

The Corporation of the City of Peterborough

By-Law Number 18-114

Being a By-law to repeal By-law 18-070 and enact City of Peterborough Smoking By-law Number 18-114

Recitals

- A. Subsection 10(2) of the Municipal Act, 2001, S.O. 2001, c.25 as amended (the “Act”), permits Councils of local municipalities to pass by-laws and make regulations for the health, safety and well-being of persons within the municipality;
- B. It has been determined that tobacco products, vapour products, electronic cigarettes, and second hand smoke are a health hazard because of its impairment, adverse effect and risk to human health, and is a public nuisance because of its irritating and discomforting properties to the inhabitants of the City of Peterborough;
- C. It is desirable for the health, safety, and well-being of the inhabitants for of the City of Peterborough to regulate where people may use tobacco products, and vapour products, in order to better protect persons from conditions injurious to health resulting from smoking and or from second-hand smoke in accordance with the provisions of this by-law;

Now therefore the Corporation of the City of Peterborough enacts as follows:

Article 1 – Definitions

- 1.1 **By-law Enforcement Officer** – means a person that is employed and appointed by Council of the City of Peterborough to perform the duties of enforcing City By-Laws.
- 1.2 **Cannabis** – has the same meaning as in subsection 2 (1) of the **Cannabis Act** (Canada).
- 1.3 **City** – means The Corporation of the City of Peterborough or the geographical boundary of the municipality as the context requires.
- 1.4 **Council** – means the Council of the City of Peterborough.
- 1.5 **Electronic 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 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.
- 1.6 **e-substance** – means a substance that is manufactured or sold to be used in an electronic cigarette.
- 1.7 **Peterborough Utilities Group** – means City of Peterborough Holdings Inc. and any of it subsidiary companies.

- 1.8 **Tobacco Product** – includes Cannabis and means any product that contains tobacco, in any processed or unprocessed form that may be smoked, inhaled or chewed, including snuff, but does not apply to products intended for use in nicotine replacement therapy.
- 1.9 **Vapour Product** – means an electronic cigarette, an e-substance, or any component of an electronic cigarette.

Article 2 – Prohibitions

- 2.1 No person shall smoke or hold a lighted Tobacco Product or use an Electronic Cigarette, e-substance, or Vapour Product in any building or on any land owned by the Peterborough County-City Health Unit or by the Peterborough Regional Health Centre.
- 2.2 No person shall smoke or hold a lighted Tobacco Product or use an Electronic Cigarette, e-substance, or Vapour Product within a nine (9) metre radius surrounding any entrance, exit, or air intake of any building owned by:
- a. The City;
 - b. The Peterborough Utilities Group;
 - c. The Peterborough Utilities Commission;
 - d. The Peterborough Public Library Board; or
 - e. The Corporation of the County of Peterborough located within the City.
- 2.3 No person shall smoke or hold a lighted Tobacco Product or use an Electronic Cigarette, e-substance, or Vapour Product within the Riverview Park and Zoo except in an area designated to allow smoking.
- 2.4 No person shall smoke or hold a lighted Tobacco Product or use an Electronic Cigarette, e-substance, or Vapour Product within a nine (9) metre radius of any of the following:
- a. any public playground, beach, wading pool or splash pad; or
 - b. any sport field or skateboard park.
- 2.5 No person shall smoke or hold a lighted Tobacco Product or use an Electronic Cigarette, e-substance, or Vapour Product within any City park except in an area designated to allow smoking.
- 2.6 No person shall smoke or hold a lighted Tobacco Product or use an Electronic Cigarette, e-substance or Vapour Product within Del Crary Park, except within the designated smoking area, outlined on the map attached hereto as Schedule "A".
- 2.7 No person shall smoke or hold a lighted Tobacco Product or use an Electronic Cigarette, e-substance, or Vapour Product within or upon any portion of a public road allowance which has been closed in accordance with a road closure permit issued by the City Clerk's office.
- 2.8 Notwithstanding Articles 2.3, 2.5 or 2.6, no person shall smoke or hold lighted Cannabis or use an Electronic Cigarette, e-substance, or Vapour Product containing Cannabis within any designated smoking area.

Article 3 – Enforcement

- 3.1 This by-law may be enforced by any:

- a. Person holding the title of Tobacco Enforcement Officer who is employed by the Peterborough County City Health Unit;
- b. Police Officer; or
- c. By-law Enforcement Officer appointed by Council.

Article 4 – Exceptions

- 4.1 This by-law does not apply to any portion of a public road allowance that has not been closed to through traffic or to any private property.

