

# THE MUNICIPALITY OF CASSELMAN

By-law 2019-063

Being a by-law of the Municipality of Casselman with respect to smoking and vaping on municipal property and prescribed public areas

**WHEREAS** Section 115 (1) of the *Municipal Act, 2001* authorizes Council to pass by-laws regulating or prohibiting smoking or vaping on municipal property and prescribed public areas;

**AND WHEREAS** it is desirable for the purpose of promoting and protecting the health, safety and welfare of inhabitants and workers of the Municipality of Casselman to ensure that municipal properties and prescribed public areas will be free from smoking or vaping;

**NOW THEREFORE** be it resolved that the Council of the Municipality of Casselman enacts as follows:

This by-law may be cited as "Smoking or vaping By-law"

## DEFINITIONS AND INTERPRETATIONS

1. For the purpose of this by-law:
  - (a) "Cannabis" has the same meaning as in subsection 2 (1) of the Cannabis Act (Canada)
  - (b) "City Clerk" means the City Clerk of the Municipality of Casselman
  - (c) "Council" means the Council of the Municipality of Casselman
  - (d) "Disturbance" means yelling, shouting, hooting, or whistling
  - (e) "Entrance" means a main entry or entry to any building as well as an entry being used as an exit
  - (f) "Employee" means employee of the Municipality of Casselman
  - (g) "Exit" means that part of a means of access including doorways that lead from the floor area serves to a separate building, an open public thoroughfare or an exterior open space

- (h) "Inspector" means a person appointed by Council as a Municipal By-law Enforcement Officer to enforce this by-law, or a tobacco enforcement officer from the Eastern Ontario Health Unit that has been appointed by Council to enforce this by-law
- (i) "Municipal property" means the Municipality of .....Casselman
- (j) "Municipal property" means land or any indoor or outdoor facility or installation located on land which is owned, leased or operated by the Municipality of Casselman or by South Nation River Conservation Authority, including parks and trails, but does not include a street, road or highway.
- (k) "Person" includes a corporation
- (l) "Public nuisance" means any activity, undertaking or conduct, which annoys or disturbs or may annoy disturb persons in a public place or highway
- (m) "Smoking or vaping" means inhaling from, exhaling from, or holding .....lighted tobacco, lighted cannabis, lighted herbal products or activated vapour products, including water pipe
- (n) "Tobacco" has the same meaning as tobacco product in subsection 1(1) .....of the Smoke Free Ontario Act, 2017
- (o) "Vapour products" has the same meaning as in subsection 1(1) of the .....Smoke Free Ontario Act, 2017
- (p) "Water Pipe" means an instrument used for burning tobacco, cannabis, .....herbal products, called shisha, etc., in which the smoke passes through .....water before it is inhaled with or without long flexible tubing. Also .....referred to as hookah, narghile or bong

**GENERAL PROHIBITIONS**

- 2. (1) No person shall engage in smoking or vaping on **municipal property** as defined by this by-law.
- (2) No person shall engage in smoking or vaping in public areas **within 20 meters** of any:
  - 2.1 **Schools** within the meaning of the Education Act;
  - 2.2 **Childcare centers** within the meaning of the Child Care and Early Years Act, 2014;

2.3 **Children's playgrounds** within the meaning of subsection 8 (2) of the Smoke-Free Ontario Act, 2017, Ontario regulation 268/18;

2.4 **Sporting areas** within the meaning of subsection 9 (2) of the Smoke-Free Ontario Act, 2017, Ontario regulation 268/18; or

2.5 **Community recreational facilities** within the meaning of subsection 11 (2) of the Smoke-Free Ontario Act, 2017, Ontario regulation 268/18

(3) No person shall engage in smoking or vaping in public areas **within 9 meters** of any **restaurant or bar patio** within the meaning of subsection 7 (2) of the Smoke-Free Ontario Act, 2017, Ontario regulation 268/18.

(4) Any person shall be deemed a public nuisance while causing a disturbance during the enforcement of this by-law.

