

Village of Clive

BY-LAW #527-18

Cannabis Consumption Bylaw

A BYLAW OF THE VILLAGE OF CLIVE, IN THE PROVINCE OF ALBERTA, RESPECTING THE CONSUMPTION OF CANNABIS WITHIN THE VILLAGE OF CLIVE.

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

WHEREAS the Cannabis Act will come into force on October 17, 2018 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 pursuant to section 7 of the Municipal Government Act, R.S.A. 2000 Chapter M-26 as amended, authorizes 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;
- c) the enforcement of bylaws made under the Municipal Government Act or any other enactment and;

WHEREAS Council deems it expedient and appropriate to regulate the consumption of Cannabis within the Village of Clive to protect people from being negatively impacted by the smoke, vapour, emissions or aerosols from Cannabis and to prevent behaviours, activities and conduct that may have a negative impact on the enjoyment of property and public places within the Village of Clive;

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

1. BYLAW TITLE

- 1.1 This bylaw shall be known as the "Cannabis Consumption Bylaw".

2. GENERAL

- 2.1 In this Bylaw, the following terms have the following meanings:
 - a) **"Bylaw Enforcement Officer"** means an employee or independent contractor appointed by the Village to enforce the provisions of the Village Bylaws and includes a member of the Royal Canadian Mounted Police, and when authorized a Peace Officer. A Bylaw Enforcement Officer is a Designated Officer for the purposes of s.542 of the Municipal Government Act.

- b) **“CAO”** means the individual appointed by Council as the Chief Administrative Officer for the Village of Clive appointed under Bylaw 408-96 or delegate;
- c) **“Cannabis”** has the same meaning as in the Act to Control and Regulate Cannabis, S.A. 2017, Chapter 21 and any amendments thereto, and includes leaves, stems, buds, oil and other parts or derivatives of the Cannabis plant;
- d) **“Cannabis Plant”** means a plant that belongs to the genus Cannabis;
- e) **“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;
- f) **“Council”** means the duly elected Council of the Village;
- g) **“Municipal Tag”** means a violation tag or similar document issued by the Village pursuant to the Municipal Government Act and as referred to in Section 9 below;
- h) **“Officer”** means a Person appointed by the Village to enforce the provisions of this Bylaw including a Bylaw Enforcement Officer, Peace Officer or a member of the RCMP;
- i) **“Peace Officer”** means an individual appointed pursuant to the Peace Officer Act, S.A. 2006, Chapter P-36, and any amendments thereto;
- j) **“Person”** includes an individual, proprietorship, corporation, company, partnership or society;
- k) **“Premises”** means any property, land, building and/or structure including but not limited to commercial, industrial, recreational and institutional property but does not include a Private Residence;
- l) **“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.
- m) **“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;
- n) **“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;

- o) **“Specified Penalty”** has the same meaning as in the Provincial Offences Procedure Act, R.S.A. 2000 Chapter P-34, as amended and regulations thereunder; and
- p) **“Village”** means the municipal corporation of the Village of Clive and the geographic area contained within its boundaries, as the context requires;
- q) **“Vape”** or **“Vaping”** means:
 - i. Inhaling or exhaling the vapour, emission or aerosol produced by an electronic smoking device or similar device containing cannabis, or
 - ii. Holding or otherwise having control of an electronic smoking device that is producing vapour, emissions or aerosol from cannabis.
- r) **“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 Section 10 of this Bylaw;

3. PROHIBITION

3.1 A person must not smoke, attempt to smoke, vape or consume what appears to be Cannabis in any public place within the Village limits. This includes 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.

3.2 An owner or occupier of a property must ensure cannabis plants are contained on the property away from public access in a secure structure or in a secure fence.

