

The Corporation of the Township of Hornepayne

By-Law No. 1704

Being a By-Law to prohibit the smoking or vapourizing of recreational Cannabis in public places within the Township of Hornepayne.

WHEREAS Section 8 the Municipal Act, 2001, c. 25, as amended (“Municipal Act”) 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 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 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 provides that a local municipality may prohibit and regulate with respect to odours; and,

WHEREAS the Council of the Corporation of the Township of Hornepayne (‘the Council’) wishes to prohibit the smoking or vapourizing of Cannabis in public places within the Township of Hornepayne; 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.

BE IT THEREFORE ENACTED by the Council of the Corporation of the Township of Hornepayne:

- 1) That the attached Schedule “A”, titled Cannabis Definitions, the attached Schedule “B”, titled Cannabis Regulations, and the attached Schedule “C”, titled Fines form integral parts of this By-Law; and,
- 2) That this By-Law may be cited as the “Cannabis By-Law”; and,
- 3) That the Mayor and CAO/Clerk are hereby authorized to sign this By-Law on behalf of the Municipality and to affix the Corporate Seal thereto.

This By-Law comes into force and shall take effect upon passage.

Read a first and second time this 9th day of January, 2019.

Read a third time and finally passed this 9th day of January, 2019.



Presiding Officer



Clerk

SCHEDULE "A"
BY-LAW NO. 1704
CANNABIS: SMOKING AND VAPOURIZING
DEFINITIONS

DEFINITIONS

"Cannabis" means Cannabis as defined in the "Cannabis Act" (Canada);

"Council" means the Council of The Corporation of the Township of Hornepayne;

"Cannabis Infraction Notice (CIN)" means the Cannabis infraction notice which is issued to a person who has contravened this By-Law and is detailed with the particulars of the infraction.

"Officer" means:

1. a By-Law Officer of the Township of Hornepayne or designate appointed by or under the authority of a Township By-Law to enforce Township By-Laws; or
2. a Police Officer employed by Ontario Provincial Police.

"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.

"Township" means The Corporation of the Township of Hornepayne;

"Vapourizing" means:

1. to inhale and exhale the vapour produced by an electronic cigarette or similar device containing Cannabis; or,
2. holding or otherwise having control of an electronic smoking device that is producing vapour, emissions or aerosol from Cannabis.

SCHEDULE "B"
BY-LAW NO. 1704
CANNABIS: SMOKING AND VAPOURIZING
REGULATIONS

REGULATIONS

1 GENERAL PROHIBITIONS:

1.1 In addition to the prohibitions set out in the Smoke-Free Ontario Act, S.O. 1994, c.10 as amended from time to time, no person shall smoke or vapourize Cannabis, or hold or otherwise use lighted Cannabis in any Public Place, including but not limited to the following:

- i) parks, trails and natural areas of the Township;
- ii) public parking lots;
- iii) facilities owned by the Township of Hornepayne, including arenas, community centres, libraries, parks and pools;
- iv) roads, sidewalks and Township boulevards;
- v) all schools, daycare facilities, and other child care facilities; and,
- vi) all retail, commercial and business establishments

2 APPLICABILITY

2.1 This By-Law does not apply to privately owned property containing one or more dwellings.

2.2 This By-Law does not apply to a person who is entitled to possess Cannabis pursuant to a medical document issued pursuant to the "Access to Cannabis for Medical Purposes Regulations, SOR/2016-230" or successor legislation or regulations.

3 ENFORCEMENT

3.1 The provisions of this By-Law may be enforced by an Officer.

3.2 An 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.

3.3 Every person who is required by an Officer to provide identification under Section 3.2 shall identify themselves to the Officer. Giving their correct name, date of birth, an address shall constitute sufficient identification. Failure to provide sufficient identification shall constitute obstruction of the Officer as set out in Section 4.2 of this By-Law.

4 OFFENCES

4.1 Any person who contravenes or fails to comply with 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.

4.2 No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under this By-Law.

5 CONTINUATION, REPETITION PROHIBITED BY ORDER

5.1 The court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

6 ADMINISTRATIVE PENALTIES

6.1 Instead of laying a charge under the Provincial Offences Act, R.S.O. 1990, Chapter P. 33, as amended, for a breach of any provision of this By-Law, an Officer may issue an administrative penalty to the person who has contravened this By-Law.

6.2 The Office has the discretion to either proceed by way of an administrative penalty or a charge laid under the Provincial Offences Act, R.S.O. 1990, Chapter P. 33. If an administrative penalty is issued to a person for the breach, no charge shall be laid against the same person for the same breach.

6.3 The amount of the administrative penalty for a breach of a provision of this By-Law, issued under this By-Law, is fixed as set out in the Smoke-Free Ontario Act, 2017, Cannabis Control Act, 2017 or in any other relevant legislation.

