

**THE CORPORATION OF THE
TOWNSHIP OF EDWARDSBURGH/CARDINAL**

BY-LAW NO. 2019-19

**“BEING A BY-LAW TO ESTABLISH A POLICY REGARDING SMOKING OR
VAPORIZING IN MUNICIPAL FACILITIES AND PUBLIC PLACES”**

WHEREAS Section 8 of the Municipal Act, 2001, 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 Section 11 (2) of the Municipal Act, 2001, as amended, provides that Municipal Councils may pass by-laws for the health, safety and well-being of the inhabitants of the municipality; and

WHEREAS Section 115 of the Municipal Act, 2001, as amended, enables Municipal Council to pass a by-law to prohibit or regulate the smoking of tobacco products in public places and workplaces within the municipality; and

WHEREAS Section 128 of the Municipal Act, 2001, 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 129 of the Municipal Act, 2001, as amended, provides that a municipality may prohibit and regulate with respect to odours; and

WHEREAS the Smoke Free Ontario Act, 2017, as amended, contains rules respecting the smoking of cannabis, as well as smoking in public places; and

WHEREAS the Smoke Free Ontario Act, 2017, as amended, prohibits smoking or vaping of tobacco and cannabis in any enclosed workplace, any enclosed public place and any other place designated as smoke- free and vape-free; and

WHEREAS Section 18 of the Smoke Free Ontario Act, 2017, as amended, contemplates that a municipal by-law may deal with a matter to which that Act applied but in a more restrictive manner, and directs that the by-law prevails to the extent it is more restrictive than that Act; and

WHEREAS it has been determined that smoking and second-hand smoke is a serious health hazard due to its adverse effects and risk to health of all inhabitants of the municipality;

WHEREAS it is deemed desirable for the purpose of promoting and protecting the health, safety and well-being of the inhabitants of the municipality to provide and ensure that all municipal public places and workplaces are smoke free;

NOW THEREFORE the Council of the Corporation of the Township of Edwardsburgh/Cardinal enacts as follows:

1.0 That the Leeds Grenville and Lanark District Health Unit Inspectors responsible for enforcing the Smoke Free Ontario Act, 2017, are hereby appointed as Enforcement Officers for the Township of Edwardsburgh Cardinal.

2.0 DEFINITIONS

2.1 For the purpose of this By-law:

“Cannabis” has the same meaning as defined in the Cannabis Act (Canada);

“Council” means the Council of the Township of Edwardsburgh Cardinal;

“Designated Public Place” means a Public Place designated pursuant to Section 5.1 of this By-law;

“Electronic Cigarette” or “E-Cigarette” means a vaporizer or inhalant-type device, whether called an electronic cigarette or any other name, that contains a power source and heating element designed to heat a nicotine based or cannabis based liquid substance or e-substance to produce a vapor intended to be inhaled by the user of the device directly through the mouth;

“Enclosed Public Place” means an enclosed public place as defined in the Smoke Free Ontario Act, 2017;

“Enclosed Workplace” means an enclosed workplace as defined in the Smoke Free Ontario Act, 2017;

“Enforcement Officer” means a person appointed by Council as a municipal By-law enforcement officer, Health Unit Inspectors appointed the under the Smoke-Free Ontario Act 2017, Ontario Provincial Police, or the Royal Canadian Mounted Police to enforce this By-law;

“E-Substance” means a substance that is manufactured or sold to be used in an electronic cigarette, whether or not the substance contains nicotine or cannabis;

“Highway” means any provincial, county or municipal highway within the geographic limits of the Township of Edwardsburgh Cardinal, and includes the sidewalks and all other lands within the lateral boundaries of the highway;

“Municipal Facility” means every building, structure, park, sports area, green space, or vehicle/equipment owned, leased, licensed, permitted or rented by the Township or from the Township and includes such buildings, structures, parks, sports areas, greenspaces, or vehicles/equipment where Township employees conduct their work;

“Outdoor Community Meeting Area” means the whole or part of any outdoor area, owned, leased or controlled by the Township to which the public has access by right or invitation, expressed or implied, whether by payment of money or not;

“Park” means any land, owned or leased or controlled by the Township, designed or used for public recreation, including but not limited to: park structure, trails, gardens, playgrounds, sports areas, greenspace, swimming pools and waterfront swimming areas;

“Person” means a corporation as well as an individual;

“Proprietor or Other Person in Charge” means the person who owns, occupies or operates a Designated Public Place or an Enclosed Workplace to which this bylaw applies, or the person who controls, governs, or directs the activities that are carried on in the place, and includes the person who is actually in charge at any particular time;

