

Smoking By-Law

THE CORPORATION OF THE TOWNSHIP OF BLACK RIVER-MATHESON

BY-LAW NO. 17-2006

BEING A BY-LAW TO PROHIBIT SMOKING IN PUBLIC PLACES AND WORKPLACES IN THE CORPORATION OF THE TOWNSHIP OF BLACK RIVER-MATHESON.

WHEREAS Section 115 of the Municipal Act S.O. 2001 Chapter 25, as amended, enables the Council of a municipality to pass a by-law to prohibit or regulate the smoking of tobacco products in public places and workplaces within the municipality;

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

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 Black River-Matheson to provide and ensure that all public places and workplaces are free from second-hand smoke;

NOW THEREFORE the Council of the Corporation of the Township of Black River-Matheson enacts as follows:

1. TITTLE

This by-law may be cited as the "Smoking By-law".

2. DEFINITIONS

· ASHTRAY means a receptacle of any type used for tobacco ashes and for cigar and cigarette butts.

· BAR shall mean a building or structure or part thereof, in respect of which establishment a liquor sales licence is issued under the Liquor Licence Act and its regulations, and

i. Which whole or portion is used primarily for the sale and service of liquor for immediate consumption by the public on the premises,

ii. In which whole or portion the sale and services of food is incidental to the sale and service of liquor.

- BINGO HALL means any building, location or premises where bingo events within the meaning of the Gaming Control Act, 1992 are conducted.

- COMMON AREA includes any indoor portion of any type of building or facility, commercial or retail establishments, malls, office, hotel, motel, inn, shopping mall, shopping plaza, and includes an elevator, escalator, stairway, corridor, passageway, hallway, unenclosed eating areas in corridors, public restrooms, unenclosed public seating areas and unenclosed public standing areas, whether or not the area is actually occupied by a member of the public at any given time, lobbies, waiting areas, reception areas, foyers.

- COMMON AREA OF A RESIDENTIAL BUILDING includes, but is not limited to an elevator, escalator, stairway, hallway, corridor, laundry room, foyer, reception area, community room, washrooms and parking garages. It does not include rented or privately owned residence.

- COUNCIL means the Council of the Corporation of the Township of Black River-Matheson

- DWELLING means a building or part of a building which actually serves as the residence, for one or more persons. It includes any individual residence rooms in homes for the aged and similar facilities. It does not include any Common Area in residential buildings.

- EMPLOYEE includes a person who being paid or unpaid, performs any work for or supplies any services to an employer, or receives any instructions or training in the activity, business, work, trade, occupation or profession of the employer or his/her agent and includes a volunteer and a person who is self-employed and “employment” has a corresponding meaning.

- EMPLOYER includes 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 of a person therein.

- ESTABLISHMENT means any or all of: a Retail Establishment, an Eating Establishment, a Place of Public Assembly, and any Public Area or part of a Public Area.

- ENCLOSED, except as noted, means closed in by a roof or ceiling and walls with appropriate openings for ingress and egress.

- INSPECTOR means any employee or class of employee of the Porcupine 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 Municipality as the Municipal Law Enforcement Officer to enforce this by-law.

- LAUNDROMAT means any facility, premises or areas within a building to which the public has access for the purposes of laundering, washing or drying.
- MUNICIPAL BUILDING means any building or structure used for municipal purposes or owned by the Municipality.
- MUNICIPALITY means the Corporation of the Township of Black River-Matheson.
- MUNICIPAL VEHICLE means any vehicle or class thereof owned by the Municipality.
- OUTDOOR AREA means an existing area where food or beverages are sold or offered to the public for immediate consumption that:
 1. Is not covered by a temporary or permanent roof, or
 2. if covered by a temporary or permanent roof:
 - i. has one or more unobstructed, exterior openings in the walls surrounding the roof area which are:
 - a) located between the floor and a height of 2.44 metres (8 feet) above the floor, and
 - b) equal to or greater in area than 35% of the total wall surface, such wall to be calculated as if the roofed area were surrounded by walls 2.44 meters in height.
 - ii. does not share open windows with a public place;
 - iii. does not share open doors with a public place, except when doors are being opened by individuals to enter or exit the outdoor area;
 - iv. does not have a thermostat controlled heating or air conditioning system nor does it share a thermostat controlled heating or air conditioning system with a public place;
 - v. has a circulation of fresh air throughout the area.
- PERSON includes an individual or corporation and shall include the plural wherein the context requires.
- PATRON shall mean a customer, client, guest or visitor, not an employee.

- PROPRIETOR means the person who controls, governs or directs the activity carried on within a public place or establishment and includes the person actually in charge of the premises at any particular time. There may be more than one proprietor of any given public place or establishment at any time or from time to time.
- PUBLIC PLACE means any building, structure, vessel, vehicle or conveyance, including a taxi cab and school bus or part thereof, whether covered by a roof or not, to which the public has access as a right or by invitation, expressed or implied, whether or not a fee is charged for entry but does not include an outdoor area, or a street, road or highway.
- SMOKE OR SMOKING means the smoking of tobacco and includes the carrying or holding 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 building, structure, vessel, vehicles used by employees 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 works, including any other area utilized by employees, but does not include an outdoor area, or a street, road or highway.

3. WORKPLACES

3.1 No person shall smoke in any workplace within the Township of Black River-Matheson whether or not a No Smoking sign is posted.

3.2 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 Section 6 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.

3.3 Sections 3.1 and 3.2 do not apply to:

- i. a part of a 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 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; or

4. PUBLIC PLACES

4.1 No person shall smoke in any public place or establishment within the Township of Black River-Matheson whether or not a No Smoking sign is posted.

