

**THE MUNICIPAL CORPORATION OF
THE CITY OF IQALUIT, NUNAVUT**

By-Law No. 863

Being a By-Law of the City of Iqaluit to Regulate public consumption of cannabis, smoking and vaping in the City of Iqaluit.

WHEREAS the Council of the City of Iqaluit recognizes the health risks associated with smoking, and environmental tobacco smoke and that the risks associated with secondary tobacco smoke are well established;

AND WHEREAS the smoke or vapour produced by the smoking or vaping of tobacco, cannabis and other substances in public places can be a nuisance for other persons in those public places;

AND WHEREAS pursuant to Section 54(2) of the *Cities, Towns, and Villages Act*, Council may pass by-laws respecting:

- (a) the safety, health and welfare of people and the protection of people and property;
- (b) people, activities and things in, on or near a public place or place that is open to the public; and
- (c) the enforcement of by-laws made under the *Cities, Towns, and Villages Act* or any other enactment;

AND WHEREAS the Council of the City of Iqaluit deems it necessary to impose additional restrictions on the smoking, vaping and consumption of cannabis in public places to prevent behaviours and conduct that may have a negative impact on the enjoyment of public places;

NOW, THEREFORE, the Council of the City of Iqaluit, in regular session duly assembled, enacts as follows:

ARTICLE 1 -SHORT TITLE

- 1.01 This By-Law may be cited as the “Public Cannabis Consumption, Tobacco Use and Vaping By-law”.

ARTICLE 2 -SEVERABILITY

- 2.01 If any provision of this by-law is declared invalid because of any word, phrase, clause, sentence, paragraph or section of this by-law or any documents which form part of this by-law or an application thereof to any person or circumstance is declared invalid, the remaining provisions shall not be affected thereby, but shall remain in force.

ARTICLE 3 -DEFINITIONS AND INTERPRETATION

- 3.01 In this By-law:
- (a) “business” means carrying on a commercial or industrial undertaking of any kind or nature or the provision of a professional, personal or other

service and includes any activity carried on by an educational institution, municipality, or charitable organization;

- (b) “*cannabis*” has the meaning given to that term in the federal *Cannabis Act*;
- (c) “*cannabis lounge*” means a physical commercial establishment where cannabis is sold under the authority of the *Cannabis Act* (NU) for consumption on the premises;
- (d) “*City*” means the City of Iqaluit, a municipal corporation in the territory of Nunavut, or the area contained within the boundaries of the City of Iqaluit, as the context may require;
- (e) “*consume*”, in relation to cannabis, means use in or on a person’s body, including by:
 - (i) smoking cannabis;
 - (ii) ingesting cannabis in any manner;
 - (iii) applying cannabis onto or into any part of one’s body or another person’s body; or
 - (iv) having an object that is applying cannabis onto or into any part of one’s body or another person’s body;
- (f) “*dwelling*” means a dwelling-house as defined in section 2 of the *Criminal Code*;
- (g) “*electronic cigarette*” means a vapourizer or inhalant-type device, whether called an electronic cigarette or any other name, containing a power source and heating element designed to heat a substance and produce a vapour intended to be inhaled;
- (h) “*employer*” means any person who, as the owner, proprietor, manager, contractor, superintendent, supervisor or overseer of any activity, business, work, trade, occupation or profession, has control over or direction of, or is directly or indirectly responsible for the employment of, an employee;
- (i) “*officer*” means a Municipal Enforcement Officer or a member of the Royal Canadian Mounted Police;
- (j) “*operator*” includes the person responsible for the day to day operations of a public premises and a proprietor of a public premises place;
- (k) “*person*” includes a corporation;
- (l) “*playground*” means an outdoor area upon which apparatus such as swings and slides are placed;
- (m) “*proprietor*” means the person who ultimately controls, governs or directs the activity carried on within a place and includes the person actually in charge of the premises at any particular time;
- (n) “*public assembly*” means a temporary outdoor gathering open to the public or a portion of the public in a place that is not a public place, and, includes, but is not limited to, a parade, a concert, a public event, or a beer garden or other event for which a Special Occasion License has been issued;

