

# THE CORPORATION OF THE CITY OF ELLIOT LAKE

## **B**Y-LAW NO. 21-49

Being a by-law to regulate smoking in public places and workplaces in the City of Elliot Lake and to repeal By-law 19-08

**WHEREAS** Section 115 of the *Municipal Act, 2001, C. 25* authorizes the council of a local municipality to pass a by-law regulating the smoking of tobacco in public places and workplaces within the municipality and designating public places or workplaces or classes or parts of such places as places in which smoking tobacco or holding lighted tobacco is prohibited;

**AND WHEREAS** Section 12 of the *Smoke Free Ontario Act 2017, SO 2017, c 26, Sch. 3* prohibits smoking in various areas including but not limited to enclosed public places, workplaces and seating reserved for sports arena, entertainment venue or any prescribed place or area, or a place or area that belongs to a prescribed class;

**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 City of Elliot Lake to ensure that all public places and workplaces are free from second hand smoke and its adverse effects;

**NOW THEREFORE** The Council of the Corporation of the City of Elliot Lake **ENACTS AS FOLLOWS:**

### **DEFINITIONS**

- 1.1 **"Employee"** means a person who, being paid or not being paid, 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. This includes a volunteer and a person who is self-employed and "employment" has a corresponding meaning;
- 1.2 **"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 **"Entranceway"** means the area within a nine (9) meter radius surrounding any entrance to a public place owned and /or leased by the Corporation of the City of Elliot Lake, but does not include a street, road or highway;

- 1.4 **"Exit"** means the area within a nine (9) meter radius surrounding an exit of any public place, owned and /or leased by the Corporation of the City of Elliot Lake, but does not include a street, road or highway;
- 1.5 **"Inspector"** means any police officer, or Municipal Enforcement Officer of Elliot Lake or any employee authorized by the Ontario Minister of Health to carry out an inspection under and to enforce the provisions of this bylaw or the *Smoke Free Ontario Act 2017, SO 2017, c 26, Sch. 3*.
- 1.6 **"Municipality"** means the Corporation of the City of Elliot Lake;
- 1.7 **"Outdoor patio"** means an outdoor area or partially enclosed outdoor area that is adjacent to an establishment where food or beverages are sold and where food or beverages or both are consumed by the public;
- 1.8 **"Person"** means a natural person and includes a corporation;
- 1.9 **"Playground / Play area"** means any municipally owned public area that is equipped with children's play equipment, such as, but not limited to: slides, swings, climbing apparatuses, splash pads, wading pools, or sand boxes.
- 1.10 **"Proprietor"** means the person who ultimately controls, governs or directs the activity carried on within an organization, or the person actually in charge of the premises at any particular time;
- 1.11 **"Public place"** means any municipally owned/leased building, structure, sporting area, playground, park, beach, seating area, vessel, vehicle or conveyance, or part thereof, whether covered by a roof or not, to which the public has access as of right or by invitation, expressed or implied, whether or not a fee is charged for entry and is identified on **Schedule "C"** attached hereto, but does not include a street, road or highway;
- 1.12 **"Smoke" or "Smoking"** includes the carrying of a lighted cigar, cigarette, pipe or cannabis or use of electronic cigarette (vape) or any other lighted smoking equipment, but does not include smoke or smoking in a stage production of a theatrical performance and does not include or prohibit the holding of lit tobacco if the activity is carried out for traditional Aboriginal cultural or spiritual purposes.
- 1.13 **"Sports area"** means any municipally owned public area that is used primarily for the purposes of sports, whether or not a fee is paid for the use. This includes, but is not limited to the following: soccer, football, basketball, tennis, baseball, softball or cricket, skating, hockey beach, volleyball, running, swimming, skateboarding, or golf;

- 1.14 **"Workplace"** means an owned or leased building, structure, vessel, vehicle or conveyance, or any part thereof:
- i. whether or not covered by a roof;
  - ii. that employees work in or frequent during the course of their employment whether or not they are acting in the course of their employment at the time;
  - iii. that is not primarily a private dwelling; and,
  - iv. any prescribed place.

