

Policy

Title: DESIGNATED SMOKE AND OR VAPE AREA MANAGEMENT		Number: 0172
Reference: Administrative Committee - January 18, 2023 March 22, 2023	Adopted by City Council: March 6, 2023	
	City Clerk	City Manager
Supersedes:		
Prepared by: COMMUNITY DEVELOPMENT DEPARTMENT		

STATEMENT

THE OUTDOOR SMOKING AND VAPING BYLAW RESTRICTS USE OF SMOKING AND VAPING PRODUCTS IN OUTDOOR PUBLIC SPACES, OTHER THAN WHERE PERMITTED BY THIS POLICY. TEMPORARY DESIGNATED SMOKING AND OR VAPING AREAS WITHIN AN OUTDOOR PUBLIC PLACE, INCLUDING CITY LAND, MAY BE PERMITTED, ONLY IF PRIOR APPROVAL HAS BEEN GRANTED BY THE CITY IN ACCORDANCE WITH THIS POLICY AND CORRESPONDING PROCEDURES.

PRINCIPLES

1. Smoking and or Vaping may be temporarily permitted within Designated Areas of City Land or other Outdoor Public Places in accordance with this Policy, the Procedures pursuant to this Policy, and all applicable laws.
2. To provide a clear process and criteria (the "Procedures") for reviewing requests for Temporary Designated Areas within an Outdoor Public Place.

ROLE OF COUNCIL

To receive, review and adopt this Policy and any recommended amendments thereto.

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1. DEFINITIONS

- 1.01 Capitalized terms within this Policy and Procedure have the same meaning as defined in the Bylaw.
- 1.02 Bylaw: Bylaw No. 4705, the Outdoor Smoking and Vaping Bylaw.
- 1.03 City Land: any land owned and occupied by the City, including but not limited to:
- (a) Parks; and
 - (b) Land leased to the City;
but does not include:
 - (c) Land leased by the City to third parties pursuant to a written lease agreement for a term longer than one month (including month-to-month leases).
- 1.04 Event Organizer: the person or other legal entity who is organizing a Public Event.

2. RESPONSIBILITIES

- 2.01 City Council
- (a) Receive, review and consider for adoption this Policy and any recommended amendments thereto.
- 2.02 Administrative Committee
- (a) Make recommendations to Council, from time to time, regarding any amendments to this Policy.
 - (b) Receive, review, or consider for adoption, the Procedures developed for the implementation of the Policy and any amendments thereto.
 - (c) Review and decide upon whether to grant or refuse an application for a Temporary Designated Area, for locations not listed within section 3.01(c). In making this determination, the Administrative Committee is to use the factors outlined in section 3.03.
 - (d) Review and decide on any appeals from the decisions of Directors in relation to refusals of applications for a Temporary Designated Area or suspensions issued pursuant to section 3.04(a).
- 2.03 Directors
- (a) Review and decide whether to grant or refuse an application for a Temporary Designated Area, for locations described in section 3.01(c). In making this determination, the applicable Director is to use the factors outlined in section 3.03.
 - (b) May issue suspensions to approvals of Temporary Designated Areas, as required.
 - (c) Ensure departmental compliance with the Policy and Procedures.
- 2.04 City Clerk
- (a) Receive and forward applications for a Temporary Designated Area to the applicable Director, for applications related to locations included within section

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3.01(c) or to the Administrative Committee for applications related to locations not included in section 3.01(c).

- (b) Receive and forward any appeals of a Director's decision under section 3.03(c) and 3.04(a), to the Administrative Committee.
- (c) Advertise and make the Policy and Procedures available to the public upon request.

2.05 City Employees

- (a) Comply with the Policy and Procedures.

3. PROCEDURES

3.01 General

- (a) Temporary Designated Areas must comply with this Policy and the Procedures, City bylaws and any applicable legislation including, but not limited to, the Alberta Gaming, Liquor and Cannabis Act and the Alberta Tobacco, Smoking and Vaping Reduction Act.
- (b) Event Organizers who violate these Procedures may be suspended from future use of City Land, City facilities, and or approval for Temporary Designated Areas.
- (c) The following City Land has been deemed appropriate for a Temporary Designated Area(s):
 - (i) Echo Dale Regional Park;
 - (ii) Kinsmen Baseball Complex;
 - (iii) Moose Community Ball Complex;
 - (iv) Lawn Bowling Club;
 - (v) Kinsmen Plaza (located at the Big Marble Go Centre);
 - (vi) Kin Coulee Park;
 - (vii) Kiwanis Central Park;
 - (viii) Riverside Veterans' Memorial Park;
 - (ix) Co-op Place parking lot;
 - (x) BATUS Park; and
 - (xi) Towne Square.
- (d) The applicable Director may determine Temporary Designated Areas for City Land listed in section 3.01 (c) above.

