



BEING A BYLAW OF THE TOWN OF DIAMOND VALLEY IN THE PROVINCE OF ALBERTA, TO REGULATE THE CONDUCT AND ACTIVITIES OF PEOPLE IN PUBLIC PLACES TO PROMOTE THE SAFE, ENJOYABLE AND REASONABLE USE OF PUBLIC PLACES WITHIN THE TOWN OF DIAMOND VALLEY, ALBERTA.

WHEREAS pursuant to the *Municipal Government Act*, RSA 2000, Chapter M-26 as amended, a municipal council has authority to govern and the authority to pass bylaws respecting people, activities and things in, on or near a Public Place or place that is open to the public; and

AND WHEREAS the Council of the Town of Diamond Valley deems it desirable to pass a bylaw respecting the safety, health and welfare of people and protection of people and property;

THEREFORE, BE IT RESOLVED THAT the Council of the Town of Diamond Valley, duly assembled in Council Chambers in Diamond Valley, Alberta, enacts as follows:

1.0 TITLE

1.1 This bylaw may be cited as the "Public Places Bylaw".

2.0 INTERPRETATION AND DEFINITIONS

2.1 In this bylaw and any schedules to this bylaw, the following terms, phrases, words and their derivations shall have the following meanings:

- a) **Building** means an enclosed or substantially enclosed building or Structure except a building designed, intended, and used exclusively as a private residence.
- b) **Canadian Code of Advertising Standards** means the Code developed to promote the professional practice of advertising, as administered by Advertising Standards Canada ("Ad Standards").
- c) **Cannabis** is as defined in the *Cannabis Act (Canada)*, and associated regulations, as amended.
- d) **CAO** means the Chief Administrative Officer of the Town of Diamond Valley.
- e) **Charity Collection Site** means an area accessible to the public, marked by signs identifying the name of a charity and the area for the collection of donated goods, and containing a receptacle for the collection of donated goods.
- f) **Defecate** means to discharge waste matter from the bowels.
- g) **Distributor** means any person, owner of a business, company, or organization which distributes, permits to be distributed or causes to be distributed any Flyer which promotes the Distributor's activities.
- h) **Educational Authority** a school authority, which includes any public school board, separate school board, charter school, francophone school/board/region, Federal First Nations board, provincial school or private school.

- i) **Electronic Cigarette** means a handheld device containing a liquid that is vaporized and inhaled, and includes but is not limited to Electronic Cigarettes, e-cigarettes, vaporizers cigarettes, personal vaporizers, and electronic nicotine delivery systems.
- j) **Fetus** means a developing but unborn mammal.
- k) **Fight** means any confrontation involving violent physical contact between two (2) or more Persons.
- l) **Flyer** means any printed or written matter, and includes a circular, leaflet, pamphlet, paper, booklet, postcard, or any other printed or otherwise reproduced matter of literature.
- m) **Graffiti** means one or more letters, symbols, figures, etchings, scratches, drawings, inscriptions, stickers, stains or other markings or things however affixed to the surface of any Building, Structure or other Property.
- n) **Graphic Image** means a visual image showing, or purporting to show, a Fetus or any part of a Fetus, or any subject matter that is not in compliance with the Canadian Code of Advertising Standards.
- o) **Harass** means to communicate with a Person in a manner that could reasonably cause offence, intimidation or humiliation, including conduct, comment, or action that refers to the Person's race, religious beliefs, colour, disability, age, ancestry, place of origin, marital status, source of income, family status, gender, gender identity, gender expression, sexual orientation, and includes a sexual solicitation or advance.
- p) **Litter** means any disregarded or disposed of waste, garbage or refuse which contributes to untidiness or unsightliness.
- q) **No Smoking Area** means any Public Place, or portion of a Public Place, designated by temporary or permanent signage or other marking as an area where Smoking is prohibited.
- r) **Open Space Area** means any of the following:
 - i. any land in the Town which is developed, used, leased, controlled or managed by the Town as a public park, sports field, Playground or recreational area, including, without restricting the generality of the foregoing, all lands in the Town which are jointly controlled or managed by the Town and Educational Authority, or other Government-owned property for any of the purposes previously described;
 - ii. any land acquired by the Town as municipal reserve, school reserve, municipal and school reserve, public utility lot, undeveloped road allowances, fee-simple lands owned by the Town or used by the Town for the purposes of public recreation or environmental reserve as those terms are used in the *Municipal Government Act*, RSA 2000, C-M-26, as amended from time to time, in so far as the terms of any license or lease for grazing or agriculture purposes granted by the Town over such reserves contradicts the terms of the bylaw, the terms of the license or the lease shall prevail;
 - iii. any land designated as an Open Space Area for the purposes of this bylaw; or
 - iv. any land developed by the Town as a pathway, park, Playground or recreational area.

