

THE CORPORATION OF THE TOWN OF GORE BAY

NO. 2003-25

BEING A BY-LAW TO ADOPT SMOKE FREE PUBLIC PLACES AND WORKPLACES FOR THE TOWN OF GORE BAY

WHEREAS it has been determined that environmental tobacco smoke (exhaled smoke and the smoke from lighted cigarettes, cigars or pipes), also known as second-hand smoke, is a health hazard because of its adverse effects and risk to the health of the inhabitants and workers of the Town of Gore Bay;

AND WHEREAS the Medical Officer of Health of the Sudbury & District Health Unit has declared that second-hand smoke is a serious health hazard for adults, children, and employees;

AND WHEREAS it is desirable for the health, safety, and welfare of the inhabitants and workers of the Town of Gore Bay to provide for the prohibiting and abating of smoking and second-hand smoke in accordance with the provisions of this By-Law;

AND WHEREAS section 115 of the *Municipal Act, 2001, S.O. 2001, c.25* as amended, authorizes the council of a local municipality to pass by-laws 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;

NOW THEREFORE the Council of the Corporation of the Town of Gore Bay hereby ENACTS as follows:

Part I

1.0 DEFINITIONS

In this By-law:

- 1.1 “common area” means the common areas of any building or structure, including a commercial or retail establishment, residential condominium or multiple dwelling unit apartment building;
- 1.2 “employee” means any person who, being paid or unpaid, performs any work for or supplies any service to an employer, or a person who receives any instruction or training in the activity, business, work, trade, occupation or profession of an employer and includes a volunteer and a person who is self-employed and "employment" has a corresponding meaning;

- 1.3 “employer” means any person who, as the owner, proprietor, manager, superintendent, or overseer of any activity, business, work, trade, occupation or profession, has control over or direction of or is directly or indirectly responsible for the employment or services of an employee;
- 1.4 “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;
- 1.5 “proprietor” means any person who owns, occupies or ultimately controls, governs or directs the activity carried on within a public place, and includes the person actually in charge of the premises;
- 1.6 “public place” means any building, structure, vessel, vehicle or conveyance, or part thereof, to which the public has access as of right or by invitation, expressed or implied, whether or not a fee is charged for entry and includes common areas but does not include an outdoor patio, street, road or highway;
- 1.7 “Town” means The Corporation of the Town of Gore Bay;
- 1.8 “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 stage production or theatrical performance;
- 1.9 “workplace” means a building, structure, vessel, vehicle or conveyance or part thereof, to which the public may or may not have access either express or implied, in which one or more employees work, including any other area in the building, structure, vessel, vehicle or conveyance utilized by employees but does not include an outdoor patio.

Part II

2.0 WORKPLACE REQUIREMENTS

- 2.1 No person shall smoke in any workplace within the Town whether or not a no Smoking sign is posted.

Part III

3.0 EMPLOYER OBLIGATIONS

- 3.1 Every employer shall:
- (i) ensure compliance with this by-law;
 - (ii) prohibit smoking or holding of lighted tobacco in the workplace;
 - (iii) inform each employee in the workplace that smoking is prohibited in the workplace;
 - (iv) prohibit ashtrays and like paraphernalia in the area of the workplace; and,
 - (v) post signs in a conspicuous location at every entrance to the workplace indicating that smoking is prohibited in the workplace.

3.2 Sections 2.1 and 3. 1 do not apply to,

- (i) a part of the workplace that is used as a private residence;
- (ii) a room in a hotel, motel or other place where rooms are rented for sleeping accommodation, provided the room is used for sleeping accommodation only and the room is designated and specifically set aside as a room in which smoking is permitted;
- (iii) a workplace located in a dwelling where the only employees of that workplace are persons who live in the dwelling;
- (iv) the Royal Canadian Legion Branch 514 or the Gore Bay Curling Club; or
- (v) an area that is set aside for smoking, if the area is in a premises referred to in subsection 6 (3), (5) or (6) of Ontario Regulation 613/94 and the area meets the requirements of those subsections and subsections 6(1) and (2) of Ontario Regulation 613/94.

Part IV

4.0 PUBLIC PLACE REQUIREMENTS

4.1 No person shall smoke or hold lighted tobacco in a public place within the Town whether or not a No Smoking sign is posted.

Part V

5.0 PROPRIETOR OBLIGATIONS

5.1 Every proprietor of a public place shall:

- (i) ensure compliance with this by-law;
- (ii) prohibit smoking or holding lighted tobacco;
- (iii) post “No Smoking” signs as provided for in subsection 6 of this By-law conspicuously throughout the establishment where smoking is prohibited;
- (iv) prohibit ashtrays and like paraphernalia in all areas where smoking is prohibited;
- (v) inform any person who is smoking in a prohibited area that smoking in that area is prohibited.

5.2 Sections 4.1 and 5.1 do not apply to,

- i) a room in a hotel, motel or other place where rooms are rented for sleeping accommodation, provided the room is used for sleeping accommodation only and the room is designated and specifically set aside as a room in which smoking is permitted;
- ii) the Royal Canadian Legion Branch 514 or the Gore Bay Curling Club.

Part VI

6.0 SIGNAGE REQUIREMENTS

- 6.1 Every employer and every proprietor shall post and maintain in conspicuous locations at each entrance to the facility and in the washrooms, a sign at least 14 centimeters (5.5 inches) by 14 centimeters (5.5 inches) in size that includes depiction of the international No Smoking symbol at least 7.5 centimeters (3 inches), and letters at least 0.8 centimeters (5/16 inch) high and at least 0.2 centimeters (1/16 inch) wide at the narrowest point, with the rest of the letter sized proportionately, which reads "The Corporation of the Town of Gore Bay; Maximum Fine (\$5,000.00)";
- 6.2 Where a No Smoking sign is required to be placed or posted under this by-law, the sign shall have the proportions, characteristics and minimum measurements as set out in Section 6.1 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.
- 6.3 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;
- 6.4 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.

Part VII

7.0 OFFENCES

- 7.1 Any person who contravenes any provisions of this By-law is guilty of an offence and upon conviction is liable to a fine in accordance with the *Provincial Offences Act, R.S.O. 1990, c.P.33*, as amended or any successor thereof.

Part VIII

8.0 IMPLEMENTATION DATES

- 8.1 This By-law shall come into full force and effect **on October 31, 2003**.

Part IX

9.0 SEVERABILITY OF SECTIONS

- 9.1 If any section or sections of this By-law, or parts thereof are found by any Court of competent jurisdiction to be illegal or beyond the power of Council to enact, such section or sections or parts thereof shall be deemed to be severable from this By-law and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and to be properly enacted and to be of full force and effect.

Part X

10.0 ENFORCEMENT

- 10.1 A municipal by-law enforcement officer acting under the direction of the Town, may enter and inspect all buildings, structures or parts thereof that are subject to this By-law at any reasonable time for the purposes of determining whether there is compliance with this By-law.
- 10.2 Despite subsection (1), no municipal by-law enforcement officer may enter a workplace that is also a dwelling without the consent of the occupant or without first obtaining and producing a warrant.

Part XI

11.0 SHORT TITLE

- 11.1 This By-law may be referred to as the “Smoke-free By-law”

READ A FIRST TIME THIS DAY OF , 2003.

READ A SECOND TIME THIS DAY OF , 2003.

READ A THIRD TIME AND FINALLY PASSED THIS DAY OF , 2003.

.....
MAYOR

.....
CLERK

SMOKE-FREE BY-LAW

Schedule "A"

(No Smoking Signs)

Note: Diagrams are available upon request.

