

THE CORPORATION OF THE TOWN OF MATTAWA

COMMITTEE: BY-LAW DEPARTMENT

CHAIRPERSON: COUNCILLOR L. MICK

DEPT. HEAD: WAYNE CHAPUT, BY-LAW ENFORCEMENT OFFICER

TITLE: BY-LAW TO REGULATE SMOKING AND/OR VAPING OF TOBACCO AND CANNABIS IN PUBLIC PLACES AND WORKPLACES

22-22 Draft By-Law _____ Item _____ Policy Recommendation

Mayor D. Backer and Members of Council:

At the Regular Meeting of Council on June 13th a draft By-Law to Regulate Smoking and/or Vaping of Tobacco and Cannabis in Public Places and Workplaces in the Town of Mattawa was provided to Council in the Reports Section for Council review and comments.

Council requested the By-Law Enforcement Officer amend the draft by-law by changing certain wording in the document.

The proposed By-law to Regulate Smoking and/or Vaping of Tobacco and Cannabis in Public Places and Workplaces in the Town of Mattawa is provided for Council approval to be adopted and passed.

For these reasons the following is recommended.

Recommendation:

BE IT RESOLVED THAT Council of the Corporation of the Town of Mattawa adopt By-Law No.22-22 which is a By-law to Regulate Smoking and/or Vaping of Tobacco and Cannabis in Public Places and Workplaces in the Town of Mattawa.

Respectfully submitted,

Councillor L. Mick

**THE CORPORATION OF THE TOWN OF MATTAWA
BY-LAW 2022-22**

BEING a by-law to regulate smoking and/or vaping of tobacco and cannabis in public places and workplaces in the Town of Mattawa.

WHEREAS Subsection 115(1) of the *Municipal Act, 2001*, C.25, as amended, authorizes the Council of a local municipality to pass a by-law to prohibit or regulate the smoking of tobacco or cannabis in public places and workplaces within the municipality.

AND WHEREAS section 10(2) of the *Municipal Act, 2001*, C.25, as amended, authorizes the Council of a local municipality to pass a by-law respecting health, safety and well-being of persons.

AND WHEREAS the *Smoke-Free Ontario Act, 2017*, S.O. 2017, c. 26, Schedule 3, as amended, regulates the smoking of tobacco, cannabis, vapour products and prescribed products and substances.

AND WHEREAS Section 18 of the *Smoke-Free Ontario Act, 2017*, S.O. 2017, c. 26, Schedule 3, contemplates that a municipal by-law may deal with a matter to which that *Act* applies but in a more restrictive manner, and directs that the by-law prevails to the extent it is more restrictive than that *Act*.

NOW THEREFORE be it resolved that the Council of the Corporation of the Town of Mattawa enacts as follows:

PART 1 - DEFINITIONS

- 1.1. **“Cannabis”** means cannabis as defined in the *Cannabis Act* (Canada) and includes Medical Cannabis, as defined in this By-Law;
- 1.2. **“Council”** means the Council of The Corporation of the Town of Mattawa;
- 1.3. **“Designated Smoking Area”** (DSA) is an authorized area that smoking is permitted. Any DSA must follow all the conditions for the DSA as listed in Schedule “G”.
- 1.4. **“Employee”** means a person who, being paid or unpaid, performs any work for or supplies any service to an employer, or a person who receives any instruction or training in the activity, business, work, trade occupation or profession of an employer and includes a volunteer and a person who is self-employed and “employment” has a corresponding meaning;
- 1.5. **“Employer”** means any person who, as the owner, proprietor, manager, contractor, superintendent, supervisor or overseer of any activity, business, work, trade, occupation or profession, has control over or direction of, or is directly or indirectly responsible for the employment of an employee;
- 1.6. **“Entranceway”** means the area within a nine (9) meter radius surrounding designated entrances to all municipal buildings and other buildings or properties listed in Schedule “E”, but does not include a street, road or highway;
- 1.7. **“Exit”** means the area within a nine (9) meter radius surrounding an exit doorway of any public place;
- 1.8. **“Inspector”** means any By-Law Enforcement Officer of the Municipality authorized by Council to enforce the by-laws or any member of the Ontario Provincial Police Service;

