

By-law 2019-58

A By-law of the City of Greater Sudbury to Regulate Smoking and Vaping in Public Places

Whereas Section 10(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, permits Councils of local municipalities to pass by-laws for the health, safety and well-being of persons within the municipality;

And Whereas it is desirable for the health, safety and well-being of the residents of the City of Greater Sudbury to regulate where people may smoke in order to protect persons from conditions injurious to health resulting from smoking and/or second-hand smoke in accordance with this by-law;

Now therefore Council of the City of Greater Sudbury hereby enacts as follows:

Short Title

1. This by-law may be cited as the "Smoking By-law".

Definitions

2. In this By-law;

"Cannabis" has the same meaning as in subsection 2(1) of the *Cannabis Act* (Canada);

"City" means the municipal corporation of the City of Greater Sudbury or the geographic area of the City of Greater Sudbury as the context requires;

"Council" means Council of the City of Greater Sudbury;

"Municipal Building" means any enclosed building or structure owned, leased or occupied by the City for the purpose of providing municipal services, including but not limited to arenas, community centres, bus shelters and libraries;

"Officer" means:

- (a) a municipal by-law enforcement officer of the City appointed by Council; or
- (b) a duly sworn member of the Greater Sudbury Police Services.

“Smoke” means to burn, carry or hold, or inhale or exhale from, a lighted cigarette, cigar, pipe, or other equipment that burns any substance, including but not limited to tobacco and Cannabis;

“Park” means any land, land covered by water and any portion thereof owned by or made available by lease, agreement or otherwise to the City, that is or may in the future be established, dedicated, set apart or made available for use as open public space for active or passive recreation and includes all buildings, structures, facilities, erections, improvements, parking areas, walkways, driveways and amenities, located in or on the land; and

“Vaporize” means:

- (a) to inhale and exhale the vapour produced by an electronic cigarette or similar device whether or not the vapour contains nicotine or Cannabis; or
- (b) holding or otherwise having control of an electronic smoking device that is producing vapour, emissions or aerosol from tobacco or Cannabis.

Interpretation

3.-(1) References in this by-law to items in the plural include the singular, and references to the singular include the plural, as applicable.

(2) The words “include”, “includes” or “including” are not to be read or interpreted as limiting the words, phrases or descriptions that precede them.

(3) The words or references in this by-law that are not defined herein shall be interpreted in accordance with their plain, ordinary and common dictionary meaning.

(4) If any provision or part of this by-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the by-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

(5) This by-law and the provisions contained herein are intended to be complementary to Provincial statutes and to other by-laws passed by Council, in the event that any other applicable law requires a standard than this by-law requires, the higher standard shall apply.

General Prohibitions

4.-(1) No person shall Smoke or Vaporize:

- (a) in a Municipal Building; or
- (b) within nine (9) metres of an entrance, exit or air intake of a Municipal Building; or
- (c) in a Park.

(2) Without limiting the foregoing, no person shall Smoke or Vaporize:

- (a) inside the Downtown Transit Terminal located at 9 Elm Street in Sudbury; or
- (b) anywhere on the lands municipally known as 9 Elm Street in Sudbury.

Enforcement

5.-(1) This by-law may be enforced by an Officer.

(2) An Officer who has reasonable grounds to believe that a person has contravened or is contravening any provision of this by-law may require that person to provide their identification to the Officer.

(3) Every person who is required by an Officer to provide identification under section 5.(2) of this by-law shall identify themselves to the Officer. The giving of their correct name, date of birth and address shall constitute sufficient identification. Failure to provide sufficient identification shall constitute obstruction of the Officer as set out in section 6.(2) of this by-law.

Offences

6.-(1) Any person who contravenes or fails to comply with any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, as amended.

(2) No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under this by-law.

Continuation, Repetition Prohibited By Order

7.-(1) The court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

Collection of Unpaid Fines

8.-(1) Where a fine is in default, the City may proceed with civil enforcement against the person upon whom the fine has been imposed, pursuant to the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33.

(2) The City may make a request to the City’s treasurer 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.

Amend

- 9. By-law 2013-54, as amended, is hereby further amended by;
 - (a) repealing the definitions of “Cannabis” and “Electronic Cigarette” in section 1; and
 - (b) repealing section 39.


Repeal

10. By-law 2002-300, as amended, is repealed, effective the date this by-law comes into effect.


Effective Date

11. This By-law comes into effect on 1st day of May, 2019.

Read and Passed in Open Council this 9th day of April, 2019



Mayor



Clerk