4. SPECIAL EVENTS

- 4.1 Notwithstanding Section 3.1 a person may smoke, vape or consume cannabis at an event for which a permit has been granted by the CAO.
- a) The CAO may impose conditions on any permit granted.
 - b) The CAO may suspend or revoke any permit issued if the CAO determines that a permit holder or any person at an event for which a permit has been issued has contravened any federal or provincial legislation or any other municipal bylaw.
 - c) The holder of a permit issued must ensure that:
 - i. The smoking, vaping or consumption of cannabis is only permitted in a designated area, separate and fenced off from the remainder of the event;
 - ii. The sale of cannabis is not permitted in the area designated for the smoking, vaping or consumption of cannabis; and

- iii. Any advertising or other materials relating to the promotion of cannabis cannot be seen by a minor.

5. OFFENCES

- 5.1 Any Person who contravenes any provision of this Bylaw is guilty of an offence.
- 5.2 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.
- 5.3 It is the intention of Council that all offences created by this Bylaw be interpreted to be strict liability offences.

7. ENFORCEMENT

- 7.1 An Officer is a "designated officer" for the purposes of Sections 542 - 545 of the Municipal Government Act.
- 7.2 For the purpose of enforcing this Bylaw, an Officer, upon producing proper identification, may at all reasonable hours, enter any place where the Consumption of Cannabis is prohibited and carry out inspections, remedies, enforcement or other actions in accordance with Section 542 of the Municipal Government Act.
- 7.3 Any person who breaches any section of this Bylaw is guilty of an offence and liable to:
 - (i) payment of the penalty specified in Schedule 'A' hereto; or
 - (ii) for any offence for which there is no penalty specified, to a penalty of no less than \$250.00 and not more than \$10,000,

And in default of payment of any penalty, to imprisonment for up to 6 months.

8. MUNICIPAL TAGS

- 8.1 An Officer is hereby authorized to issue a Municipal Tag to any Person who the Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 8.2 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, or
 - c) if upon a corporation, company, partnership, proprietorship or society, by mailing a copy to the Municipal Tag to the registered office as shown in the applicable registry office search,and such service shall be deemed to be good and sufficient for the purpose of this Bylaw.
- 8.3 Where a Municipal Tag has been mailed, it shall be deemed to have been received fourteen (14) days after mailing.

- 8.4 The Municipal Tag shall be in a form approved by the Chief Administrative Officer 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 Section 7 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 Chief Administrative Officer.
- 8.5 Where a Municipal Tag is issued pursuant to Section 9 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 Village within the time period indicated on the Municipal Tag.
- 8.6 Nothing in this Bylaw shall prevent an Officer from immediately issuing a Violation Ticket.

9. VIOLATION TICKET

- 9.1 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.
- 9.2 Notwithstanding Section 9.1 of this Bylaw, 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.

10. MISCELLANEOUS

- 10.1 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.
- 10.2 Nothing in this Bylaw relieves a Person from complying with any Federal, Provincial or Village legislation, bylaw, regulation, permit, order, license, approval or other direction.
- 10.3 The expenses and costs of any enforcement action or measures taken by the Village are an amount owing to the Village by the Person in contravention of this Bylaw.

- 10.4 Where any contravention of this Bylaw occurs on property for which the Person who committed the contravention is the registered owner, any unpaid enforcement expenses or costs may be added to the tax roll of that property in accordance with the Municipal Government Act.

11. ENACTMENT

- 11.1 This Bylaw shall take effect on the date that Bill 45, An Act respecting Cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts, 1st Sess, 42 Parl., 2017, comes into force.

READ A FIRST TIME THIS 9th DAY OF OCTOBER 2018.

READ A SECOND TIME THIS DAY OF 2018.

READ A THIRD TIME AND FINALLY PASSED THIS DAY OF 2018.

Mayor Luci Henry

Chief Administrative Officer
J. Carla Kenney

Village of Clive Bylaw #527-18
Schedule "A"

PENALTIES

CANNABIS SMOKING

1 ST Offence:	\$250
2 nd Offence:	\$500
3 rd and Subsequent Offences:	\$1,000