

TOWN OF AMHERST
RESPECTING NUISANCES AND SMOKING

The Town of Amherst under authority of the *Municipal Government Act*, in Section 172(1) (a), (c) and (d) authorizes a council to make by laws for municipal purposes respecting the health, well-being, safety and protection of persons; persons and activities in public places and places open to the public; and nuisances, including burning, odours and fumes.

Short Title

- 1) This Bylaw may be cited as Bylaw #, the “Nuisance and Smoking Bylaw”.

Interpretation

- 2) In this Bylaw

(a) "accessory building" means a detached subordinate building, not used for human habitation, that is

- (i) located on the same lot as the main building or use to which it is accessory,
- (ii) wholly constructed of rigid materials such as metal, wood, or glass;

(b) “Council” means the Council of the Town of Amherst;

(c) “dwelling unit” means living quarters that

- (i) are accessible from a private entrance, either outside the building or in a common area within the building,
- (ii) are occupied or, if unoccupied, are reasonably fit for occupancy,
- (iii) contain kitchen facilities within the unit, and
- (iv) have toilet facilities that are not shared with the occupants of other dwelling units,

excluding any

- (i) detached structure that is not an accessory building, or
- (ii) structure that is attached to the exterior wall of the dwelling unit or the building containing the dwelling unit, such as a balcony, deck, patio, porch, terrace, or veranda;

(d) “licensed producer” means an individual or corporation issued a producer’s license in accordance with the *Access to Cannabis for Medical Purposes Regulations* (Canada);

(e) “Municipal property” means any land owned, occupied, or leased by the Municipality, including a street, or a park;

(f) “Municipality” means the Town of Amherst;

(g) “smoke” means smoke, inhale or exhale smoke from, burn, carry, hold or otherwise have control over a lit or heated cigarette, cigar, pipe, waterpipe, electronic cigarette or other device that burns or heats tobacco, cannabis or another substance that is intended to be smoked or inhaled;

- (h) “street” means a public street, highway, road, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith, except as otherwise defined in the *Municipal Government Act*; and
- (j) “cannabis” means a cannabis plant as defined by the *Cannabis Act* (Canada).

PART 1 – SMOKE ON MUNICIPAL PROPERTY

Smoking on Municipal Property

3. No person shall smoke on municipal property or property that is maintained or under the control of the municipality with the exception of areas that may be designated as smoking areas by the Chief Administrative Officer or his/her designate.

Penalty

4. Every person who violates the provisions of this Part shall be liable to a penalty of not less than One Hundred Dollars (\$100.00) and not exceeding Two Thousand Dollars (\$2,000.00) for each offence, and in default of payment thereof to imprisonment for a period not exceeding thirty days.

PART 2 – PLANTS AND OTHER WEEDS

5. (1) Within the Town of Amherst, and subject to subsection 2, no person shall
- (a) cultivate, propagate, dry, or harvest a cannabis plant, unless the cultivating, propagating, drying, or harvesting occurs wholly within a dwelling unit or an accessory building;
 - (b) own or occupy property where a cannabis plant is cultivated, propagated, dried, or harvested, unless the cannabis plant is cultivated, propagated, or harvested wholly within a dwelling unit or an accessory building; or
 - (c) permit or allow cannabis to be cultivated, propagated, dried, or harvested on property they own or occupy, unless the cannabis is cultivated, propagated, or harvested wholly within a dwelling unit or an accessory building.
- (2) Subsection (1) of this section shall not apply to a licensed producer.
6. (1) Every person who violates the provisions of this Part shall be guilty of an offence and shall be liable to a penalty of not less than One Thousand Dollars (\$1000.00) dollars and not exceeding Ten Thousand Dollars (\$10,000.00) for each offense and in default of payment thereof to imprisonment for a period not exceeding one year.
- (2) Every day during which an offence pursuant to subsection (1) continues is a separate offence.
- (3) In addition to a penalty imposed for a contravention of this By-law in accordance with subsection (1) of this section, the judge may order that the cannabis plant be removed and destroyed.
- (4) Any costs incurred by the Municipality relating to an order for the removal and the

destruction of the cannabis plant, shall be a first lien on the property upon which the cannabis plant was removed.

REPEAL OF BY-LAWS

7. The following by-laws are repealed:

By-Law C-12 Smoke-Free Recreational Places