“Public Place” means the whole or part of any building, place or area to which members of the general public are invited or permitted access, and also includes any motor vehicle located in a public place or in any place open to public view;

“Smoke/Smoking” means all forms of cannabis and combustion tobacco (cigarettes, cigars), e-cigarettes, waterpipe, pipe, or any other smoking equipment, and includes the inhalation of smoke or vapors and causing or

permitting cannabis, tobacco and/or e-cigarettes, over which one has ownership and control, to burn, and “smoke” has a corresponding meaning;

“Township” means the Corporation of the Township of Edwardsburgh Cardinal;

“Vaporizer” means any inhalant type device that contains a power source and heating element designed to heat a substance and produce a vapor intended to be inhaled by the user of the device directly through the mouth, whether or not the vapor contains nicotine, cannabis or any other substance;

“Vaporizing/Vape/Vaping” means the act of heating and converting nicotine, cannabis, an e-substance or any other substance through a vaporizer or an electronic cigarette, for the purpose of simulating the inhalation of smoke

3.0 INTERPRETATION

3.1 This By-law applies to the smoking and vaporizing of tobacco, nicotine, cannabis, e-substances, whether or not it contains tobacco, cannabis, and other plant material or oils intended for inhalation in every designated enclosed public place, enclosed workplace, designated public place, municipal facility, outdoor community meeting area, and park, within the geographic limits of the Township of Edwardsburgh Cardinal.

4.0 ADMINISTRATION

4.1 The Township of Edwardsburgh Cardinal and the Leeds Grenville Lanark District Health Unit are responsible for the administration and enforcement of this By-law.

5.0 GENERAL PROHIBITIONS

5.1 In addition to the prohibitions set out in the Smoke Free Ontario Act, 2017 as amended from time to time, no person shall smoke or vaporize tobacco, nicotine, cannabis, or hold or otherwise cause to light any substance in the following designated public places including but not limited to locations:

- a) every place as set out in Section 12 (2) of the Smoke free Ontario Act, 2017, S.O. 2017 c. 26, Schedule 3;
- b) a park;
- c) an outdoor community meeting area;
- d) a highway;
- e) within three (3) meters of any entrance or exit of a Municipal Facility;
- f) within three (3) meters of any entrance or exit of an enclosed public place or enclosed workplace;

5.2 For greater clarity, no person shall smoke or vaporize in any enclosed workplace, whether or not a “No Smoking” sign/symbol or a “No Vaping” sign/symbol is posted.

6.0 APPLICABILITY

6.1 Every Proprietor or other person in charge of a designated public place or an enclosed workplace in which smoking or vaporizing are prohibited shall ensure compliance with this By-law.

7.0 SIGNAGE

7.1 Signs shall be posted and maintained in accordance with the Smoke Free Ontario Act, 2017, and as prescribed by the Township.

7.2 Notwithstanding section 7.1 of this By-law, the requirement for signs does not apply to the following designated public places:

- a) a park; and
- b) an outdoor community meeting area.

8.0 ENFORCEMENT

8.1 The provisions of this By-law respecting the regulation of smoking and vaporizing may be enforced by an Enforcement Officer.

8.2 No person shall obstruct or hinder or attempt to obstruct or hinder an Enforcement Officer or other authorized employee or agent of the Township in the exercise of a power or the performance of a duty under this By-law.

8.3 An Enforcement Officer who has reasonable grounds to believe that a person has contravened any provision of this By-law may require that person to provide their identification to the officer.

8.4 Every person who is required by an Enforcement Officer to provide identification under Section 8.3 of this By-law shall identify themselves to the Officer. Giving their correct name, address, and proof of identity shall constitute sufficient identification. Failure to provide sufficient identification shall constitute obstruction of the Officer under Section 8.2.

9.0 OFFENCES AND PENALTY

9.1 Any person who contravenes 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.

9.2 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.

10.0 OTHER

10.1 Where a provision of this by-law conflicts with a provision of another By-law, regulation, or Act, the provision that establishes the higher standard shall prevail in order to protect the health, safety and well-being of the general public.

10.2 It is the declared intention of the Council of the Corporation of the Township of Edwardsburgh Cardinal that any section or part of this By-law which may subsequently be held to be invalid shall be severable from the remainder of the By-law and shall not be deemed to have persuaded or influenced the Council to pass the remainder of this By-law.

10.3 That By-law 2019-19 will repeal and replace in its entirety By-law 2019-02, and all other by-laws previously passed that are inconsistent with the provisions of this By-law.

Read a first and second time in open Council this 22nd day of April, 2019.

Read a third and final time, passed, signed and sealed in open Council this 22nd day of April, 2019.

Mayor



Deputy Clerk