- s) **Panhandling** means to ask for a gratuitous donation of money, food, or goods of any kind, whether by spoken or printed word, or bodily gesture, but does not include the solicitation of charitable donations allowed or authorized pursuant to the *Charitable Fund-raising Act*, R.S.A. 2000, Ch. C-9 or any other legislation permitting the solicitation of charitable donations.
- t) **Patio** means an area outside of a Building intended for the consumption of food or beverages by patrons of businesses providing such food and beverages.
- u) **Peace Officer** means a Peace Officer as defined in the *Provincial Offences Procedure Act*; as amended from time to time.
- v) **Person** means an individual or any other legal entity including a firm, partnership, joint venture, proprietorship, corporation, association, or society.
- w) **Playground** means a Structure or collection of Structures designed and intended for recreational use by children and, where mounted in a distinct material such as, but not limited to, sand, gravel, or wood chips, includes the material in which those Structures are mounted.
- x) **Premise** includes the external surface of all buildings and the whole or part of any parcel of real property, including the land immediately adjacent to any building or buildings;
- y) **Public Place** means any place including privately and publicly owned or leased property, to which the public reasonably has or is permitted to have access, whether on payment or otherwise, within the Town.
- z) **Public Vehicle** means a bus, taxi or other vehicle that is used to transport members of the public for a fee.
- aa) **Smoke or Smoking** means to inhale, exhale, burn, or have control over a lighted cigarette, cigar, pipe, hookah pipe, or other lighted or heated device or apparatus designed to burn, heat, or vaporize, tobacco, Cannabis, any other weed, or any other substance for the purpose of inhaling or tasting its emissions;
- bb) **Smoking Area** means any Public Place, or portion of a Public Place, designated by temporary or permanent signage or other marking as an area where Smoking is permitted.
- cc) **Structure** means a building, garage, shed, Fence or other thing erected or placed in, on, over or under land, whether or not it is affixed to the land.
- dd) **Tobacco Product** means a product manufactured from tobacco and intended to be Smoked, including but not limited to a cigarette or cigar.
- ee) **Tobacco-like Product** means a product, other than a Tobacco Product, composed in whole or in part of plants or plant products, or any extract of them, and includes shisha and hookah.
- ff) **Town** means the municipality of the Town of Diamond Valley in the Province of Alberta, or where the context so requires, its municipal boundaries.
- gg) **Urinate** means to discharge urine from the body.
- hh) **Violation Ticket** means a ticket issued pursuant to Part II of the Provincial Offences Procedure Act, and any amendments or regulations thereto.
- ii) **Water Spray Park** means a Structure or collection of Structures designed and intended for recreational use and that spray or release water and includes a splash pad.

jj) **Window** means a window that can be opened to admit air.

2.2 The headings in this bylaw do not form part of this bylaw and shall not affect its interpretation.

2.3 Any references in this bylaw to any Statutes are to the *Province of Alberta Statutes* as amended or replaced from time to time and any amendments thereto.

2.4 Within the text of this Bylaw;

- use of a pronoun or determiner which indicates on gender shall include all genders unless the context requires otherwise, and
- use of the singular shall include the plural and the plural shall include the singular as the context requires.

