

THE CORPORATION OF THE TOWN OF FORT FRANCES
(the “Municipality”)

BY-LAW NO. 11/19

A BY-LAW TO REGULATE SMOKING IN PUBLIC PLACES IN THE MUNICIPALITY

WHEREAS section 8 of the Municipal Act, 2001, S.O. 2001, Chap. 25 as amended (the “Act”) provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to govern its affairs as it considers appropriate and to enhance the municipality’s ability to respond to municipal issues;

AND WHEREAS section 10 of the Act provides that a single-tier municipality may pass by-laws respecting, among other things, the health, safety and well-being of persons;

AND WHEREAS section 128 of the Act provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, could become or cause public nuisances;

AND WHEREAS section 129 of the Act provides that a local municipality may prohibit and regulate with respect to, among other things, odours;

AND WHEREAS it has been determined that second-hand smoke and vapour are a health hazard, or discomfort and nuisance, to or for many inhabitants of and visitors to the Municipality;

AND WHEREAS it is desirable for the health, safety, and well-being of the inhabitants of and visitors to the Municipality to regulate smoking and vaping in public places in order to better protect the inhabitants of and visitors to the Municipality from conditions injurious to health resulting from smoking or from second-hand smoke in accordance with the provisions of this by-law.

NOW THEREFORE council (“Council”) of the Municipality enacts as follows:

1. DEFINITIONS

1.1 For the purpose of this by-law:

- (a) “Cannabis” has the same meaning as in subsection 2(1) of the Cannabis Act (Canada);
- (b) “Electronic Cigarette” means a vapourizer or inhalant-type device, whether called an electronic cigarette or any other name, that contains a power source and heating or other element designed to heat a substance and produce a vapour intended to be inhaled by the user of the device,

whether or not the vapour contains nicotine, cannabis, or any other substance;

- (c) “E-substance” means a substance that is manufactured or sold to be used in an Electronic Cigarette;
- (d) “Municipal Building” means any building or structure owned, leased, or controlled by the Municipality, with the exception of the premises commonly known or referred to as:
 - (i) the Memorial Sports Centre - premises (herein sometimes referred to as the “Memorial Sports Centre” - located at 740 Scott Street, Fort Frances, Ontario); and
 - (ii) Rainy Lake Square premises (herein sometimes referred to as “Rainy Lake Square” – located at 235 Scott Street, Fort Frances, Ontario).
- (e) “Officer” means a Person appointed by or under the authority of a by-law of the Municipality to enforce by-laws of the Municipality, a Northwestern Health Unit smoking enforcement officer, a provincial offences officer as defined in the Provincial Offences Act, R. S. O. 1990, c. P.33 (the “Provincial Offences Act”), as amended, or a police officer (including, without limitation, an Ontario Provincial Police officer);
- (f) “Park” means any land owned, leased, or controlled by the Municipality designed or used for public recreation, including, without limitation, trails, gardens, beach areas, natural areas, swimming pools, playgrounds, playing fields, sports fields, and in all cases any and all adjacent spectator stands, seating, and watching areas;
- (g) “Person” shall include a natural person, a body corporate, an association, organization, group, team, or business;
- (h) “Smoke” and “Smoking” includes the carrying, holding, or the inhaling or exhaling of or from, or otherwise using, lighted cannabis, a lighted cigar, cigarette, water-pipe, pipe, or any other lighted smoking instrument or appliance;
- (i) “Tobacco Product” means any product that contains tobacco, in any processed or unprocessed form that may be smoked, inhaled, or chewed, including, without limitation, snuff; and
- (j) “Vapour Product” means an Electronic Cigarette, an E-substance, or any component of an Electronic Cigarette.

2. PROHIBITIONS

2.1 No Person shall:

- (a) Smoke or permit the Smoking of Cannabis or Tobacco Product; or
- (b) inhale vapour from, exhale vapour from, or otherwise use any Vapour Product, or permit the inhaling of vapour, exhaling of vapour, or use of any Vapour Product

in or on any Municipal Building or vehicle or other conveyance or equipment owned, leased, or controlled by the Municipality, or any part of them.

2.2 No Person shall:

- (a) Smoke or permit the Smoking of Cannabis or Tobacco Product; or
- (b) inhale vapour from, exhale vapour from, or otherwise use any Vapour Product, or permit the inhaling of vapour, exhaling of vapour, or use of any Vapour Product

within 9 metres of any entrance, exit, or air intake of any Municipal Building.

2.3 No Person shall:

- (a) Smoke or permit the Smoking of Cannabis or Tobacco Product; or
- (b) inhale vapour from, exhale vapour from, or otherwise use any Vapour Product, or permit the inhaling of vapour, exhaling of vapour, or use of any Vapour Product

in, on, or within 20 metres of any Park.

2.4 No Person shall:

- (a) Smoke or permit the Smoking of Cannabis or Tobacco Product; or
- (b) inhale vapour from, exhale vapour from, or otherwise use any Vapour Product, or permit the inhaling of vapour, exhaling of vapour, or use of any Vapour Product

in, on, or within 25 metres of the Memorial Sport Centre.

2.5 No Person shall:

- (a) Smoke or permit the Smoking of Cannabis or Tobacco Product; or
- (b) inhale vapour from, exhale vapour from, or otherwise use any Vapour Product, or permit the inhaling of vapour, exhaling of vapour, or use of any Vapour Product

in, on, or within 9 metres of Rainy Lake Square.

3. EXCEPTIONS

3.1 This by-law does not apply to a highway as defined in the Act.

4. ENFORCEMENT

4.1 The provisions of this by-law may be enforced by an Officer.

4.2 Where an Officer has reasonable grounds to believe that an offence under this by-law has been committed by any Person, the Officer may require the name, address, and proof of identity of that Person.

4.3 Failure to provide proof of identification pursuant to paragraph 4.2 of this by-law when requested by an Officer to do so shall constitute obstruction of the Officer under paragraph 5.3 of this by-law.

5. OFFENCES AND PENALTY

5.1 Every Person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.00 exclusive of costs.

5.2 If this by-law has been contravened and a conviction entered, the Court in which the conviction is entered, and any Court of competent jurisdiction thereafter may, in addition to any other remedy and penalty imposed, make an order prohibiting the continuation or repetition of the offence by the Person convicted.

5.3 No Person shall obstruct or hinder or attempt to obstruct or hinder an Officer in the exercise of a power or the performance of an act or duty under this by-law.

6. COLLECTION OF UNPAID FINES

6.1 Where a fine is in default, the Municipality may, in addition to all other rights and remedies available to the Municipality, proceed with civil enforcement,

against the Person upon whom the fine has been imposed, pursuant to the Provincial Offences Act.

6.2 The Municipality may make a request to the treasurer of a local municipality to add any part of a fine that is in default to the tax roll for any property in the local municipality for which all of the owners are responsible for paying the fine and collect it in the same manner as municipal taxes.

7. SEVERABILITY

7.1 If a court or tribunal of competent jurisdiction declares any portion of this by-law to be illegal or unenforceable, that portion of this by-law will be considered to be severed from the balance of the by-law, which shall continue to operate in full force.

8. SHORT TITLE

8.1 This by-law may be referred to as the Smoking By-Law.

9. REPEAL

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

ENACTED AND PASSED this 13th day of May 2019.

per Original signed by J. Caul
June Caul, Mayor

per Original signed by E. Slomke
Elizabeth Slomke, Clerk