TOWN OF CHESTERMERE
PROVINCE OF ALBERTA
BYLAW NO. 044-08

A Bylaw of the Town of Chestermere, in the Province of Alberta, to Establish Smoke Free Places in the Town of Chestermere

WHEREAS pursuant to the provisions of the Municipal Government Act, Council may pass bylaws for municipal purposes relating to the health and welfare of people and the protection of people and property; services provided by or on behalf of the Municipality; and public utilities, and

WHEREAS Council for the Town of Chestermere deems it advisable and necessary to make provisions for smoke free places

NOW THEREFORE, pursuant to the authority conferred upon it by the Municipal Government Act, R.S.A. 2000, c.M-26, as amended, or as repealed and replaced from time to time, the Council of the Town of Chestermere duly assembled, enacts as follows:

1. CITATION

1.1. This bylaw may be cited as "The Smoke Free Places Bylaw".

2. DEFINITION

2.1. In this Bylaw:

2.1.1 "group living facility" means;

(a) a facility for the long-term care of veterans;

(b) a nursing home under the Nursing Homes Act;

(c) a facility as defined under the Mental Health Act; or

(d) a residential facility for adults only licensed under the Social Care Facilities Licensing Act;

2.2 "hotel" includes an inn, a guesthouse and a bed-and-breakfast facility;

2.3 "licensed premises" means licensed premises as defined under the Gaming and Liquor Act including an outdoor eating or drinking area that is part of or operated in conjunction with the premises;

2.4 "manager" means an employer or other person who, directly or indirectly, controls, directs or is responsible for a place or who controls the activities in the place;

2.5 "minor" means a person who is under 18 years of age;

2.6 "public place" means all or any part of a building, structure, recreational places or other enclosed area to which members of the public have access as of right or by express or implied invitation including;

(a) the common areas of a multi-unit residential facility, including patios, pools, other recreation areas and enclosed parking garages;

(b) a group living facility;

(c) an outdoor bus or taxi shelter;

(d) licensed premises;

(e) a restaurant;

(f) a hotel;

(g) parks; and

(h) playgrounds.

2.7 "public vehicle" means a bus, taxi or other vehicle that is used to transport members of the public for a fee;

2.8 "restaurant" includes a coffee shop, cafeteria, sandwich stand, food court, any other eating establishment and an outdoor eating area that is part of or operated in conjunction with the restaurant;

2.9 "smoke" means to smoke, hold or otherwise have control over a lit tobacco product;

2.10 "tobacco product" means a product manufactured from tobacco and intended to be smoked;

2.11 "workplace" means all or any part of a building, structure or other enclosed area in which employees perform the duties of their employment, whether or not members of the public have access to the building, structure or area as of right or by express or implied invitation, and includes reception areas, corridors, lobbies, stairwells, elevators, escalators, eating areas,

washrooms, lounges, storage areas, laundry rooms, enclosed parking garages and work vehicles;

2.12 "work vehicle" means a vehicle owned or leased by an employer and used by employees during the course of their employment.

3. EXCLUSIONS

3.1 Nothing in this Bylaw affects the rights of aboriginal people respecting traditional aboriginal spiritual or cultural practices or ceremonies;

3.2 Subject to section 4, this Bylaw does not apply to a building, structure or vehicle, or a part of a building or structure, that is used as a private residence;

3.3 Subject to section 5, no person shall smoke in the following places:

(a) a public place;

(b) a workplace;

(c) a public vehicle;

(d) a work vehicle;

(e) within 5 meters of a doorway, a window that can be opened, or an air intake of a public place or a work place.

4. PRIVATE RESIDENCE

4.1 Subject to subsection (2), a private residence is a workplace if a home business is operated from the residence and the owner of the business has employees who work in the residence but do not live in the residence;

4.2 Only that part of a private residence in which the business is operated is a workplace for the purposes of this Act;

5. EXCEPTIONS

5.1. An in-patient or resident of a group living facility may smoke in a separate room in the facility if the room;

(a) is designated as a smoking room by the manager;

(b) has floor-to-ceiling walls, a ceiling and doors that separate it physically from any adjacent area in which smoking is prohibited under this Act;

(c) has a separate ventilation system, and

(d) conforms to any requirements prescribed by the regulations.

5.2 A registered guest, and a person invited by the guest, may smoke in a guest room of a hotel if the guest room;

(a) is designed primarily as sleeping accommodation;

(b) is designated as a smoking room by the manager;

(c) has floor-to-ceiling walls, a ceiling and doors that separate it physically from any adjacent area in which smoking is prohibited under this Bylaw, and

(d) conforms to any requirements prescribed by the regulations.