Article 5 – Penalty

- 5.1 Every person who contravenes any provision of this By-law is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the **Provincial Offences Act**, R.S.O. 1990, c. P.33, and the **Municipal Act, 2001**, as each may be amended from time to time.

Article 6 – Duty to Identify

- 6.1 Where a Tobacco Enforcement Officer, Police Officer or By-law Enforcement Officer has reasonable grounds to believe that an offence has been committed by a person, they may require the name, address and proof of identify of that person and the person shall supply the required information. A failure by the person to supply the required information constitutes a hindrance or obstruction of the Officer.

Article 7 – Severability

- 7.1 In the event any provision of this By-law is deemed invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect unless the court makes an order to the contrary.

Article 8 – Short Title

- 8.1 This By-Law may be referred to as the Smoking By-Law.

Article 9 – Effective Date and Repeal

- 9.1 This By-Law and the attached Schedule, comes into effect on the day it receives third reading.
- 9.2 By-law 18-070 is repealed, effective the date this by-law comes into effect.

By-law read a first, second and third time this 10th day of December, 2018.

(Sgd.) Diane Therrien, Mayor

(Sgd.) John Kennedy, City Clerk

**Schedule A: By-law 18-114
Designated Smoking Area for Del Crary Park**



The Corporation of the City of Peterborough

Part I - Provincial Offences Act

By-law Number 18-114, being a by-law respecting smoking in the City of Peterborough

Item	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1	Smoke or hold a lighted tobacco product in a prohibited place	Article 2.1	\$250.00
2	Smoke or use an electronic cigarette in a prohibited place	Article 2.1	\$250.00
3	Smoke or use an e-substance in a prohibited place	Article 2.1	\$250.00
4	Smoke or use a vapour product in a prohibited place	Article 2.1	\$250.00
6	Smoke or hold lighted tobacco product within 9 metres of a prohibited place	Article 2.2	\$250.00
7	Smoke or use an electronic cigarette within 9 metres of a prohibited place	Article 2.2	\$250.00
8	Smoke or use an e-substance within 9 metres of a prohibited place	Article 2.2	\$250.00
9	Smoke or use a vapour product within 9 metres of a prohibited place	Article 2.2	\$250.00
10	Smoke or hold lighted tobacco product in a prohibited place	Article 2.3	\$250.00
11	Smoke or use an electronic cigarette in a prohibited place	Article 2.3	\$250.00
12	Smoke or use an e-substance in a prohibited place	Article 2.3	\$250.00
13	Smoke or use a vapour product in a prohibited place	Article 2.3	\$250.00
14	Smoke or hold lighted tobacco product within 9 metres of a prohibited place	Article 2.4	\$250.00

15	Smoke or use an electronic cigarette within 9 metres of a prohibited place	Article 2.4	\$250.00
16	Smoke or use an e-substance within 9 metres of a prohibited place	Article 2.4	\$250.00
17	Smoke or use a vapour product within 9 metres of a prohibited place	Article 2.4	\$250.00
18	Smoke or hold lighted tobacco product not in a designated area	Article 2.5	\$250.00
19	Smoke or use an electronic cigarette not in a designated area	Article 2.5	\$250.00
20	Smoke or use an e-substance not in a designated area	Article 2.5	\$250.00
21	Smoke or use a vapour product not in a designated area	Article 2.5	\$250.00
22	Smoke or hold lighted tobacco product not in a designated area	Article 2.6	\$250.00
23	Smoke or use an electronic cigarette not in a designated area	Article 2.6	\$250.00
24	Smoke or use an e-substance not in a designated area	Article 2.6	\$250.00
25	Smoke or use a vapour product not in a designated area	Article 2.6	\$250.00
26	Smoke or hold a lighted tobacco product on a closed public road allowance	Article 2.7	\$250.00
27	Smoke or use an electronic cigarette on a closed public road allowance	Article 2.7	\$250.00
28	Smoke or use an e-substance on a closed public road allowance	Article 2.7	\$250.00
29	Smoke or use a vapour product on a closed public road allowance	Article 2.7	\$250.00
30	Smoke or hold lighted cannabis in a designated smoking area	Article 2.8	\$250.00
31	Use an electronic cigarette containing cannabis in a designated smoking area	Article 2.8	\$250.00

32	Use a e-substance containing cannabis in a designated smoking area	Article 2.8	\$250.00
33	Use a vapour product containing cannabis in a designated smoking area	Article 2.8	\$250.00

NOTE:

The penalty provision for the offences indicated above is Article 5 of By-law 18-114, a certified copy of which has been filed, and Section 61 of the **Provincial Offences Act**, R.S.O. 1990, c.P.33.