

THE CORPORATION OF THE VILLAGE OF BURK'S FALLS

BY-LAW 12-2012

BEING A BY-LAW TO REGULATE SMOKING OUTDOORS ON THE BURK'S FALLS HEALTH CENTRE PROPERTY

WHEREAS Section 115 of the *Municipal Act, 2001*, S.O. 2001, c. 25 (as amended), authorizes the Council of a local municipality to pass a by-law to prohibit or regulate the smoking of tobacco in public places and workplaces within the municipality;

AND WHEREAS Section 12 of the *Smoke-Free Ontario Act*, S.O. 1994, c. 10 permits municipalities to enact smoking by-laws that are more restrictive than sections 9 and 10 of the Act, subject to subsection 13 (3);

AND WHEREAS according to Health Canada, there is no known safe level of exposure to second-hand smoke;

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 Village of Burk's Falls to ensure that outdoor Burk's Falls Health Centre property be smoke-free;

AND WHEREAS the Council of the Corporation of the Village of Burk's Falls deems it expedient to prohibit smoking on the Burk's Falls Health Centre property owned by the Corporation of the Village of Burk's Falls.

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE VILLAGE OF BURK'S FALLS ENACTS AS FOLLOWS;

PART I – DEFINITIONS

1.0.0 In this by-law:

1.1.0 **"ashtray"** means a receptacle of any type used for tobacco ashes and for cigarette and cigar butts;

1.1.1 **"Council"** means the Municipal Council of the Village of Burk's Falls;

1.1.2 **"employer"** means any person who, as the owner, proprietor, manager, contractor, superintendent, overseer, receiver, or trustee of any activity, business, work, trade, occupation, profession, project or undertaking who has control over or direction of, or is directly or indirectly responsible for the employment of a person therein;

1.1.3 **"Inspector"** means any employee or class of employee of the North Bay Parry Sound District 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 appointed by Council as a by-law enforcement office to enforce this by-law;

1.1.4 **"outdoor area"** means any open space which is outside of a facility, building, structure, or premise including any temporary building, structure or part thereof, whether covered by a roof or not, but does not include a highway as defined by the *Municipal Act, 2001*;

1.1.5 **"person"** includes an individual, firm, business, corporation or partnership and shall include the plural where the context requires;

1.1.6 **"proprietor"** means the person who controls, governs or directs the activity carried on within the premises designated as prohibited areas under this by-law and includes the person actually in charge of the premises at any particular time;

1.1.7 **"smoke"** or "smoking" includes the holding or carrying of lighted tobacco in any form or receptacle;

1.1.8 **"Township"** means The Corporation of the Village of Burk's Falls.

PART II – OUTDOOR AREAS – DESIGNATED

2.1.0 The following outdoor area is designated as smoke-free for the purposes of This by-law:

- (a) Any portion of the municipal property located at 150 Huston Street and 162 Huston Street, (commonly known as the Burk's Falls Health Centre property);

PART III – GENERAL PROHIBITION

3.1.0 Smoking – Prohibited

No person shall smoke in any outdoor area designated as smoke-free under

section 2.1.0 of this by-law, whether or not a No smoking sign is posted. This does not include a highway as defined by the Municipal Act, 2001.

3.2.0 Every employer and proprietor in charge of an outdoor area designated as smoke-free under section 2.1.0 this by-law shall:

- (a) ensure compliance with this by-law;
- (b) prohibit smoking in the outdoor area designated as smoke-free;
- (c) Post No Smoking signs in accordance with Part IV of this by-law; and
- (d) ensure that no ashtrays or like paraphernalia are placed or permitted to remain in the designated smoke-free area.

PART IV – SIGNAGE REQUIRED

4.1.0 Every employer and proprietor in charge of any outdoor area designated as smoke-free under Part II of this by-law shall ensure that a sufficient number of signs as prescribed by section 4.2.0 are conspicuously posted so as to clearly identify that smoking is prohibited.

4.2.0 The signs referred to in section 4.1.0 of this by-law shall include:

- (a) a depiction of the international No Smoking symbol, as set out in Schedule ‘A’, with a diameter at least 50% of the sign’s height; and
- (b) lettering sized proportionately, which reads “Village of Burk’s Falls By-Law”.

4.3.0 The signs referred to in section 4.1.0 of this by-law shall be sized as follows:

- (a) for the outdoor area designated in section 2.1.0 (a), a minimum size of 14 Centimeters (5.5 inches) by 14 centimetres (5.5 inches); and

4.4.0 The signs referred to in section 4.1.0 of this by-law shall read:

- (b) for the area set out in section 2.1.0 (a):
“NO SMOKING ON THIS PROPERTY AT ANY TIME”.

4.5.0 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 Part IV of this by-law, and shall consist of two (2) contrasting colours, or, if the lettering And graphic symbol is to be applied directly to a surface or to be mounted on a clear panel, the lettering and graphic symbol shall contrast with the back-ground.

4.6.0 Despite the fact that the symbol referred to in section 4.2.0 is a cigarette, it shall include a lighted cigar, cigarette, pipe or any other lighted smoking equipment or product.

4.7.0 Deviations from the colour or content of the signs prescribed by this section that do not affect the substance or that are not calculated to mislead do not vitiate the signs.

PART V – INSPECTIONS

5.1.0 An Inspector may, at any reasonable time, enter any outdoor area as defined in Part II of this by-law for the purposes of determining compliance with this by-law.

PART VI – IDENTIFICATION

6.1.0 An inspector conducting an inspection shall produce proper identification, on request.

PART VII – OBSTRUCTION

7.1.0 No person shall hinder, obstruct or interfere with an inspector conducting an inspection, refuse to answer questions on matters relevant to the inspection, or provide the inspector with information on matters relevant to the inspection that the person knows to be false or misleading.

PART VIII – OFFENCES

8.1.0 Every person who smokes in an outdoor area designated as smoke-free under Parts II and III of this by-law in contravention of this by-law is guilty of an offence.

8.2.0 Every person who contravenes any of the provisions of this by-law is guilty of an offence.

8.3.0 Every person who hinders or obstructs a person lawfully carrying out the enforcement of this by-law is guilty of an offence.

8.4.0 Every person who removes, defaces, damages or vandalizes any sign required by Part IV of this By-law is guilty of an offence.

PART IX – PENALTY

- 9.1.0 Every person who is convicted of an offence under any provisions of this by-law shall be liable to:
- (a) a fine set in Schedule “B” attached hereto; or
 - (b) a fine as set out in section 61 of the Provincial Offences Act, R.S.O., 1990, c P.33, or any successor thereof.
- 9.2.0 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.

PART XI – CONFLICTS

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

PART XII – SEVERABILITY

11.1.0 If any section or sections of this by-law or parts thereof are found in any court of law to be illegal or beyond the power of the Municipality to enact, such section or sections or parts 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 there from and have been enacted as such.

PART XIII – COMMENCEMENT

12.1.0 This by-law shall come in effect on November 16, 2012

THIS BY-LAW READ A FIRST AND SECOND TIME

this 26th day of June, 2012

THIS BY-LAW READ A THIRD TIME AND FINALLY PASSED

this 26th day of June, 2012

Reeve

Clerk

SEAL

SCHEDULES

Schedule 'A' to By-Law No. 12-2012 of the Corporation of the Village of Burk's Falls:

International No Smoking Symbol



Schedule 'B' to By-Law No. 12-2012 of the Corporation of the Village of Burk's Falls Set Fines;