

Municipality of Cumberland By-Law 19-01

Protection from Second-Hand Smoke By-Law

WHEREAS Section 172(1)(a), (c) and (d) of the *Municipal Government Act* authorizes a Council to make by-laws for municipal purposes respecting:

- a) the health, well-being, safety, and protection of persons;
- b) persons and activities and things in, on, or near a public place or place that is open to the public; and
- c) nuisances, activities, and things that, in the opinion of the council, may be or may cause nuisance including burning, odours, and fumes...;

AND WHEREAS it is the wish of Council to use that power to respect the health, well-being, safety, and protection of persons against second-hand smoke;

AND WHEREAS the *Protection from Second-Hand Smoke By-Law* is in addition to the *Smoke-Free Places Act*;

AND WHEREAS the *Protection from Second-Hand Smoke By-Law* is in addition to the *Cannabis Act*:

This By-Law is entitled the *Protection from Second-Hand Smoke By-Law*.

1. In this By-Law:

- a) "cannabis" means cannabis as defined by the Cannabis Act (Canada);
- b) "grounds of a municipal building" means the outdoor part of any lot adjacent to, or surrounding, a building owned, leased, or occupied by the Municipality. This also includes driveways, thoroughfares, sidewalks, parking lots, lanes, and roads that are on municipal properties to provide public access;
- c) "municipal building" means any physical structure owned, occupied, or leased by the Municipality;
- d) "municipal property" means any land owned, occupied, or leased by the Municipality. This does not include streets unless otherwise mentioned;
- e) "municipal vehicle" means any vehicle owned or leased by the Municipality, or a personal vehicle used in the course of employment while carrying two or more employees;
- f) "Municipality" means the Municipality of the County of Cumberland;

- g) "park" means any land owned, occupied, or leased by the Municipality, designated or used as parkland or as a trail, including gardens, playgrounds, sports fields, and beach areas;
- h) "playground" means any park or recreational area owned, leased, or occupied by the Municipality designed in part to be used by youth that has play or sports equipment installed or has been designated or landscaped for play or sports activities, or any similar facility located within the Municipality;
- i) "smoke" means smoke, inhale or exhale smoke from, burn, vape, carry, hold, or otherwise have control over a lit or heated cigarette, cigar, pipe, waterpipe, electronic cigarette (including vapors), or other device that burns or heats tobacco, cannabis, or another substance that is intended to be smoked, inhaled, or exhaled; and
- j) "street" means any municipally owned street, road, lane, sidewalk, thoroughfare, bridge, and/or square; and the curbs, gutters, culverts and retaining walls in connection therewith.

PROHIBITION

- 2. No person shall smoke in any of the following places:
 - a) a park;
 - b) a playground;
 - c) an outdoor recreational facility on municipal property, including but not limited to a sports field, grandstand, seating area, or bleacher;
 - d) the grounds of a municipal building;
 - e) the grounds of an event on municipal property that is open to the public, including but not limited to a festival, market, or concert;
 - f) a trail or path on municipal property;
 - g) in campgrounds on municipal property, except for within the boundaries of a rented campsite; and
 - h) a street within a school area designated under the Motor Vehicle Act, except within an enclosed motor vehicle.

EXEMPTION

- 3. Notwithstanding Section 2, the Chief Administrative Officer of the Municipality may designate outdoor areas where smoking is permitted.
- 4. This By-Law does not apply to the rights of indigenous people respecting traditional indigenous spiritual or cultural practices or ceremonies.

OFFENCE AND PENALTY

5. Any person who contravenes any provision of this By-Law is punishable on summary conviction by a fine of not less than \$100.00 and no more than \$2,000.00 and to imprisonment of not more than 14 days in default of payment thereof.

ENFORCEMENT

6. This By-Law may be enforced by the Royal Canadian Mounted Police and any of the Municipality's By-Law Enforcement Officers.

Clerk's Annotation For Official By-Law Book

Date of first reading: April 3, 2019

Date of advertisement of Public Hearing: April 17, 2019

Date of second reading: May 1, 2019

*Date of advertisement of Passage of By-Law: June 26, 2019

Date of mailing to Minister a certified copy of By-Law: July 4, 2019

I certify that this Protection from Second-Hand Smoke By-Law was adopted by Council and published as indicated above.

Brenda Moore

Municipal Clerk

July 4, 2019

Date

*Effective Date of the By-Law unless otherwise specified in the text of the By-Law