

**Bylaw No. 581-2004
HEALTH BYLAW**

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A BYLAW OF THE CITY OF LEDUC IN THE PROVINCE OF ALBERTA, TO REGULATE SMOKING

WHEREAS the *Municipal Government Act*, R.S.A. 2000, Chapter M-26, provides that the Council of a municipality may pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property;

AND WHEREAS the *Municipal Government Act*, R.S.A. 2000, Chapter M-26, provides that the Council of a municipality may pass bylaws for municipal purposes with respect of the enforcement of bylaws made under the *Municipal Government Act*, R.S.A. 2000, Chapter M-26, or any other enactment;

AND WHEREAS the Council of the City of Leduc has determined that smoking and second-hand tobacco smoke is a health hazard and a discomfort for the citizens of the City of Leduc, especially its children;

AND WHEREAS it is desirable for the health, safety and welfare of the citizens of the City of Leduc to prohibit and regulate smoking in the City of Leduc;

THEREFORE, the Council of the City of Leduc in the Province of Alberta in open meeting assembled, hereby enacts as follows:

BYLAW TITLE

1. This bylaw may be cited as the "Health Bylaw".

DEFINITIONS

2. For the purposes of this Bylaw the following words will have the meanings assigned:

City: means the Municipal Corporation of the City of Leduc.

Council: means the Council of the City.

Designated Smoking Room:

means that portion of a Public Facility that is physically separated from the non-smoking portion by floor to ceiling walls with entry through its own doors and ventilated so as to prevent smoke from migrating into the non-smoking portion of the Public Facility and includes a room let in a hotel, motel, lodge or inn.

Lounge: means a business premises primarily serving alcoholic beverages for consumption on the premises, and where

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	entry by persons under the age of eighteen is prohibited.
Municipal Bylaw Ticket:	means a ticket alleging an offence, and requiring the payment of a specified penalty, issued pursuant to a bylaw of the City.
Outdoor Patio:	means an outside extension of an eating or drinking establishment regardless of whether it is covered.
Peace Officer:	means a member of the Royal Canadian Mounted Police, a Bylaw Enforcement Officer, or Special Constable appointed pursuant to the provisions of Section 38 of the <i>Police Act</i> , R.S.A. 2000, c. P-17, as amended.
Private Residence:	means any building, or portion thereof, with a separate entrance and containing cooking eating, sleeping, and sanitary facilities that is used exclusively for human habitation.
Proprietor:	means: a) the owner, occupant, lessee or person who ultimately controls, governs or directs the activity carried on within any Public Facility or portion thereof; or b) the owner or driver of a Taxi.
Public Facility:	means a building or enclosed structure, or portion thereof, where members of the general public under the age of eighteen are allowed to enter, but does not include a Private Residence or Outdoor Patio.
Smoke or Smoking:	Means the inhaling, exhaling, burning or carrying of a lighted cigarette, cigar, pipe or other lighted smoking equipment burning tobacco or any other weed or substance, but does not include smoking by actors as part of a stage or theatrical performance.
Tavern:	means a business premises primarily serving alcoholic beverages for consumption on the premises, and where entry by persons under the age of eighteen is prohibited.
Taxi:	means any vehicle licenced as a livery vehicle pursuant to the provisions of the City of Leduc Taxi and Livery Bylaw.
Violation Ticket:	shall have the same meaning as in the <i>Provincial Offences Procedure Act</i> .

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PROHIBITIONS

3. Unless otherwise authorized by this Bylaw, no person shall smoke and no Proprietor shall permit smoking in any Taxi or in any Public Facility or any part of a Public Facility unless that part is a Designated Smoking Room.

4. No person shall smoke in a Lounge or Tavern that adjoins or is a component of a Public Facility unless the Lounge or Tavern is physically separated from the Public Facility by floor to ceiling walls with entry through its own doors, which shall remain closed except while people and goods are passing through them, and ventilated so as to prevent smoke from migrating into the non-smoking portion of the Public Facility.