## **2.0 - WORKPLACES**

- 2.1 No person shall smoke in any workplace within the Municipality whether or not a "No Smoking" sign is posted.
- 2.2 Every employer shall:
- i. ensure compliance with this by-law;
  - ii. inform each employee in the workplace that smoking is prohibited in the workplace;
  - iii. post "No Smoking" signs in accordance with section 5.1 of this by-law in conspicuous locations at every entrance and in each washroom in the workplace indicating that smoking is prohibited in the workplace; and
  - iv. ensure that no ashtrays or like paraphernalia are placed or permitted to remain in any part of the workplace.
- 2.3 Section 2.1 does not apply to,
- i. a part of a workplace that is used as a private residence;
  - ii. a workplace located in a dwelling where the only employees of that workplace are persons who live in the dwelling; or
  - iii. a room in a hotel, motel or other place where rooms are rented for sleeping accommodation, provided the room is used for sleeping accommodation only and the room is designated and specifically set aside as a room in which smoking is permitted.

## **3.0 - PUBLIC PLACES**

- 3.1 No person shall smoke within a nine (9) meter radius of any entranceway or exit to any public place within the Municipality whether or not a "No Smoking" sign is posted.
- 3.2 No person shall smoke in any public place, except where designated smoking area signs authorize permission. If, no designated smoking area sign is duly mounted then, smoking is restricted to the limits of sections 3.1, 3.3, and 3.4.
- 3.3 No person shall smoke within a 20 meter radius (65 feet) of any Playground or Play Area within the Municipality, whether or not a "No Smoking" sign is posted.
- 3.4 No person shall smoke within a 20 meter radius (65 feet) of any Sports Area within the Municipality, whether or not a "No Smoking" sign is posted.

#### **4.0 – EXEMPTION AND REQUIREMENT**

- 4.1 The proprietor of any of the following, at the request of an Indigenous resident, shall set aside an indoor area, separate from any area where smoking is otherwise permitted, for the use of tobacco for traditional Indigenous cultural or spiritual purposes:
- i. A hospital as defined in the *Public Hospitals Act*.
  - ii. A long-term care home within the meaning of the *Long-Term Care Homes Act, 2007*.
  - iii. A home for special care under the *Homes for Special Care Act*.
  - iv. A place that belongs to a prescribed class.

#### **5.0 - SIGNAGE REQUIRED**

- 5.1 Every employer or every proprietor shall post and maintain in conspicuous locations at each entrance to the facility and in the washrooms, a sign of at least 14 centimeters (5.5 inches) by 14 centimeters (5.5 inches) in size that includes the depiction of the international "No Smoking" symbol at least 7.5 centimeters (3 inches), and lettering at least 0.8 centimeters (5/16 inch) high and at least 0.2 centimeters (1/16 inch) wide at the narrowest point, with the rest of the letter sized proportionately.
- 5.2 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 Section 5.1 as depicted in "Schedule B" and 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 background.
- 5.3 Despite the fact that the symbol referred to in Schedule "B" is a cigarette, the sign may include a lighted cigar, cigarette, pipe or any other lighted smoking instrument.
- 5.4 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 invalidate the sign.

#### **6.0 – INSPECTIONS**

- 6.1 An inspector may, at any reasonable time, enter any public place or workplace for the purposes of determining the compliance with this by-law.
- 6.2 No Inspector may enter a workplace that is also a dwelling without the consent of the occupant.
- 6.3 No person shall hinder or obstruct, or attempt to hinder or obstruct any person exercising a power or performing a duty under this By-law.

## **7.0 – PENALTY**

- 7.1 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 provided for in the *Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.*

## **8.0 – SEVERABILITY AND CONFLICT**

- 8.1 If any section, subsection, paragraph, part or parts of this By-law is declared by any court of law to be illegal or ultra vires, such section, subsection, paragraph, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

Nothing in this By-law relieves any Person from complying with any provision of any federal or provincial legislation or any other By-law of the City.

Where a provision of this By-law conflicts with the provision of another By-law in force in the City, the provision that establishes the higher standard to protect the health, safety and welfare of Persons or the environmental well-being of the municipality shall prevail

**9.0 - SCHEDULES**

9.1 That the following schedules attached shall form part of this by-law:

- Schedule "A" - Set Fines;
- Schedule "B" - Signage;
- Schedule "C" - City of Elliot Lake Municipal Buildings.
- Schedule "D" - Maps - Designated Smoking Areas


**10.0 - REPEAL**

10.1 That by-law 19-08 be hereby repealed and replaced with this by-law.

11.1 **THAT** this by-law shall come into effect on the date it is passed by the Council of the Corporation of the City of Elliot Lake.