- 1.9. **“Medical Cannabis”** means cannabis for which a prescription has been issued by a medical practitioner in accordance with the Health Canada regulations for Medical Cannabis;
- 1.10. **“Municipality”** means the Corporation of the Town of Mattawa;
- 1.11. **“Outdoor patio”** means an outdoor area or partially enclosed outdoor area that is adjacent to an establishment where food or beverages are sold and where food or beverages or both are consumed by the public;
- 1.12. **“Person”** includes a corporation;
- 1.13. **“Playground / Play area”** means any municipally owned public area that is equipped with children’s play equipment, such as, but not limited to: slides, swings, climbing apparatuses, splash pads, wading pools, or sand boxes;
- 1.14. **“Proprietor”** means the person who ultimately controls, governs or directs the activity carried on within a public place and includes the person actually in charge of the premises at any particular time;
- 1.15. **“Public place”** means any building, structure, vessel, vehicle or conveyance, or part thereof, whether covered by a roof or not, to which the public has access as of right or by invitation, expressed or implied, whether or not a fee is charged for entry and are identified on Schedule “C” attached hereto, but does not include a street, road or highway;
- 1.16. **“Smoke”** or **“Smoking”** includes the holding, inhaling or exhaling from a lighted cigar, cigarette, pipe, water pipe or hookah, or activated electronic cigarette, regardless of whether the device contains nicotine, tobacco, or medical or recreational cannabis, but does not include smoke or smoking where smoke or smoking is used in a stage production of a theatrical performance;
- 1.17. **“Sports area”** means any municipally owned public area that is used primarily for the purposes of sports such as, but not limited to the following, whether or not a fee is paid for the use: soccer, football, basketball, tennis, baseball, softball or cricket, skating, beach volleyball, running, swimming, or skateboarding;
- 1.18. **“Vape”, “Vaping”** or **“Vaporizing”** means inhaling or exhaling vapour from an electronic cigarette (e-cigarette) or an inhalant-type device or holding an activated e-cigarette or inhalant-type device, whether or not the vapour contains nicotine or cannabis;
- 1.19. **“Workplace”** means a building, structure, vessel, vehicle or conveyance or part thereof, to which one or more employees work, including any other area in the building, structure, vessel, vehicle or conveyance utilized by employees.

PART 2 - WORKPLACES

- 2.1 No person shall smoke and/or vape tobacco or cannabis in any workplace within the Municipality whether or not a “No Smoking/No Vaping” sign is posted.
- 2.2 Every employer shall:
 - (i) ensure compliance with this by-law;
 - (ii) prohibit smoking and/or vaping tobacco or cannabis in the workplace;

- (iii) inform each employee in the workplace that smoking and/or vaping tobacco or cannabis is prohibited in the workplace;
- (iv) post “No Smoking/No Vaping” signs in accordance with Part IV of this by-law in conspicuous locations at every entrance and washrooms in the workplace indicating that smoking and/or vaping tobacco or cannabis is prohibited in the workplace; and
- (v) ensure that no ashtrays or like paraphernalia are placed or permitted to remain in any part of the workplace.

2.3 Section 2.1 does not apply to:

- (i) a part of a workplace that is used as a private residence;
- (ii) a workplace located in a dwelling where the only employees of that workplace are persons who live in the dwelling; or
- (iii) a room in a hotel, motel or other place where rooms are rented for sleeping accommodation, provided the room is used for sleeping accommodation only and the room is designated and specifically set aside as a room in which smoking and/or vaping is permitted.

PART 3 - PUBLIC PLACES

- 3.1 No person shall smoke and/or vape tobacco or cannabis in any public place within the Municipality whether or not a “No Smoking/No Vaping” sign is posted.
- 3.2 Every proprietor of a public place shall:
 - (i) ensure compliance with this by-law;
 - (ii) prohibit smoking and/or vaping in the Public Place;
 - (iii) post “No Smoking/No Vaping” signs in accordance with Part IV of this by-law in conspicuous locations at every entrance and washrooms in the public place indicating that smoking and/or vaping is prohibited in the public place; and
 - (iv) ensure that no ashtrays or like paraphernalia are placed or permitted to remain in the public place.
- 3.3 Sections 3.1 and 3.2 do not apply to a room in a hotel, motel or other place where rooms are rented for sleeping accommodation, provided the room is used for sleeping accommodation only and the room is designated and specifically set aside as a room in which sleeping is permitted.
- 3.4 No person shall smoke and/or vape within a 20 meter radius (65 feet) of any Playground / Play Area within the Municipality, whether or not a “No Smoking/No Vaping” sign is posted.
- 3.5 No person shall smoke and/or vape within a 20 meter radius (65 feet) of any Sports Area within the Municipality, whether or not a “No Smoking/No Vaping” sign is posted.
- 3.6 No person shall smoke and/or vape on municipal property which has been designated as smoke free properties as designated in Schedule “D” of this By-law unless within a Designated Smoking Area (DSA) as designated in Schedule “G”.

