



The Corporation of the City of Cornwall
Regular Meeting of Council
By-law 2020-040

Department: Planning, Development and Recreation
Division: Parks and Recreation
By-law Number: 2020-040
Report Number: 2020-274-Planning, Development and Recreation
Meeting Date: February 10, 2020
Subject: A By-law to regulate Smoking and Vaping in Public Places in the City of Cornwall

WHEREAS Section 115 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may pass by-laws to prohibit or regulate the smoking of tobacco or Cannabis in public places and workplaces within the municipality;

WHEREAS Section 10 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may pass by-laws respecting the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property;

WHEREAS it has been determined that second-hand smoke and vapour are a health hazard and public nuisance for many of the inhabitants of and visitors to the City of Cornwall;

WHEREAS Section 18 of the Smoke-Free Ontario Act, 2017, S.O. 2017, c. 26, as amended, provides that if there is a conflict between a provision of the Smoke-Free Ontario Act, 2017 and a provision of another act, a regulation or a municipal by-law that deals with a matter to which the Smoke-Free Ontario Act, 2017 applies, the provision that is more restrictive of the matter to which the Smoke-Free Ontario Act, 2017 applies prevails;

WHEREAS Section 425 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under that Act is guilty of an offence; and

WHEREAS Section 429 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may establish a system of fines for offences under a by-law of the municipality passed under that Act;

NOW THEREFORE the Council of the Corporation of the City of Cornwall enacts as follows:

1. Definitions

- 1.1 "Cannabis" has the same meaning as in Subsection 2 (1) of the *Cannabis Act*, S.C. 2018, c. 16, as amended;
- 1.2 "City" means The Corporation of the City of Cornwall;
- 1.3 "Council" means the Council of the City;
- 1.4 "Designated Public Place" means a public place designated pursuant to Section 3.2 of this By-Law;
- 1.5 "Electronic Cigarette" or "E-Cigarette" means a Vaporizer or inhalant-type device, whether called an Electronic Cigarette, E-Cigarette or any other name, that contains a power source and heating element designed to heat a Nicotine-based liquid substance or E-Substance to produce a vapour intended to be inhaled by the user of the device directly through the mouth;
- 1.6 "E-substance" means a substance that is manufactured or sold to be used in an Electronic Cigarette, whether or not the substance contains Nicotine;
- 1.7 "Highway" means any highway as defined under the *Municipal Act, 2001*, S.O. 2002, C. 25 within the geographic limits of the City of Cornwall and which includes the sidewalks and all other lands within the lateral boundaries of the highway;
- 1.8 "Inspector" means any person appointed by the Eastern Ontario Health Unit to enforce this by-law, any person appointed by Council as a municipal by-law enforcement officer, or any police officer of the Cornwall Police Services;
- 1.9 "Nicotine" means a toxic colourless substance found in tobacco that people can become addicted to;

- 1.10 "Private Residence" means private property owned by an individual or corporation for which the primary purpose is use as a dwelling;
- 1.11 "Recreational Path" means the whole or part of any asphalt multi-use pathway owned or leased by the City of Cornwall, which is used by the public for the purpose of participating in recreational activities, such as walking, jogging, cycling, in-line skating, etc. For clarity, Recreational Paths do not include any areas located on a Highway;
- 1.12 "Park" means any land, owned or leased or controlled by the City, designed or used for public recreation, including but not limited to: parklands, parkettes, trails, gardens, playgrounds, sports fields, playing fields and beach areas including any adjacent bodies of water;
- 1.13 "Person" means a corporation as well as an individual;
- 1.14 "Smoke" and "Smoking" include the carrying, holding or inhaling of lighted Cannabis, a lighted cigar, cigarette, water-pipe, pipe, or any other lighted smoking equipment;
- 1.15 "Smoke-Free Ontario Act, 2017" means the *Smoke-Free Ontario Act, 2017*, S.O. 2017, c. 26, Sch. 3, as amended, and any regulation passed under it;
- 1.16 "Vaporizer" means an inhalant-type device 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 directly through the mouth, whether or not the vapour contains Nicotine, Cannabis or any other substance;
- 1.17 "Vaporizing," "Vape" and "Vaping" means the act of heating and converting Cannabis, an E-substance or any other substance through a Vaporizer or an Electronic Cigarette, for the purpose of simulating the inhalation of smoke.
- 1.18 "RCAFA Wing 424" means the restaurant, pub and patio located at 240 Water St. W. which is leased by the local Royal Canadian Air Force Association (RCAFA) branch from the St. Lawrence Seaway Authority and serves as the local club headquarters for the RCAFA.