6.4 A person who is issued an administrative penalty shall be subject to the procedures as specified:

The By-Law Officer or other specified designate may complete an issue a Cannabis Infraction Notice (CIN) stating:

- a) The name and address of the person who has contravened this By-Law;
- b) A description of the offence;
- c) The date, time and location of the alleged offence;
- d) The signature of the issuing officer;
- e) The set fine for the alleged offence;
- f) The address for payment

The notice shall be completed in duplicate and the By-Law Officer or designate shall give one (1) copy to the person the ticket is issued to and deliver the other copy to the Corporation's Township office.

6.5 An administrative penalty imposed on a person pursuant to this By-Law that is not paid within 15 days after the day it becomes due and payable, constitutes a debt of the person to the Township and may be added to a municipal tax roll and collected in the same manner as municipal taxes.

7 PENALTIES

7.1 Every person who is guilty of an offence under this By-Law shall be subject to the following penalties, as per relevant legislation:

- i) Upon a first conviction, to a fine of not less than \$100 and not more than \$500;
- ii) Upon a second or subsequent conviction for the same offence, to a fine of not less than \$500 and not more than \$1,000;
- iii) Upon conviction for a multiple offence, for each offence included in the multiple offence, to a fine of not less than \$100 and not more than \$1,000.

8 COLLECTION OF UNPAID FINES

8.1 Where a fine is in default, the Township may proceed with civil enforcement against the person upon whom the fine has been imposed, pursuant to the Provincial Offences Act, R.S.O. 1990, Chapter P. 33.

8.2 The Township may make a request to the Treasurer of a local municipality to add any part of a fine that is in default to the tax roll for any property in the local municipality for which all of the owners are responsible for paying the fine, and collect it in the same manner as municipal taxes.

9 SEVERABILITY

9.1 If any provision or part of this By-Law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the By-Law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

10 INTERPRETATION

10.1 The provisions of Part VI of the Legislation Act, 2006, c. 21, Schedule F shall apply to this By-Law.

SCHEDULE "C"
BY-LAW NO. 1704
CANNABIS: SMOKING AND VAPING
FINES

The fines will be set and follow the Smoke-Free Ontario Act, 2017 and the Cannabis Control Act, 2017.

Schedule 83.0.1 Smoke-Free Ontario Act, 2017 is enclosed.

Schedule 0.3 Cannabis Control Act, 2017 (Provincial Offences Act, Ontario Court of Justice) is enclosed.

Please see the website for the most up-to-date information. <http://www.ontariocourts.ca>

Schedule 83.0.1

Smoke-Free Ontario Act, 2017

Item	Offence	Section	Set Fine
1.	Sell tobacco to a person who is less than 19 years old	3(1)	\$400
2.	Supply tobacco to a person who is less than 19 years old	3(1)	\$400
3.	Sell vapour product to a person who is less than 19 years old	3(1)	\$400
4.	Supply vapour product to a person who is less than 19 years old	3(1)	\$400
5.	Sell tobacco to a person who appears to be less than 25 years old	3(2)	\$400
6.	Supply tobacco to a person who appears to be less than 25 years old	3(2)	\$400
7.	Sell vapour product to a person who appears to be less than 25 years old	3(2)	\$400
8.	Supply vapour product to a person who appears to be less than 25 years old	3(2)	\$400
9.	Present identification not lawfully issued to holder	3(4)	\$150
10.	Display tobacco products in manner that permits viewing or handling before purchase	4(1)	\$400
11.	Permit display of tobacco products in manner that permits viewing or handling before purchase	4(1)	\$400
12.	Display branded tobacco product accessories in manner that permits viewing or handling before purchase	4(1)	\$400
13.	Permit display of branded tobacco product accessories in manner that permits viewing or handling before purchase	4(1)	\$400
14.	Display vapour products in manner that permits viewing or handling before purchase	4.1(1)	\$400
15.	Permit display of vapour products in manner that permits viewing or handling before purchase	4.1(1)	\$400
16.	Promote sale of tobacco products in place where sold or offered for sale	4(2)(a)	\$400
17.	Promote sale of tobacco products visible from outside place where sold or offered for sale	4(2)(b)	\$400
18.	Promote sale of tobacco product accessories in place where sold or offered for sale	4(2)(a)	\$400
19.	Promote sale of tobacco product accessories visible from outside place where sold or offered for sale	4(2)(b)	\$400
20.	Promote sale of vapour products in place where sold or offered for sale	4.1(2)(a)	\$400
21.	Promote sale of vapour products visible from outside place where sold or offered for sale	4.1(2)(b)	\$400

