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**CONSOLIDATION UPDATE: APRIL 25, 2019**

**THE CITY OF WINNIPEG**

**BY-LAW NO. 62/2011**

A By-law of THE CITY OF WINNIPEG to prohibit smoking in certain outdoor locations

**WHEREAS** section 134 of *The City of Winnipeg Charter* provides that Council may pass by-laws respecting health hazards and the health and well-being of people, and further provides that such by-laws may include provisions respecting the sale, use, consumption, possession or disposal of substances that may constitute a health hazard;

**AND WHEREAS** tobacco smoke is a known Class A carcinogen for which there is no safe level of exposure and scientific studies confirm that negative health consequences, including an increased risk of cardiovascular and respiratory disease, can result from even short exposures;

**NOW THEREFORE THE CITY OF WINNIPEG**, in Council assembled, enacts as follows:

**Title**

**1** This By-law may be cited as the Outdoor Smoking By-law.

**Definitions**

**2** In this By-law

**"athletic field"** means any outdoor space used for organized athletic or sporting activities that is:

- (a) owned by the City of Winnipeg; or
- (b) operated by the City of Winnipeg or a community centre;

and includes a soccer pitch, baseball or softball diamond, and football field;

**"City of Winnipeg workplace"** means any building, portion of a building or other location owned or leased by the City of Winnipeg and used as a place of work by one or more employees of the City of Winnipeg;

**"community centre"** means a member of the General Council of Winnipeg Community Centres;

**"e-cigarette"** has the same meaning as in The Non-Smokers Health Protection and Vapour Products Act, C.C.S.M c. N92;

*added 30/2018*

**"health care facility"** means

- (a) a hospital designated as such by the *Hospitals Designation Regulation*, Manitoba Regulation 47/93;
- (b) an institution providing health care that is funded by the Winnipeg Regional Health Authority, including any Access Centre, Breast Health Centre, Winnipeg Birth Centre, Clinic, Mount Carmel Clinic and Pan Am Clinic; and
- (c) a personal care home designated as such by the *Personal Care Homes Designation Regulation*, Manitoba Regulation 108/2000;

**"hockey rink"** means an outdoor ice surface designed for playing hockey or for recreational skating that is owned by the City of Winnipeg or is operated by the City of Winnipeg or a community centre;

**"outdoor patio"** means an outdoor area designed for the consumption of food and drink and which

*added 30/2018; amended 12/2019*

- (a) is required to obtain an occupancy permit under the Winnipeg Building By-law; and
- (b) is located
  - (i) on a property where the principal use falls within the "Food and Beverage Service" use category under the Winnipeg Zoning By-law or the "restaurant" or "drinking establishment" uses under the Downtown Winnipeg Zoning By-law; or
  - (ii) in a portion of the street and is approved or capable of being approved as an encroachment under the Encroachment By-law;

**"personal smoking devices"** includes cigarettes, cigars, pipes, e-cigarettes, water pipes, hookahs and similar devices that allow the user to inhale tobacco, cannabis or any other substances and that generates second-hand smoke when being used;

*added 30/2018*

**"playground"** means any outdoor space owned or operated by the City of Winnipeg that has been set aside for public use by young children, and includes places that contains swings, slides, see-saws, climbing apparatuses, or similar equipment;

**"premises"** means the parcel of land on which a health care facility is situated and includes any contiguous parcels owned or leased by the health care facility;

**"smoking"** means the use of a personal smoking device to inhale tobacco, cannabis, or any other substance;

*amended 30/2018*

**"youth event"** means an organized athletic or sporting event in which individuals under the age of 18 are participating;

**"WRHA workplace"** means any building, portion of a building or other location owned or leased by the Winnipeg Regional Health Authority and used as a place of work by one or more employees of the Winnipeg Regional Health Authority.

### **Prohibition**

**3(1)** No person shall smoke:

- (a) subject to subsection 3(3), within 30 metres of the playing surface of an athletic field or a hockey rink during a youth event;
- (b) on a playground;
- (c) subject to subsection 3(3), within 30 metres of a swimming pool, wading pool, spray pad or spray park owned or operated by the City of Winnipeg;
- (d) on the premises of a primary school, middle school or secondary school, whether a public school or a private school, as those terms are defined in *The Education Administration Act*, C.C.S.M. c. E-10;
- (e) subject to subsection (2), on the premises of a health care facility;
- (f) within 8 metres from an outdoor entrance providing direct access to a health care facility;
- (g) within 8 metres from an outdoor entrance providing direct access to a City of Winnipeg workplace;
- (h) within 8 metres from an outdoor entrance providing direct access to a WRHA workplace; or
- (i) on an outdoor patio.  
*added 30/2018*

**3(1.1)** The owner and the operator of the property on which an outdoor patio is located must ensure that no person smokes on the outdoor patio.

*added 30/2018*

**3(2)** Clause (1)(e) does not apply to residents of a personal care home who smoke in an outdoor area that

- (a) has been designated by the administration of a personal care home as a smoking area for residents of the personal care home and is clearly marked as such; and
- (b) is at least 8 metres from any entranceway to a building, window that is capable of being opened, or air intake.

**3(3)** The prohibitions in clauses 3(1)(a) and 3(1)(c) do not apply to property that is not owned or operated by the City of Winnipeg or a community centre.

**3(4)** The prohibitions in clause 3(1)(i) and subsection 3(1.1) do not apply to any ceremony which is led by one or more Indigenous persons.

*added 30/2018*

### **Penalties**

**4** A person who contravenes this By-law that is referred to in Schedule A of the Municipal By-law Enforcement Act (MBEA) Enabling By-law must pay the penalty for that contravention set out in that Schedule.

*amended 30/2018*

**DONE AND PASSED**, this 25<sup>th</sup> day of May, 2011.