

CONSULTATION DRAFT

SCHEDULE 1 RESTRICTING PUBLIC CONSUMPTION OF ILLEGAL SUBSTANCES ACT, 2024

CONTENTS

1.	Definitions
2.	Prohibition, consumption of illegal substance in public place
3.	Direction given by officer
4.	Direction to identify
5.	Arrest without warrant
6.	Seizure, destruction of substance
7.	Officer may submit substance to analyst
8.	Designation of analysts
9.	Penalty
10.	Regulations
11.	Commencement
12.	Short title

Definitions

1. In this Act,

“dwelling” includes a temporary structure, such as a tent, that is used as a dwelling;
 (“habitation”)

“emergency services” means medical, law enforcement or fire department emergency
 services; (“services d’urgence”)

“illegal substance” means any substance in respect of which possession is prohibited
 under subsection 4 (1) of the *Controlled Drugs and Substances Act* (Canada);
 (“substance illégale”)

“Minister” means the Solicitor General or any other member of the Executive Council to
 whom responsibility for the administration of this Act is assigned or transferred under
 the *Executive Council Act*; (“ministre”)

“officer” means a police officer or a prescribed provincial offences officer; (“agent”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“provincial offences officer” means a person mentioned in any of clauses (b) to (f) of the
 definition of “provincial offences officer” in subsection 1 (1) of the *Provincial
 Offences Act*; (“agent des infractions provinciales”)

“public place” means, subject to the regulations, if any, a place to which the general public is invited or permitted and includes any structure used as a dwelling in a public place if its use as a dwelling in the public place is not permitted by law; (“lieu public”)

“regulations” means the regulations made under this Act; (“règlements”)

“supervised consumption site” means a site in respect of which the federal Minister of Health has granted an exemption to allow activities at the site in relation to a controlled substance or precursor that is obtained in a manner not authorized under the *Controlled Drugs and Substances Act* (Canada),

- (a) under section 56.1 of the *Controlled Drugs and Substances Act* (Canada), in circumstances where the federal Minister of Health is of the opinion that the exemption is necessary for a medical purpose, or
- (b) under subsection 56 (1) of the *Controlled Drugs and Substances Act* (Canada), in circumstances where the federal Minister of Health is of the opinion that the exemption is necessary for a scientific purpose or is otherwise in the public interest. (“site de consommation supervisée”)

Prohibition, consumption of illegal substance in public place

2. (1) Subject to subsections (2) and (3), no person shall consume an illegal substance in a public place.

Exemptions

(2) Subsection (1) does not apply if any of the following circumstances apply:

1. The illegal substance is used within a supervised consumption site.
2. The person is permitted to possess the illegal substance in the public place pursuant to authority granted under an Act of Ontario or Canada.
3. A prescribed exemption applies.

Same, person seeking emergency services

(3) No person who seeks emergency services shall be charged with or convicted of an offence under this Act if the evidence in support of that offence was obtained or discovered as a result of that person having sought emergency services or having remained at the scene.

Same, person at scene

(4) The exemption under subsection (2) also applies to any person who has remained at the scene to,

- (a) assist anyone experiencing an emergency or providing emergency services; or
- (b) receive emergency services.

Direction given by officer

3. (1) If an officer has reasonable grounds to believe that a person is consuming an illegal substance in a public place in contravention of subsection 2 (1), the officer may do one or both of the following:

1. Direct the person to cease consuming the illegal substance in the public place.
2. Direct the person to leave,
 - i. the public place, or
 - ii. a part of the public place, such as a structure being used as a dwelling where its use as a dwelling in the public place is not permitted by law.

Compliance

(2) A person who is the subject of a direction under subsection (1) shall promptly comply with the direction.

Offence

(3) A person who fails to comply with subsection (2) is guilty of an offence.

Direction to identify

4. (1) If an officer has reasonable grounds to believe that a person is guilty of an offence under subsection 3 (3), the officer may, for the purpose of commencing a proceeding under Part I or III of the *Provincial Offences Act*, direct the person to provide their full name, date of birth and address.

Compliance

(2) A person who is the subject of a direction under subsection (1) shall promptly comply with the direction.

Offence

(3) A person who fails to comply with subsection (2) is guilty of an offence.

Arrest without warrant

5. An officer may arrest, without warrant, a person who the officer believes on reasonable grounds is guilty of an offence under this Act.

Seizure, destruction of substance

6. (1) If an officer believes on reasonable grounds that a person is guilty of an offence under this Act, the officer may do one or both of the following:

1. Immediately seize and remove any substances found in plain view and proximate to the person, and any packages containing those substances, if the officer has reasonable grounds to believe the substances are illegal substances.
2. Destroy any seized substances mentioned in paragraph 1.

Same

(2) For greater certainty, subsection (1) applies regardless of the amount of substances found.

Officer may submit substance to analyst

7. (1) An officer may submit to an analyst for examination or analysis any substance or sample of the substance seized by the officer under this Act.

Certificate of analysis, examination

(2) An analyst may issue a certificate of analysis or examination stating that the analyst has analyzed or examined a substance and stating the results of the analysis or examination.

Same

(3) A certificate mentioned in subsection (2) is proof of the facts certified in it.

Designation of analysts

8. For the purpose of the enforcement of this Act, the Minister may designate individuals or classes of individuals as analysts.

Penalty

9. A person convicted of an offence under this Act is liable to a fine of not more than \$10,000 or to imprisonment for not more than six months, or both.

Regulations

10. (1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing anything that is referred to in this Act as prescribed or as otherwise dealt with in the regulations;
- (b) with respect to the definition of “public place” in section 1,
 - (i) prescribing locations or classes of locations that are not public places, and

- (ii) clarifying that specified locations or classes of locations are public places;
- (c) governing the giving of directions under subsection 3 (1) or 4 (1) or seizures under subsection 6 (1), including,
 - (i) specifying conditions that must be met before a direction may be given or a seizure may be made, and
 - (ii) specifying a period of time after an officer first has reasonable grounds to believe a person is guilty of an offence under this Act, after which a direction may not be given or a seizure may not be made in relation to the offence;
- (d) prescribing circumstances in which an officer who reasonably believes a person is guilty of an offence under this Act is authorized to take the person into custody for the purpose of escorting them to a place described in subsection (2) in lieu of commencing a proceeding under Part I or III the *Provincial Offences Act* in respect of the offence;
- (e) governing the powers and duties of an officer who escorts a person to a prescribed location pursuant to a regulation made under clause (d);
- (f) respecting any matter that, in the opinion of the Lieutenant Governor in Council, is necessary or advisable to implement this Act effectively.

Same, cl. (1) (d)

(2) For the purposes of a regulation mentioned in clause (1) (d), the place must provide one or more of the following services:

1. Health services.
2. Community services.
3. Social services.
4. Shelter services.
5. Housing services.
6. Mental health services.
7. Addiction services.

8. Services similar to those described in paragraphs 1 to 7.

Commencement

11. The Act set out in this Schedule comes into force on the day the *Safer Municipalities Act, 2024* receives Royal Assent.

Short title

12. The short title of the Act set out in this Schedule is the *Restricting Public Consumption of Illegal Substances Act, 2024*.