**PASSED** this 28<sup>th</sup> day of June, 2021

  
\_\_\_\_\_  
**MAYOR**

  
\_\_\_\_\_  
**CITY CLERK**

**CERTIFIED TRUE COPY**  
  
14/07/2021 CITY CLERK

**SMOKING BY-LAW 21-49  
BEING A BY-LAW TO REGULATE SMOKING  
IN PUBLIC PLACES AND WORKPLACES**

**SCHEDULE "A"**

**SET FINES**

*Part 1 Provincial Offence Act*

By-law 19-08 Re: Smoking in public places

ITEM	SHORT FORM WORDING	OFFENCE CREATING PROVISION OR DEFINING OFFENCE	SET FINES
1	Smoke in workplace	Section 2.1	\$250.00
2	Employer fail to ensure compliance	Section 2.2 (i)	\$300.00
3	Employer fail to inform regarding prohibition	Section 2.2 (ii)	\$300.00
4	Employer fail to post no-smoking signs	Section 2.2 (iii)	\$300.00
5	Employer permit ashtrays (or like paraphernalia) in the workplace	Section 2.2 (iv)	\$300.00
6	Smoke within nine (9) meters radius of entranceway or exit to any public place	Section 3.1	\$250.00
7	Smoke in public place	Section 3.2	\$250.00
8	Smoke within 20 meter radius of Playground / Play Area	Section 3.3	\$250.00
9	Smoke within 20 meter radius of Sports Area	Section 3.4	\$250.00
10	Fail to provide an indoor area for traditional Indigenous use	Section 4.1	\$200.00
11	Employer or proprietor fail to post no smoking signage as prescribed.	, Section 5.1	\$300.00
12	Hinder or obstruct enforcement	Section 6.3	\$250.00

**NOTE:** Penalty provision for the offences indicated above is Section 7.0 of By-law No. 21-49

**SMOKING BY-LAW 21-49  
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IN PUBLIC PLACES AND WORKPLACES**

**SCHEDULE "B"**

**SIGNAGE**

The following graphic symbols, or likenesses thereof, shall be used to indicate the areas where smoking is prohibited and where smoking is permitted in designated areas pursuant to this by-law:

On a white background, with the circle and the interdictory stroke in red.

*The graphic symbol referred to in Section 5 shall include the text « **City of Elliot Lake By-Law** in letters and figures at least five (5%) percent of the diameter of the circle in the symbol.*



With respect to size of the graphic symbol, the diameter of the circle in the symbol referred to in this section shall be not less than ten (10 cm) centimeters.

Despite the fact that the symbol referred to is a cigarette, the depiction may include a lighted cigar, cigarette, pipe, cannabis or any other lighted smoking instrument.

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

Any sign prohibiting smoking that refers to a by-law is deemed to be referring to this by-law.





**SMOKING BY-LAW 21-49  
BEING A BY-LAW TO REGULATE SMOKING  
IN PUBLIC PLACES AND WORKPLACES**

**SCHEDULE "C"**

<b>CITY OF ELLIOT LAKE MUNICIPAL BUILDINGS</b>	
<b>DESCRIPTION</b>	<b>ADDRESS</b>
Elliot Lake City Hall	45 Hillside Drive North, Elliot Lake, ON
Elliot Lake Fire Station	55 Hillside Drive North, Elliot Lake, ON
Ontario Provincial Police Service	47 Hillside Drive North, Elliot Lake, ON
Centennial Arena	180 Spruce Avenue, Elliot Lake, ON
W.H. Collins Centre	120 Hillside Drive North, Elliot Lake, ON
Ruben Yli-Juuti Centre	Rear-301 Mississauga Ave, Elliot Lake, ON
Mount DuFour Ski Hill	10 Ski Hill Road, Elliot Lake, ON
Stone Ridge Golf Course	71 Nordic Mine Road, Elliot Lake, ON
Elliot Lake Airport	700 Highway 108 South, Elliot Lake, ON
Elliot Lake Community Tennis Club	27 Lakeview Road, Elliot Lake, ON
Elliot Lake Dog Park	53 Senator Place, Elliot Lake, ON
Burley Park	3 Pearson Drive, Elliot Lake, ON
Kiwanis Park	25 Dieppe Avenue, Elliot Lake, ON
Kain Crescent Park	2 Kain Crescent, Elliot Lake, ON
Paris & Axmith Park	39 Paris Drive, Elliot Lake, ON
Roman Avenue Park	30 Roman Avenue, Elliot Lake, ON

