

THE CORPORATION OF THE  
TOWNSHIP OF MICHIPICOTEN

BY-LAW NO. 1610-03

**BEING A BY-LAW to regulate smoking in public places and workplaces in the Township of Michipicoten.**

**WHEREAS** the Municipal Act, S.O. 2001, Chapter 25, Section 115, 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 and workers in the Corporation of the Township of Michipicoten;

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

**NOWHEREFORE** the Council of the Corporation of the Township of Michipicoten enacts the following as a By-Law:

**1. DEFINITIONS**

In this by-law,

**“accommodation unit”** means the area within a motel, hotel or like facility which is used for quest living and sleeping quarters but would not include the area which is a “public place”

**“ashtray”** means a receptacle for tobacco ashes and for cigar and cigarette butts

**“Council”** means the Council of The Corporation of the Township of Michipicoten.

**“inspector”** means any employee or class of employee of the Algoma 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;

**“employee”** means a 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;

**“employer”** means any person who, as the owner, proprietor, manager, contractor, superintendent, supervisor 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 of an employee;

**“outdoor area”** means an area that:

- (a) is not covered by a temporary or permanent roof; or
- (b) if covered by a temporary or permanent roof, has one or more unobstructed exterior openings in the walls surrounding the roofed area:
  - (i) located between the floor and a height of 2.44 metres above the floor; and
  - (ii) equal in area to at least 35% of the total wall surface, such wall surface to be calculated as if the roofed area were surrounded by walls 2.44 metres in height;
- (c) does not share open windows with a **“place of refreshment”**;
- (d) does not share open doors with a **“place of refreshment”**, except when doors are being opened by individuals to enter or exit the outdoor area;
- (e) does not have thermostat controlled heating or air conditioning system nor does it share a thermostat controlled heating or air conditioning system with a place of refreshment; and
- (f) has circulation of fresh air throughout the area.

**“person”** includes a corporation;

**“place of refreshment”** means any premises where food or drink is offered for sale or is sold to the public for immediate consumption together with any part where the public has access, and includes, without limiting such, a restaurant, a dining room, a dairy bar, a coffee shop, a donut shop, a snack bar, a refreshment stand, a banquet hall or facility, a bar, and a nightclub, but does not include an outdoor area;

**“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;

**“public facility”** means any publicly owned building, vessel, vehicle or conveyance, or any part thereof;

**“public place”** means any vessel, vehicle or conveyance, indoor area of any building 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, including a “place of refreshment” but does not include a “public facility”;

**“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;

**“workplace”** means a any vessel, vehicle or conveyance or indoor area of any building or part thereof, in which an employee works and includes washrooms, corridors, lounges, eating areas, reception areas, elevators, escalators, foyers, hallways, stairways, amenity areas, lobbies, laundry rooms and parking garages utilized by an employee.

## 2. WORKPLACES

- (a) No person shall smoke in any workplace within the Township whether or not a No Smoking sign is posted.
- (b) Every employer shall:
  - (i) ensure compliance with this by-law;
  - (ii) prohibit smoking in the workplace;
  - (iii) inform each employee in the workplace that smoking is prohibited in the workplace;
  - (iv) post No Smoking signs in accordance with Article 4 of this by-law in conspicuous locations at every entrance and washrooms in the workplace indicating that smoking is prohibited in the workplace; and
  - (v) ensure that no ashtrays or like paraphernalia are placed or permitted to remain in any part of the workplace.
- (c) Article 2 (a) does not apply to,
  - (i) a part of a workplace that is used as a private residence; or

- (ii) a workplace located in a private residence where the only employees of that workplace are persons who live in the private dwelling; or
- (iii) an accommodation unit designated as a smoking area used as a workplace.

### **3. PUBLIC PLACES**

- (a) No person shall smoke in any public place or public facility within the Township whether or not a No Smoking sign is posted.
- (b) Every proprietor of a public place or public facility shall:
  - (i) ensure compliance with this by-law;
  - (ii) prohibit smoking in the public place or public facility;
  - (iii) post No Smoking signs in accordance with Article 4 of this by-law in conspicuous locations at every entrance and washrooms in the public place or public facility indicating that smoking is prohibited in the public place or public facility;
  - (iv) ensure that no ashtrays or like paraphernalia are placed or permitted to remain in the public place or public facility.
- (c) Article 3 (a) does not apply to:
  - (i) a public place when used exclusively by one or more individuals for a private gathering or personal purpose (and it is not being used as a workplace where employees are present);
  - (ii) that part of a private residence which is not used as a workplace;
  - (iii) an accommodation unit designated as a smoking area;
  - (iv) any other facility excluded by law.

### **4. SIGNAGE REQUIRED**

- (a) 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 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), 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 Michipicoten; Maximum Fine (\$5000)”

- (b) 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 Article 4 (a) 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.
- (c) 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.
- (d) 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.
- (e) Any sign prohibiting smoking that refers to an old by-law of the Township is deemed to be referring to this by-law.

## **5. INSPECTIONS**

- (a) An inspector may, at any reasonable time, enter any public place or public facility or workplace for the purposes of determining compliance with this by-law.
- (b) No inspector may enter a workplace that is also a private residence without the consent of the occupant or without first obtaining and producing a warrant.

## **6. OFFENCES AND ENFORCEMENT**

- (a) 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.
- (b) 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.

**7. CONFLICTS**

- (a) 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.

**8. SEVERABILITY**

- (a) 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.

**10. EFFECTIVE DATE**

- (a) This by-law comes into effect on June 1, 2004.

**READ** a first and second time this 7<sup>th</sup> day of October, 2003.

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DOUG WOODS, REEVE

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CHRIS WRAY, CLERK

**READ** a third time and finally passed this 21<sup>st</sup> day of October, 2003.

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DOUG WOODS, REEVE

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CHRIS WRAY, CLERK

