

**TOWN OF EATONIA
BYLAW NO. 11/20**

A BYLAW TO REGULATE SMOKING AND VAPING IN PUBLIC PLACES

The Council of the Town of Eatonia, in the Province of Saskatchewan, enacts as follows:

SECTION I – SHORT TITLE

1. This bylaw may be cited as “The Smoking Bylaw”.

SECTION II – DEFINITIONS

2. In this bylaw, the following definitions apply:
 - a) **“Administrator”** means the administrator of the Town of Eatonia or designate;
 - b) **“Council”** shall mean the duly elected Council of the Town of Eatonia;
 - c) **“Electronic Cigarette or E-Cigarette”** shall mean a handheld device containing a liquid or substance that is vapourized and inhaled, and includes but is not limited to electronic cigarettes, vapourizer cigarettes, personal vapourizers, and electronic nicotine delivery systems;
 - d) **“Electronic-Liquid or E-Liquid”** shall mean any flavoured fluid or any other substance that commonly acts as a flavouring agent in an e-cigarette, electronic cigarette, or any likewise device;
 - e) **“Herbal Substance”** shall mean both an actual, naturally-occurring plant and/or the product(s) and/or substance(s) derived from but not exclusive to the whole plant, roots, stems, flowers, or leaves and which are made available in forms including but not limited to liquid extracts, powders, capsules, tablets, or teas;
 - f) **“Legislation”** shall mean Acts, Regulations, and Laws enacted Province of Saskatchewan or in the Country of Canada as may be amended from time to time;
 - g) **“Officer”** shall mean any Bylaw Enforcement Officer, Peace Officer, appointed or designated to enforce the bylaws of the Council of the Town of Eatonia or any police officer or member of the Royal Canadian Mounted Police (RCMP) while in the course of his or her duties;
 - h) **“Person”** shall mean any individual, a group of individuals, a corporation, firm, partnership, proprietorship, association, society or co-operative organization;
 - i) **“Public Place”** shall mean all or any part of the Town of Eatonia or town-owned property, either an open or enclosed space, to which the public has access as of right or by express or implied invitation, or that is rented or leased by a person for public or private use, which includes but is not limited to any building, facility, municipal reserve, park, trail, outdoor rink, playground, sportsground.
 - j) **“Smoke (or Smoking)”** shall mean to inhale, exhale, burn, hold, have, or otherwise have control over any ignited cigarette, cigar, pipe, hookah pipe, e-cigarette, electronic cigarette, vapourizer, vaping device, or any other implement, equipment, or device designed to burn or heat any tobacco, herbal formulation, flavoured liquid, or any other substance, whether or not it contains nicotine; intended for the purpose of inhaling through the mouth or nose or tasting its smoke, vapour, or emissions;
 - k) **“Smokeless Tobacco (or Spit Tobacco)”** shall mean tobacco or a tobacco blend or any other substance or product that rather than being smoked, is placed in the mouth to be chewed or sucked and the residual juice to be spit out, and includes but it not limited to:
 - i) Snuff which is a pinch of ground-up moist tobacco usually placed between the bottom lip and gum and also referred to as dipping; and
 - ii) Chew which is shredded tobacco leaves placed between the cheek and gum and also referred to as a wad; and
 - iii) Plug which is shredded tobacco leaves which are pressed into a hard block and placed between the cheek and gum; and
 - iv) Snus (pronounced snoos) which comes in a small pouch that is placed between the lip and gum to be left there for about a half hour, with or without the need to spit, then discarded;

- l) **"Spit"** shall mean to eject spittle, phlegm, saliva, tobacco juice, or any other substance from the mouth;
- m) **"Tobacco"** shall mean tobacco in any form in which it is used or consumed, and includes snuff and raw leaf tobacco, but does not include any food, drug, or device that contains nicotine to which *The Food and Drugs Act (Canada)* applies;
- n) **"Town"** shall mean the municipality of the Town of Eatonia in the province of Saskatchewan;
- o) **"Town-owned"** shall mean any property, green space, park, building, or facility that is owned, operated, managed, or maintained by the town; including but not limited to residential, commercial, and industrial areas; and includes as well any other physical assets, such as vehicles, equipment, and machinery;
- p) **"Vape (or Vaping)"** shall mean to inhale, exhale, hold, have, or otherwise have control over any electronic cigarette, e-cigarette, vapourizer, vaping device, or any other implement, equipment, or device designed to burn or heat any tobacco, herbal formulation, flavoured liquid, or any other substance, whether or not it contains nicotine; intended for the purpose of inhaling through the mouth or nose, or tasting its smoke, vapour, or emissions.

