

# Town of Creston

## Bylaw No. 1878

A bylaw for the purpose of regulating smoking and vaping, in certain areas within the municipality.

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WHEREAS the Council of the Town of Creston considers it desirable to protect the health and safety of all citizens and visitors in the Town of Creston by prohibiting smoking (et al) in specific outdoor places;

NOW THEREFORE, the Council of the Town of Creston, in open meeting assembled, enacts as follows:

### Part 1 Citation

1.1 This bylaw may be cited as “Clean Air Bylaw No. 1878, 2019”.

### Part 2 Severability

2.1 If a portion of this bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.

### Part 3 Interpretation

#### 3.1 Definitions

In this Bylaw:

“**Building**” means a roofed structure with solid exterior walls which is permanently affixed to a site and which is used or intended as shelter for the accommodation of persons, animals or chattels.

“**Bus stop**” means a place on a bus route marked by a sign at which buses stop to pick up and drop off passengers and includes a Transit Shelter.

“**Bylaw Notice Enforcement Bylaw**” means the Town’s current Bylaw Notice Enforcement Bylaw including all amendments and replacements thereto.

“**Bylaw Enforcement Officer**” means any of the following:

- a. Fire Chief of the Town of Creston;
- b. Assistant Fire Chief of the Town of Creston;
- c. Public Safety and Compliance Officer of the Town of Creston;
- d. RCMP Officers; or,
- e. their duly appointed designate.

“**Cannabis**” is as defined in the Cannabis Act (Canada) and includes any Cannabis Product.

**“Cannabis Product”** is as defined in the Cannabis Regulations (Canada) as amended from time to time.

**“Community facility”** means a building or lands including but not limited to recreation centers (Creston & District Community Complex), arenas, picnic shelters and other recreation facilities located in a Park or on any other land which the Town or other public entity owns or controls by means of a lease, licence or other legal instrument that is intended for athletic, social, cultural or recreational use by members or visitors to the community.

**“Outdoor special event”** means a pre-planned or spontaneous community event including but not limited to a temporary street closure, farmers’ market, parade, fair and recreational and/or fundraising events.

**“Park”** means all parks, playing fields, trails, and playgrounds in the Town of Creston.

**“Public Building”** means a building or structure on land owned or operated by the Town or other public entity.

**“Public Safety Compliance Officer”** means the person appointed from time to time by Council as the Public Safety Compliance Officer for the Town of Creston.

**“Public Greenspace”** means a park-like property which the Town or other public entity owns or controls by means of a lease, licence or other legal instrument that is intended for athletic, social, cultural or recreational use by members or visitors to the community.

**“Responsible person”** means the person who controls, governs or directs the activity carried on within the building, place or premises referred to in this Bylaw and includes the person actually in charge thereof.

**“Smoke or smoking”** means to inhale, exhale, burn or carry a lighted or activated cigarette, cigar, pipe, hookah pipe, electronic cigarette or other smoking equipment that burns or vaporizes tobacco, cannabis, or any other substance.

**“Retaining wall”** means a freestanding structure designed and constructed to resist the lateral pressure of soil.

**“Structure”** means any construction, fixed to, supported by or sunk into land or water other than a fence or hedge or retaining wall.

**“Town”** and **“Town of Creston”** means The Corporation of the Town of Creston.

## **Part 4 Prohibition and Offences**

### **4.1 Prohibitions**

No person shall smoke:

- .1 In, or within 6 metres of, a park, public greenspace, or cemetery, unless within a specifically designated area;

- .2 on Creston & District Community Complex property, unless within a specifically designated area;
- .3 within 6 metres of public school property;
- .4 within 6 metres of a door, window, or air intake of a public building;
- .5 within 6 metres of a bus stop, train station or stop, taxi stand, or similar place marked for passenger loading or unloading;
- .6 during an outdoor special event.

#### **4.2 Exceptions to Prohibitions Specified in Section 4.1**

This bylaw does not apply to a ceremonial use of tobacco in relation to a traditional Indigenous cultural activity.

#### **4.3 Offences**

- .1 No person shall unreasonably obstruct or prevent a Bylaw Enforcement Officer from carrying out their duties as prescribed in this bylaw. The Bylaw Enforcement Officer is authorized and empowered to inspect, compel and require that all the regulations and provisions in this bylaw are carried out.
- .2 Every person who contravenes any provision of this bylaw, or who suffers or permits any act or thing to be done in contravention of this bylaw, or who refuses, omits, or neglects to fulfil, observe, carry out, or perform a duty or obligation imposed by this bylaw, shall be deemed to have committed an offence against this Bylaw and:
  - i. Shall be liable to a penalty set out in “Bylaw Notice Enforcement Bylaw No. 1760, 2011” as amended from time to time; or,
  - ii. Shall be liable, upon summary conviction, to the penalties provided under the “Offence Act” and amendments thereto or any other penalty or order imposed or remedies available to the Town under the Community Charter (BC); or,
  - iii. Both 4.3.2(i) and 4.3.2(ii).

### **Part 5 Administration and Enforcement**

- 5.1 Bylaw Enforcement Officers of the Town of Creston are responsible for the enforcement and administration of this Bylaw.
- 5.2 The intent of this Bylaw is to set standards of general public interest, and not to impose a duty on the Town of Creston or its employees to enforce its provisions and:
  - i. A failure to administer or enforce its provisions or the incomplete or inadequate administration or enforcement of its provisions is not to give rise to a cause of action in favour of any person; and,
  - ii. The grant of any approval or permission or issuance of any permit is not a representation, warranty or statement of compliance with the Bylaw and the issuance thereof in error is not to give rise to a cause of action.

## **Part 6 Effective Date**

6.1 This bylaw shall come into full force and effect upon adoption.

READ A FIRST TIME by title and SECOND TIME by content this 26<sup>th</sup> day of March, 2019.

READ A THIRD TIME by title this 9<sup>th</sup> day of April, 2019.

DEPOSITED WITH MINISTER OF HEALTH on April 29<sup>th</sup>, 2019.

ADOPTED this 7<sup>th</sup> day of May, 2019.

“Ron Toyota”  
Mayor Ron Toyota

“Stacey Hadley”  
Stacey Hadley, Corporate Officer