**SMOKING BY-LAW 21-49  
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IN PUBLIC PLACES AND WORKPLACES**

**SCHEDULE "C"**

**CITY OF ELLIOT LAKE MUNICIPAL BUILDINGS**

<b>DESCRIPTION</b>	<b>ADDRESS</b>
Senior Citizen's Park	71 Hillside Drive North, Elliot Lake, ON
Roger Parsons Memorial Park	180 Spruce Avenue, Elliot Lake, ON
Miner's Memorial Park	325 Highway 108 North, Elliot Lake, ON
Westview Park	462 Highway 108 North, Elliot Lake, ON
Westview Trailer Park	24 Simpson Road, Elliot Lake, ON
Fire Tower Lookout & Ranger Heritage Centre	568 Fire Tower Lookout Road, Elliot Lake, ON
Municipal Boat Launch / Boardwalk	578 Highway 108 North, Elliot Lake, ON
Spine Road Waterfront	869 Spine Road, Elliot Lake, ON
Spruce Avenue Beach	25 Lakeshore Drive, Elliot Lake, ON
Glenden Park	27 Washington Crescent, Elliot Lake, ON
Glenden Park Gardens	151 Ottawa Avenue, Elliot Lake, ON
Esten Lake Boat Launch	560 Esten Lake Road, Elliot Lake, ON
Dunlop Lake Boat Launch	4622 Highway 108 North, Elliot Lake, ON
Dunlop Shores Boat Launch	920 Dunlop Shores Road, Elliot Lake, ON
Quirke Lake Boat Launch	866 Stanrock Road, Elliot Lake, ON
Depot Lake Boat Launch	780 Highway 108 South, Elliot Lake, ON
McCarthy Lake Boat Launch	1400 McCarthy Lake Road, Elliot Lake, ON
Poplar Park	44 Lakeview Rd, Elliot Lake, ON
Nordic Lake Park	94 Esten Drive South, Elliot Lake, ON

***NOTE:***

**As the Municipality acquires/leases other properties or builds other facilities these new municipal sites will be immediately subject to the City of Elliot Lake Smoking By-Law No. 21-49 ; until such time as this schedule is updated accordingly.**

**SMOKING BY-LAW 21-49  
BEING A BY-LAW TO REGULATE SMOKING  
IN PUBLIC PLACES AND WORKPLACES SCHEDULE "D"**

MAP OF MARKED DESIGNATED SMOKING AREA FOR MUNICIPAL BUILDINGS (not to scale)

