

BY-LAW 2019/09
“SMOKING BY-LAW”

**BEING A BY-LAW TO REGULATE SMOKING AND/OR VAPING OF TOBACCO OR
VAPOUR PRODUCTS IN PUBLIC PLACES AND WORKPLACES
IN THE MUNICIPALITY OF WEST NIPISSING**

WHEREAS Subsection 115(1) of the *Municipal Act, 2001*, C.25, authorizes the Council of a local municipality to pass a by-law to regulate or prohibit smoking and/or vaping of tobacco or vapour products in public places and workplaces within the municipality.

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

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF WEST NIPISSING ENACTS AS FOLLOWS:

PART I - DEFINITIONS

- 1.1. **“Employee”** means a person who, being paid or unpaid, performs any work for or supplies any service to an employer, or a person who receives any instruction or training in the activity, business, work, trade occupation or profession of an employer and includes a volunteer and a person who is self-employed and “employment” has a corresponding meaning;
- 1.2. **“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;
- 1.3. **“Entranceway”** means the area within a nine (9) meter radius surrounding any entrance to a building owned and/or leased by the Municipality of West Nipissing, but does not include a street, road or highway;
- 1.4. **“Exit”** means the area within a nine (9) meter radius surrounding an exit doorway of any public place;
- 1.5. **“Inspector”** means any By-Law Enforcement Officer of the Municipality authorized by Council to enforce the by-laws or any member of the West Nipissing Police Service;
- 1.6. **“Municipality”** means the Corporation of the Municipality of West Nipissing;
- 1.7. **“Outdoor patio”** means an outdoor area or partially enclosed outdoor area that is adjacent to an establishment where food or beverages are sold and where food or beverages or both are consumed by the public;
- 1.8. **“Person”** includes a corporation;
- 1.9. **“Playground / Play area”** means any municipally owned public area that is equipped with children’s play equipment, such as, but not limited to: slides, swings, climbing apparatuses, splash pads, wading pools, or sand boxes;
- 1.10. **“Proprietor”** means the person who ultimately controls, governs or directs the activity carried on within a public place and includes the person actually in charge of the premises at any particular time;
- 1.11. **“Public place”** means any municipally owned/leased building, structure, sporting area, playground, vessel, vehicle or conveyance, or part thereof, whether covered by a roof or not, to which the public has access as of right or by invitation, expressed or implied, whether or not a fee is charged for entry and are identified on Schedule “C” attached hereto, but does not include a street, road or highway;

- 1.12. **“Smoke” or “Smoking”** means inhaling and exhaling or holding lighted tobacco including the carrying of any other lighted smoking or vaping equipment, but does not include smoke or smoking where smoke or smoking is used in a stage production of a theatrical performance;
- 1.13. **“Sports area”** means any municipally owned public area that is used primarily for the purposes of sports such as, but not limited to the following, but not including golf, whether or not a fee is paid for the use: soccer, football, basketball, tennis, baseball, softball or cricket, skating, beach volleyball, running, swimming, or skateboarding;
- 1.14. **“Vape”, “Vaping” or “Vaporizing”** means inhaling or exhaling vapour from an electronic cigarette (e-cigarette) or an inhalant-type device or holding an activated e-cigarette or inhalant-type device, whether or not the vapour contains nicotine;
- 1.15. **“Workplace”** means a municipally owned or leased building, structure, vessel, vehicle or conveyance or part thereof, to which the public may or may not have access either expressed or implied, in which one or more employees work, including any other area in the building, structure, vessel, vehicle or conveyance utilized by employees.