2.5 The word "may" when used in this bylaw shall be construed as permissive and empowering, and the word "shall" when used in this bylaw shall be construed as imperative.

2.7 Nothing in this Bylaw relieves a Person from complying with any Federal or Provincial law or regulation, other bylaw or any requirements of any lawful permit, order or licence.

2.8 Where this Bylaw refers to another Act, bylaw, regulation or agency, it includes reference to any Act, bylaw, regulation or agency that may be substituted therefor.

2.9 All schedules attached to this Bylaw shall form part of this Bylaw.

2.10 The owner of any real property, as registered on title at the Land Titles Office is ultimately responsible for all activities on the property which may constitute prohibitions of this Bylaw.

2.11 If a vehicle is involved in an offence under this Bylaw, the owner of that vehicle is guilty of an offence unless the owner of that vehicle satisfies the Court that the owner was not in control of the vehicle and that the Person having control of the vehicle at the time of the offence had control of the vehicle without the owner's express or implied consent.

3.0 HARASSMENT

3.1 No Person shall Harass another Person in any Public Place.

4.0 URINATION AND DEFECATION

4.1 No Person shall Defecate or Urinate in or on a Public Place or in public on any private property.

5.0 AGGRESSIVE PANHANDLING

5.1 A Person shall not panhandle in an aggressive manner in any Public Place.

5.2 For the purpose of this section, and without limiting the generality of the phrase, a Person shall be considered to be Panhandling in an "aggressive manner" if they:

- obstruct or impede the passage of another Person;
- make continued requests or solicitations after receiving a negative response from another Person;
- insult, threaten, coerce or intimidate another Person;

- d) make physical contact with another Person; or
- e) are intoxicated by alcohol or other intoxicants;

while Panhandling.

6.0 DANGEROUS ACTIVITY

- 6.1 No Person shall throw or propel an object that is likely to startle or cause injury to another Person or animal.
- 6.2 A Person shall not throw or propel an object in or into a Public Place, onto or across a Highway or act in any way in a Public Place or on a Highway that is reasonably likely to cause injury to another Person or damage to Property.
- 6.3 No Person shall have an electric fence at or near any Public Place where any other Person is likely to make contact with it.
- 6.4 For the purpose of this section, consideration will be given as to the distance from Public Place, density of population, type of warning signs present, and the type of animals being contained.

7.0 LOITERING

- 7.1 No Person shall loiter in a Public Place causing obstruction to any other Person.
- 7.2 No Person shall stand or put their feet on the top or surface of any table, bench, planter or sculpture placed in any Public Place.

8.0 FIGHTING - DISTURBANCES

- 8.1 No Person shall cause disturbance by fighting, screaming, shouting, swearing, molesting, or using insulting language at or near a Public Place.

9.0 GRAFFITI

- 9.1 No Person shall create or apply Graffiti on or to any:
 - a) Building;
 - b) Premises;
 - c) Structure;
 - d) Other property which is owned or occupied by another Person; or
 - e) Unless the Graffiti is not in public view and the Person who owns or occupies the Premises, Structure or other property to which the Graffiti has been created or applied has given prior written approval for the creation or application of the Graffiti.

10.0 LITTER

- 10.1 A Person shall not leave, deposit, throw or otherwise discard any Litter in a Public Place, including a Charity Collection Site, except in a receptacle designated and intended for such use.

11.0 OPEN SPACE AREAS

11.1 Without prior written approval, no Person shall:

- a) camp in an Open Space Area;
- b) erect a tent in an Open Space Area;
- c) build or place any Structure, whether permanent or temporary, such as, but not limited to benches, tables, pergolas, windscreens, fences, retaining walls, woodpiles/woodsheds or storage containers in an Open Space Area;
- d) place or erect any signs for the purpose of advertising (excluding election signage) in an Open Space Area;
- e) dig or excavate;
- f) mark, deface, limb, post, paint or affix any advertisement, bill, poster, picture or thing or otherwise interfere with any signage, fence, Building, wall, bench, exhibit, or any other property that the Town has erected or caused to be erected in an Open Space Area;
- g) plant vegetation; or
- h) contravene any signage within an Open Space Area, which has been affixed by the Town.

