

**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;

1.2(a) "**City entranceway**" means an area within an eight metre radius surrounding the public entrances to John Rhodes Centre located at 280 Elizabeth Street, the McMeeken Centre Arena located at 616 Goulais Avenue, the West End Community Centre located at 556 Goulais Avenue; [AMENDED BY BY-LAW 2012-37]

1.3 "**inspector**" means an employee or class of employee of Algoma Public Health authorized by the Medical Officer of Health to carry out an inspection under and to enforce the provisions of this by-law; [AMENDED BY BY-LAW 2009-155]

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;

(a) "**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,
    - (i) at least 35 percent of the total wall area, calculated from the floor to a height of 2.44 metres above the floor, must be open to the movement of outdoor air;
    - (ii) does not share open doors with a public place except when being opened to enter or exit the indoor area;
    - (iii) does not share open windows with a public place;
    - (iv) must not be used as the main entrance to the public place; and
    - (v) does not share thermostat controlled heating or air conditioning with a public place; [AMENDED BY BY-LAW 2005-13]
  - (c) There shall be no structure or part thereof located within .3 m. of the exposed perimeter walls; [AMENDED BY BY-LAW 2005-33]
  - (d) If covered by a temporary or permanent roof, there shall be no structure within .5 metres of such temporary or permanent roof; [AMENDED BY BY-LAW 2005-33]
- 1.4.B “**parkland**” means any and all lands owned by the City that has been or hereafter may be set apart, designated, dedicated or established by Council as public parkland; [AMENDED BY BY-LAW 2009-155]
- 1.4.C “**permitted event**” means an event for which a permit has been issued by the Community Services Department of the City of Sault Ste. Marie for City property; [AMENDED BY BY-LAW 2009-155]
- 1.5 “**person**” includes a corporation;
- 1.5.A “**playground area**” means an outdoor area established within parkland fitted with equipment such as, but not limited to, slides, swings and climbing equipment. The area is usually identified by a defined border which encloses an area of sand, rubber or any similar safety surface; [AMENDED BY BY-LAW 2009-155]
- 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.
- 1.7.A “**recreation field**” means any portion of parkland that is used for athletic, recreational or musical purposes to conduct organized activities. This includes, but is not limited to, a ball field, soccer pitch, football field, tennis court, player bench area, spectator area, food and beverage concession, skateboard park, outdoor rink or permitted events. This does not include parking facilities located adjacent or near the recreation field; [AMENDED BY BY-LAW 2009-155]
- 1.7.B “**Roberta Bondar Park Tent Pavilion**” refers to the large outdoor tent pavilion located at 65 Foster Drive; [AMENDED BY BY-LAW 2009-155]
- 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.
- 2.1.1. No person shall smoke at any City entranceway. [AMENDED BY BY-LAW 2007-154]
- 2.1.2. No person shall smoke on or within 15 metres of any playground area. [AMENDED BY BY-LAW 2009-155]
- 2.1.3 No person shall smoke on or within 15 metres of any recreation field. [AMENDED BY BY-LAW 2009-155]
- 2.1.4 No person shall smoke while under the Roberta Bondar Park Tent Pavilion, or within 15 metres of any entrance to the Roberta Bondar Park Tent Pavilion. [AMENDED BY BY-LAW 2009-155]
- 2.1.5 No person shall smoke on the Sault Area Hospital site located at 750 Great Northern Road, Sault Ste. Marie. [AMENDED BY BY-LAW 2011-48]
- 2.1.6 No person shall smoke on the Algoma Public Health site located at 294 Willow Avenue, Sault Ste. Marie. [AMENDED BY BY-LAW 2011-48]
- 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 by-law in conspicuous locations at every entrance and washrooms in City buildings as well as at playground areas and recreational fields indicating that smoking is prohibited in these locations; [AMENDED BY BY-LAW 2009-155]
  - (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. ENFORCEMENT**

- 5.1 The provisions of this By-law respecting the designation of non-smoking areas, the posting of signs and the duties imposed on the proprietor, employer or other person in charge of a playground area, recreation field, Roberta Bondar Park Tent Pavilion, public place or workplace shall be enforced by inspectors. [AMENDED BY BY-LAW 2009-155]
- 5.2 An inspector may, at any reasonable time, enter any designated public place for the purposes of determining compliance with this By-law. [AMENDED BY BY-LAW 2009-155]

#### **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 31<sup>st</sup>, 2004

**PART X****10. EFFECTIVE DATE**

- 10.1 This by-law comes into effect on June 1<sup>st</sup>, 2004.

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

"John Rowswell"

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**MAYOR – JOHN ROWSWELL**

"Donna Irving"

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**CLERK – DONNA P. IRVING**

**SCHEDULE "A" TO BY-LAW 2003-7**



**Office Consolidation****SMOKING BY-LAW 2003-7**

**passed 13 January 2003  
effective 1 June 2004**

<b>AMENDING BY-LAWS</b>	<b>DATE PASSED</b>	<b>AMENDMENT</b>
2005-13	24 January 2005	Addition of 1.4(a) - definition of "patio"
2005-33	21 February 2005	Addition of 1.4(a)(c) and 1.4(a)(d) re outdoor structures
2007-154	10 September 2007	Addition of: 1.2(a) definition of City entranceway at John Rhodes and McMeeken Centres 2.1.1 prohibition – smoking at City entranceways
2009-155	26 October 2009	Amendments to prohibit smoking in City parks and outdoor recreation facilities: Parts I, II and V
2011-22	7 March 2011	Addition of: 2.1.5. SAH 2.1.6. APH
2011-48	21 March 2011	Repeals 2011-22  Addition of: 2.1.5 SAH 2.1.6 APH
2012-37	21 February 2012	Amends " <i>City Entranceway</i> "