- (o) *“public place”* means:
- (i) any building, structure, public vehicle, or part thereof, whether covered by a roof or not, to which the public has access as of right or by invitation, express or implied, whether or not a fee is charged for entry, but does not include a street, road or highway; and
 - (ii) any motor vehicle located in a public place;
- (p) *“public vehicle”* mean a bus, taxi or other vehicle that is used to transport members of the public for a fee;
- (q) *“skate park”* means an outdoor area which is designed and intended specifically for the use of skateboards, in-line skates, or other similar devices;
- (r) *“smoke”* means to smoke, inhale or exhale vapour from, burn, carry, hold or otherwise have control over a lit or heated cigarette, cigar, pipe, water pipe, electronic cigarette or other device that burns or heats tobacco, cannabis or another substance that is intended to be smoked or inhaled;
- (s) *“sports field”* means an outdoor area which is set apart and used for the playing of sporting activities;
- (t) *“taxi”* means any taxi, limousine or private for hire vehicle licensed pursuant to the provisions of the Taxi By-Law, the Taxi By-law No. 590;
- (u) *“tobacco ”* means:
- (i) tobacco in any form in which it is consumed and includes snuff;
 - (ii) any substance which is substituted for tobacco;
 - (iii) a product composed in whole or in part of tobacco, including tobacco leaves and extract of tobacco leaves;
- but does not include any product for use in nicotine replacement therapy
- (v) *“school”* includes a kindergarten, elementary, junior high or senior high school, college, training centre or other educational institution;
- (w) *“Special Occasion License”* means a license granted to a group or individual, which allows the provision of alcoholic beverages to guests for a specified period of time and at a specified place ;
- (x) *“vape”* or *“vaping”* means :
- (i) inhaling or exhaling the vapour, emissions or aerosol produced in an electronic cigarette or similar device containing tobacco, cannabis or any other substance; or
 - (ii) holding or otherwise having control of an electronic cigarette that is producing vapour, emissions or aerosol from tobacco, cannabis or any other substance;.
- (y) *“use tobacco”* means to smoke tobacco or to chew snuff;
- (z) *“water pipe”* means smoking equipment, whether called a water pipe or any other name, containing a water reservoir and designed to heat a substance and produce a vapour intended to be inhaled;

- (aa) “workplace” means a building, structure, vehicle or conveyance or part thereof in which one or more employees work, including any other area utilized by employees.

ARTICLE 4 -PROHIBITIONS

- 4.01 No person shall consume cannabis, use tobacco, or vape:
- (a) in or on any workplace or within nine (9) metres from any entrance to or exit from a workplace, whether or not a sign prohibiting smoking is posted;
 - (b) in or on the common area of an apartment building or condominium, or within nine (9) metres from any outside entrance to or exit from the common area of an apartment building or condominium, other than within a dwelling located in such apartment building or condominium;
 - (c) in or on a public place, or within nine (9) metres from any entrance to or exit from a public place;
 - (d) in a public vehicle, whether or not passengers are present;
 - (e) in a place, including a dwelling, where child day care services are provided for money or other consideration, or any outside entrance to or exit from such a place, during the times at which the services are being provided;
 - (f) in or on a hospital or other health facility, including its grounds, or within 9 metres of nine (9) metres from any entrance to or exit such hospital or health facility;
 - (g) in, on or within nine (9) metres from a child day care facility, as defined in the *Child Day Care Act*, RSNWT (Nu) 1988, c C-5;
 - (h) in, on or within nine (9) metres from a playground, skate park, or sports field; or
 - (i) in or within nine (9) meters of the location of a parade, concert or other public assembly:
 - (i) during the setup of any facilities, seating, barricades, stages or other equipment to be used for such public assembly,
 - (ii) during such public assembly; or
 - (iii) during the take down of any temporary facilities, seating, barricades or other equipment used for such public assembly.
- 4.02 No person shall consume cannabis, use tobacco, or vape in a school, on school grounds, or within fifteen (15) metres of any entrance to or exit from a school.
- 4.03 Where a Public Assembly has a Special Occasion License for that Public Assembly, the holder of that Special Occasion License shall not knowingly permit any person to consume cannabis, to use tobacco, or to vape in that place of public assembly.
- 4.04 An employer, operator or proprietor shall not knowingly permit a person to consume cannabis, use tobacco or vape in a workplace owned or controlled by the employer where doing so is prohibited by this By-law.

- 4.05 If a place referred to in subsection 4.01(a) or 4.01(c) is a building or is in a building, the distance under that subsection is only measured from each outside entrance and exit of the building.
- 4.06 A person shall not smoke tobacco, cannabis or any substance in a manner or place, including in the dwelling of the person, that results in, or could reasonably be expected to result in, smoke or vapour entering and being detectable by smell or sight in:
- (a) a workplace or public place;
 - (b) the common area of an apartment building or condominium; or
 - (c) a dwelling, other than
 - (i) the dwelling of the person, or
 - (ii) the dwelling of another person who consents.
- 4.07 Subsections 4.04, 4.05 and 4.06 apply to smoking cannabis obtained for medical purposes under the authority of applicable federal law.