5. No person shall smoke within a 5-meter radius of the main entrance into a Public Facility.

SIGNS

6. A Proprietor shall post and maintain signs in conspicuous locations in Public Facilities as prescribed by this Bylaw.

7. Signs prohibiting smoking shall be in the following format:
 - a) A graphic symbol may be used to indicate a "No Smoking" area and shall be in a form in general conformity with Schedule "A" annexed hereto. Each symbol shall include the text "CITY OF LEDUC, BYLAW NO. 581-2004, MAXIMUM PENALTY \$2500 in letters and figures at least 5 per centum of the diameter of the circle in the symbol. Any such symbol shall be on a white background with the circle and stroke in red, with a cigarette, letters and figures in black.

 - b) With respect to the size of the graphic symbol, the diameter of the circle in the symbol referred to in subsection a) shall not be less than the number of inches prescribed below, based upon the maximum viewing distance in direct line of sight, as follows:

i) ten feet (10') or less 3.048 meters or less	- four inches (4") - 10.16 centimeters
ii) twenty feet (20') or less 6.096 meters or less	- six inches (6") - 15.24 centimeters

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- iii) forty feet (40') or less
12.192 meters or less
 - eight inches (8")
 - 20.32 centimeters
 - iv) eighty feet (80') or less
24.384 meters or less
 - twelve inches (12")
 - 30.48 centimeters
 - v) one hundred and sixty feet (160") or less
48.768 meters or less
 - sixteen inches (16")
 - 40.64 centimeters
- c) In place of the graphic symbol referred to in subsection (b) hereof, the Proprietor may use a printed sign carrying the text "No Smoking" in capital or lower case letters, or a combination thereof;
- d) The sign referred to in subsection (c) hereof shall have a white background with the lettering to be in a conspicuous contrasting color or, if the letter is to be applied directly to a wall surface or mounted on a clear panel, the lettering shall contrast to the background color;
- e) With respect to the size of lettering to be used on a printed sign, it shall be not less than the number of inches prescribed below, based upon a maximum viewing distance line of sight, as follows:
 - i) ten feet (10') or less
3.048 meters or less
 - Letter height three-eighths inch (3/8")
 - .0925 centimeters
 - ii) twenty feet (20') or less
6.096 meters or less
 - Letter height five-eighths inch (5/8")
 - 1.5875 centimeters
 - iii) forty feet (40') or less
12.192 meters or less
 - Letter height one & one-half inches (1 1/2")
 - 3.81 centimeters
 - iv) eighty feet (80') or less
24.384 meters or less
 - Letter height two inches (2")
 - 5.08 centimeters
- f) Included in the text at the bottom of each sign "CITY OF LEDUC BYLAW NO. 581-2004 MAXIMUM FINE \$2500" in letters not less than one-quarter (1/4") of an inch (0.635 centimeters) in height for signs with letter size of one inch (1") (2.5 centimeters) or less, and not less than one-eighth of an inch (1/8") (0.3175 centimeters) of the height of the letters on all other sizes of signs.

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8. Notwithstanding the symbol in Schedule "A" is a cigarette, it shall be deemed to include the smoking of any cigar, cigarette, pipe or any other smoking paraphernalia or materials in that area where the sign is posted.
 9. Where smoking is permitted in a Lounge, Tavern, or Designated Smoking Room, signs shall be in the following format:
 - a) A graphic symbol may be used to indicate a "Smoking Permitted" area and shall be in a form in general conformity with Schedule "B" annexed hereto. Each symbol shall include the text "SMOKING PERMITTED" in letters and figures at least 5 per centum of the diameter of the circle in the symbol. Any such symbol shall be on a white background with the circle in green, with a cigarette, letters and figures in black.
 - b) With respect to the size of the graphic symbol, the diameter of the circle in the symbol referred to in subsection (a) shall be the same dimensions as set out in section 7(b).
 - c) In place of the graphic symbol referred to in subsection (b) hereof, the Proprietor may use a printed sign carrying the text "Smoking Permitted" in capital or lower case letters, or a combination thereof;
 - d) The sign referred to in subsection (c) hereof shall have a white background with the lettering to be in a conspicuous contrasting color or, if the letter is to be applied directly to a wall surface or mounted on a clear panel, the lettering shall contrast to the background color;
 - e) With respect to the size of lettering to be used on a printed sign, it shall be the same dimensions as set out in section 7(e).
 10. No person shall remove, alter, conceal, deface or destroy any sign posted by any person pursuant to this Bylaw.
 11. All signs used to identify "No Smoking" and "Smoking Permitted" areas shall be placed at a height and location easily seen by a person in the premises, and shall not be obscured in any way.

