

TOWN OF FORT FRANCES

DRAFT BY-LAW NO.

A BY-LAW TO REGULATE SMOKING IN PUBLIC PLACES AND WORKPLACES IN THE TOWN OF FORT FRANCES

WHEREAS section 115 of the Municipal Act, 2001, S.O. 2001, Chap. 25 as amended authorizes the Councils of local municipalities to pass by-laws regulating or prohibiting the smoking of tobacco in public places and workplaces within the municipality;

AND WHEREAS the Medical Officer of Health for the Northwestern Health Unit has declared that second-hand smoke is a serious health hazard;

AND WHEREAS on April 9th, 2018, Council amended By-Law No. 38/15 providing for smoking to be prohibited in buildings, vehicles, the Rainy Lake Square and within a specified distance of public entrances to municipally owned buildings;

AND WHEREAS on February 14th, 2019, Council approved a recommendation from the Planning & Development Executive Committee to update and incorporate the new legislative changes to the Smoke-Free Ontario Act into the Town's Smoking By-Law;

AND WHEREAS it is expedient to replace By-Law No. 38/15 with this new by-law.

NOW THEREFORE Council for the Corporation of The Town of Fort Frances
HEREBY ENACTS as follows:

1. DEFINITIONS

In this by-law:

“cannabis” – has the same meaning as in subsection 2 (1) of the Cannabis Act (Canada); (“cannabis”).

“community recreational facility” – means an enclosed public place or enclosed workplace that offers athletic and recreational programs to the local community and is owned or operated by:

- (a) a not-for-profit corporation;
- (b) an organization registered as a charity;
- (c) the province; or
- (d) a municipality.

“electronic cigarette” – means a vaporizer or inhalant-type device, whether called an electronic cigarette or any other name, that contains a power source and heating element designed to heat a substance and produce a vapour intended to be inhaled by the user of the device through the mouth, whether or not the vapour contains nicotine; (“cigarette électronique”).

“employee” – means a person who performs any work for or supplies any services to an employer, or a person who receives any instruction or training in the activity, business, work, trade, occupation or profession of an employer.

“enclosed public place” – means;

- (a) the inside of any place, building or structure or vehicle or conveyance, or a part of any of them,
 - (i) that is covered by a roof, and

- (ii) to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry, or
- (b) a prescribed place;

“enclosed workplace” – means;

- (a) The inside of any place, building or structure or vehicle or conveyance, or a part of any of them,
 - (i) that is covered by a roof,
 - (ii) that employees work in frequently during the course of their employment whether or not they are acting in the course of their employment at the time, and
 - (iii) that is not primarily a private dwelling, or
- (b) a prescribed place.

“person” shall include a natural person, a body corporate, an association, organization, group, team, or business.

“public entrance” shall include, in addition to the entrance opening itself including the threshold and doorframe, any area covered by a canopy through which persons must pass when entering the building of any building owned or leased or controlled by the Corporation of The Town of Fort Frances.

“smoke” and “smoking” means smoking (inhaling and exhaling) or holding lighted tobacco or cannabis (medical or recreational) as well as the carrying or holding of a lighted cigar, cigarette, pipe, or similar substances and any other lighted smoking equipment.

“park” means any land, owned or leased or controlled by the Corporation of The Town of Fort Frances designed or used for public recreation including but not limited to gardens, beach areas, playgrounds, sports fields, playing fields, which include adjacent spectator stands/seating areas.

“vaping” means inhaling or exhaling vapour from an electronic cigarette (e-cigarette) or holding an activated e-cigarette, whether or not the vapour contains nicotine, cannabis or similar substances and any other lighted smoking equipment.

“vehicle” means any vehicle that is owned or leased or in control of the Corporation of The Town of Fort Frances.

2. SMOKING PROHIBITED

- 2.1 No person shall smoke, hold or permit the smoking of tobacco products, cannabis products, electronic cigarettes or similar substances while in municipal buildings or vehicles owned, leased or controlled by the Corporation of The Town of Fort Frances.
- 2.2 No person shall smoke, hold or permit the smoking of tobacco products, cannabis products, electronic cigarettes or similar substances within 9 meters (30 Feet) of any entrance and exit to all buildings that are owned or leased or in the control of the Corporation of The Town of Fort Frances, but are not community recreational facilities.
- 2.3 No person shall smoke, hold or permit the smoking of tobacco products, cannabis products, electronic cigarettes or similar substances within 20 meters (66 Feet) of the grounds of a Community Recreational Facility that is owned or leased or in the control of the Corporation of The Town of Fort Frances.
- 2.4 No person shall smoke, hold or permit the smoking of tobacco products, cannabis products, electronic cigarettes or similar substances within 20 meters (66 Feet) of any park that is owned or leased or controlled by the Corporation of The Town of Fort Frances.

2.5 No person shall smoke, hold or permit the smoking of tobacco products, cannabis products, electronic cigarettes or similar substances within 9 metres (30 feet) of any entrance or exit to the Rainy Lake Square.

2.6 No person shall smoke, hold or permit the smoking of tobacco products, cannabis products, electronic cigarettes or similar substances at anytime on the property known as the Rainy Lake Square.

3. OFFENCE

3.1 Every person who contravenes the provisions of this by-law is guilty of an offence and on conviction may be subject to a fine or not more than one thousand dollars (\$1000.00) exclusive of costs.

4. BY-LAW NOT TO APPLY

4.1 The provisions of this by-law do not apply to a highway as “highway” is defined in section 115 (3) of the Municipal Act, 2001.

5. ENFORCEMENT

5.1 The provisions of this by-law are enforceable under the Provincial Offences Act, R.S.O. 1990 as amended from time to time. The Town of Fort Frances By-Law Enforcement Officers, the Ontario Provincial Police, Northwestern Health Unit Smoking Enforcement Officers, and any other Provincial Offences Officers shall do enforcement of this by-law with authority under the Provincial Offences Act.

6. REPEAL

6.1 By-Law No. 38/15, as amended, is hereby repealed.

This By-Law shall come into force and take effect on the final passing thereof.

READ THREE TIMES and finally passed in open Council this _____ day of _____ 2019.

J. Caul, Mayor

E. Slomke, Clerk