PART II - WORKPLACES

- 2.1 No person shall smoke and/or vape in any workplace within the Municipality whether or not a “No Smoking/No Vaping” sign is posted.
- 2.2 Every employer shall:
 - (i) ensure compliance with this by-law;
 - (ii) prohibit smoking and/or vaping in the workplace;
 - (iii) inform each employee in the workplace that smoking and/or vaping is prohibited in the workplace;
 - (iv) post “No Smoking/No Vaping” signs in accordance with Part IV of this by-law in conspicuous locations at every entrance and washrooms in the workplace indicating that smoking and/or vaping is prohibited in the workplace; and
 - (v) ensure that no ashtrays or like paraphernalia are placed or permitted to remain in any part of the workplace.
- 2.3 Section 2.1 does not apply to,
 - (i) a part of a workplace that is used as a private residence;
 - (ii) a workplace located in a dwelling where the only employees of that workplace are persons who live in the dwelling; or
 - (iii) 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 designated and specifically set aside as a room in which smoking and/or vaping is permitted.

PART III - PUBLIC PLACES

- 3.1 No person shall smoke and/or vape within a nine (9) metre radius of any entranceway or exit to any public place within the Municipality whether or not a “No Smoking/No Vaping” sign is posted.
- 3.2 Every proprietor of a public place shall:
 - (i) ensure compliance with this by-law;
 - (ii) prohibit smoking and/or vaping in the Public Place;
 - (iii) post “No Smoking/No Vaping” signs in accordance with Part IV of this by-law in conspicuous locations at every entrance and washrooms in the public place indicating that smoking and/or vaping is prohibited in the public place;
 - (iv) ensure that no ashtrays or like paraphernalia are placed or permitted to remain in the public place.
- 3.3 No person shall smoke and/or vape in the following Public Places; which have been designated as smoke free properties, except in the designate smoking/vaping areas:

	BUILDING		ADDRESS
(i)	West Nipissing Municipal Office	Entire property	225 Holditch Street
(ii)	West Nipissing Community and Recreation Centre	Entire property	219 O'Hara Street and 210 Clark Street
(iii)	Verner Arena / Community Centre	Entire property	80 Principale Street East

- 3.4 No person shall smoke and/or vape within a 20 meter radius (65 feet) of any Playground / Play Area within the Municipality, whether or not a “No Smoking/No Vaping” sign is posted.
- 3.5 No person shall smoke and/or vape within a 20 meter radius (65 feet) of any Sports Area within the Municipality, whether or not a “No Smoking/No Vaping” sign is posted.

PART IV - SIGNAGE REQUIRED

- 4.1 Every employer and every proprietor shall post and maintain in conspicuous locations at each entrance to the facility and in the washrooms, a sign at least 10 centimetres by 10 centimetres in size that includes depiction of the international “No Smoking/No Vaping” symbol;
- 4.2 All “No Smoking/No Vaping” signs posted within the Municipality of West Nipissing must conform to any by-law Regulating the Use of French and English
- 4.3 Where a “No Smoking/No Vaping” sign is required to be placed or posted under this by-law, the sign shall have the proportions, characteristics and minimum measurements as set out in Section 4.1 as depicted in “Schedule B” and consist of two (2) contrasting colours, or if the lettering and graphic symbol is to be applied directly to surface or to be mounted on a clear panel, the lettering and graphic symbol shall contrast with the background.
- 4.4 Despite the fact that the symbol referred to in Schedule “B” is a cigarette, it may include a lighted cigar, cigarette, pipe or any other lighted smoking and/or vaping instrument.
- 4.5 Deviations from the colour or content of the sign prescribed by this section that do not affect the substance or that are not calculated to mislead do not invalidate the sign.
- 4.6 Any sign prohibiting smoking and/or vaping that refers to a by-law of an old municipality or previous by-law number is deemed to be referring to this by-law.

PART V - INSPECTIONS

- 5.1 An inspector may, at any reasonable time, enter any public place or workplace for the purposes of determining compliance with this By-law.
- 5.2 No inspector may enter a workplace that is also a dwelling without the consent of the occupant or without first obtaining and producing a warrant.

