



# Town of Whitby

## By-law # 7463-18

### **Cannabis By-law**

Being a By-law to prohibit the smoking or vaporizing of recreational cannabis in public places in the Town of Whitby.

Whereas Section 8 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, 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 clause 6 of subsection 11(2) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may pass by-laws in the interest of the health, safety and well-being of its residents; and

Whereas Section 128 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of the Council are or could become or cause public nuisances; and

Whereas Section 115 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may prohibit or regulate the smoking of cannabis in public places and workplaces, but a by-law under that section shall not apply to a highway; and

Whereas the Council of The Corporation of the Town of Whitby considers it desirable and necessary to prohibit the smoking or vaporizing of cannabis in public places within the Town of Whitby;

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

#### **1. Definitions**

- 1.1. "Cannabis" means cannabis as defined in the Cannabis Act (Canada);
- 1.2. "Council" means the Council of The Corporation of the Town of Whitby;
- 1.3. "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, marinas, and art galleries;
- 1.4. "officer" means a police officer or a municipal law enforcement officer appointed by the municipality;
- 1.5. "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;

- 1.6. "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;
- 1.7. "public place" includes any place to which the public has access as of right or invitation, express or implied, regardless of whether it is owned by a public or private entity, and also includes any motor vehicle located in a public place or in any place open to public view, but shall not include a "highway" as defined in the Municipal Act, 2001, S.O. 2001, c. 25, as amended;
- 1.8. "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 cannabis; and
- 1.9. "Town" means The Corporation of the Town of Whitby or the geographical boundaries of the Town of Whitby, as the context requires;

## **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 in the Town of Whitby except for privately owned property containing one or more dwellings.
- 2.6. The provisions of this by-law do not apply to a person who is permitted to use cannabis pursuant to a medical document issued pursuant to the Access to Cannabis for Medical Purposes Regulations, SOR/2016-321, or successor legislation or regulations.
- 2.7. 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 smoke cannabis in any public place, including but not limited to the following:
  - 3.1.1. municipal buildings and the premises/property where a municipal building is located;
  - 3.1.2. parks and park buildings and the premises/property where a park building is located;
  - 3.1.3. libraries and the premises/property where a library is located;
  - 3.1.4. public and private parking lots;
  - 3.1.5. schools, daycare facilities, and other child care facilities; and
  - 3.1.6. retail, commercial, and business establishments.

### **4. Enforcement and Penalties**

- 4.1. 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.
- 4.2. No person shall hinder, interfere with, or obstruct during the administration or enforcement of this by-law.
- 4.3. 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.

### **5. Short Title**

- 5.1. This by-law may be referred to as the "Cannabis By-law".

### **6. Effective Date**

- 6.1. This by-law shall come into force and take effect on the day it is passed.

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

  
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Don Mitchell, Mayor



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Christopher Harris, Town Clerk