

PROTECTION

Chapter 954 SMOKING/VAPING - REGULATION - CITY OWNED OR LEASED PROPERTY

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Schedule "A" - Designated smoking/vaping area for 2 Hunter Valley Road

Article 1 DEFINITIONS

954.1.1 Boat - defined

"boat" means every description of boat, vessel, craft, or other contrivance designed, used or capable of being used solely or partly to carry a person and/or chattel over water, whether self-propelled or not and without regard to the method of propulsion, and includes personal watercraft.

954.1.2 Cannabis - defined

"cannabis" means cannabis as defined in the *Cannabis Act* (Canada) S.C. 2018, c. 16, or successor legislation.

954.1.3 Children's playground - defined

"children's playground" means an area as defined in Ontario Regulation 268/18 promulgated under the *Smoke-Free Ontario Act, 2017*, S.O. 2017, c. 26, or successor legislation or regulations made thereunder.

954.1.4 City - defined

"City" means the Corporation of the City of Orillia.

954.1.5 Community recreational facility - defined

"community recreational facility" means an area as defined in Ontario Regulation 268/18 promulgated under the *Smoke-Free Ontario Act, 2017*, S.O. 2017, c. 26, or successor legislation or regulations made thereunder.

954.1.6 Electronic cigarette - defined

"electronic cigarette" means a vaporizer or inhalant-type device, whether called an electronic cigarette or any other name, that produces or is capable of producing, an aerosol or vapour that may be inhaled by the user of the device.

954.1.7 E-substance - defined

"e-substance" means a substance that is manufactured or sold to be used in an electronic cigarette, whether or not the substance contains nicotine.

954.1.8 Highway - defined

"highway" means a highway as defined in Part III of the *Municipal Act, 2001*, S.O. 2001, c. 25, or successor legislation.

954.1.9 Lane - defined

"lane" means any public access lane for vehicular and/or pedestrian use that is owned or leased by the City, but does not include a lane shown on a registered plan of subdivision.

954.1.10 Moor - defined

"moor" means to fasten, affix, tie, park, or anchor a boat, including solely by propulsion, to a dock or pier or part thereof, and/or to property owned or leased by the City, and the term "moored" shall have a corresponding meaning.

954.1.11 Municipal building - defined

"municipal building" means any building, or structure to which the City holds right of ownership to.

954.1.12 Officer - defined

"Officer" means a Municipal By-law Enforcement Officer or Police Officer.

954.1.13 Outdoors - defined

"outdoors" means the whole or part of any outdoor area, and for greater certainty includes any open space which is outside of a building, structure, including any temporary building, structure or part thereof, whether covered by a roof or not.

954.1.14 Park - defined

"park" means any land, land covered by water, and any portion thereof, owned or leased by the City, that is or may in the future be established, dedicated, set apart or made available for use for active and/or passive recreation.

954.1.15 Smoke/vape or smoking/vaping - defined

"smoke/vape" or "smoking/vaping" includes to carry, hold, or inhale or exhale from:

- (a) a lighted, heated, or activated, cigarette, cigar, pipe, waterpipe, electronic cigarette; or,
- (b) a lighted, heated, or activated device or equipment not described in (a) that heats, burns, vaporizes, or aerosolizes any tobacco, cannabis, e-substance, shisha whether or not it contains tobacco, or any other material, liquid, or any combination thereof.

954.1.16 Sporting area - defined

"sporting area" means an area as defined in Ontario Regulation 268/18 promulgated under the *Smoke-Free Ontario Act, 2017*, S.O. 2017, c. 26, or successor legislation or regulations made thereunder.

954.1.17 Vehicle - defined

"vehicle" includes a motor vehicle, motorized snow vehicle, personal mobility device, trailer, and any

vehicle drawn, propelled or driven by any kind of power including muscular power.

954.1.18 Walkway - defined

“walkway” means an area of land designated, designed, or intended for the passage of pedestrians and shall include a pathway or boardwalk, but does not include a walkway located within the boundary of a highway.

954.1.19 Water lot - defined

“water lot” means a parcel or tract of land, the title of which is separately conveyable and which is normally fully or partly submerged under water.

954.1.20 Waterpipe - defined

“waterpipe” means a device, whether called a waterpipe, hookah, or any other name, that produces or is capable of producing, smoke or vapour which may pass through liquid prior to being inhaled by a user or users of the device.

**Article 2
GENERAL PROVISIONS**

954.2.1 Smoking/vaping - prohibited - property owned or leased by City - general

No person shall smoke/vape outdoors on or within any property owned or leased by the City, including but not limited to the following:

- (a) any property upon which is located a municipal building, park, splash pad, pool, or beach;
- (b) any parking lot, trail, walkway, or lane; and,
- (c) any dock, or pier.