PART 4 – ENTRANCEWAY PROHIBITION

- 4.1 No person shall smoke and/or vape tobacco or cannabis within the 9 metre radius of a designated entranceway at:

- (i) a designated workplace entranceway as set out in Schedule “E”; and
 - (ii) the entranceway to an apartment building as set out in Schedule “F”.
- 4.2 No person shall place or cause to be placed a receptacle for smoking within the nine metre radius of a designated entranceway.
- 4.3 An entranceway to 4.1 may be designated as a non-smoking entranceway under this By-law, by amendment to Schedule “E” and “F” hereof, at the request of the employer or proprietor, respectively. The owner or proprietor of a building may submit a letter to the Clerk of the municipality to request a designated entranceway by including the following details:
- (i) the name, mailing address, and the phone number of the employer or proprietor requesting the prohibition; and
 - (ii) the address of the property and a description of the location of the entranceway to be designated as non-smoking.

PART 5 - SIGNAGE REQUIRED

- 5.1 Every employer and every proprietor shall post and maintain in conspicuous locations at each entrance to the facility and in the washrooms, a sign at least 10 centimetres by 10 centimetres in size that includes depiction of the international “No Smoking/No Vaping” symbol.
- 5.2 All “No Smoking/No Vaping” signs posted within the Town of Mattawa must conform to any by-law Regulating the Use of French and English.
- 5.3 Where a “No Smoking/No Vaping” sign is required to be placed or posted under this by-law, the sign shall have the proportions, characteristics and minimum measurements as set out in Section 5.1 as depicted in “Schedule B” and consist of two (2) contrasting colours, or if the lettering and graphic symbol is to be applied directly to surface or to be mounted on a clear panel, the lettering and graphic symbol shall contrast with the background.
- 5.4 Despite the fact that the symbol referred to in Schedule “B” is a cigarette, it may include a lighted cigar, cigarette, pipe or any other lighted smoking and/or vaping instrument.
- 5.5 Deviations from the colour or content of the sign prescribed by this section that do not affect the substance or that are not calculated to mislead do not invalidate the sign.
- 5.6 Any sign prohibiting smoking and/or vaping that refers to a previous by-law number is deemed to be referring to this by-law.
- 5.7 Where an entranceway has been designated as non-smoking under Part 4 of this By-law, the employer or proprietor shall post and maintain in a conspicuous location adjacent to the designated entrance a sign at least 14 centimeters (5.5 inches) by 14 centimeters (5.5 inches) in size that includes:
- (i) a depiction of the international No smoking symbol at least 7.5 centimeters (3 inches) in height;
 - (ii) lettering at least 0.8 centimeters (5/16 inch) high and at least 0.2 centimeters (1/16 inch) wide at the narrowest point that reads “Smoking and or Vaping prohibited within 9 metres of this entranceway; and
 - (iii) with the rest of the lettering sized proportionately, which reads “Town of Mattawa By-law” as set out in Schedule “C”.

PART 6 - INSPECTIONS

- 6.1 An inspector may, at any reasonable time, enter any public place or workplace for the purposes of determining compliance with this By-law.
- 6.2 No inspector may enter a workplace that is also a dwelling without the consent of the occupant or without first obtaining and producing a warrant.

PART 7 - OFFENCES AND ENFORCEMENT

- 7.1 Any person who contravenes any of the provisions of the by-law, or who hinders or obstructs an inspector lawfully carrying out the enforcement of this by-law, is guilty of an offence and upon conviction is liable to a fine of not more than five thousand dollars (\$5,000.00) as provided for in the *Provincial Offences Act*, R.S.O. 1990, chapter 33, or any successor thereof.
- 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.

PART 8 - CONFLICTS

- 8.1 If a provision of this by-law conflicts with an Act or Regulation or another by-law, the provision that is the most restrictive of smoking and/or vaping shall prevail.

PART 9 - SEVERABILITY

- 9.1 If any section or sections of this by-law or part thereof, is found in any court of law to be illegal or beyond the power of the Municipality to enact, such section or sections or part thereof shall be deemed to be severable and all other sections or parts of the by-law shall be deemed to be separate and independent thereof and to be enacted as such.

PART 10 - SHORT TITLE

- 10.1 This By-Law shall be cited at the "SMOKING BY-LAW"

PART 11 - EFFECTIVE DATE

- 11.1 That the following schedules attached hereto shall form part of this by-law:
- Schedule "A" - Set Fine Schedule
 - Schedule "B" - Signage
 - Schedule "C" - Signage
 - Schedule "D" - Designated smoke free municipal properties
 - Schedule "E" - Designated workplaces with entranceway prohibitions
 - Schedule "F" - Designated apartment buildings with entranceway prohibitions
 - Schedule "G" - Designated Smoking Areas
- 11.2 This By-Law shall come into effect on the day of its passing and be enforceable thereafter.

READ A FIRST and SECOND time, this 27th day of June, 2022.

READ A THIRD time and FINALLY PASSED this 27th day of June, 2022.



A handwritten signature in black ink, appearing to be 'J. Brown', written over a horizontal line. A faint circular seal is visible in the background behind the signature.

Mayor



A handwritten signature in blue ink, appearing to be 'Amy Leclerc', written over a horizontal line.

Clerk