

# **The Corporation of the City of Kenora**

## **By-Law Number 15 - 2020**

### **A By-Law to Regulate Smoking or Vaping in or Near All Buildings Owned by the Corporation of the City of Kenora**

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Whereas Smoke-Free Ontario Act, 2017, S.O. 2017, c. 26, Sched. 3 allows a municipality to adopt by-laws to regulate, or prohibit smoking and vaping in the workplace; and

Whereas it has been determined that second-hand smoke (exhaled smoke and the smoke from idling cigarettes, cigars and pipes) or vapours (exhaled smoke from an electronic cigarette or similar device) is a health hazard or discomfort for many employees of the City of Kenora, and

Whereas it is desirable for the health, safety and welfare of the employees and citizens of the City of Kenora, to prohibit smoking in buildings and prohibit smoking within 66ft (20m) of any facility or recreational area owned by The Corporation of the City of Kenora, as in this By-law more particularly set out;

Therefore Be It Resolved That the Council of the Corporation of the City of Kenora hereby enacts as follows:

#### **1. Definitions:**

“CITY” – means the Corporation of the City of Kenora;

“CITY CLERK” means the City Clerk of the Corporation of the City of Kenora;

“CITY PROPERTY” – means property which belongs exclusively to the City of Kenora and to which legal rights apply and shall include but not be limited to a park, municipal reservoir, playground, sports field, spectator seating area, a building, structure, vessel, vehicle or conveyance, or part thereof as may be defined in this by-law but shall not include a highway as defined by this by-law

“CANNABIS” – means cannabis as defined by the Cannabis Act (Canada) and shall include medical cannabis obtained for medical purposes in accordance with applicable Federal law;

“ELECTRONIC CIGARETTE” – means a vapourizer or inhalant type device whether called an Electronic Cigarette, E-Cigarette, Vape or any other name, that contains a power source and heating element designed to heat a product or substance and produce a vapour intended to be inhaled .

“MUNICIPAL RESERVOIRS” - means a reservoir, lake, pond or other receptacle or water storage area connected with any park, open space or environmentally protected land.

“OFFICER” – means a person appointed as a Municipal Law Enforcement Officer, a Police Officer, or other individual duly appointed to enforce this by-law.

“RECREATION FACILITY” – means any building, structure or premise, or part thereof, which is designed or designated for the playing of sports, fitness activities, conducting scheduled programming or other approved activity.

“SMOKE or SMOKING” – means the inhaling or exhaling of a lighted tobacco or lighted cannabis product or any other lighted paraphernalia or product commonly used for or has the intended purpose of the act of smoking and shall include the holding of a tobacco or cannabis product or any paraphernalia or product whether or not the product is lighted.

“TOBACCO” – means tobacco in any processed or unprocessed form that may be lighted and smoked or inhaled.

“VAPE or VAPING or VAPOURIZING” – means inhaling or exhaling the vapour produced by a lighted Electronic Cigarette or similar device regardless of the product or substance being vaped or vaporized and shall include the holding of an Electronic Cigarette or similar device whether or not such device is lighted.

## **2. General Prohibitions**

- a) No person shall smoke or vape on any city property owned and occupied by the City of Kenora whether or not a No Smoking No Vaping sign is posted.
- b) No person shall smoke or vape outdoors on any walkway set out, on or through City owned and occupied property whether or not a No Smoking No Vaping sign is posted.
- c) Notwithstanding sections 2.a and 2.b such prohibition shall not apply to a municipal sidewalk within a road allowance or any part of a highway as defined by this bylaw
- d) No person shall smoke or vape on any property owned and occupied by the City of Kenora upon which is located a Recreation Facility whether or not a No Smoking No Vaping sign is posted.

No person shall smoke or vape in any building or within 66ft (20m) of any facility owned by the City of Kenora, including, but not limited to the following:

- City Hall
- Operations Building
- Kenora Recreation Centre
- Keewatin Memorial Arena
- Library (Kenora & Keewatin)
- The Muse (Museum & Art Centre)
- Kenora SportsPlex
- Lake of the Woods Discovery Centre
- Transfer Station Office
- Beaches

No Smoking or vaping signs, as set out in this by-law, shall be conspicuously posted in all areas of City of Kenora buildings and recreational areas to which the public have access, as of right or by invitation, express or implied, and including, without limiting the generality of the foregoing, lobbies, washrooms and sports facilities and within 66ft (20m) from a City owned facility or recreational area.

### **3. Exemptions To This By-Law**

No provision of this by-law that prohibits smoking or vaping in a place or area shall apply to:

- a. Any club, organization, group or person, upon written request to the City Clerk may be exempted from certain sections of this by-law. The request should contain the location to be exempted, the date and time of the event and reason for the exemption. The Clerk, at his/her discretion, may issue a letter approving such requested exemption. From time to time it may be necessary for the Clerk to seek Council approval on a particular exemption.
- b. an Indigenous person from smoking tobacco or holding lighted tobacco there, if the activity is carried out for traditional Indigenous cultural or spiritual purposes; or
- c. a non-Indigenous person from smoking tobacco or holding lighted tobacco there, if the activity is carried out with an Indigenous person and for traditional Indigenous cultural or spiritual purposes.

### **4. Enforcement**

Municipal Law Enforcement Officer, Police Officer, or other duly appointed individual shall enforce the provisions of this by-law.

### **5. Penalty**

Any person who smokes in contravention of this By-law is guilty of an offence.

Every person who contravenes any provision of this By-law is guilty of an offence under the provisions of the Provincial Offences Act, R.S.O. 1990, c P.33, as amended, and is liable on conviction to a penalty not exceeding \$5,000, exclusive of costs, subject to the provisions of the Act.

### **6. Conflicts**

If any provision of this by-law conflicts with an Act or a regulation or another by-law, the provision that is the most restrictive of smoking shall prevail.

7. By-law Number 145-2007 be hereby repealed.

8. This By-law shall take effect and come into force upon third and final reading thereof.

**By-law read a First and Second Time this 28<sup>th</sup> day of January, 2020**  
**By-law read a Third and Final Time this 28<sup>th</sup> day of January, 2020**

**The Corporation of the City of Kenora:-**

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**Daniel Reynard, Mayor**

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**Heather L. Pihulak, City Clerk**