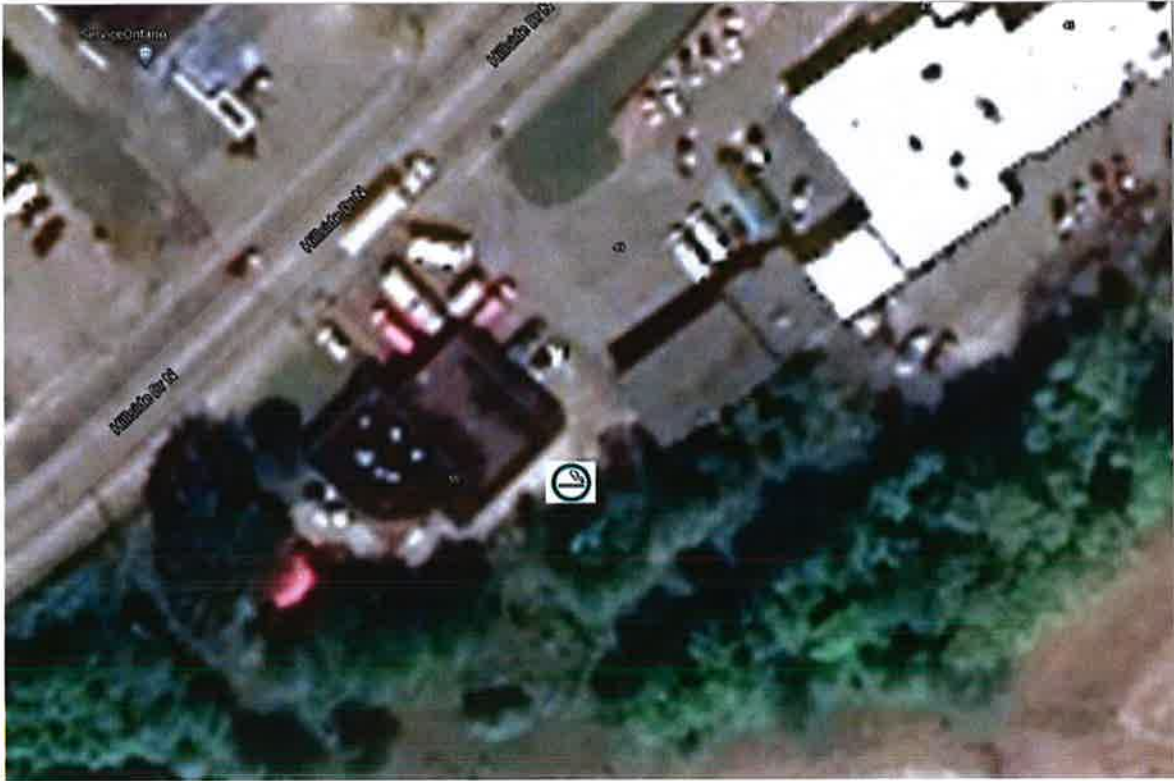
**Elliot Lake City Hall**



## SCHEDULE "D"

MAP OF MARKED DESIGNATED SMOKING AREA FOR MUNICIPAL BUILDINGS (not to scale)

### Elliot Lake Fire Station



## SCHEDULE "D"

MAP OF MARKED DESIGNATED SMOKING AREA FOR MUNICIPAL BUILDINGS (not to scale)

### Ontario Provincial Police Service



# SCHEDULE "D"

MAP OF MARKED DESIGNATED SMOKING AREA FOR MUNICIPAL BUILDINGS (not to scale)

## Centennial Arena



## SCHEDULE "D"

MAP OF MARKED DESIGNATED SMOKING AREA FOR MUNICIPAL BUILDINGS (not to scale)

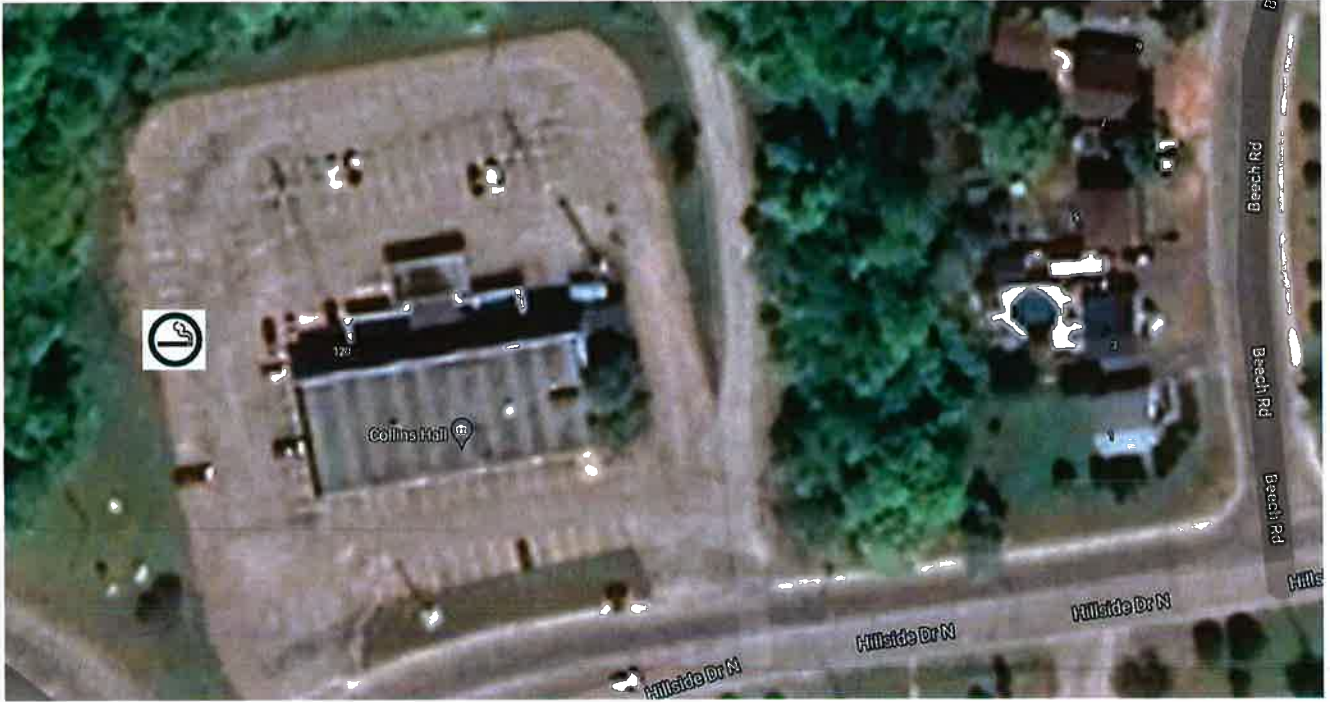
### Ruben Yli-Juuti Centre



# SCHEDULE "D"

MAP OF MARKED DESIGNATED SMOKING AREA FOR MUNICIPAL BUILDINGS (not to scale)

