

# THE CORPORATION OF THE TOWNSHIP OF MULMUR

## BY-LAW NO. 7 -19

### BEING A BY-LAW TO PROHIBIT THE SMOKING OR VAPORIZING OF RECREATIONAL CANNABIS IN PUBLIC PLACES WITHIN THE TOWNSHIP OF MULMUR

**WHEREAS** Section 8 of 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 persons;

**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 Township of Mulmur (“*Council*”) wishes to prohibit the smoking or vaporizing of cannabis in public places within the Township of Mulmur;

**AND WHEREAS** Section 18 of the *Smoke-Free Ontario Act, 2017, S.O. 2017, c. 26, Schedule 3*, states 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.

**NOW THEREFORE, THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF MULMUR ENACTS AS FOLLOWS:**

#### **1.0 GENERAL PROHIBITIONS:**

In addition to the prohibitions set out in the *Smoke-Free Ontario Act, 2017, S.O. 2017, c. 26, Sched. 3* as amended from time to time, no person shall smoke or vaporize cannabis, or hold or otherwise use lighted cannabis or smoke or vaporize cannabis in any Public Place, including but not limited to the following:

- a) recreational areas, parks, trails and natural areas owned by the Township of Mulmur;
- b) facilities owned by the Township of Mulmur, including arenas, parks, and municipal offices;
- c) roads, sidewalks and municipal boulevards;
- d) all retail, commercial and business establishments, including but not limited to ski hills, golf courses, shopping areas and associated green space and parking areas.

Notwithstanding the forgoing, a designated tobacco smoking area may be established for smoking tobacco only, provided that such designated area is in compliance with the requirements of the *Smoke-Free Ontario Act, 2017, S.O. 2017, c. 26, Sched. 3*

**2.0 APPLICABILITY**

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

**3.0 ENFORCEMENT**

The provisions of this By-law may be enforced by an Officer. 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. Every person who is required by an Officer to provide identification shall identify themselves to the Officer. Giving their correct name, date of birth, and address shall constitute sufficient identification. Failure to provide sufficient identification shall constitute obstruction of the Officer as set out in this By-law.

**4.0 OFFENCES**

Any person who contravenes or fails to comply with any provision of this By-law is guilty of an offence.

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.

**5.0 CONTINUATION, REPETITION PROHIBITED BY ORDER**

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.

**6.0 PENALTIES**

Every person convicted of an offence under any provisions of this by-law shall be liable to a penalty as set out in Section 61 of the *Provincial Offences Act, R.S.O. 1990, Chapter P. 33*, as amended from time to time, or any successor thereof, and every person who is convicted of an offence is liable to a fine of not more than \$5,000.

**7.0 SEVERABILITY**

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.

**8.0 FORCE AND EFFECT**

This By-law comes into force on the date of the final reading and passage. READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED on this 9th day of January, 2019

Janet M. Horner

Kerstin Vroom

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MAYOR.

CLERK.