954.2.2 Smoking/vaping - prohibited - within or on vehicle

Notwithstanding Section 954.2.1, no person shall smoke/vape while they are on or within a vehicle that is located on any property owned or leased by the City.

954.2.3 Smoking/vaping - prohibited - within or on boat

Notwithstanding Section 954.2.1, no person shall smoke/vape while they are on or within a boat that is located or moored:

- (a) on or within any property owned or leased by the City and for greater certainty, includes any water lot owned or leased by the City.

954.2.4 No smoking/vaping sign - not required

The prohibitions in Sections 954.2.1, 954.2.2 and 954.2.3 apply whether or not a no smoking/vaping sign of any format or content is posted.

**Article 3
EXEMPTIONS**

954.3.1 Exemptions - specific

Sections 954.2.1, 954.2.2 and 954.2.3 do not apply to a person:

- (a) smoking/vaping on any portion of a highway;
- (b) smoking/vaping while they are situated on a boat containing sleeping, cooking, and toilet facilities that is lawfully moored within any City-owned or leased water lot;
- (c) smoking/vaping on a campsite within a park, provided the campsite has been approved by the City in conjunction with a special event;

- (d) smoking/vaping in the designated smoking/vaping area located at 2 Hunter Valley Road as depicted in Schedule "A";
- (e) smoking/vaping in a temporary designated smoking/vaping area located at 50 Museum Drive during a special event, provided the said area has been approved by the Director of Parks, Recreation, and Culture, or designate, pursuant to Chapter 251 - Delegated Authority.
- (f) that is entitled to possess cannabis for medical purposes pursuant to a medical document issued pursuant to the *Cannabis Regulations*, SOR/2018-144 promulgated under the *Controlled Drugs and Substances Act (Canada)* S.C. 1996, c. 19, or successor legislation or regulations made thereunder, if the said person is smoking/vaping cannabis more than 20 metres of:
 - i) an entrance and/or exit to a City-owned or leased building;
 - ii) any point on the perimeter of a parking lot, trail, walkway, lane, children's playground, sporting area, spectator area adjacent to a sporting area, and beach; and,
 - iii) any point on the perimeter of the grounds of a community recreational facility.

954.3.2 Cannabis for Medical Purposes - Produce Document - Upon Request

A person referred to in Section 954.3.1 (f) shall immediately upon request of an Officer, produce a copy of their:

- (a) medical document provided by an authorized health care practitioner;
- (b) valid registration certificate issued by Health Canada for possession only;
- (c) valid registration document issued by a federally licensed seller; or
- (d) valid registration certificate issued by Health Canada for personal production.

Article 4 ENFORCEMENT

954.4.1 Right of entry - City owned or leased property - general

Except as provided in Section 954.4.2, an Officer may at any time of the day or night, enter any property owned or leased by the City for the purpose of determining compliance with this Chapter and may make examinations, investigations and inquiries.

954.4.2 Right of entry - property leased to third party

An Officer may at all reasonable hours, enter any City-owned property leased to a third property for the purpose of determining compliance with this Chapter and may make examinations, investigations and inquiries.

954.4.3 Enforcement

A Municipal By-law Enforcement Officer or Police Officer is hereby vested with the authority of enforcing the provisions of this Chapter.

954.4.4 Hinder or Obstruct

No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this Chapter, or any person lawfully acting in aid of such an Officer. Without limiting the generality of the meaning of "hinder" or "obstruct", a person shall be deemed to have obstructed or hindered an Officer in the execution of their duties if he or she:

- (a) provides false information to an Officer; or

- (b) is alleged on reasonable and probable grounds to have contravened any of the provisions of this Chapter, and fails to identify themselves to an Officer upon request.

954.4.5 Rebuttable presumption - identification

In a prosecution for a contravention of this Chapter, evidence of identification shall be presumed to be correct and accurate, unless rebutted by evidence to the contrary.

954.4.6 Penalties

- (a) Any person who contravenes any of the provisions of this Chapter is guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the *Provincial Offences Act*.
- (b) Upon conviction, in addition to any other remedy and to any penalty imposed by this Chapter, 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.

**Article 5
INTERPRETATION AND VALIDITY**

954.5.1 Headings - convenience only

Headings are inserted for convenience of reference purposes only, form no part of this Chapter and shall not affect in any way the meaning or interpretation of the provisions of this Chapter.

954.5.2 Schedules - form part of chapter

All schedules to this Chapter shall form part of this Chapter.

954.5.3 Most restrictive - prevail

If a provisions of this Chapter conflicts with an Act or a regulation or another Chapter, the provision that is the most restrictive of smoking/vaping shall prevail.

954.5.4 Validity and severability

Every provision of this Chapter is declared severable from the remainder and if any provision of this Chapter shall be declared invalid by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder.

