



**THE CORPORATION OF THE
TOWN OF COBALT
BY-LAW NO. 2024-06**

Being a By-Law to Regulate Smoking and Vaping Within the Town of Cobalt

WHEREAS Section 8 of the Municipal Act, 2001, c. 25, as amended (the "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 Section 10 of the Municipal Act, 2001, provides that single tier municipalities have the authority to pass By-Laws respecting the health, safety and well-being of persons;

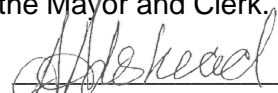
AND WHEREAS Section 115 of the Municipal Act, 2001, provides that without limiting Section 10, a municipality may prohibit or regulate the smoking of tobacco and cannabis in public places and workplaces;

NOW THEREFORE BE IT RESOLVED THAT the Council of the Corporation of the Town of Cobalt hereby enacts as follows:

1. That Council for the Town of Cobalt adopts the Smoking By-Law identified as Schedule "A", attached hereto and forming part of this By-Law.
2. That By-Laws No. 2012-003 and 2013-018, as amended, are hereby repealed.
3. That this By-Law shall come into force and take effect on the date of its final passing.
4. That the Clerk of the Town of Cobalt is hereby authorized to make minor modifications or corrections of a grammatical or typographical nature to the By-Law and schedule after the passage of this By-Law, where such modifications or corrections do not alter the intent of the By-Law.

READ a first, second and third time and finally passed this 20th day of February, 2024;

AND FURTHER THAT the said By-Law be signed and sealed by the Mayor and Clerk.



Mayor



Clerk



**THE CORPORATION OF THE
TOWN OF COBALT**

Schedule "A" to
By-Law 2024-06

**SMOKING BY-LAW FOR
THE CORPORATION OF THE TOWN OF COBALT**

Part 1 General Provisions

- 1.1 **Short Title**
This By-Law shall be cited as the "Smoking By-Law"
- 1.2 **Enforcement**
This By-Law shall be enforced by a By-Law Enforcement Officer or their designate.
- 1.3 **Conflict with other By-Law**
Where a provision of this By-Law conflicts with a provision of another By-Law in force in the Town of Cobalt, the provisions of this By-Law shall prevail in order to protect the health, safety and welfare of the general public.
- 1.4 **Conflict with Smoke-Free Ontario Act, 2017**
Section 18 of the Smoke-Free Ontario Act, 2017, S.O. 2017, c. 26, Schedule 3, as amended (the "Smoke Free Ontario Act") 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; and,

Part 2 Definitions

For the purposes of this By-Law:

- 2.1 "Cannabis" has the same definition as in Section 2(1) of the *Cannabis Act* (Canada).
- 2.2 "Council" means the Council of The Corporation of the Town of Cobalt.
- 2.3 "Medical Cannabis" means cannabis prescribed by a health care professional for use in treating and managing illness, the access to which is regulated exclusively by the federal government.
- 2.4 "Municipal Building" means any building or structure owned, leased, controlled or used by the Town of Cobalt.
- 2.5 "Municipal Property" means all lands and premises, whether or not a building is constructed thereon, which is owned, leased, licensed, managed or maintained by the Municipality but excludes Highways.
- 2.6 "Municipality" means The Corporation of the Town of Cobalt.
- 2.7 "Officer" means:
- a) a By-Law Enforcement Officer of the Municipality or other person appointed by or under the authority of a municipal By-law to enforce municipal By-Laws; or
 - b) a Police Officer employed by Ontario Provincial Police.
 - c) a Medical Officer of Health as defined in section 1(1) of the *Health Protection and Promotion Act*.

- 2.8 "Private Dwelling" means private self-contained living quarters in any detached or multi-unit building or facility that is not owned by the municipality.
- 2.9 "Public Place" includes Town Property to which the public has access as of right or invitation, express or implied, and also includes any motor vehicle located in a Public Place.
- 2.10 "Smoke or Smoking" includes the holding or carrying of a lighted cigar, cigarette, pipe, that contains any tobacco, cannabis or other substance or product.
- 2.11 "Tenant" means any person(s) or corporation(s) leasing or licensing Town Property and includes any director(s) and officer(s) of a corporation that is leasing or licensing a Town Property.
- 2.12 "Vape or vaping" means the use and/or activation of a vaporizer or inhalant-type device, whether called an electronic cigarette or any other name, that contains a power source and/or heating element designed to heat a substance and produce vapour intended to be inhaled by the user of the device, whether or not the vapour contains nicotine, medicinal cannabis or cannabis.

Part 3 General Prohibitions

- 3.1 In addition to the prohibitions set out in the Smoke-Free Ontario Act as amended from time to time, no person shall smoke or vape, whether or not a sign is posted, within 5-meter radius of an entrance of a Municipal Building.
- 3.2 There shall be no smoking or vaping on any portion of the property of a municipal building.
- 3.3 A tenant shall not permit smoking or vaping on Municipally owned property leased or licensed by the Tenant.