ARTICLE 5 -EXCEPTIONS

- 5.01 Section 4.01(a) shall not apply to:
- (a) a part of a workplace that is used as a private residence and to which the public is not admitted;
 - (b) a room in a hotel, motel, or other place where rooms are rented for sleeping accommodation, provided the room is used for sleeping accommodation only and the room is, at the time it is rented, designated and specifically set aside as a room in which smoking is permitted;
 - (c) a workplace to which the public is not admitted and that is located in a dwelling where the only employees of that workplace are persons who live in the dwelling; or
 - (d) an area set aside for smoking in an elder home.
- 5.02 With respect to smoking that occurs outdoors, Section 4.01(c) applies only if the smoking takes place within nine (9) metres from where the smoke or vapour enters or could reasonably be expected to enter a place referred to in that subsection.
- 5.03 Despite any other provision of this By-law, a person may, inside an enclosed premise where the primary function of the premises is the sale of electronic cigarettes, use an electronic cigarette to sample a product, other than tobacco or cannabis, prior to purchase.
- 5.04 Section 4.04 does not apply to an employer, operator or proprietor who allows a person to use an electronic cigarette to sample a product, other than tobacco or cannabis, prior to purchase inside an enclosed premise where the primary function of the premises is the sale of electronic cigarettes.
- 5.05 Sections 4.01(a) and 4.01(c) shall not apply to an enclosed shelter set aside for smoking or vaping that is closer than the nine (9) metres to an entrance or exit, if the shelter is so constructed that smoke or vape from the shelter does not come into contact with persons entering or leaving the place.

- 5.06 This by-law does not apply to the consumption of cannabis in a cannabis lounge where such consumption is otherwise permitted by law.

ARTICLE 6 -ENFORCEMENT

- 6.01 An Officer may, at any time, enter any designated place of public assembly for the purpose of determining compliance with this By-law.
- 6.02 Where an Officer believes that a person has contravened any provision of this By-law, the Officer may commence proceedings against the person by issuing a violation ticket in accordance with the Summary Convictions Procedures Act.
- 6.03 This section shall not prevent an Officer from issuing a violation ticket requiring a court appearance of the defendant or from laying an information instead of issuing a violation ticket.

ARTICLE 7 -OFFENCE

- 7.01 A person who contravenes any provision of this By-law is guilty of an offence and is liable on summary conviction to a fine determined in accordance with Article 8.

ARTICLE 8 -PENALTY

- 8.01 A person who is guilty of an offence under this by-law is liable on summary conviction to a fine not exceeding the amount specified in Schedule "A" of this By-law.
- 8.02 An officer may issue a ticket for a breach of this By-law for an offence with a specified fine in Column 2 of Schedule "A" for an individual or Column 4 of Schedule "A" for a corporation and the person so charged may pay the penalty before the deadline stated in the ticket instead of appearing in court.
- 8.03 The fine shall not exceed an amount determined by establishing the number of times the defendant has been convicted of the same offence during the five years preceding the current conviction and selecting:
- (a) if the defendant is an individual, the amount set out in column 4 of Schedule "A" for the number of previous convictions and the section or subsection number of the provision contravened in Column 1; or
 - (b) if the defendant is a corporation, the amount set out in column 6 of Schedule "A" for the number of previous convictions and the section or subsection number of the provision contravened in Column 1.

ARTICLE 9 -REPEALS

- 9.01 By-Law No. 570 is hereby repealed.

ARTICLE 10 -EFFECTIVE DATE

- 10.01 This By-law shall come into force on the day the *Cannabis Act* (Canada) comes into force or upon receiving third reading, whichever occurs later.

THIS BY-LAW READ a First Time this 3rd day of October, 2018, A.D.

Madeleine Redfern
Mayor

Amy Elgersma
A/Chief Administrative Officer

THIS BY-LAW READ a Second Time this 3rd day of October, 2018, A.D.

Madeleine Redfern
Mayor

Amy Elgersma
A/Chief Administrative Officer

THIS BY-LAW READ a Third and Final Time this 9th day of October, 2018 A.D.

Madeleine Redfern
Mayor

Amy Elgersma
A/Chief Administrative Officer

SCHEDULE "A"

Column 1 Provision Breached	Column 2 Description	Column 3 Specified Fine – Individual	Column 4 Maximum Fine – Individual	Column 5 Specified Fine – Corporation	Column 6 Maximum Fine – Corporation
4.01(a) through (i)	Consuming Cannabis, using tobacco, or vaping where prohibited	\$200.00	\$1,000.00 (no prior convictions) \$2,000.00 (1 or more prior convictions)	n/a	n/a
4.02	Consuming Cannabis, using tobacco, or vaping in a school, on its grounds, or within 15 metres of an entrance to a school	\$200.00	\$1,000.00 (no prior convictions) \$2,000.00 (1 or more prior convictions)		
4.03 or 4.04	Permitting consumption of cannabis, use of tobacco or Vaping Where Prohibited	\$250.00	\$1,000.00 (no prior convictions) \$1,000.00 (1 prior convictions) \$2,000.00	\$1,000.00	\$1,000.00 (0 conviction) \$5,000.00 (1 conviction) \$10,000.00 (2 or more convictions)