

BYLAW NUMBER 2003-15
OF
The Corporation of the Township of Chapleau

A Bylaw to Regulate Smoking
In Public Places in the Corporation of the Township of Chapleau

WHEREAS Section 115 of the *Municipal Act, 2001, C. 25*, authorizes the Council of a local municipality to pass a by-law regulating the smoking of tobacco in public places and workplaces within the municipality and designating public places or workplaces or classes or parts of such places as places in which smoking tobacco or holding lighted tobacco is prohibited;

AND WHEREAS it has been determined that second-hand smoke is a serious health hazard because of its adverse effects and risk to the health of all of the inhabitants in the Corporation of the Township of Chapleau;

AND WHEREAS it is desirable for the purpose of promoting and protecting the health, safety and welfare of the inhabitants of the Corporation of the Township of Chapleau to ensure that all public places will be free from second hand smoke;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF CHAPLEAU ENACTS AS FOLLOWS:

PART I

1. DEFINITIONS

1.0 In this by-law,

1.1 "***inspector***" means any employee or class of employee of the Sudbury and District Health Unit authorized by the Medical Officer of Health to carry out an inspection under and to enforce the provisions of this By-law, or a person or class of person appointed by Council of the Township as a by-law enforcement officer to enforce this by-law;

1.2 "***outdoor patio***" means an outdoor area or partially enclosed outdoor area that is adjacent to an establishment where food or beverages are sold and where food or beverages or both are consumed by the public;

1.3 "***person***" includes a corporation;

1.4 "***proprietor***" means the person who ultimately controls, governs or directs the activity carried on within a public place and includes the person actually in charge of the premises at any particular time;

1.5 "***public place***" means any building, structure, vessel, vehicle or conveyance, or part thereof, whether covered by a roof or not, to which the public has access as of right or by invitation, expressed or implied, whether or not a fee is charged for entry but does not include an outdoor patio or a street, road or highway.

1.6 "***smoke***" or "***smoking***" includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment, but does not include smoke or smoking where smoke or smoking is used in a stage production of a theatrical performance.

1.7 "***Township***" means the Corporation of the Township of Chapleau;

PART II

2. PUBLIC PLACES

- 2.1 No person shall smoke in any public place within the Township whether or not a No Smoking sign is posted.
- 2.2 Every proprietor of a public place shall:
 - (i) ensure compliance with this bylaw;
 - (ii) prohibit smoking in the public place;
 - (iii) post No Smoking signs in accordance with Part III of this bylaw in conspicuous locations at every entrance and washrooms in the public place indicating that smoking is prohibited in the public place;
 - (iv) ensure that no ashtrays or like paraphernalia are placed or permitted to remain in the public place .

PART III

3. SIGNAGE REQUIRED

- 3.1 Every proprietor shall post and maintain in conspicuous locations at each entrance to the facility and in the washrooms, a sign at least 14 centimetres (5.5 inches) by 14 centimetres (5.5 inches) in size that includes depiction of the international No Smoking symbol at least 7.5 centimetres (3 inches) in diameter, and lettering at least 0.8 centimetres (5/16 inch) high and at least 0.2 centimetres (1/16 inch) wide at the narrowest point, with the rest of the letter sized proportionately, which reads “The Corporation of the Township of Chapleau; Maximum Fine (\$5,000.)”
- 3.2 Where a No Smoking sign is required to be placed or posted under this bylaw, the sign shall have the proportions, characteristics and minimum measurements as set out in Section 3.1 as depicted in “Schedule A” and consist of two (2) contrasting colours, or if the lettering and graphic symbol is to be applied directly to surface or to be mounted on a clear panel, the lettering and graphic symbol shall contrast with the background.
- 3.3 Despite the fact that the symbol referred to in Schedule “A” is a cigarette, it may include a lighted cigar, cigarette, pipe or any other lighted smoking instrument.
- 3.4 Deviations from the colour or content of the sign prescribed by this section that do not affect the substance or that are not calculated to mislead do not vitiate the sign.
- 3.5 Any sign prohibiting smoking that refers to an old bylaw of the Township is deemed to be referring to this by-law.

PART IV

4. INSPECTIONS

- 4.1 An inspector may, at any reasonable time, enter any public place for the purposes of determining compliance with this By-law.

PART V

5. OFFENCES AND ENFORCEMENT

- 5.1 Any person who contravenes any of the provisions of this by-law, or who hinders or obstructs an inspector lawfully carrying out the enforcement of this by-law, is guilty of an offence and upon conviction is liable to a fine of not more than five thousand dollars (\$5,000.00) as provided for in the *Provincial Offences Act*, R.S.O. 1990, chapter 33, or any successor thereof.
- 5.2 If this by-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

PART VI

6. CONFLICTS

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

PART VII

7. SEVERABILITY

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

PART VIII

8. REPEAL

- 8.1 By-law 96-35, being the Township Smoking in the Workplace By-Law be and is hereby repealed in its entirety.

PART IX

9. EFFECTIVE DATE

- 9.1 This by-law comes into effect on October 14th, 2003.

Read a FIRST, SECOND and THIRD time and FINALLY passed this 14th day of July 2003.

Mayor

CAO

Schedule "A"