2. Interpretation

- 2.1 This By-Law applies to the Smoking and Vaporizing of tobacco, Cannabis, any E-Substance, shisha, whether or not it contains tobacco, and other plant material or oils intended for inhalation in every Designated Public Place.

2.2 Unless otherwise defined, the words and phrases used in this by-law have their normal and ordinary meaning.

3. General Prohibition for Public Places

3.1 No Person shall Smoke or Vape in any Designated Public Place whether or not a "No Smoking" sign or a "No Vaping" sign is posted.

3.2 The following are Designated Public Places for the purposes of this By-Law:

- a. every place set out in Section 12 (2) of the Smoke-Free Ontario Act, 2017;
- b. a Park;
- c. a Recreational Path; and
- d. within twenty (20) metres of any Recreational Path, except to the extent located within a Private Residence or within the boundaries of a Highway.

4. Exemption

4.1 No provision of this By-Law that prohibits smoking or vaping in a place or area shall apply to:

- a. Highways;
- b. Private Residences; and
- c. RCAFA Wing 424.

5. Signs

5.1 The City shall be entitled to post "No Smoking" signs in a conspicuous location in all Designated Public Places.

5.2 No person shall remove, cover up or alter any sign which has been posted pursuant to Section 5.1.

5.3 A "No Smoking" sign shall prohibit all Smoking and Vaping as defined under this By-Law.

6. Enforcement

- 6.1 The City, including the Cornwall Police Service and in part the Eastern Ontario Health Unit are responsible for the administration and enforcement of this By-Law
- 6.2 The provisions of this By-Law respecting the prohibition of Smoking and Vaporizing in Designated Public Places, and the posting of signs may be enforced by any Inspector.
- 6.3 An Inspector may, at any time, enter any Designated Public Place to determine whether this By-Law is being complied with and, for this purpose, may make such examinations, investigations and inquiries as are necessary.
- 6.4 No Person shall obstruct or hinder or attempt to obstruct or hinder an Inspector or other authorized employee or agent of the City in the exercise of a power or the performance of a duty under this By-Law.
- 6.5 Where an Inspector has reasonable grounds to believe that an offence under this By-Law has been committed by a Person, the Inspector may require the name, address and proof of identity of that Person.
- 6.6 Failure to provide proof of identification satisfactory to an Inspector when requested to do so pursuant to Section 6.5 of this By-Law shall constitute obstruction of an Inspector under Section 6.4 of this By-Law.

7. Offence and Penalty Provisions

- 7.1 Every person who contravenes any provision of this By-law is guilty of an offence under the provisions of the *Provincial Offences Act*, R.S.O 1990, c P.33, as amended, and is liable on conviction to a penalty not exceeding \$5,000, exclusive of costs, subject to the provisions of said Act.
- 7.2 If this By-Law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

8. Validity

- 8.1 If there is a conflict between a provision of any Act, regulation or By-Law and a provision of this By-Law, the provision that is the most

restrictive of Smoking or Vaporizing of tobacco and/or Cannabis and the use of Electronic Cigarettes shall prevail.

- 8.2 If a court of competent jurisdiction declares any provision, or any part of a provision, of this By-Law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this By law that each and every provision of this By-Law authorized by law be applied and enforced in accordance with the terms to the extent possible according to law.

9. Short Title

- 9.1 This By-law may be referred to as the "Smoking By-law".

Read, signed and sealed in open Council this 10th day of February, 2020.



Manon L. Levesque
City Clerk



Bernadette Clement
Mayor