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OFFENCE

12. Anyone who fails to comply with the provisions of this Bylaw is guilty of an offence and is liable to the penalties imposed under this Bylaw.
13. In the case of an offense that is of a continuing nature, a contravention constitutes a separate offence in respect to each day or part of a day, on which it continues and a person guilty of such an offence is liable to a fine in an amount not less than that established by this bylaw for each such day.

PENALTIES

14. A person who is guilty of an offence is liable to a fine in an amount not less than that established in this Part, and not exceeding \$2,500.00, and to imprisonment for not more than six months for non-payment of a fine.

Without restricting the generality of the foregoing the specified fine amounts are established for use on Municipal Bylaw Tickets or on Violation Tickets if a voluntary payment option is offered:

- a) \$ 500.00 for a first offence;
- b) \$ 1,000.00 for a second offence, and
- c) \$ 2,500.00 for a third or subsequent offence.

ENFORCEMENT

15. If a Peace Officer believes that an offence has been committed under this bylaw, he may issue:
 - a) a Municipal Bylaw Ticket; or
 - b) a summons under the *Provincial Offences Procedures Act*, R.S.A. 2000, c. P-34 as amended, by means of a Violation Ticket;

in respect of the alleged offence.

16. If a Violation Ticket is issued in respect to an offence, the Violation Ticket may:
 - a) specify the fine amount established under this bylaw for the offence; or
 - b) require a person to appear in court without the alternative of making a voluntary payment.

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17. A person who commits an offence may:
- a) if a Municipal Bylaw Ticket is issued in respect of the offence; or
 - b) if a Violation Ticket is issued in respect of the offence, and if the Violation Ticket specifies the fine amount established by this bylaw for the offence;
- make a voluntary payment equal to the fine specified.
18. Voluntary payment of a fine levied under a Municipal Bylaw Ticket or a Violation Ticket shall be deemed to be a conviction of the offence specified.
19. The City is not required to enforce this Bylaw. In deciding whether to enforce this Bylaw the City may take into account any practical concerns regarding enforcement including the funds available under the municipal budget and available personnel resources.

SEVERABILITY

20. If at any time any provision of this Bylaw is declared or held to be illegal, invalid or *ultra vires*, in whole or in part, then that provision shall not apply and the remainder of this Bylaw shall continue in full force and effect and shall be construed as if it had been enacted without the illegal, invalid or *ultra vires* provision.

REPEAL

21. That Bylaw No. 248-92 and all subsequent amendments or bylaws pertaining to smoking in City owned, leased, operated buildings and the health of inhabitants in City owned, leased operated or occupied buildings be repealed.

CONSEQUENTIAL AMENDMENT

22. That Bylaw No. 405-97, the Taxi and Livery Bylaw, be amended by deleting paragraph 10 (d) (v) in its entirety and replacing it with the following:
- "v) pursuant to Bylaw No. 581-2004, as amended from time to time, smoke or allow any person to smoke in a livery vehicle,"

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ENACTMENT

23. This Bylaw shall come into effect at 12:01 AM, MST on May1st, 2005.

READ A FIRST TIME IN COUNCIL THIS 12th DAY OF OCTOBER, AD 2004.

READ A SECOND TIME IN COUNCIL THIS 13th DAY OF DECEMBER, AD 2004.

READ A THIRD TIME IN COUNCIL AND FINALLY PASSED THIS 14th DAY OF FEBRUARY, AD 2005.

**Greg Krischke
MAYOR**

**Coral Callioux
CITY CLERK**

Date Signed

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SCHEDULE "A"



**CITY OF LEDUC, BYLAW NO. 581-2004
MAXIMUM PENALTY \$2500**

SCHEDULE "B"



SMOKING PERMITTED