22.	Sell tobacco in a prohibited place	6(1)	\$300
23.	Offer to sell tobacco in a prohibited place	6(1)	\$300
24.	Sell vapour product in a prohibited place	6(1)	\$300
25.	Offer to sell vapour product in a prohibited place	6(1)	\$300
26.	Sell tobacco without posting prescribed signs	7	\$200
27.	Offer to sell tobacco without posting prescribed signs	7	\$200
28.	Sell vapour product without posting prescribed signs	7	\$200
29.	Offer to sell vapour product without posting prescribed signs	7	\$200
30.	Sell improperly packaged tobacco	8	\$400
31.	Offer to sell improperly packaged tobacco	8	\$400
32.	Distribute improperly packaged tobacco	8	\$400
33.	Offer to distribute improperly packaged tobacco	8	\$400
34.	Sell improperly packaged vapour product	8	\$400
35.	Offer to sell improperly packaged vapour product	8	\$400
36.	Distribute improperly packaged vapour product	8	\$400
37.	Offer to distribute improperly packaged vapour product	8	\$400
38.	Sell flavoured tobacco product	9	\$400
39.	Offer to sell flavoured tobacco product	9	\$400
40.	Distribute flavoured tobacco product	9	\$400
41.	Offer to distribute flavoured tobacco product	9	\$400
42.	Permit vending machines for selling or dispensing tobacco	10(1)	\$300
43.	Permit vending machines for selling or dispensing vapour product	10(1)	\$300
44.	Failure to submit reports	11	\$150
45.	Smoke tobacco in prohibited place	12(1)	\$250
46.	Hold lighted tobacco in prohibited place	12(1)	\$250
47.	Smoke cannabis in prohibited place	12(1)	\$250
48.	Hold lighted cannabis in prohibited place	12(1)	\$250
49.	Use electronic cigarette in prohibited place	12(1)	\$250
50.	Failure of employer to ensure compliance with section	14(1)(a)	\$300
51.	Failure of employer to give notice of prohibition	14(1)(b)	\$300
52.	Failure of employer to post prescribed signs	14(1)(c)	\$300
53.	Failure of employer to ensure no ashtrays or similar equipment	14(1)(d)	\$300
54.	Employer allowing person refusing to comply to remain	14(1)(e)	\$300
55.	Failure of employer to ensure compliance with other prescribed obligations	14(1)(f)	\$300
56.	Failure of proprietor to ensure compliance with section	15(a)	\$300
57.	Failure of proprietor to give notice of prohibition	15(b)	\$300
58.	Failure of proprietor to post prescribed signs	15(c)	\$300

59.	Failure of proprietor to ensure no ashtrays or similar equipment	15(d)	\$300
60.	Proprietor allowing person refusing to comply to remain	15(e)	\$300
61.	Failure of proprietor to ensure compliance with other prescribed obligations	15(f)	\$300
62.	Smoke tobacco in motor vehicle while another person less than 16 years old present	17(1)	\$125
63.	Have lighted tobacco in motor vehicle while another person less than 16 years old present	17(1)	\$125
64.	Use electronic cigarette in motor vehicle while another person less than 16 years old present	17(1)	\$125
65.	Have activated electronic cigarette in motor vehicle while another person less than 16 years old present	17(1)	\$125
66.	Fail to provide an indoor area for traditional Indigenous use	19(4)	\$200

Schedule 0.3
 Cannabis Control Act, 2017

Item	Offence	Section	Set Fine
1.	Sell Cannabis to person who appears to be under 25 years	7(2)	\$400
2.	Deliver purchased Cannabis to person who appears to be under 25 years	7(2)	\$400
3.	Present identification not lawfully issued to holder	7(4)	\$150
4.	Knowingly sell Cannabis to intoxicated person	8	\$400
5.	Knowingly distribute Cannabis to intoxicated person	8	\$400
6.	Knowingly sell Cannabis to apparently intoxicated person	8	\$400
7.	Knowingly distribute Cannabis to apparently intoxicated person	8	\$400
8.	Unlawful purchase of Cannabis	9	\$150
9.	Person under 19 years — possess Cannabis	10(1)	\$100
10.	Person under 19 years — consume Cannabis	10(1)	\$100
11.	Person under 19 years — attempt to purchase Cannabis	10(1)	\$100
12.	Person under 19 years — purchase Cannabis	10(1)	\$100
13.	Person under 19 years — distribute Cannabis	10(1)	\$100
14.	Person under 19 years — cultivate Cannabis	10(2)	\$100
15.	Person under 19 years — propagate Cannabis	10(2)	\$100
16.	Person under 19 years — harvest Cannabis	10(2)	\$100
17.	Person under 19 years — offer to cultivate Cannabis	10(2)	\$100
18.	Person under 19 years — offer to propagate Cannabis	10(2)	\$100
19.	Person under 19 years — offer to harvest Cannabis	10(2)	\$100
20.	Drive vehicle or boat with Cannabis in open original packaging	12(1)	\$175
21.	Have care or control of vehicle or boat with Cannabis in open original packaging	12(1)	\$175
22.	Drive vehicle or boat with Cannabis in open baggage	12(1)	\$175
23.	Have care or control of vehicle or boat with Cannabis in open baggage	12(1)	\$175
24.	Drive vehicle or boat with Cannabis readily available	12(1)	\$175
25.	Have care or control of vehicle or boat with Cannabis readily available	12(1)	\$175