PART VI - OFFENCES AND ENFORCEMENT

- 6.1 Any person who contravenes any of the provisions of the by-law, or who hinders or obstructs an inspector lawfully carrying out the enforcement of this by-law, is guilty of an offence and upon conviction is liable to a fine of not more than five thousand dollars (\$5,000.00) as provided for in the *Provincial Offences Act*, R.S.O. 1990, chapter 33, or any successor thereof.
- 6.2 If this by-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

PART VII - CONFLICTS

- 7.1 If a provision of this by-law conflicts with an Act or Regulation or another by-law, the provision that is the most restrictive of smoking and/or vaping shall prevail.

PART VIII - SEVERABILITY

8.1 If any section or sections of this by-law or part thereof, is found in any court of law to be illegal or beyond the power of the Municipality to enact, such section or sections or part thereof shall be deemed to be severable and all other sections or parts of the by-law shall be deemed to be separate and independent thereof and to be enacted as such.

PART IX - REPEAL

9.1 By-Laws **2016/102 and 2016/112** and any other by-law inconsistent with this by-law, are hereby repealed.

PART X - SHORT TITLE

10.1 This By-Law shall be cited at the “SMOKING BY-LAW”

PART XI - EFFECTIVE DATE

11.1 That the following updated schedules attached hereto shall form part of this by-law:

- Schedule “**A**” – Set Fine Schedule;
- Schedule “**B**” – Signage;
- Schedule “**C**” – West Nipissing Municipal Buildings (lands).
- Schedule “**D**” - Maps - Designated Smoking Areas

11.2 This By-Law shall come into effect on February 19, 2019 and be enforceable thereafter.

ENACTED AND PASSED THIS 19th DAY OF FEBRUARY, 2019 AS WITNESSED BY THE SEAL OF THE CORPORATION AND THE HANDS OF ITS PROPER OFFICERS.

JOANNE SAVAGE,
MAYOR

MELANIE DUCHARME
CLERK

REVISED: FEBRUARY 2019

SCHEDULE “A” OF BY-LAW 2019/09
BEING A BY-LAW TO REGULATE SMOKING AND/OR VAPING
IN PUBLIC PLACES AND WORKPLACES

SET FINES

Part 1 Provincial Offence Act

By-Law **2019/09** as amended re: Smoking and/or Vaping in public places

ITEM	SHORT FORM WORDING	OFFENCE CREATING PROVISION OR DEFINING OFFENCE	SET FINE
1	Smoke and/or Vape in workplace	Part II, Section 2.1	\$150.00
2	Employer fail to ensure compliance	Part II, Section 2.2 (i)	\$150.00
3	Employer fail to prohibit smoking and/or vaping in workplace	Part II, Section 2.2 (ii)	\$150.00
4	Employer fail to post “No Smoking/No Vaping” signs	Part II, Section 2.2 (iv)	\$150.00
5	Employer permit ashtrays (or like paraphernalia) in the workplace	Part II, Section 2.2 (v)	\$150.00
6	Smoke and/or Vape within nine (9) meter radius of entranceway or exit to any public place	Part III, Section 3.1	\$150.00
7	Proprietor fail to ensure compliance	Part III, Section 3.2 (i)	\$150.00
8	Proprietor fail to prohibit smoking and/or vaping in public place	Part III, Section 3.2 (ii)	\$150.00
9	Proprietor fail to post “No Smoking/No Vaping” signs	Part III, Section 3.2 (iii)	\$150.00
10	Proprietor permit ashtrays (or like paraphernalia) in public place	Part III, Section 3.2 (iv)	\$150.00
11	Smoke and/or vape in public place other than in designated smoking/vaping area	Part III, Section 3.3	\$150.00
12	Smoke and/or vape within 20 meter radius of Playground / Play Area	Part III, Section 3.4	\$150.00
13	Smoke and/or vape within 20 meter radius of Sports Area	Part III, Section 3.5	\$150.00

NOTE: Penalty provision for the offences indicated above is Section 6.1 of By-Law No. **2019/09** as amended.

