

THE CORPORATION OF THE MUNICIPALITY OF SOUTH BRUCE
By law #2009-52

BEING A BYLAW ESTABLISHING AND REGULATING SMOKE FREE PUBLIC PLACES

WHEREAS section 115 of the *Municipal Act, 2001*, c. 25, authorizes a municipality to prohibit or regulate the smoking of tobacco in public places and workplaces within the municipality;

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 inhabitants and workers in The Corporation of the Municipality of South Bruce

AND WHEREAS it is desirable for the purpose of promoting and protecting the health, safety and welfare of inhabitants and workers in The Corporation of the Municipality of South Bruce to ensure that all public places and workplaces will be free from second hand smoke.

AND WHEREAS the Smoke Free Ontario Act and related Regulation 48/06, as amended, regulates smoking and related activities within enclosed public places and workplaces

The Municipality of South Bruce deems it necessary to expand the prohibition of the smoking of tobacco products to exterior of recreational buildings and to exterior recreational fields and public places and workplaces.

1. DEFINITIONS

1.1 Employee - defined

"employee" means a person who, being paid or unpaid, performs any work for or supplies any service to an employer, or a person who receives any instruction or training in the activity, business, work, trade, occupation or profession of an employer and includes a volunteer and a person who is self-employed and "employment" has a corresponding meaning.

1.2 Employer - defined

"employer" means any person who, as the owner, proprietor, manager, contractor, superintendent, supervisor 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 an employee.

1.3 Municipality - defined

"municipality" means The Corporation of the Municipality of South Bruce

1.4 Municipal building - defined

"municipal building" means any building that is owned by The Corporation of the Municipality of South Bruce or any building of which any portion is rented to The Corporation of the Municipality of South Bruce

1.5 Officer - defined

"officer" means a Municipal Law Enforcement Officer appointed by Municipality of South Bruce Municipal Council for the enforcement of this Chapter, any Public Health Inspector employed by the County of Bruce who is also duly appointed by the Minister of Health for the enforcement of the *Smoke Free Ontario Act* and regulations thereto.

1.6 Person - defined

"person" includes an individual, firm, business, corporation or partnership.

1.7 Playground equipment - defined

"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 swings, slides, climbing apparatus, and municipally- owned swimming pools and outdoor water parks. Playground equipment does not include facilities for walking and biking trails, park fences, trees, a picnic table, bridge, gazebo or pergola.

1.8 Proprietor - defined

"proprietor" means a person who controls, governs or directs the activity carried on within a public place and includes a person actually in charge of the premises at any particular time.

1.9 Public place - defined

"public place" means any building, structure, vessel, vehicle or conveyance, or part thereof, whether covered by a roof or not, where 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 a street, road or highway.

1.10 Recreational field - defined

"recreational field" means any field and/or land of natural and/or manmade 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 pitch, player or spectator bench, tennis court, horse shoe pit and lawn bowling field.

1.11 Smoke or smoking - defined

"smoke" or "smoking" includes the carrying of lighted tobacco, cigar, cigarette, pipe or any other lighted smoking equipment.

1.12 Special community event - defined

"special community event" means any temporary event that is recognized by the Municipality of South Bruce where there is a congregation of youth or children. These events may include but not be limited to a parade, outdoor concerts, sports tournament, Canada Day celebration.

1.13 Workplace - defined

"workplace" means a building, structure, vessel, vehicle 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 work, including any other area in the building, structure, vessel, vehicle or conveyance utilized by employees.

2. WORKPLACES

2.1 Smoking - prohibited

No person shall smoke or hold lighted tobacco in any workplace within the Municipality of South Bruce whether or not a No Smoking sign is posted.

2.2 Employer - responsibility

Every employer shall, within the area of his/her responsibility:

- (a) ensure compliance with this By Law;
- (b) prohibit smoking in the workplace;
- (c) inform each employee in the workplace that smoking is prohibited in the workplace;
- (d) ensure that no ashtray or like paraphernalia is placed or permitted to remain in any part of the workplace; and

2.3 Exemption - private residence as part of workplace

Sections 2.1 and 2.2 do not apply to any part of a workplace that is used as a private residence, whether temporarily or permanently.

3. PUBLIC PLACES

3.1 Smoking - prohibited

No person shall smoke or hold lighted tobacco in any public place within the Municipality of South Bruce, whether or not a No Smoking sign is posted.

3.2 Proprietor - responsibility

Every proprietor of a public place shall, within the area of his/her responsibility:

- (a) ensure compliance with this By law;
- (b) prohibit smoking in the public place;
- (c) ensure that no ashtray or like paraphernalia is placed or permitted to remain in any part of the public place; and

3.3 Prohibited - public playground - distance

No person shall smoke or hold lighted tobacco within a 30 metre (98.43 feet) radius of any playground equipment located within a municipal public park.

3.4 Prohibited - recreational field - distance

No person shall smoke or hold lighted tobacco within a 15 metre (49.21feet) radius of any recreational field located within a municipal public park.

3.5 Prohibited - municipal facility - distance

No person shall smoke or hold lighted tobacco within a nine metre (29.53 feet) radius of any entrance of any municipal building.

3.7 Exemption - distances

The prohibited distances described in this By Law shall not extend into private property or encroach into an area fronting a neighbouring property where consent of the owner has not been previously granted.

4. SIGNAGE REQUIREMENTS

4.1 Signs

Every employer and every proprietor shall post and maintain in conspicuous locations at each entrance to the facility and in the washrooms, a sign at least 10 centimetres by 10 centimetres in size, that includes depiction of the international no smoking symbol;

4.2 Placement of Tobacco/Smoke Free Signs

The Municipality shall endeavour to place Tobacco or Smoke free signs in the Public Playgrounds, Recreational Fields, and Public Access to Facilities, citing the relevant distance under Section 3 of this by law

5. INSPECTIONS

5.1 Inspection

An officer may, at any reasonable time, enter any public place or workplace for the purpose of determining compliance with this By Law.

6. ENFORCEMENT

6.1 Enforcement

The provisions of this by law respecting the designation of non smoking areas, the posting of signs and the duties imposed on the proprietor or other person in charge of a public place shall be enforced by officers.

6.2 Fine - for contravention

Every person who contravenes any of the provisions of this By Law is guilty of an offence and upon conviction is liable to a fine as prescribed in the *Provincial Offences Act*.

7. GENERAL PROVISIONS

7.1 Conflict with other legislation

If there is conflict between this By Law, a provision of another Municipality of South Bruce municipal by-law, an Act or regulation of an Act that deals with smoking, the provision that is more restrictive of smoking prevails.

7.2 Severability

If any Section of this By Law or part thereof is found in any court of law to be illegal or beyond the power of the municipality to enact, such Section 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.

8. Effective date

This By law shall come into effect upon final reading thereof.

Read a first and second time this 10th day of November, 2009

Read a third time and finally passed, signed and sealed this 10th day of November, 2009

William Goetz, Mayor

Debra B. Roth, Clerk