4.2 Every proprietor of a public place shall:

- i. prohibit smoking in the public place;
- ii. give notice to each person in the public place that smoking is prohibited in the public place;
- iii. post no smoking signs in accordance with Section 6 of this by-law in conspicuous locations at every entrance and in every washroom in the public place indicating that smoking is prohibited in the public place;
- iv. ensure no ashtrays or like paraphernalia are placed or permitted to remain in any public place.

4.3 Sections 4.1 and 4.2 do not apply to a room in a hotel, motel or other place where rooms are rented for sleeping accommodation, provided the room is used for sleeping accommodation and the room is designated and specifically set aside as a room in which smoking is permitted and Sections 4.1 and 4.2 do not apply to an outdoor area.

4.4 The places listed in Schedule "D" to this by-law are designated as public places.

5. MUNICIPAL BUILDINGS AND VEHICLES

5.1 No person shall smoke in any Municipal Building or part thereof whether or not a No Smoking sign is posted. Prohibited places shall be outlined in Schedule "B" of this by-law.

5.2 No person shall smoke in any Municipal Vehicle or class thereof whether or not a No Smoking sign is posted.

6. SIGNAGE REQUIREMENTS

6.1 Every employer and every proprietor shall post and maintain in conspicuous locations at each entrance to the facility and in every washroom, a sign of sufficient size as to clearly identify that smoking is prohibited within the workplace or public place and each sign shall:

- i. include the international No Smoking symbol as referred to in Schedule "A" of this by-law;
- ii. consist of letters and graphic symbol of colour(s), which contrast with the background colour of the sign or the surface to which it is applied;

6.2 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.

6.3 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.

6.4 Any sign prohibiting smoking that refers to an old by-law or fine of the Municipality is deemed to be referring to this by-law.

7. INSPECTIONS

7.1 An inspector may, at any reasonable time, enter and public place or workplace for the purposes of determining compliance with this by-law.

7.2 Make such examinations, investigations and inquiries as are necessary to determine whether there is compliance with this by-law.

7.3 Any person who hinders or obstructs an inspector lawfully carrying out the enforcement of this by-law is guilty of an offence.

8. OFFENCES AND ENFORCEMENT

8.1 Any person who contravenes any provision of this by-law shall be subject to a penalty as set out in Schedule "C" of this by-law. All penalties shall be recoverable under the provisions as provided for in the Provincial Offences Act, R.S.O. 1990, Chapter 33, or any successor thereof.

8.2 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.

9. CONFLICT

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

10. VALIDITY

If any section, clause or provision of this by-law, including anything contained in any schedule attached hereto, is for any reason declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the by-law as a whole or any part thereof, other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention that all remaining sections, clauses or provisions of this by-law shall remaining full force and effect until repealed, not withstanding that one or more provisions thereof shall have to be declared invalid.

That by-law numbers 942-89, 925-88, 2178-2001 and any other by-laws pertaining to the building by-law are hereby repealed.

This by-law shall come into force and take effect on the date of the final passing thereof.

Read a first and second time on this ____day of _____, 200 .

Read a third time and finally passed on this ____day of _____, 200 .

MAYOR

CLERK

Smoking By-Law Schedule B

CORPORATION OF THE TOWNSHIP OF BLACK RIVER-MATHESON

SMOKING BY-LAW

SCHEDULE "B" OF BY-LAW NO. 17-2006

Prohibited Municipal Places

- Municipal Office located at 429 Park Lane, Matheson
- Multi-Service Building located at 489 MacDougall Street, Matheson.
- Public Works Building located at 4 Vimy Ridge Road, Matheson.
- Thelma Miles Museum located at 374 Hough Road, Matheson.
- The Vern Miller Memorial Arena located at 1 Arena Avenue, Matheson.
- Matheson Fire Hall located at 424 Sixth Avenue, Matheson.
- Val Gagne Fire Hall located at 530 Principale Street, Val Gagne.
- Ramore Fire Hall located at 371 Ferguson Avenue, Ramore.
- Holtyre Fire Hall located at 675 Gleason Avenue, Holtyre.
- Val Gagne Outdoor Rink Building located at 573 Lessard Street, Val Gagne.
- Ramore Outdoor Rink Building located at 335 Timmins Avenue, Ramore.
- Holtyre Outdoor Rink Building located at 682 Gleason Avenue, Holtyre.
- Shillington Outdoor Rink Building located at North Part of Lot 12, Concession 6, Currie Township.
- Hough Lake Change Rooms located at South Part of Lot 5, Concession 6, Bowman Township.
- Gauthier Lake Change Rooms located at North Part of Lot 9, Concession 3, Taylor Township.
- Ramore Public Library located at 371 Ferguson Avenue, Ramore.
- Matheson Public Library located at 352 Second Street, Matheson.
- HRDC Centre located at 418 Fifth Avenue, Matheson

Smoking By-Law Schedule D

CORPORATION OF THE TOWNSHIP OF BLACK RIVER-MATHESON

BUILDING BY-LAW

SCHEDULE "D" OF BY-LAW NO. 17-2006

Public Places

- The common areas of residential, commercial or office buildings.
- Municipal Buildings
- An eating establishment
- A bar
- A public restroom
- A public elevator or stairwell
- The reception or waiting areas of offices, service facilities
- A bingo hall
- A retail shop
- A laundromat
- A barber or hair dressing establishment
- A public transit vehicle
- A school bus
- A taxi cab
- A transit shelter
- A public hall
- An enclosed sports facility
- A private club
- An entertainment lounge
- A billiard/pool hall
- A night club