to be construed and considered to be strict liability offences.

4. PROHIBITIONS

(1) No person shall carry or possess a lit cigarette, cigar, pipe, or burn tobacco or Mu'assel, or use an electronic smoking device in any manner in, on or within 5 metres of:

(a) Anniversary Park;

(b) a Bike Park;

(c) Cove Beach;

(d) a Dog Park;

(e) John Peake Park;

(f) a Playground;

(g) a Skate Park;

(h) a Sports Field;

(i) a Skating Rink;

(j) Sunset Beach; or

(k) a Water Spray Park.

5. PENALTIES

(1) Every person who contravenes any of the provisions of this Bylaw by doing any act or thing which the person is prohibited from doing is guilty of an offence.

(2) Any person who is convicted of an offence pursuant to this Bylaw is liable on summary conviction to a fine not exceeding \$10,000.00.

(3) Where there is a specified penalty listed for an offence in Schedule "A" to this Bylaw, that amount is the specified penalty for the offence.

(4) Where there is a minimum penalty listed for an offence in Schedule "A" to this Bylaw, that amount is the minimum penalty for the offence.

6. VIOLATION TICKETS

(1) Where a Peace Officer believes that a person has contravened any provision of this Bylaw, he may commence proceedings by issuing a violation ticket in accordance with the Provincial Offences Procedure Act.

(2) This Section shall not prevent any officer from issuing a violation ticket requiring the court appearance of the defendant, pursuant to the provisions of the Provincial Offences Procedure Act, or from laying an information instead of issuing a violation ticket.

7. PROSECUTIONS

(1) In a prosecution for a contravention of this Bylaw, it is not necessary that a witness testify to the precise description, kind, brand or name of the cigarette, cigar, pipe, tobacco, Mu'assel, or electronic smoking device being used in a prohibited place.

8. SEVERABILITY

(1) If any Section or parts 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 Bylaw No. 044-08 is hereby rescinded.

That this Bylaw shall come into full force and effect upon the date of the third and final reading.

Read a first time this 20th day of July 2015.

Read a second time 20th day of July 2015.

Read a third time and passed this 16th day of November 2015.

10.19.072015 235-15
10.19.072015 236-15
10.19.161115 366-15.



MAYOR



CHIEF ADMINISTRATIVE OFFICER

Resolution number

SCHEDULE "A"

Section	Offence	Minimum Penalty	Specified Penalty
4(1)(a)	Smoking in, on, or within 5 metres of Anniversary Park	\$100.00	\$200.00
4(1)(b)	Smoking in, on, or within 5 metres of a Bike Park	\$100.00	\$200.00
4(1)(c)	Smoking in, on, or within 5 metres of Cove Beach	\$100.00	\$200.00
4(1)(d)	Smoking in, on, or within 5 metres of a Dog Park	\$100.00	\$200.00
4(1)(e)	Smoking in, on, or within 5 metres of John Peake Park	\$100.00	\$200.00
4(1)(f)	Smoking in, on, or within 5 metres of a Playground	\$100.00	\$200.00
4(1)(g)	Smoking in, on, or within 5 metres of a Skate Park	\$100.00	\$200.00
4(1)(h)	Smoking in, on, or within 5 metres of a Sports Field	\$100.00	\$200.00
4(1)(i)	Smoking in, on, or within 5 metres of a Skating Rink	\$100.00	\$200.00
4(1)(j)	Smoking in, on, or within 5 metres of Sunset Beach	\$100.00	\$200.00
4(1)(k)	Smoking in, on, or within 5 metres of a Water Spray Park	\$100.00	\$200.00