11.2 No Person shall engage in any conduct or activity in an Open Space Area which may:

- a) injure any other user of an Open Space Area;
- b) disturb the use or enjoyment of the Open Space Area by any other user of that Open Space Area; or
- c) damage an Open Space Area or an amenity of an Open Space Area.

12.0 SMOKING

12.1 Except as permitted by this Part no Person shall Smoke:

- a) inside a Building;
- b) on a Patio;
- c) inside a Public Vehicle;
- d) on or within any school property, child care facility property, cemetery, bus shelter;
- e) within 10 meters of a bus stop or doorway, Window or air intake of a Building or Patio;
- f) on any pathway, park, Playground, sports field, recreational area or Water Spray Park; or
- g) within a No Smoking Area.

12.2 Notwithstanding subsection 12.1, a Person may Smoke in a Smoking Area.

12.3 A Person who owns or occupies a place where Smoking is prohibited by this section shall not permit any individual to Smoke in that place.

12.4 Nothing in this section prohibits a Person from Smoking in an area of a Building designed, intended and used exclusively as a private residence.

12.5 Nothing in this section affects the rights of aboriginal people respecting traditional aboriginal spiritual or cultural practices of ceremonies.

12.6 Nothing in this section prohibits a Person from Smoking in a place if Smoking is permitted in that place by a provincial or federal enactment.

12.7 In a prosecution for a contravention of this Part:

- a) it is not necessary that a witness testify to the precise description, kind, brand, or name of the Tobacco Product, Tobacco-like Product, Cannabis, or Electronic Cigarette possessed, Smoked or consumed;
- b) the court may, in the absence of evidence to the contrary, infer that the product Smoked was, a Tobacco Product, Tobacco-like Product, Cannabis, or Electronic Cigarette from the fact that a witness describes it by a name that is commonly used to describe a Tobacco Product, Tobacco-like Product Cannabis or Electronic Cigarette; and
- c) evidence:
 - i. that a substance had an odour of a Tobacco Product, Tobacco-like Product, Cannabis, or Electronic Cigarette or
 - ii. that a substance appeared to be labelled or packaged as a Tobacco Product, Tobacco-like Product, Cannabis, or Electronic Cigarette

is, in the absence of evidence to the contrary, sufficient to establish that the substance was a Tobacco Product, Tobacco-like Product, Cannabis, or Electronic Cigarette.

13.0 FLYERS AND DEBRIS

- 13.1 An owner or occupier of a Premises shall ensure that articles such as papers, Flyers and loose debris are collected and contained on the Premises so that they do not escape onto adjacent or other neighbouring properties.
- 13.2 An owner or occupier of a Premises is responsible for papers and Flyers on their Premises regardless of whether they solicited for the delivery of these papers or Flyers.
- 13.3 No Person shall deposit a Flyer at or on a Premises where a sign or notice has been posted and which is clearly visible at the entrance of a dwelling unit indicating that such Flyers are not wanted.
- 13.4 No Distributor shall distribute or cause to be distributed Flyers for the purpose of depositing them at or on a Premises where a sign or notice has been posted and which is clearly visible at the entrance of a dwelling unit indicating that such Flyers are not wanted.
- 13.5 Sections 13.3 and 13.4 do not apply to:
 - a) any election advertising material which is permitted to be transmitted or delivered pursuant to any applicable federal, provincial or municipal legislation;
 - b) newspapers delivered to paid subscribers;
 - c) community association newsletters or newspapers;
 - d) information or notices produced by a federal, provincial or municipal government or an agency of such government;
 - e) information or notices produced by an employee of The Town of Diamond Valley, a member of the Alberta Legislative Assembly or a member of the federal Parliament.
- 13.6 No Person or Distributor shall deposit or distribute a Flyer with a Graphic Image at or on a Premises unless:
 - a) the Graphic Image is contained in a sealed opaque envelope;
 - b) the exterior of the envelope contains the following legible warning: "Contains a Graphic Image that may be offensive or disturbing"; and
 - c) the exterior of the envelope clearly identifies the sender and the sender's address.