SCHEDULE “B” OF BY-LAW 2019/09
BEING A BY-LAW TO REGULATE SMOKING AND/OR VAPING
IN PUBLIC PLACES AND WORKPLACES

SIGNAGE

The following graphic symbol, or likeness thereof, shall be used to indicate the areas where smoking and/or vaping is prohibited pursuant to this by-law :

On a white background, with the circle and the interdictory stroke in red.



With respect to size of the graphic symbol, the diameter of the circle in the symbol referred to in this section shall be not less than ten (10 cm) centimetres.

Despite the fact that the symbol referred to is a cigarette, it shall include a lighted cigar, cigarette, pipe or any other lighted smoking and/or vaping instrument including e-cigarettes or inhalant-type devices.

Deviations from the colour or content or the signs prescribed by this section that do not affect the substance or that are not calculated to mislead do not invalidate the signs.

Any sign prohibiting smoking and/or vaping that refers to a by-law of an old municipality is deemed to be referring to this by-law.

REVISED: FEBRUARY 2019

SCHEDULE “C” OF BY-LAW 2019/09

BEING A BY-LAW TO REGULATE SMOKING AND/OR VAPING IN PUBLIC PLACES AND WORKPLACES

WEST NIPISSING MUNICIPAL BUILDINGS

DESCRIPTION	ADDRESS	TOWNSHIP
Municipal Main Office	Holditch Street	Sturgeon Falls
Municipal Satellite Office	Highway 64	Verner
Fire Services – Administration #1A	Holditch Street	Sturgeon Falls
Fire Station# 1B	Cache Bay Road	Sturgeon Falls
Fire Station #9	Waterfront Drive	Cache Bay
Fire Station #2	Crystal Falls Road	Crystal Falls
Fire Station #4	110 Morin Street	Field
Fire Station #7	Hwy 64	Lavigne
Fire Station #8	Hwy 64 South	North Monetville
Fire Station #5	St-Joseph Road	River Valley
Fire Station #3	Tomiko Road	Crystal Falls
Fire Station #6	Principal Street West	Verner
Police Services - Administration	Holditch Street	Sturgeon Falls
Public Works Garage	Floral Street	Sturgeon Falls
Public Works Garage	Highway 17	Verner
Public Works Garage	Larocque Street	Field
Landfill Site	Lac Clair Road	Field
Landfill Site	Deer Lake Road	Kipling
Landfill Site	Landfill Road	Lavigne
Landfill Site	Muskosung Lake Road	Muskosung
Landfill Site	Alphonse Road	River Valley
Landfill Site	Hwy 17 West	Sturgeon Falls
Landfill Site	Hwy 575	Verner
Water & Sewage Treatment Plant	Nipissing Street	Sturgeon Falls
Water & Sewage - Administration	Front Street	Sturgeon Falls
Information / Tourist Centre	Front Street	Sturgeon Falls
Community Centre + Arena + Pool	O’Hara Street	Sturgeon Falls
Community Centre + Arena + Storage Garage	Principal Street	Verner
Community Centre	Cache Street	Cache Bay
Community Centre	Hwy. 64 South	North Monetville
Outdoor Rink	Waterfront Drive	Cache Bay
Outdoor Rink	Jarbeau Street	Field
Outdoor Rink	Leblanc Road	Springer
Outdoor Rink	Caron Road	Lavigne
Outdoor Rink	St-Joseph Road	River Valley
Baseball Diamond	Waterfront Drive	Cache Bay
Baseball Diamond	Leblanc Road	Springer
Baseball Diamonds	Jarbeau Street	Field
Baseball Diamonds	John St. & Coursol Rd.	Sturgeon Falls
Baseball Diamond	Principal Street	Verner
Tennis Court	Main St. & Ethel Street	Sturgeon Falls
Tennis Court	Waterfront Drive	Cache Bay
Tennis Court	Jarbeau Street	Field
Soccer Field	Coursol Road	Sturgeon Falls
Soccer Field	Riverfront Drive	Sturgeon Falls
Soccer Field	Park Road	Sturgeon Falls