(5) Despite section 2, a designated smoking area shall be provided as per schedule "C".

## SIGNS

3. (1) Signs referred to subsection 3(1) shall be as per schedule "A" of this by-law.
- (2) The signs referred to in this by-law shall consist of graphic symbols that comply with the provisions of this section.
- (3) The following graphic symbol shall be used to indicate the areas where smoking is prohibited pursuant to this by-law.



- (4) On a white background with the circle and the interdictory stroke in red.
- (5) Despite the fact that the symbol referred to, in subsection (3), are a cigarette and electronic cigarette, they are representative of all smoking ...or vaping as defined by this by-law.

- (6) With respect to size of the graphic symbol, the diameter of the circle in the symbol referred to in subsection (3) shall be no less than the number of centimetres prescribed below, based upon the maximum viewing distance in direct line of sight, as follows:
- (a) three meters (3 m) or less - ten centimeters (10 cm)
  - (b) six meters (6 m) or less - fifteen centimeters (15 cm)
  - (c) twelve meters (12 m) or less - twenty centimeters (20 cm)
  - (d) twenty-four meters (24 m) or less - thirty centimeters (30 cm)
  - (e) forty-eight meters (48 m) or less - forty centimeters (40 cm)
  - (f) seventy-two meters (72 m) or less - sixty centimeters (60 cm)
  - (g) Despite subsection (8), the diameter of the circle in the symbol referred to in subsection (3) used pursuant to section (3) to be erected at the entrance or exits of every municipal property shall be a minimum of ten centimeters (10 cm).
- (7) Wording on the sign shall be as per the diagram on Schedule "A".
- (8) No person shall remove, cover up, mutilate, deface or alter sign required to be posted pursuant to section 4.

#### **DUTIES**

4. (1) No manager or supervisor or person in charge of municipal property shall permit any person to engage in smoking or vaping where prohibited under this by-law
- (2) Managers, supervisors or persons in charge of the arena shall post signs in accordance to this by-law at entrances/exits designated by the provisions of Section (3) of this by-law.

#### **RIGHT OF ENTRY**

5. An inspector may at any reasonable time enter any municipal property.

#### **OFFENCES**

6. (1) Any person who contravenes any of the provisions of this by-law is guilty of an offence recoverable under the Provincial Offences Act, R.S.O. 199, and Chap. 33 as amended.
- (2) Any person who hinders or obstructs a person lawfully carrying out the enforcement of this by-law is guilty of an offense

## **FINES**

7. Every person who is convicted of an offence is liable to a fine of not more than five thousand dollars (\$ 5,000) as provided for in the Provincial Offences Act, R.S.O. 1990, and Chap. P.33 as amended.