5.3 A person may smoke in a public place or workplace or part of a public place or workplace if the manager of the public place or workplace

(a) designates the public place or workplace or a part of the public place or workplace as a place where smoking is permitted;

(b) ensures that signs are posted and conspicuously displayed indicating that minors are not permitted to enter or be in the place where smoking is permitted, and

(c) subject to the regulations, takes reasonable steps to ensure that smoke does not enter any place where smoking is prohibited under this Bylaw.

5.4. The manager of a public place or workplace must not permit minors to enter or be in a public place or workplace or part of a public place or workplace where smoking is permitted under subsection (3).

6. DUTIES OF MANAGERS

6.1 The manager of a place where smoking is prohibited under this Bylaw must not permit a person to smoke in that place.

7. SIGNS

7.1 The manager of a place where smoking is prohibited under this Bylaw must ensure that signs indicating that smoking is prohibited are posted and continuously displayed in accordance with the regulations. Signs must be:

(a) posted at each entrance to a public place, workplace or public vehicle at a height not less than one metre, and not more than 2.4 metres from the floor of the entrance;

(b) posted inside each public place, workplace or public vehicle in such numbers and locations as adequate to ensure the public and employees are aware of the prohibition;

(c) clearly visible to the persons entering the public place, workplace or public vehicle (at least 20 cm by 26 cm and must have a surface area of not less than 520 cm^2).

7.2 The manager of a place where smoking is permitted under section 5 must ensure that signs indicating that smoking is permitted are posted and continuously displayed in accordance with the regulations;

7.3 No person other than a manager or a person acting under the manager's instructions shall remove, alter, deface, conceal or destroy a sign that is posted or displayed under this Bylaw;

8 OFFENCES

8.1 A person who contravenes a provision of this Bylaw is guilty of an offence;

8.2 In describing an offence respecting smoking by a person in a place where smoking is prohibited under this Bylaw, it is not necessary to specify the kind, brand or name of the tobacco product used in the offence;

8.3 In a prosecution under this Bylaw for smoking in a place where smoking is prohibited, it is not necessary that a witness testify to the precise description, kind, brand or name of the tobacco product smoked;

8.4 In a prosecution under this Bylaw, the justice trying the case may, in the absence of evidence to the contrary, infer that the product smoked was a

tobacco product from the fact that a witness describes it by a name that is commonly used to describe a tobacco product.

9 PENALTIES

9.1 Penalties are listed in Schedule "A" as attached to this bylaw.

10 COMMENCEMENT

10.1 This Bylaw comes into force upon the date of the third and final reading.

11. REPEALMENT

11.1 Bylaw No.012-07 is hereby repealed in its entirety.

Introduced and given first reading this 2nd day of September, 2008

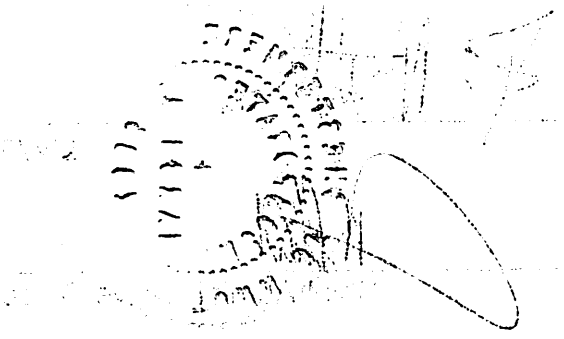
Given second reading this 15th day of September, 2008

Given third and final reading this 15th day of September, 2008

Mayor

Chief Administrative Officer

Resolution # 402-8, 414-08, 415-08



SCHEDULE "A"

12) PENALTIES

12.1 Any corporation which fails or neglects to perform the duties or requirements imposed upon it under the provisions of this bylaw is guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars ($10,000).

12.2 A person who is found to be smoking in an area prohibited under this Act is guilty of an offence and liable:

(a) for a first offence, to a fine of not more than $1,000.

(b) for a second offence, to a fine of not more than $10,000.

12.3 The specified fine for an offence committed pursuant to this bylaw is established at:

(a)	Individual	$ 250.00
(b)	Corporations	$1,000.00

12.4 In the case of an offence that is of a continuing nature, a contravention shall constitute a separate offence in respect of each day, or part of a day, on which that offence continues.

12.5 A manager of a place where smoking is prohibited must not permit a person to smoke in that place. If they are not complying with this responsibility, the fine will be:

(a) for a first offence, not more than $1,000.00.

(b) For a second offence, not more than $10,000.00.

12.6 Certain offences are also punishable by tickets as specified in the Provincial Offences Procedures Act. Tickets may be issued as follows:

(a) smoking where prohibited: $250.

(b) failing to comply with signage requirements: $250.

Additional offences that will be punishable through the issue of a ticket are currently being considered and amendments to the Procedures Regulation are coming.