SCHEDULE “C” OF BY-LAW 2019/09**BEING A BY-LAW TO REGULATE SMOKING AND/OR VAPING
IN PUBLIC PLACES AND WORKPLACES****WEST NIPISSING MUNICIPAL BUILDINGS**

DESCRIPTION	ADDRESS	TOWNSHIP
Public Beac	Clear Lake Road	Field
Public Beach	Main St. & Ethel Street	Sturgeon Falls
Public Beach	St-Jean Road	Lavigne
Playground	Riverfront Drive	Cache Bay
Playground	Highway 64	Field
Playground	Waterfront Park	Lavigne
Playground	Leblanc Road	Springer
Playground	Park Street & Janen Street	Sturgeon Falls
Playground + Splash/Water Park	King Street	Sturgeon Falls
Playground	Piette Street	Verner
Playground - France Gareau Park	Principal Street	Verner
Library	Holditch Street	Sturgeon Falls
Library	Cache Street	Cache Bay
Library	Morin Street	Field
Library	Forget Avenue	River Valley
Library	Highway 64	Verner
Museum - Sturgeon River House	Fort Road	Sturgeon Falls
Family Resource Centre	Salter Street	Sturgeon Falls
Seniors Club (Club 50)	Bain Street	Cache Bay
Minnehaha Bay Community Waterfront Park & Marina	King Street	Sturgeon Falls
Ambulance Bay	Ethel Street	Sturgeon Falls
Ambulance Bay + PW Garage	Larocque Street	Field
WN Community Health Centre	Ethel Street & Michaud Street	Sturgeon Falls
Family Resource Centre	Salter Street	Sturgeon Falls
Trailer Park	Teal Road	Cache Bay

NOTE:

As the Municipality acquires/leases other properties or builds other facilities these new municipal sites will be immediately subject to the West Nipissing Smoking By-Law No. 2019/09; until such time as this schedule is updated accordingly.

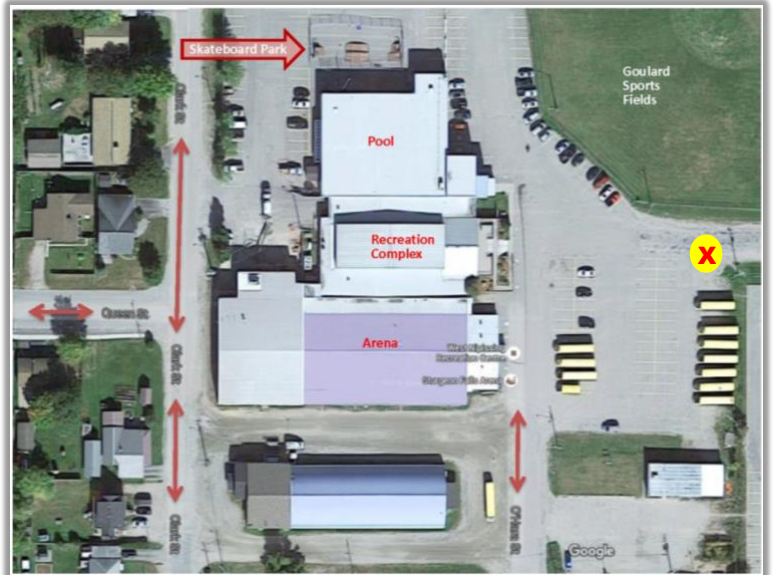
SCHEDULE "D" OF BY-LAW 2019/09

BEING A BY-LAW TO REGULATE SMOKING AND/OR VAPING IN PUBLIC PLACES AND WORKPLACES

MAP OF DESIGNATED SMOKING/VAPING AREAS FOR CERTAIN MUNICIPAL BUILDINGS

As identified in Section 3.3, the following municipal buildings will have designated smoking areas as indicated by the **X**:

- (i) West Nipissing Recreation and Community Centre
(location may vary – not to scale)



- (ii) West Nipissing Town Hall
(location may vary – not to scale)



- (iii) Verner Arena / Community Centre
(location may vary – not to scale)