SECTION III – APPLICATION

- 3. a) This bylaw and any legislation related hereto applies to the smoking, vaping, or spitting of any product, substance, or material including but not limited to tobacco, electronic liquids, and herbal substances in the Town of Eatonia.
- b) No person shall smoke or vape in any public or Town-owned place or within five (5) metres, [sixteen and one-quarter (16.25) feet] from a doorway, window, air intake, fence, or patio of any public or Town-owned place.
- c) No person shall spit in any public or Town-owned place.
- d) Nothing in this bylaw prohibits a person from smoking in any place designed, intended, and used exclusively as a private residence.
- e) Nothing in this bylaw prohibits a person from using an electronic cigarette for the sole purpose of testing the device, or sampling products used with the device, prior to purchase within the confines of the premises of a registered and licenced electronic cigarettes retailer.
- f) Nothing in this bylaw prohibits a person from smoking or holding lighted tobacco, herbal, or tobacco-related products in a public place for traditional Aboriginal spiritual or cultural practices or ceremonies, if the use of tobacco, herbal, or tobacco-related products is an integral part of the traditional Aboriginal spiritual or cultural practices or ceremonies being carried out in the public or Town-owned space with the consent of the owner.

SECTION IV – ENFORCEMENT AND PENALTIES

- 4. a) Any officer or any other person duly authorized or recognized as having been granted authority by the Council of the Town of Eatonia is hereby designated to enforce this bylaw.
- b) Any person who contravenes any of the provisions of this bylaw or fails to comply therewith or with any notice given thereunder is considered guilty of an offence and is liable to the penalties as hereinafter provided. Said penalties shall be listed on "Schedule A" as attached to and forming part of this bylaw and which may be amended from time to time.
- c) Any person who contravenes the provisions of this bylaw is not specifically set out in "Schedule A" or fails to comply therewith, or with any notice given thereunder, is guilty of an offence and is liable to a fine in an amount not exceeding that provided for by the Town of Eatonia General Penalty Bylaw.
- d) Where any person has or is alleged to have been in contravention of any of the provisions of this bylaw, a ticket, summons, or notice may be served upon them. Such persons may voluntarily make a payment of the Penalty Sum as set out in "Schedule A", to the Town of Eatonia with ten calendar days from the date of issuance. After ten calendar days the Penalty Sum must be paid as set out in "Schedule A". If payment is not received within thirty days from the issue date, a Summons will be

issued. If payment is made within such time and accepted, then that person shall not be liable to further prosecution of the offence.

- e) Where any person has been served a ticket, summons, or notice in contravention of any of the provisions of this bylaw, such person shall maintain a twelve-month clear period from the date of the last occurrence before such time where a First Offence Penalty Sum will be reinstated.
- f) If a provisions of this bylaw conflicts with the provision of any other applicable Town of Eatonia bylaw, the provision that establishes the higher or more restrictive standard to protect the health, safety, welfare, peace, and comfort enjoyed by the inhabitants of the Town of Eatonia shall prevail.
- g) If a provision of this bylaw conflicts with the provisions of any legislation, then the legislation shall prevail.
- h) If a court of competent jurisdiction declares any section or any part of this bylaw to be invalid, or to be of no force or effect, it is the intention of the Town of Eatonia that every other provision of this bylaw be applied and enforced in accordance with its terms to the extent possible according to law.
- i) This bylaw shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the town or any government authority having jurisdiction to make such restrictions or regulations.

SECTION V – REPEAL AND COMING INTO FORCE

- 5. a) Bylaw No. 2/12 is hereby repealed.
- b) This bylaw shall come into force and take effect upon the date of the final passing thereof.

Given 1st reading this 13th day of October 2020

Given 2nd reading this 13th day of October 2020

Given 3rd reading and hereby adopted this 13th day of October 2020





Mayor



Administrator

Certified a true copy of
Bylaw No. 11/20 adopted
by resolution of Council
on the 13th day of
October 2020



Administrator



**TOWN OF EATONIA
 "SCHEDULE A"
 OFFENCE AND PENALTY LISTING
 FORMING PART OF BYLAW NO. 11/20**

INFRACTION	PENALTY SUM (FINE)	
	If Payment is Made Within a Period of Ten (10) Calendar Days	If Payment is Made After a Period of Ten (10) Calendar Days
First Offence Resulting from a Contravention of Bylaw 11-20	\$200	\$400
Second Offence Resulting from a Contravention of Bylaw 11-20	\$500	\$1,000
Third Offence Resulting from a Contravention of Bylaw 11-20	\$750	\$1,500