

THE CITY OF TIMMINS

BY-LAW NO 2011-7123

AMENDED BY
BY-LAW 2012-7250

AMENDED BY
BY-LAW 2022-8731

BEING a by-law to repeal By-law 2003-5815 and amendments thereto and regulate smoking in Public Places and Workplaces

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 in the municipality,

AND WHEREAS it has been determined that second-hand tobacco smoke is a nuisance due to its irritating and discomforting properties, and its hazardous effects on our health, especially the youth, of the City of Timmins,

AND WHEREAS the Medical Officer of Health for the Porcupine Health Unit has declared that second-hand smoke is a serious health hazard,

AND WHEREAS it is desirable for the health, safety and welfare of the inhabitants of the City of Timmins to ensure and aid in the prohibition of tobacco-use in accordance with the provisions of this by-law,

THEREFORE the Council of the Corporation of the City of Timmins enacts as follows;

Definitions

1. In this by-law;

"Beaches" shall mean any area where the public is permitted to swim in the City.

"City" shall mean The Corporation of the City of Timmins,

"Council" shall mean the Council of The Corporation of the City of Timmins;

"Eating Establishment" shall mean a building, booth, stall or place engaged in the sale and service of food and/or drink whether alcoholic or otherwise is offered for sale to the public for immediate consumption on the premises, and includes a restaurant, café, food court, cafeteria, take out restaurant, ice cream parlour, tea or lunch room, dairy bar, coffee shop, donut shop, snack bar, refreshment room or stand, roadhouse, bar; nightclub, cafeteria, and those portions of a hotel or inn where such sale and service is carried on,

"Employee" shall mean a person who 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 and includes a volunteer and person who is self-employed.

"Employer" shall mean 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;

"Enclosed" except as noted, shall mean closed in by a roof or ceiling and walls with appropriate openings for ingress and egress,

“Entrance” shall mean any passage or opening that affords entry or exit to a place that is open to the public in order to do business, receive a service and/or drop off/pick up items within the City of Timmins and shall include all enclosures or coverings leading up to said passage or opening,

“Food Court or Indoor Patio” means an area located within a public place that is used in conjunction with a restaurant or take-out eating establishment, where unenclosed seating is provided or where the public consumes meals or refreshments,

“Inspector” shall mean any person appointed by the Council of the City of Timmins as a Municipal Law Enforcement Officer, any person appointed by the Minister of Health as a Provincial Offences Officer under the Tobacco Control Act, 1994 or any person appointed by the Minister of Labour as a Provincial Offences Officer under the Smoking in the Workplace Act, or any police officer of the City of Timmins,

“Hospice” – a facility for the caring for the terminally ill;

“Nursing Home” means a nursing home as defined in the Nursing Homes Act, and also includes for purposes of this By-law those homes defined under the Homes for the Aged and Rest Homes Act;

“Patron” shall mean a customer, client, guest or visitor, not an employee,

“Playground Equipment” means any kind of structure or apparatus which is customarily found in a park like setting and which a person may engage in play-like activities such as climbing, swinging, hanging, crawling, jumping, stepping, whether over, across, under, through, or upon for enjoyment, exercise and/or as part of relating to others of any age. Without restricting the generality thereof, playground equipment includes but is not limited to swings, slides, climbing apparatus, facilities expressly designed for roller-blades, municipally-owned swimming pools. Playground equipment does not include facilities for baseball, hockey, walking and biking trails, park fences and trees outside a Playground Equipment Zone, a picnic table, bridge, gazebo or pergola.

“Playground Park” means any park open to the public owned by the City which contains Playground Equipment. Without restricting the generality thereof, each of the following parks is a playground park. (refer to appendix A)

“Proprietor” shall mean any person who owns or occupies or ultimately controls, governs or directs the activities carried on within a public place, and includes the person actually in charge of the premises,

“Public Place” shall mean the whole or part of every enclosed area to which the public has access as of right or by invitation, express or implied is designated as a public place for the purposes of this by-law

“Recreational Field” means any field and/or land of natural and/or man made composition that is used for athletic purposes to conduct organized or unorganized sporting activities in a municipal park which includes but is not limited to a baseball field, soccer, slow pitch, player or spectator bench and a football field. A golf course shall not be included as a recreational field.

“Smoke” or “Smoking” includes carrying a lighted cigar, cigarette, pipe or any other lighted smoking equipment.

“Workplace” means any enclosed area of a building or structure, in which an employee or the employer works, including employee eating, changing and lounge areas and any vehicle, vessel or conveyance in which an employee works, but does not include a workplace which is located in a private dwelling;

General Prohibition

Workplaces

2. No person shall smoke in a workplace whether or not a sign prohibiting smoking has been posted.
3. No employer shall:
 - a) Fail to prohibit smoking in the workplace;
 - b) Fail to give notice to each employee in the workplace that smoking is prohibited in the workplace;
 - c) Fail to post no smoking signs in accordance with this By-law; and
 - d) Fail to post no smoking signs as described in section 9 of this by-law at every entrance to the workplace.
4. Notwithstanding any other provisions in this By-law, in the case of hospices and nursing homes, smoking is permitted by residents and supervisor of those facilities within designated smoking rooms.