## **ENFORCEMENT**

8. The provisions of this by-law shall be enforced by Inspectors.

## **CONFLICTS**

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

## **SEVERABILITY**

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

## **SCHEDULES TO BY-LAW**

11. Schedules "A", "B" and "C" to this By-law are deemed to form part of this By-law.

## **EFFECTIVE DATE**

12. This By-law shall come into force and effect on August 27<sup>th</sup>, 2019.

**READ A FIRST, SECOND AND THIRD TIME THIS 27<sup>th</sup> DAY OF August, 2019.**

  
Daniel Lafleur  
Mayor

  
Sébastien Dion  
Clerk

**SCHEDULE "A"**

**Village de/of Casselman**



**INTERDIT DE FUMER INCLUANT LES CIGARETTES ÉLECTRONIQUES  
SUR LA PROPRIÉTÉ DE LA MUNICIPALITÉ**

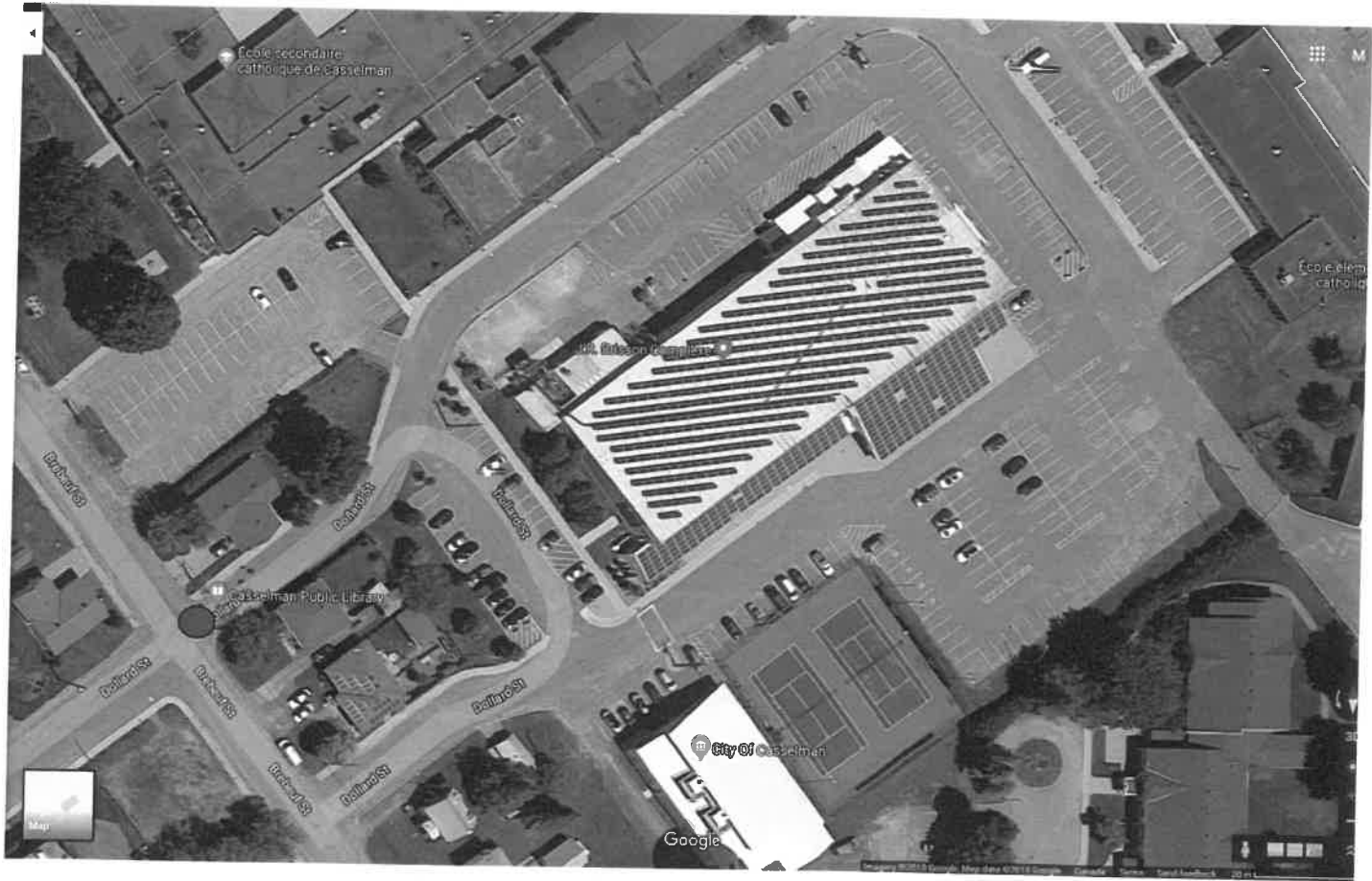
**NO SMOKING INCLUDING E-CIGARETTES ON MUNICIPAL PROPERTY**

## **SCHEDULE "B"**

Municipal recreation facilities consist of the following:

- a. J.R. Brisson Complex
- b. Paul-Émile Lévesque Centre
- c. School of Adult (SEFA)
- d. Richelieu Park
- e. Optimist Park
- f. Ottawa Hydro Park
- g. Park for the Elderly
- h. High falls and Doran Park

# SCHEDULE "C"



Designated Smoking Area at J.R. Brisson Complex ●