



THE CORPORATION OF THE TOWN OF ORANGEVILLE

BY-LAW NUMBER 36-2012

**A BY-LAW TO REGULATE AND PROHIBIT
SMOKING AT ALL MUNICIPALLY OWNED/OPERATED PUBLIC PLACES**

WHEREAS The *Municipal Act*, 2001, S.O. 2001, S.115, as amended, authorizes the Council of a municipality to pass a by-law regulating the smoking of tobacco in public places and workplaces within the municipality and designating such places or parts thereof as places in which smoking tobacco or holding lighted tobacco is prohibited;

AND WHEREAS the *Smoke-Free Ontario Act* came into effect on May 31, 2006;

AND WHEREAS it has been determined that environmental tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars or pipes), also known as second-hand smoke, is a public nuisance because of its irritating and discomforting properties and is a serious health hazard because of its adverse effects and risk to the health of all of the inhabitants and workers in the town of Orangeville;

AND WHEREAS smoke-free by-laws are known to contribute to the prevention of youth smoking and cause cessation among smokers;

AND WHEREAS it is desirable for the health, safety, and welfare of the inhabitants and workers of the Town of Orangeville to provide for the prohibiting and abating of smoking and second-hand smoke at municipally owned or operated property in accordance with the provisions of this by-law;

BE IT THEREFORE ENACTED by the Municipal Council of the Corporation of the Town of Orangeville as follows:

1. DEFINITIONS

"Officer" means a municipal by-law enforcement officer, a provincial offences officer, a police officer, or a public health officer.

"lane" means any public access lane that is owned by the Town or any public access lane of which any portion is rented to the Town.

"municipal building" means any building that is owned by the Town or any building of which any portion is rented or leased to or by the Town.

“parking lot” means any public parking area that is owned by the Town or any public parking area of which any portion is rented or leased to or by the Town.

“public place” means the whole or part of a municipally owned/operated indoor and outdoor area, building, structure, vessel, vehicle or conveyance, or part thereof, whether covered by a permanent roof or not, to which the public has access by right or by invitation, expressed or implied, whether or not a fee is charged for entry, and includes, but is not limited to, public transit vehicles, bus stops and common areas of a building;

“public transit vehicle” means any vehicle used for transporting the public and includes a school bus and a passenger vehicle used for hire;

“recreational sports field” means any field, made of natural or man-made material located on Town property, that is used for recreational or athletic purposes by any person or persons to conduct organized or unorganized sporting activities and includes, but is not limited to, a municipal park, a baseball field, a soccer pitch, a player or spectator bench, a sports pad and a tennis court. A golf course is not a recreational sports field.

“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 or a theatrical performance;

“Town” means The Corporation of the Town of Orangeville;

“trails and paths” include designated spaces for multi-use walking, running and biking trails connecting roads and parks throughout the community.

“workplace” means a building, structure, vessel, vehicle or conveyance or part thereof, to which the public may or may not have access, either expressed or implied, in which one or more employees work, including any other area in the building, structure, vessel, vehicle or conveyance utilized by employees.

2. PUBLIC PLACES

2.1 No person shall smoke in any lane, municipal building, parking lot, public place, public transit vehicle, recreational sports field, trail, path or workplace within the Town whether or not a No Smoking sign is posted.

2.2 Every person, employer or community organization using property of the Town shall, within the area of his/her/its responsibility:

(a) ensure compliance with this by-law;

- (b) inform each employee of the employer or each person working with any community organization that smoking is prohibited on Town property;
- (c) ensure that no ashtray or like paraphernalia is placed or permitted to remain in any part of the Town property within the area of his/her/its responsibility;

3. SIGNAGE DETAILS

- 3.1 A graphic symbol similar to that shown below may be used to indicate "No Smoking" areas. If used, this symbol shall include the text "No Smoking Town of Orangeville By-law Max. Penalty \$5,000".

No Smoking
on municipally owned
or operated public spaces



Town of Orangeville By-law
Max. Penalty \$5,000

- 3.1.1 The sign shall be as follows:

- (a) The sign shall show an illustration of a black, lit cigarette on a white circle surrounded by a red border; and
- (b) A red diagonal stroke shall cross over the cigarette from the upper left to the lower right portion of the circle; and
- (c) The text and figures shall be in black.

- 3.2 No person shall remove, except with the consent of the Town, deface, damage or otherwise vandalize any sign displayed at any location or premises regulated under this by-law, and any person contravening this section shall be subject to the penalty provided in Section 5 of this by-law.

4. INSPECTIONS AND ENFORCEMENT

- 4.1 Any Officer, upon producing proper identification, may, at any time of the day or night, enter any municipally owned/operated public place for the purpose of determining compliance with this by-law and may make examinations, investigations and inquiries.
- 4.2 This by-law shall be administered by an Officer.

5. OFFENCE AND PENALTIES

- 5.1 Any person who contravenes any of the provisions of this by-law or permits such contravention commits an offence under the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended and, upon conviction, is liable to a fine not exceeding five thousand dollars (\$5,000), exclusive of costs.
- 5.2 Every director or officer of a corporation, which owns, rents or otherwise occupies a workplace or public transit vehicle who knowingly permits a contravention of this by-law within the workplace or public transit vehicle is guilty of an offence and, upon conviction, is liable to a fine not exceeding five thousand dollars (\$5,000), exclusive of costs.
- 5.3 The court in which a conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other remedy and to any penalty imposed on the person convicted.
- 5.4 If any part of a fine for a contravention of this by-law remains unpaid after the fine becomes due and payable under section 66 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended, including any extension of time for payment ordered under that section, the Treasurer for the Town or his agent may give the person against whom the fine was imposed a written notice specifying the amount for the fine payable and the final date on which it is payable, which shall be not less than twenty-one (21) days after the date of the notice, by delivering the notice or causing it to be delivered to that person at the person's residence or place of business.
- 5.5 If the fine referred to in Section 5.4 of this by-law remains unpaid after the final date specified in the notice any unpaid part of the fine, pursuant to Section 441.1 of the *Municipal Act*, S.O. 2001, c.25, as amended, shall be added to the tax roll for any property in Orangeville for which all of the owners are responsible for paying the fine and the unpaid part of the fine shall be collected in the same manner as municipal taxes.

6. SEVERABILITY

- 6.1 Should any section or subsection of this by-law or parts thereof be found by law to be illegal or beyond the power of Council to enact, such section or subsection or parts thereof shall be deemed to be severable so that the remainder of this by-law is separate and therefore enacted as such.

7. CONFLICTS

- 7.1 In the event of any conflict between any provisions of this by-law and any other by-law heretofore passed the provisions of this by-law shall prevail.

8. SHORT TITLE

- 8.1 This by-law shall be cited as the "Smoke-Free Municipal Public Spaces" by-law.

9. REPEAL

- 9.1 By-law No. 12-2011 is hereby repealed.

10. EFFECTIVE DATE

- 10.1 This by-law comes into force and takes effect on June 1, 2012.

PASSED IN OPEN COUNCIL THIS 7th DAY OF MAY 2012.



R. Adams, Mayor

C. Johns, Clerk