

THE CORPORATION OF THE CITY OF ELLIOT LAKE

***B*Y-LAW No. 03-4**

Being a by-law to regulate smoking in public places and workplaces in the City of Elliot Lake.

WHEREAS Section 115 of the Municipal Act, 2001, 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 it has been determined that second-hand smoke is a serious health hazard because of its adverse effects and risk to the health of all of the inhabitants and workers in the Corporation of the City of Elliot Lake;

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 will be free from second hand smoke;

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

PART I

1. DEFINITIONS

In this by-law,

1.1 “care services” means health care services, rehabilitative or therapeutic services, or services that provide assistance with the activities of daily living;

1.2 “City” means the Corporation of the City of Elliot Lake;

1.3 “employee” means a person who 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;

1.4 “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;

1.5 “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;

1.6 “inspector” means any police officer of the City of Elliot Lake and any employee authorized by the Medical Officer of Health to carry out an inspection under and to enforce the provisions of this By-law;

1.7 “person” includes a corporation;

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

1.9 “public place” means any building, structure, 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 but does not include an outdoor patio or a street, road or highway;

1.10 “retirement or rest home” means a residential complex that is occupied by persons who are primarily 65 years of age or older for the purpose of receiving care services;

1.11 “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 of a theatrical performance;

1.12 “workplace” means a building, structure, vessel, vehicle or conveyance or part thereof in which one or more employees work, including any other area utilized by employees.

PART II

2. WORKPLACES

2.1 No person shall smoke in any workplace within the City whether or not a No Smoking sign is posted.

2.2 Every employer shall:

(i) ensure compliance with this by-law;

- (ii) give notice to each employee in the workplace that smoking is prohibited in the workplace;
- (iii) post No Smoking signs in accordance with Part IV of this by-law in conspicuous locations at every entrance and washrooms 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 This section does not apply to,

a part of a workplace that is used as a private residence;

a workplace located in a dwelling where the only employees of that workplace are persons who live in the dwelling;

an area that is set aside for smoking, if the area is in a premises referred to in subsection 6 (3), (5) or (6) of Ontario Regulation 613/94 and the area meets the requirements of those subsections and subsections 6 (1) and (2) of Ontario Regulation 613/94; or

an area that is set aside for smoking, if the area is in a retirement or rest home and the area meets the requirements of subsections 6 (1), (2), (3) and (5) of Ontario Regulation 613/94.

PART III

3. PUBLIC PLACES

3.1 No person shall smoke in any public place within the City whether or not a No Smoking sign is posted.

3.2 Every proprietor of a public place shall:

- (i) ensure compliance with this by-law;
- (ii) give notice to each person in the public place that smoking is prohibited in the public place;
- (iii) post No Smoking signs in accordance with Part IV of this by-law in conspicuous locations at every entrance and washrooms in the public place indicating that smoking is prohibited in the public place;
- (iv) ensure that no ashtrays or like paraphernalia are placed or permitted to remain in any public place.

PART IV

4. SIGNAGE REQUIRED

4.1 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 14 centimetres (5.5 inches) by 14 centimetres (5.5 inches) in size that includes depiction of the international No Smoking symbol at least 7.5 centimetres (3 inches), and lettering at least 0.8 centimetres (5/16 inch) high and at least 0.2 centimetres (1/16 inch) wide at the narrowest point, with the rest of the letter sized proportionately, which reads “Corporation of the City of Elliot Lake; Maximum Fine (\$5000)”

4.2 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 4.1 as depicted in “Schedule A” and consists of two (2) contrasting colours, or if the lettering and graphic symbol is to be applied directly to surface or to be mounted on a clear panel, the lettering and graphic symbol shall contrast with the background.

PART V

5. INSPECTIONS

5.1 An inspector may, at any reasonable time, enter any public place or workplace for the purposes of determining compliance with this By-law.

PART VI

6. OFFENCES AND ENFORCEMENT

6.1 Any person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine of not more than five thousand dollars (\$5,000.00) as provided for in the Provincial Offences Act, R.S.O. 1990, chapter 33, or any successor thereof.

6.2 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 VII

7. CONFLICTS

7.1 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.

PART VIII

8. SEVERABILITY

8.1 If any section or sections of the By-law or parts thereof, are found in any court of law to be illegal or beyond the power of the City 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 thereof and to be enacted as such.

PART IX

9. EFFECTIVE DATE

9.1 This by-law shall come into effect on May 31st, 2004.

PASSED this 27th day of January, 2003.

MAYOR

CITY CLERK