13.7 No Person shall place, deposit or throw or cause to be placed, deposited or thrown upon or into any motor vehicle which is parked on any highway or other Public Place, any sign, pamphlet, leaflet, poster, handbill, Flyer or any other paper containing printed or written matter, whether advertising or not, with the exception of any Violation Ticket or summons issued pursuant to lawful authority.

14.0 OBSTRUCTION

14.1 No Person shall resist or willfully obstruct or attempt to obstruct a Peace Officer or a member of a Fire Department in the lawful execution of their duties.

15.0 MINIMUM AND SPECIFIED PENALTIES

15.1 Any Person who contravenes any provision of this Bylaw is guilty of an offence and is liable on summary conviction to a fine of not more than Ten Thousand (\$10,000) Dollars or in default of payment one (1) year imprisonment, or to both fine and imprisonment in such amounts.

15.2 Where a Peace Officer believes that a Person has contravened any provision of this Bylaw, he may commence proceedings by issuing a Violation Ticket in accordance with the *Provincial Offences Procedures Act*.

15.3 Where there is a minimum penalty listing for an offence in Schedule "A" to this Bylaw, that amount is the minimum penalty for the offence.

15.4 Where there is a specified penalty listing for an offence in Schedule "A" to this Bylaw, that amount is the specified penalty for the offence.

15.5 Notwithstanding sections 15.3 and 15.4 of this Bylaw, the minimum and specified penalties for a second offence against this Bylaw within a one (1) year period shall be double the amounts listed in Schedule "A" for the offence, and the minimum and specified penalties for a third or subsequent offence against this Bylaw within a one (1) year period shall be triple the amounts listed in Schedule "A" for the offence.

16.0 SEVERABILITY

16.1 It is the intention of Town Council that each provision of this Bylaw should be considered as being separate and severable from all other provisions. Should any section or provision of this Bylaw be found to have been improperly enacted, or otherwise of no force or effect, then such section or provision shall be regarded as being severable from the remainder of this Bylaw, and that the Bylaw remaining after such severance shall remain of full force and effect.

17.0 STRICT LIABILITY OFFENCE

17.1 It is the intention of Town Council that all offences created by this Bylaw be interpreted to be strict liability offences.

