

# Chapter 570

## SMOKING - CLEAN AIR

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## Article 1

### INTERPRETATION

#### 570.1.1 Cannabis – defined

“cannabis” has the same meaning as in subsection 2 (1) of the *Cannabis Act* (Canada).

#### 570.1.2 City of Brantford – defined

“City of Brantford” means The Corporation of the City of Brantford.

#### 570.1.3 Includes – defined

“includes” means “includes but not limited to” and the word “including” has a corresponding meaning.

#### 570.1.4 Medical Cannabis – defined

“medical cannabis” means cannabis that is obtained for medical purposes in accordance with Chapter 14 of the *Cannabis Regulations* (Canada) or in accordance with a court order.

#### 570.1.5 Municipally Owned Property – defined

“municipally owned property” means real property where the City of Brantford is the legal or beneficial owner and includes buildings, grounds, parking lots, trails, parkland, golf courses, and bus shelters but excludes housing properties that are not already deemed smoke-free.

#### 570.1.6 Officer – defined

“officer” means an officer appointed in accordance with section 570.5.1.

#### 570.1.7 Operator – defined

“operator” means a person who, alone or with others, operates, manages, supervises, oversees, runs or controls a public place.

#### 570.1.8 Proprietor – defined

“proprietor” means the registered owner or operator of a public place, but excludes the City of Brantford.

#### 570.1.9 Public Place – defined

“public place” means the outside of any place, building or structure or any part of them and to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry, including parking lots, grounds and open spaces regardless of whether it is owned by a public or private entity and includes municipally owned properties, unless an exemption is created under the *Smoke-Free Ontario Act* with respect to the public place.

570.1.10 Smoke or smoking – defined

“smoke” or “smoking” means to inhale or exhale the smoke produced by a cigar, cigarette, pipe or similar product or holding or otherwise having control of a cigar, cigarette, pipe or similar product that is producing or emitting smoke.

570.1.11 *Smoke Free Ontario Act* – defined

“*Smoke-Free Ontario Act*” shall mean the *Smoke-Free Ontario Act 2017*, S.O. 2017, C. 26 s. 3, and the regulations thereto, as amended or replaced from time to time.

570.1.12 Vape or Vaping – defined

“vape” or “vaping” means to inhale or exhale the vapour produced by an electronic cigarette or similar device, or holding or otherwise having control of an electronic device that is producing vapour, emissions or aerosol.

570.1.13 Interpretation – Rules

This Chapter shall be interpreted and applied in accordance with the following:

- (a) nothing in this Chapter shall be interpreted to permit smoking or vaping in any location where the same is prohibited under the *Smoke-Free Ontario Act*;
- (b) nothing in this Chapter shall be interpreted to interfere with an exemption established in the *Smoke-Free Ontario Act* provided that all requirements of the *Smoke-Free Ontario Act* regarding the exemption are complied with; and
- (c) nothing in this Chapter shall interfere with a person’s right to smoke or vape medical cannabis, provided that the person can produce to an Officer the documentation required to demonstrate that they are authorized to use cannabis for their own medical purposes in accordance with Part 14 of the *Cannabis Regulations* (Canada) or in accordance with a court order.

570.1.14 Interpretation – Interpretation Act

The provisions of Part VI of the *Legislation Act, 2006*, S.O. 2006, c. 21, Schedule F shall apply to this Chapter.

570.1.15 Interpretation – Severability

If any provisions or part of this Chapter is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

Article 2  
PROHIBITION

570.2.1 Cannabis – Use – Prohibited – General Rule

In addition to the prohibitions set out in the *Smoke-Free Ontario Act*, no person shall smoke cannabis in any public place.

570.2.2 Tobacco – Prohibited – General Rule

In addition to the prohibitions set out in the *Smoke-Free Ontario Act*, no person shall smoke tobacco on any municipally owned property.

570.2.3 Vaping – Prohibited – General Rule

In addition to the prohibitions set out in the *Smoke-Free Ontario Act*, no person shall vape in any public place.

570.2.4 Highways – Exempted

No prohibition contained within Article 2 shall apply to highways as defined in the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended or replaced from time to time.

Article 3  
PROPRIETORS

570.3.1 Proprietor – Duty to Ensure Compliance

A proprietor of any public place shall ensure that all persons present at a public place comply with section 570.2.2.

570.3.2 Proprietor – Defence – Reasonable Efforts

In any proceeding for a breach of Section 570.3.1, it shall be a defence for a proprietor to show that he or she made reasonable efforts under the circumstances to ensure compliance with Article 2.

Article 4  
ERECTION OF SIGNS – CANNABIS – VAPING –  
PUBLIC PLACE

570.4.1 Signs – Posted – Public Place

A proprietor shall post clearly visible and conspicuous signs in the form specified in this Article to delineate the area or areas where smoking cannabis or vaping is prohibited pursuant to this Chapter.

#### 570.4.2 Signs –Requirements

Every sign that prohibits smoking cannabis and vaping shall:

- (a) have a white background or consist of contrasting colours where the lettering is applied directly to a surface or is mounted on a clear panel;
- (b) contain the text “ No Smoking Cannabis and Vaping in Public Places” with lettering not less than 3 centimetres in height AND the words “ City of Brantford Municipal Code Chapter 570 – Maximum Fine \$5,000.00” with lettering not less than 8 millimetres in height; and
- (c) contain a graphic with a red circle and interdictory stroke in red superimposed upon a cannabis leaf.

#### 570.4.3 Signs – Sample

A sign which is substantially similar to the form and format attached as Schedule “A” will be deemed to comply with Section 570.5.2:

### Article 5 OFFICERS

#### 570.5.1 Officers – Appointment

Members of the City of Brantford Building Department By-law Enforcement Division, the City of Brantford Police Service and staff employed by the Brant County Health Unit are appointed officers for the purpose of this Chapter.

#### 570.5.2 Officers – Right of Entry

Officers may, in accordance with and subject to the *Municipal Act, 2001*, enter any public place for the purpose of determining whether there is compliance with this Chapter and otherwise enforce the provisions of this Chapter.

#### 570.5.3 Officers – Require Identification

An Officer who has reasonable grounds to believe that a person has contravened any provision of this By-law may require that person to provide their identification to the Officer. Every person who is required by an officer to provide identification under this section shall identify themselves to the Officer. Giving their correct name, date of birth and address shall constitute sufficient identification.

### Article 6 OFFENCES & ENFORCEMENT

#### 570.6.1 Offence – Fail to Comply

Any person who contravenes or fails to comply with any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, as amended.

570.6.2 Offence – Hinder or Obstruct

No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under this By-law.

570.6.3 Continuation, Repetition Prohibited by Order

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, and such order shall be in addition to any other penalty imposed on the person convicted.

570.6.4 Civil Enforcement

Where a fine is in default, the City of Brantford may proceed with civil enforcement against the person upon whom the fine has been imposed, pursuant to the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33.

570.6.5 Fine in Default – Add to Tax Roll

The City of Brantford may make a request to the treasurer of a local municipality to add any part of a fine that is in default to the tax roll for any property in the local municipality for which all of the owners are responsible for paying the fine, and collect it in the same manner as municipal taxes.

Article 7  
EFFECTIVE DATE

570.7.1 Effective date

This Chapter shall come into effect at midnight on March 1, 2019.



Schedule "A"  
Sample

**NO SMOKING CANNABIS  
OR VAPING**



**ALL PUBLIC PLACES**

**CITY OF BRANTFORD MUNICIPAL CODE CHAPTER 570  
MAXIMUM FINE \$5,000**