Part 4 Applicability and Exceptions

- 4.1 This By-Law does not apply to a private dwelling.
- 4.2 Despite sections 3.1, 3.2 and 3.3 of this By-Law, if permitted under *Smoke Free Ontario Act, S.O. 2017, c.26* as may be amended from time to time, a person may smoke cannabis in a public place where the person is authorized to possess cannabis for the individual's own medical purposes in accordance with Part 14 of the Cannabis Regulations (Canada) or in accordance with a Court Order.
- 4.3 A person claiming exemption in accordance with section 4.2 shall have their medical documents on their possession at all times of smoking cannabis and shall surrender their medical document for inspection upon demand of an Officer.

Part 5 Powers of Entry and Inspection

- 5.1 Officers and persons acting under their direction may, at any reasonable time, or at any time when there are reasonable grounds to believe that a contravention of this By-Law is occurring or alleged to be occurring, enter onto any Town property to determine if the provisions of this By-Law are being complied with.
- 5.2 Officers are authorized, for the purpose of inspection to determine and enforce compliance with the By-Law, to:
- a) require any person to produce for inspection all documents or things relevant to the inspection. Officers may inspect and remove documents and things for the purpose of making copies or extracts.
 - b) alone or in conjunction with a person possessing special or expert knowledge, make examinations, take tests, samples, audio recordings, video recordings, or photographs necessary for the purposes of inspection; and
 - c) require information from any person concerning a matter related to the inspection including their name, date of birth and address.

Part 6 Enforcement

- 6.1 The provisions of this By-Law shall be enforced by an Officer.
- 6.2 An Officer who has reasonable grounds to believe that a person or tenant has contravened any provision of this By-Law may require that person or tenant to provide their identification to the Officer.
- 6.3 Every person or tenant whose required by an Officer to provide identification under section 6.2 shall identify themselves to the Officer. Giving their name, date of birth and address shall constitute sufficient identification. Failure to provide sufficient identification shall constitute an offence as set out in section 7.2 of this By-Law.

Part 7 Offences

- 7.1 Any person or tenant who contravenes or fails to comply with any provision of this By-Law is guilty of an offence.
- 7.2 No person or tenant 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.
- 7.3 A court or hearing officer may, in absence of evidence to the contrary, infer that any substance in questions is cannabis from the fact that a witness describes it as cannabis or by a name that is commonly applied to cannabis. For greater certainty, a witness need not possess special or expert knowledge for the court to make such inference.

Part 8
Continuation, Repetition Prohibited by Order

- 8.1 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 or tenant convicted, and such order shall be in addition to any other penalty imposed on the person or tenant convicted.

Part 9
Administrative Penalties

- 9.1 Instead of laying a charge under the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended (the "Provincial Offences Act"), for a breach of any provision of this By-Law, an Officer may issue an administrative penalty to the person or tenant who has contravened this By-Law.
- 9.2 The Officer has the discretion to either proceed by way of an administrative penalty or a charge laid under the Provincial Offences Act. If an administrative penalty is issued to a person or tenant for the breach, no charge shall be laid against that same person or tenant for the same breach.
- 9.3 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 Town of Cobalt's User Fee By-Law as amended, or any successor By-Law.
- 9.4 A person or tenant who is issued an administrative penalty shall be subject to the procedures as provided for in an administrative penalty By-Law, as amended, or any successor By-Law.
- 9.5 An administrative penalty imposed on a person or Tenant 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 or tenant to the Municipality and may be added to a municipal tax roll and collected in the same manner as municipal taxes.

Part 10
Penalties

- 10.1 Every person or tenant who is guilty of an offence under this By-Law shall be subject to the following penalties:
- a) Upon a first conviction, to a fine of not less than \$100.00 and not more than \$5,000.00.
 - b) Upon a second or subsequent conviction for the same offence, to a fine of not less than \$250.00 and not more than \$10,000.00.
 - c) Upon conviction for a multiple offence, for each offence included in the multiple offence, to a fine of not less than \$100.00 and not more than

\$10,000.00.

**Part 11
Collection of Unpaid Fines**

- 11.1 Where a fine is in default, the Municipality may proceed with civil enforcement against the person or tenant upon whom the fine has been imposed, pursuant to the Provincial Offences Act.
- 11.2 The Municipality may make a request to the treasurer of a local municipality to add any part of a fine for which a person or tenant is responsible that is in default to the tax roll for any lands owned by the person or tenant in the local municipality, and collect it in the same manner as municipal taxes.

**Part 12
Severability**

- 12.1 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.

**Part 13
Interpretation**

- 13.1 Where a term used in this By-Law is not defined in this By-Law, but is defined in the Smoke-Free Ontario Act that definition shall apply to the term used in this By-Law.
- 13.2 The onus of proving an exception under Part 4 of this By-Law is on the person claiming the exception, in accordance with s. 47(3) of the Provincial Offences Act as amended.