THE CITY OF WINNIPEG

BY-LAW NO. /2018

A By-law of THE CITY OF WINNIPEG to amend the Outdoor Smoking By-law

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

Outdoor Smoking By-law amended

1 The Outdoor Smoking By-law No. 62/2011 is amended by this By-law.

Section 2 amended

2 Section 2 is amended by

(a) adding the following definitions in alphabetical order:

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

"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;*

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

(a) required to obtain an occupancy permit under the Winnipeg Building By-law; and

(b) on a property where

(i) the principal use falls within the "Food and Beverage Service" use category (within the area to which the Winnipeg Zoning By-law applies) or the "restaurant" or "drinking establishment" uses (within the area to which the Downtown Winnipeg Zoning By-law applies); or

(ii) in a portion of the street which is the subject of an encroachment approved (or which is capable of being approved) under sub-clause 4(1)(c)(i) of the Encroachment By-law;

(c) replacing the definition ""*smoking*" with the following:

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

Section 3 amended

3(1) Subsection 3(1) is amended by replacing the period at the end of clause (h) with a semi-colon and the word "*or*" and adding the following clause at the end of the subsection:

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(i) on an outdoor patio.

3(2) The following is added after subsection 3(1):

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.

The following is added after subsection 3(3):

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.

Section 4 replaced

4 Section 4 is replaced with the following:

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.*

Municipal By-law Enforcement Act Enabling By-law amended

5 The Municipal By-law Enforcement Act (MBEA) Enabling By-law No. 59/2016 is amended by adding the table set out in Schedule A to this By-law to Schedule A of the Municipal By-law Enforcement Act (MBEA) Enabling By-law immediately following the table setting out provisions in the Neighbourhood Liveability By-law.

Coming into force

6 This By-law comes into force on April 1, 2018.

DONE AND PASSED this day of , 2018.

Mayor

City Clerk

Approved as to content:

Director of Community Services

Legally reviewed and certified as to form:

for Director of Legal Services
and City Solicitor

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THIS IS SCHEDULE A TO

BY-LAW NO. /18

Outdoor Smoking By-law By-law No. 62/2011		
Provision	**Contravention**	**Administrative Penalty**
3(1)(a)	Smoking within 30m of athletic field of hockey rink during youth event	$200
3(1)(b)	Smoking on playground	$200
3(1)(c)	Smoking within 30m of swimming pool, wading pool, spray pad or spray park owned or operated by City	$200
3(1)(d)	Smoking on school premises	$200
3(1)(e)	Smoking on health care facility premises	$200
3(1)(f)	Smoking within 8m of outdoor entrance to health care facility	$200
3(1)(g)	Smoking within 8m of outdoor entrance to City of Winnipeg workplace	$200
3(1)(h)	Smoking within 8m of outdoor entrance to WRHA workplace	$200
3(1)(i)	Smoking on outdoor patio	$200
3(1.1)	Owner or operator failing to ensure that no one smokes on outdoor patio	$400

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