Parks, Playgrounds, Recreational Fields

5. The parks, playgrounds, recreational fields and beaches as set out in the attached Appendix 'A' are designated to be regulated smoking areas and, where proper signs have been posted, smoking within these areas shall be prohibited as follows:
 - (a) No person shall smoke within 10 metres of any playground equipment within parks and playgrounds.
 - (b) No person shall smoke within 10 metres of any recreational field.
 - (c) No person shall smoke at a beach location other than within designated smoking areas.

Public Places

6. (a) No person shall smoke in any public place within the City of Timmins whether or not a "No Smoking" sign is posted.
- (b) No person shall smoke within three (3) meters of an entrance to any public place, as defined in section 1, within the City of Timmins whether or not a "No Smoking" sign is posted.

Proprietor Obligations

7. (a) No proprietor shall permit a person to smoke in a place where smoking is prohibited under this by-law.
- (b) No proprietor, where smoking is prohibited under this by-law, shall fail to ensure compliance with this by-law and inform any person who is smoking in a prohibited area that smoking in that area is prohibited.

(c) No proprietor shall permit ashtrays or like paraphernalia to be placed or to remain in a public place.

(d) No proprietor shall fail to ensure that "No Smoking" signs, as described in section 9 of this bylaw, are conspicuously posted and clearly visible in all areas within a public place where smoking is prohibited.

Signage Requirements

8. Where a "No Smoking" sign is required to be posted under this by-law, no person shall fail to ensure that the sign is of the proportion and characteristic as set out in this by-law.

8.1 Without limiting the generality of Section 7 (d) of this by-law, no proprietor of a public place shall fail to ensure that a "No Smoking" sign is posted;

- (a) within any public washroom,
- (b) in every food court or indoor patio area,
- (c) at every entrance to a non-smoking area.

Signs

No Smoking Signs

9. "No Smoking" signs shall:

- (a) Be of sufficient size and conspicuously posted so as to clearly identify that smoking is prohibited within a workplace or area within the workplace,
- (b) Include a symbol of a cigarette within an interdictory symbol together with the words "City of Timmins By-law", and may include additional wording that does not detract from the message that smoking is not permitted within the workplace place;
- (c) 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.

Offence and Penalty

10. 1) Every person who contravenes any provision of this by-law is guilty of an offence, the Municipal Act, S.O. 2001 Chapter 25, Section 425.

2) Every person who is convicted of an offence is liable to a fine of not more than Five Thousand Dollars (\$5,000.00) exclusive of costs and any other penalty provisions as provided for under the Provincial Offences Act, R.S.O. 1990, c. P .33 as amended.

Enforcement

11. An Inspector may:

- (a) at any reasonable time, enter any public place, other than a dwelling unit, for the purpose of determining whether there is compliance with the by-law,
- (b) make such examinations, investigations and inquiries as are necessary to determine whether there is compliance with this by-law.

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

Conflict

13. 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.

Schedules

14. The schedule, Appendix "A", to this by-law shall be deemed to form part of this by-law.

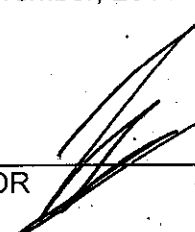
Severability

15. Should a court of competent jurisdiction declare any section, clause, or provision of this By-law invalid the same shall not affect the validity of the By-law as a whole or any part thereof, other than the part, which was declared to be invalid.

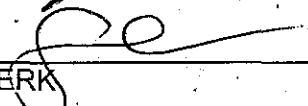
Implementation Date

16. This by-law shall come into force and effect on its date of passing.

READ a second and third time and finally passed this 21st day of November, 2011.



MAYOR



CLERK

Tom Laughren
Mayor
City of Timmins

APPENDIX “A”

CITY OWNED PARKS AND BEACHES

Name of parks, playgrounds, and beaches

<u>Gauthier Park</u>
<u>Leo Delvillano Park</u>
<u>Bozzer Park</u>
<u>Timcor Park</u>
<u>Hollinger Park</u>
<u>Gold Centre Playground</u>
<u>Fourth Avenue Playground</u>
<u>Second Avenue Playground</u>
<u>Flintstone Park</u>
<u>Hoyle Playground</u>
<u>Riverside Acres Park</u>
<u>White Waterfront Park</u>
<u>Melview Park Porcupine</u>
<u>Bristol Road Parkette</u>
<u>Connaught Hill</u>
<u>Moore Street</u>
<u>Riverview Park</u>
<u>Lonergan Park</u>
<u>Randall Parkette</u>
<u>Roy Nicholson Park</u>
<u>Gillies Lake Playground</u>
<u>Whitney Ball Diamond</u>

<u>Dusty Baker Diamond 1</u>
<u>Dusty Baker Diamond 2</u>
<u>Riverview Ball Park</u>
<u>Doug McLellan Park</u>
<u>Whitney Tennis Courts</u>
<u>Leo DelVillano Courts</u>
<u>Mattagami Tennis Courts</u>
<u>Riverview Courts</u>
<u>Mountjoy Court</u>
<u>Gillies Lake</u>
<u>White Water Front Beach</u>