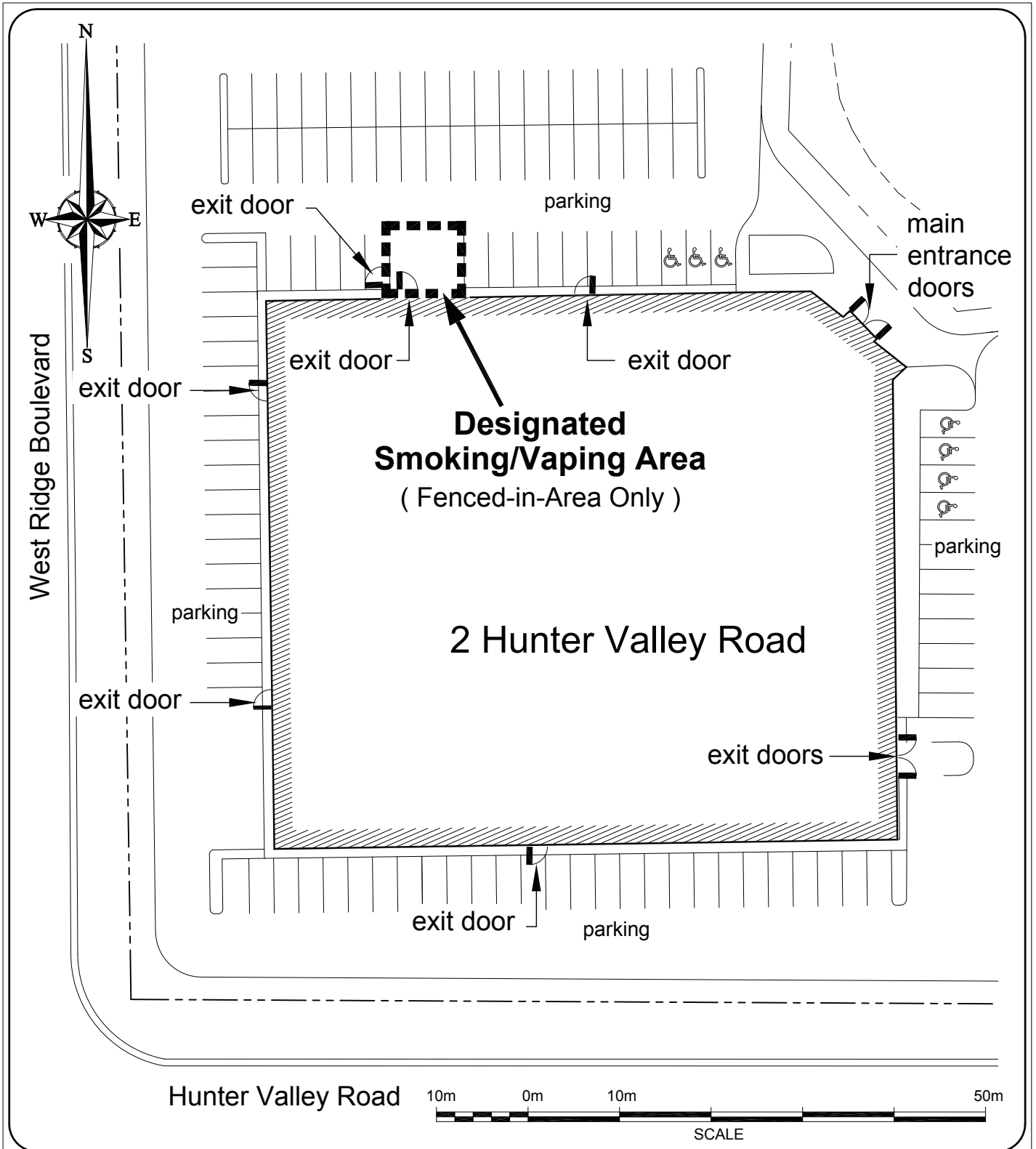
**Article 6
EFFECTIVE DATE**

954.6.1 Effective date

The provisions of this Chapter shall come into effect May 15, 2019

Adopting By-law: By-law 2019-37, 1 April 2019.

Schedule "A" - Designated smoking/vaping area for 2 Hunter Valley Road



DESIGN BY:
DRAWN BY: WH
CHECKED BY: SC
APPROVED BY:
DATE: MARCH 6, 2019
PLOTTED: MARCH 6, 2019


ORILLIA
 THE CORPORATION OF THE CITY of ORILLIA
 Development Services and Engineering Department

TITLE

Schedule A

2 Hunter Valley Road
Designated
Smoking/Vaping Area

FILE:	
SHEET:	PLAN No:
ACAD FILE: skSchv01.DWG	