18.0 REPEAL OF PRIOR BYLAWS

18.1 This bylaw repeals the following bylaws in their entirety and all amendments thereto:

Town of Black Diamond "Public Order Bylaw" 04-11

Town of Black Diamond "Parks Bylaw" 16-03

Town of Black Diamond "Smoking and Vaping Bylaw" 18-08, amending Bylaw 18-10

Town of Black Diamond "Curfew Bylaw" 00-27

Town of Turner Valley "Community Standards Bylaw" 18-1084

Town of Turner Valley "Smoking and Vaping Bylaw" 18-1085

Town of Turner Valley "Curfew Bylaw" 04-892

Town of Turner Valley "Loitering Bylaw" 00-820

19.0 EFFECTIVE DATE

19.1 This bylaw shall come into force and effect on the date of the third and final reading.

READ A FIRST TIME on the 20th day of March, 2024

READ A SECOND TIME on the 20th day of March, 2024

READ A THIRD AND FINAL TIME on the 20th day of March, 2024

Mayor

Chief Administrative Officer

SCHEDULE "A"
PENALTIES

| SECTION | OFFENCE | SPECIFIED PENALTY | MINIMUM PENALTY |
|----------|---|-------------------|-----------------|
| 3.1 | No Person shall Harass another Person in any Public Place. | \$500 | \$250 |
| 4.1 | No Person shall Urinate, Defecate or deposit any human waste on the private property of another Person, in any Public Place or in any place to which the public is allowed access. | \$500 | \$250 |
| 5.1 | No Person shall panhandle in an aggressive manner in any Public Place. | \$500 | \$250 |
| 6.1 | No Person shall throw or propel an object that is likely to startle or cause injury to another Person or animal. | \$250 | \$150 |
| 6.2 | No Person shall throw or propel an object onto or across a highway. | \$250 | \$150 |
| 6.3 | No Person shall have an electric fence at or near any Public Place where any other Person is likely to make contact with it. | \$250 | \$150 |
| 7.1 | No Person shall loiter and thereby obstruct any other Person in any Public Place or in any place to which the public is allowed access. | \$250 | \$150 |
| 7.2 | No Person shall stand or put their feet on the top or surface of any table, bench, planter or sculpture placed in any Public Place. | \$250 | \$150 |
| 8.1 | No Person shall cause Disturbance by fighting, screaming, shouting, swearing, molesting, or using insulting language at or near Public Place. | \$500 | \$250 |
| 9.1 | No Person shall create or apply Graffiti. | \$5000 | \$2,500 |
| 10.1 | A person shall not leave, deposit, throw or otherwise deposit any Litter. | \$500 | \$250 |
| 11.1 (a) | No Person shall camp in an Open Space Area. | \$250 | \$150 |
| 11.1 (b) | No Person shall erect a tent in an Open Space Area. | \$250 | \$150 |
| 11.1 (c) | No Person shall build or place any Structure, whether permanent or temporary, such as, but not limited to benches, tables, pergolas, windscreens, fences, retaining walls, woodpiles/woodsheds or storage containers in an Open Space Area; | \$5000 | \$2,500 |
| 11.1 (d) | No Person shall place or erect any signs for the purpose of advertising (excluding election signage) in an Open Space Area; | \$250 | \$150 |
| 11.1 (e) | No Person shall dig or excavate in an Open Space Area | \$5000 | \$2,500 |

| | | | |
|----------|--|---------|---------|
| 11.1 (f) | No Person shall mark, deface, limb, post, paint or affix any advertisement, bill, poster, picture or thing or otherwise interfere with any signage, fence, Building, wall, bench, exhibit, or any other property that the Town has erected or caused to be erected in an Open Space Area; | \$5000 | \$2,500 |
| 11.1 (g) | No Person shall plant vegetation in a Open Space Area. | \$500 | \$250 |
| 11.1 (h) | No Person shall contravene any signage within an Open Space Area. | \$500 | \$250 |
| 11.2 | Engage in any conduct or activity in an Open Space Area which may injure, disturb or cause damage. | \$500 | \$250 |
| 12.1 | Smoke or vape in prohibited area. | \$500 | \$250 |
| 12.3 | No Person who owns or occupies a place where Smoking is prohibited shall permit any individual to Smoke in that place. | \$500 | \$250 |
| 13.1 | Flyers/Debris escaping Premises. | \$500 | \$250 |
| 13.3 | Deposit Flyer contrary to posted sign. | \$500 | \$250 |
| 13.4 | Distribute Flyer contrary to posted sign. | \$500 | \$250 |
| 13.6 (a) | Deposit or distribute a Graphic Image not contained in a sealed opaque envelope. | \$1000 | \$500 |
| 13.6 (b) | Deposit or distribute a Graphic Image without the legible warning. | \$1000 | \$500 |
| 13.6 (c) | Deposit or distribute a Graphic Image without identifying the sender and sender's address. | \$1000 | \$500 |
| 13.7 | No Person shall place deposit or throw or cause to be placed, deposited or thrown upon or into any motor vehicle which is parked on any highway or other Public Place, any sign, pamphlet, leaflet, poster, handbill, Flyer or any other paper containing printed or written matter, whether advertising or not. | \$500 | \$250 |
| 14.1 | Obstruct Fire Department or Peace Officer. | \$2,500 | \$1,500 |