3.02 Approval Conditions

- (a) Any approval of a Temporary Designated Area is expressly subject to the Event Organizer complying with the following conditions:
 - (i) The Temporary Designated Area must be under constant supervision and access thereto restricted, with minors and intoxicated persons not permitted entry. The cost of monitoring the Temporary Designated Area is the responsibility of the Event Organizer.
 - (ii) For Public Events on City Land, the Event Organizer must execute an event confirmation permit or other written agreement prepared by the City which shall include a term whereby the Event Organizer agrees to indemnify and save harmless the City from any claims, actions, damages, etc. arising from the Public Event and acquire insurance sufficient to the City, with the City as an "additional insured".

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- (iii) Temporary Designated Area(s) must be clearly signed:
 - a. Signs must be placed at the entrance of the Temporary Designated Area indicating that minors are prohibited;
 - b. Signs must also be placed at the main entrance to the Public Event, indicating the location of the Temporary Designated Area(s);
 - c. Further, the signs must indicate what substance is permitted in the Temporary Designated Area. Both cannabis and tobacco cannot be consumed in the same Temporary Designated Area;
- (iv) If an Event Organizer wishes to have multiple Temporary Designated Areas (e.g., one for tobacco use and one for cannabis use), any approved Temporary Designated Areas must be at least 10 meters apart;
- (v) Ash receptacles are required in order to minimize litter;
- (vi) The Director or the Administrative Committee may add additional conditions, as they deem appropriate.
- (b) Approval conditions in section 3.02 do not apply to Temporary Designated Areas operated by the City on City Land.

3.03 Requests for a Temporary Designated Area:

- (a) Directors may apply to the Administrative Committee for Temporary Designated Areas on City Land not included in section 3.01(c).
- (b) An Event Organizer must submit an application for a Temporary Designated Area to the City Clerk.
- (c) Applications related to locations described in section 3.01(c) will be forwarded to the appropriate Director for decision, with all other applications being forwarded to the Administrative Committee for decision. Any requests for an appeal of a Director's decision is to be forwarded to the Administrative Committee for final decision.
- (d) Applications will be reviewed and adjudicated upon with consideration to the following factors:
 - (i) the date and time of the Public Event, and whether it conflicts with any other Public Events or activities;
 - (ii) the appropriateness of the proposed time of year, time of day and hours of the Public Event, along with the suitability and available amenities;
 - (iii) whether it is appropriate for the type of Public Event and whether Smoking or Vaping is the main purpose of the Public Event;
 - (iv) the likelihood that there could be any adverse effect or damage to the City property or any surrounding areas;
 - (v) the potential for inconvenience to the public, residents and other users of the Outdoor Public Place or surrounding areas;
 - (vi) the previous history of the Event Organizer's use of City Land, if applicable;
 - (vii) the amount and type of security present during the Public Event;
 - (viii) whether a City Employee will be present or available at the Public Event;
 - (ix) the proposed location of the Temporary Designated Area (preferably, not near the entrance of the Public Event);
 - (x) Whether the Temporary Designated Area:
 - a. is fenced off to ensure a clear delineation of the Temporary Designated Area;

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- b. is 5 metres away from where children/families would typically congregate (e.g., should not be located near a school, playground, water park, or any place where children are known to congregate);
 - c. is located in a high-traffic area (e.g., should not be blocking any major entrances/exits, next to a bus stop, or in the middle of areas where people, vehicles, equipment or machinery would frequently travel, etc);
 - d. poses a risk of fire or other safety hazards (e.g., grassy areas where smoking debris could cause fires);
 - e. is intended for employees of the Public Event only, the Temporary Designated Area should be located either: (a) in areas where only staff are permitted access; or (b) in discreet areas where impacts to the public would be minimized;
- (xi) Any other factors that the Director or the Administrative Committee considers to be relevant.
- (e) The Director or the Administrative Committee, as the case may be, may require the Event Organizer to provide any further information required to evaluate the request.
- (f) Any approval by the City given to an Event Organizer for a Temporary Designated Area is expressly subject to the conditions set out in section 3.02.
- (g) The City expressly reserves the right to suspend its approval for a Temporary Designated Area prior to or during a Public Event, if it is determined, at the City's sole discretion, that any conditions of the approval are not being satisfied or if the City has any other concerns regarding the safety of persons and/or property.

3.04 Suspension of Temporary Designated Area Approval

- (a) The applicable Director may suspend approval for a Temporary Designated Area at any time, if they become aware that the conditions of that approval are not being met.
- (b) An Event Organizer may appeal a suspension of a Temporary Designated Smoking Area to the Administrative Committee.

3.05 Appeals

- (a) A decision of the Director under sections 3.03(a) and 3.04(a) may be appealed to the Administrative Committee, by the Event Organizer, by delivering a written request for an appeal and the reasons for the appeal, to the City Clerk within 30 days of the mailing or delivery of the notice of the decision or suspension.
- (b) In deciding an appeal, the Administrative Committee may:
 - (i) With respect to an appeal from a suspension under section 3.04 confirm the suspension, vary or overturn the suspension, if the Administrative Committee is of the opinion that extenuating circumstances exist.
 - (ii) With respect to an appeal from a Director's decision under section 3.03(c) confirm, vary or overturn the Director's decision having regard to the factors in section 3.03.
- (c) All decisions of the Administrative Committee are final and binding and there is no further appeal.