## W.H. Collins Centre





## SCHEDULE "D"

MAP OF MARKED DESIGNATED SMOKING AREA FOR MUNICIPAL BUILDINGS (not to scale)

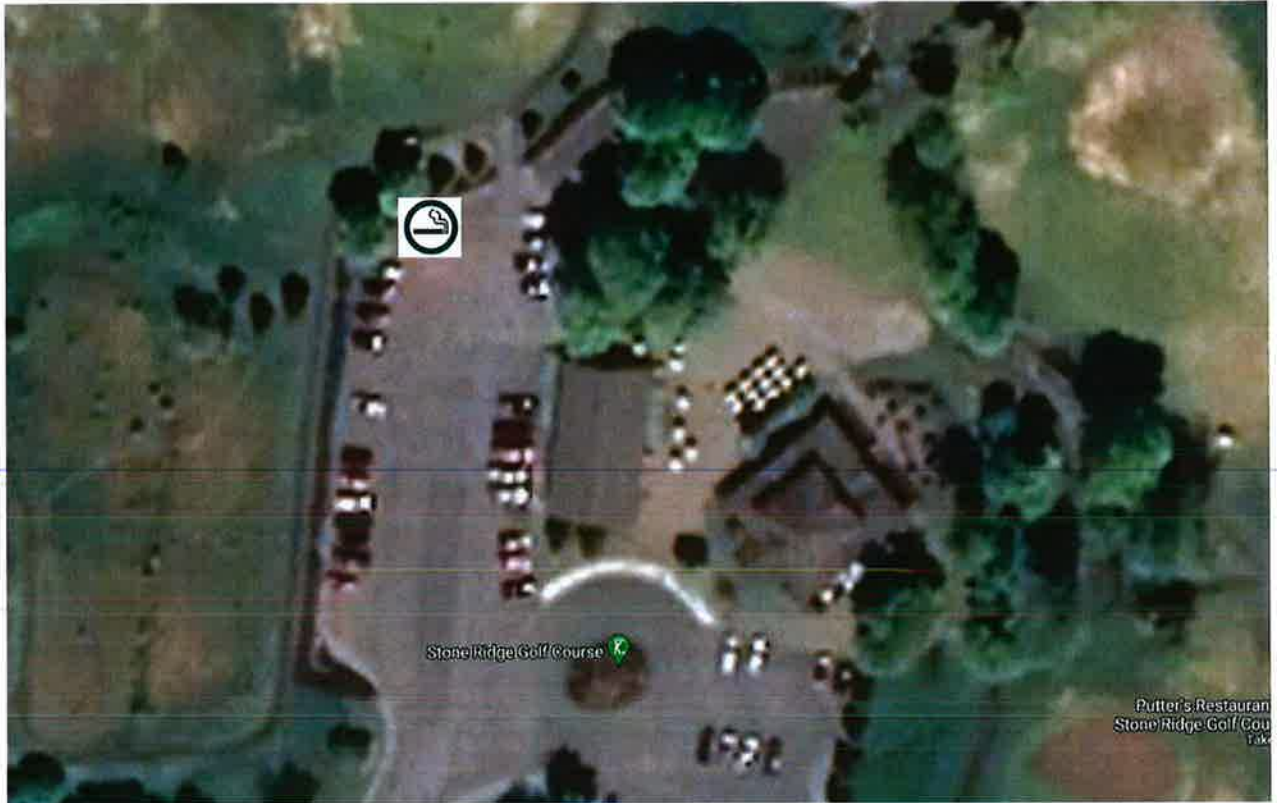
### Mount Dufour Ski Hill



## SCHEDULE "D"

MAP OF MARKED DESIGNATED SMOKING AREA FOR MUNICIPAL BUILDINGS (not to scale)

### Stone Ridge Golf Club



## SCHEDULE "D"

MAP OF MARKED DESIGNATED SMOKING AREA FOR MUNICIPAL BUILDINGS (not to scale)

### Elliot Lake Airport



## SCHEDULE "D"

MAP OF MARKED DESIGNATED SMOKING AREA FOR MUNICIPAL BUILDINGS (not to scale)

### Fire Tower and Ranger Heritage Centre

