



Town of Whitby

By-law # 7464-18

Smoking Restrictions By-law

Being a By-law to regulate the smoking of tobacco and vaping in municipal buildings and on municipal properties in the Town of Whitby.

Whereas it is desirable for the purpose of promoting and protecting the health of residents to prohibit and regulate the smoking of tobacco and vaping in municipal buildings and on municipal properties in the Town of Whitby; and

Whereas it is appropriate to prohibit and regulate the smoking of tobacco and vaping in municipal buildings and on municipal properties in the Town of Whitby to further the goals of the Council of The Corporation of the Town of Whitby to develop a safe and healthy community and to promote healthy lifestyles and wellness for all ages and abilities; and

Whereas, subsection 115(1) of the Municipal Act, S.O. 2001, c. 25, provides that a municipality may prohibit or regulate smoking of tobacco in public places and workplaces;

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

1. Definitions

- 1.1. "Council" means the Council of The Corporation of the Town of Whitby;
- 1.2. "library" means a branch of the Whitby Public Library system located on Town owned property;
- 1.3. "marina" means the Port Whitby Marina;
- 1.4. "marina building" means any enclosed building or structure located on the property of a marina;
- 1.5. "municipal building" means any enclosed building or structure owned, leased, or occupied by the municipality for the purpose of providing municipal services, including but not limited to Town Hall, fire halls, operations centres, animal shelters, museums, and art galleries;
- 1.6. "municipal events area" means an outdoor area where a municipal activity or municipal event is organized and operated by or on behalf of the Town for the benefit of the public;
- 1.7. "officer" means a police officer or a municipal law enforcement officer appointed by the municipality;
- 1.8. "park" includes playgrounds, sports fields, memorial squares, public squares, gardens, ponds, boat launches, trails, pathways, open spaces, green spaces,

- splash pads, tennis courts, multi-purpose courts, skateboard facilities, bocce courts, lawn bowling greens, off-leash dog parks, beaches, picnic shelters, picnic areas, and any other area owned and used by the municipality for active or passive recreational purposes, or for any purpose ancillary thereto;
- 1.9. “park building” includes recreation centres, arenas, indoor swimming pools, and any other building owned and used by the municipality for active or passive recreational purposes or for any purpose ancillary thereto;
 - 1.10. “public entrance and public exit” means any entrance or exit designated or required for use by the public to enter or exit a municipal building;
 - 1.11. “smoke” means to burn or carry, or inhale or exhale from, a lighted cigarette, cigar, pipe, electronic cigarette, or other equipment that burns or vaporizes tobacco or any other substance;
 - 1.12. “Town” means The Corporation of the Town of Whitby; and
 - 1.13. “trails” means maintained areas through parks and open spaces, which are utilized by a number of multiple different users such as bicyclists, walkers and runners for both transportation and recreation, and are designed to connect neighbourhoods, places of employment, public transport stops and other nodes.

2. Interpretation

- 2.1. References in this by-law to items in the plural include the singular, and references to the singular include the plural, as applicable.
- 2.2. The words “include”, “includes” or “including” are not to be read or interpreted as limiting the words, phrases or descriptions that precede them.
- 2.3. 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.
- 2.4. If a court of competent jurisdiction declares any section, or any part of any section, of this by-law to be invalid, or to be of no force or effect, it is the intention of the Town that every other provision of this by-law be applied and enforced in accordance with its terms to the extent possible according to law.
- 2.5. The provisions of this by-law apply to all lands that are owned or leased by the Town.
- 2.6. This by-law and the provisions contained within 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 higher standard than this by-law requires, the higher standard shall apply.

3. Regulation

- 3.1. No person shall:
 - 3.1.1. smoke in a park;
 - 3.1.2. smoke in a park building;
 - 3.1.3. smoke on the premises/property where a park building is located;
 - 3.1.4. smoke in a library;
 - 3.1.5. smoke on the premises/property where a library is located;
 - 3.1.6. smoke in a municipal building;
 - 3.1.7. smoke within twenty (20) metres of a public entrance or public exit of a municipal building;
 - 3.1.8. smoke in a marina building;
 - 3.1.9. smoke on the premises/property where a marina is located, except in designated smoking areas which shall be located a minimum distance of twenty (20) metres away from a public entrance or public exit of a marina building; or
 - 3.1.10. smoke within a municipal events area during a municipally-organized event.

4. Exceptions

- 4.1. This by-law does not apply to buildings that are owned by the Town and leased to other organizations or businesses that provide services that are not generally considered to be of a municipal nature.

5. Enforcement and Penalties

- 5.1. Where an officer has grounds to believe that an offence has been committed by a person, the officer may require the name, address, and proof of identity of that person, and the person shall supply the required information.
- 5.2. No person shall hinder, interfere with, or obstruct during the administration or enforcement of this by-law.
- 5.3. Any person who contravenes any provision of this by-law is guilty of an offence, and upon conviction is liable to a minimum fine of \$300.00 in accordance with the Municipal Act, 2001, S.O. 2001, c.25, as amended.

6. Short Title

- 6.1. This by-law may be referred to as the "Smoking Restrictions By-law".

7. Repeal of Existing By-law

7.1. By-law # 7423-18 is repealed on January 1, 2019.

8. Effective Date

8.1. This by-law shall come into force and take effect on January 1, 2019.

By-law read and passed this 11th day of December, 2018.

Don Mitchell, Mayor

Christopher Harris, Town Clerk