

THE CORPORATION OF THE CITY OF SAULT STE. MARIE

BY-LAW NUMBER 2003-7

SMOKING: (R.1.2.1) - A by-law to regulate smoking in public places and city buildings in the City of Sault Ste. Marie.

WHEREAS Subsection 213(2) of the *Municipal Act*, R.S.O. 1990, C. M.45 as amended, 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 section 115 of the *Municipal Act*, 2001 will continue to provide this authority when it comes into force on January 1, 2003;

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 City of Sault Ste. Marie;

AND WHEREAS it is desirable for the purpose of promoting and protecting the health, safety and welfare of the inhabitants of the City of Sault Ste. Marie to ensure that all public places and City buildings will be free from second hand smoke;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF SAULT STE. MARIE ENACTS AS FOLLOWS:

PART I

1. DEFINITIONS

1.0 In this by-law,

1.1 “**City**” means the Corporation of the City of Sault Ste. Marie;

1.2 “**City building**” means any building, owned, operated or leased by the City;

1.3 “**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 City as a municipal by-law enforcement officer to enforce this by-law or a police officer;

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 “**person**” includes a corporation;

1.6 “**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;

1.7 “**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.

- 1.8 “**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 a stage production of a theatrical performance and does not include or prohibit the holding of lit tobacco if the activity is carried out for traditional Aboriginal cultural or spiritual purposes.

PART II

2. PUBLIC PLACES AND CITY BUILDINGS

- 2.1 No person shall smoke in any public place within the City, or in a City building, 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 smoking related paraphernalia including ashtrays or matches are placed or permitted to remain in the public place.
- 2.3 The City shall:
 - (i) prohibit smoking in City buildings;
 - (ii) post No Smoking signs in accordance with Part III of this bylaw in conspicuous locations at every entrance and washrooms in City buildings indicating that smoking is prohibited in City buildings;
 - (iii) ensure that no smoking related paraphernalia including ashtrays or matches are placed or permitted to remain in City buildings.

PART III

3. SIGNAGE REQUIRED

- 3.1 Every proprietor and the City 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 a 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 “No Smoking - The Corporation of the City of Sault Ste. Marie”.
- 3.2 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 3.1 as depicted in “Schedule A” and consist of two (2) contrasting colours, or if the lettering and graphic symbol are 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 is deemed to 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 City is deemed to be referring to this by-law.

PART IV

4. WORKPLACES

- 4.1 Where an employer, within the meaning of the *Smoking in the Workplace Act*, R.S.O. 1990, C. S.13, designates a lunch room or cafeteria for employees as a smoking area, the employer shall also designate an area of equal or greater size as a lunch room or cafeteria for workers who do not smoke.
- 4.2 Despite section 4.1, no person shall smoke in any part of a workplace that is a public place.

PART V

5. INSPECTIONS

- 5.1 An inspector may, at any reasonable time, enter any public place or City building for the purpose of determining compliance with this by-law.

PART VI

6. OFFENCES AND ENFORCEMENT

- 6.1 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 as provided for in the *Provincial Offences Act*, R.S.O. 1990, chapter 33, as amended.

PART VII

7. CONFLICTS

- 7.1 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 VIII

8. SEVERABILITY

- 8.1 If any section or sections of this by-law or part thereof, is found in any court of law to be illegal or void or beyond the power of the City 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 IX

9. REPEAL

- 9.1 By-law 2000-140 is repealed, effective May 31st, 2004

PART X

10. **EFFECTIVE DATE**

10.1 This by-law comes into effect on June 1st, 2004.

READ THREE TIMES and PASSED in Open Council this 13th day of
January, 2003.

MAYOR – JOHN ROWSWELL

CLERK – DONNA P. IRVING

SCHEDULE "A" TO BY-LAW 2003-7

