

THE TOWN OF COBALT

BY-LAW NO 2012-003

BEING A BYLAW TO REGULATE SMOKING WITHIN THE TOWN OF COBALT:

- a) **SMOKING ON MUNICIPAL PROPERTY; AND**
- b) **SMOKING IN WORKPLACE ENTRANCES AND EXITS; AND**
- c) **THE SALE OF TOBACCO PRODUCTS THROUGH LICENCING REQUIREMENTS.**

WHEREAS the municipality of Cobalt has the capacity, rights, powers and privileges of a natural person and may pass by-laws for prohibiting or regulating, for purposes considered necessary or appropriate including the use and protection of public assets, social and environmental purposes, the delivery of services, and for the health, safety and well being of persons under the authority of the Municipal Act including but not limited to sections 8, 9, 10 and 115;

AND WHEREAS Section 115 of the Municipal Act S.O. 2001 provides without limiting sections 9, 10 and 11, that a municipality may prohibit or regulate the smoking of tobacco in public places and workplaces;

AND WHEREAS Section 150 of the Municipal Act, 2001 provides without limiting sections 9, 10 and 11, that a municipality may provide for a system of licences with respect to a business;

AND WHEREAS council wishes to prohibit tobacco smoking and limit the impact of tobacco smoke particularly for the benefit of young persons, for the health of the public generally, to improve environmental and social conditions within the municipality of Cobalt through a by-law which prohibits the smoking of tobacco;

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

THEREFORE the Council of the Corporation of the Town of Cobalt enacts as follows;

SECTION 1 TITLE & SCOPE

1. This By-law shall be cited as the Smoke Free and Tobacco Control By-law.
2. The provisions of this By-law shall apply to all property within the geographic limits of the Town of Cobalt.

SECTION 2 Definitions

1. In this by-law;

"Town" shall mean The Corporation of the Town of Cobalt,

"Council" shall mean the Council of The Corporation of the Town of Cobalt;

"Designated Smoking Area" means an area, designated for the purpose of smoking which shall be at least 5 meters away from any entrance or exit of any premise, building or structure.

"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;

"Entertainment Event" means any outdoor special events on municipal property 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;

"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 Town of Cobalt and shall include all enclosures or coverings leading up to said passage or opening;

"Healthcare Facility" means any healthcare facility owned by the Town;

"Municipal Property" means any property including the lands surrounding any municipal buildings that is owned, operated or leased by the Town of Cobalt and includes, but is not limited to, arenas, beaches, marinas, outdoor rinks, parks, playgrounds, recreational fields, town offices and town garages, library, museum, classic theatre, medical clinic (see Appendix A) but does not include any highways, roadways, sidewalks or streets;

"Inspector" shall mean any person appointed by the Council of the Town of Cobalt as a Municipal Law Enforcement Officer, any person appointed by the Minister of Health as a Provincial Offences Officer under the Smoke Free Ontario Act, 2006; and a police officer;

"Person" includes a corporation;

"Playground Park" means any park open to the public owned by the Town which contains Playground Equipment. Without restricting the generality thereof, each of the following parks is a playground park. (See 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;

"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.

"Sign" means a no-smoking sign under this by law, whether it be a sticker or metal sign, and includes any sign referred to in *the Smoke-Free Ontario Act* and the Regulations thereto or a sign for designated smoking area. (See Appendix C);

"Smoke" or **"Smoking"** includes carrying a lighted cigar, cigarette, pipe or any other lighted smoking equipment or holding lighted tobacco or any other substances intended to be smoked or inhaled by the person holding it;

"Tobacco Licence" means a licence issued by the municipality, or the health unit, as the case may be, to sell or supply tobacco;

"Tobacco Vendor" means any person in retail, engaged in selling or supplying tobacco;

"Workplace" means any building, structure, or part thereof, whether covered by a roof or not, to which a person works in or frequents, whether or not the person is paid for the work performed, and includes a 9

meter radius of an entrance or exit but does not include a workplace which is located in a private dwelling or any highways, roadways, sidewalks or streets;

SECTION 3 OFFENCES AND GENERAL PROHIBITION

Municipal Property, Parks and Recreation (see Appendix A)

- 3 (1)** No person shall smoke at any time, whether or not signs are posted, on Municipal Property.
- 3 (2)** No person shall smoke at any time, whether or not signs are posted, in the area of an Entertainment Event on Municipal Property, unless a smoking area has been designated as "Designated Smoking Area" for that as granted by the municipality.
- 3 (3)** Any proprietor of a workplace may choose to have his or her workplace added to this by-law 2011-039, see Appendix B.
- 3 (4)** No person shall smoke at any time, whether or not signs are posted in a workplace listed in Appendix B.

Licences

- 3 (5)** No tobacco vendor shall sell or supply any tobacco products without a tobacco licence.

Signs

- 3 (6)** The Municipality shall post signs in conspicuous locations where smoking is prohibited.
- 3 (7)** Should an employer choose to have his or her workplace added in Appendix B, he or she shall post signs in conspicuous locations where smoking is prohibited.
- 3 (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 (Appendix C)
- 3 (9)** No person shall remove any sign posted, unless it is to be immediately replaced by the proprietor or by an inspector.

Designated Smoking Areas For Special Events On Municipal Property

- 3 (10)** In the case of an entertainment event on municipal property where a designated smoking area is granted, this area must be clearly publicized and signage posted. (Appendix C)

Proprietor Obligations

- 3 (11)** The Municipality or the Proprietor, as the case may be, shall ensure compliance with this by-law and give notice that smoking is prohibited in the prohibited area, and ensure that a person who does not comply, does not remain in the prohibited area, as the case may be.

Obstruction

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

SECTION 4 ADMINISTRATION AND ENFORCEMENT

Enforcement

- 4 (1)** An Inspector may at any reasonable time, inspect any place referred to in Section 3, other than a dwelling unit, for the purpose of determining whether there is compliance with this by-law.
- 4 (2)** An Inspector may make such examinations, investigations and inquiries as are necessary to determine whether there is compliance with this by-law such as;
- (a) Examine a record or other thing that is relevant to the inspection;
 - (b) Question a person on matters relevant to the inspection;

SECTION 5 OFFENCES AND FINES

- 5 (1)** Every person who contravenes, suffers or permits any act or thing to be done in contravention pursuant thereto is guilty of an offence and is liable to any penalty as provided for in the Municipal Act, S.O. 2001 Chapter 25, Section 425.
- 5 (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.

Short Form Wording	Section	Set Fine
Smoke in prohibited place or area	3 (1), 3 (2), 3 (4)	\$125.00
Remove posted sign	3 (8)	\$125.00
Obstruct Officer	3 (12)	NSF

Conflict

- 6.** 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

- 7.** The schedules, Appendix "A", Appendix "B" and Appendix "C" to this by-law shall be deemed to form part of this by-law.

Severability

8. 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

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

READ a first time this 10th day of January 2012

READ a Third and final time and enacted and passed this 10th day of January 2012



Mayor



C.A.O., Clerk-Treasurer

APPENDIX "A"

Town Owned Properties Include:

Teck Prospect Park (A designated area shall be installed)
Willet Green Miller Memorial Park
Jake Koza Memorial Park
Major Holland VC Memorial Park
Bruce Lonsdale Memorial Park
Cobalt Library
Cobalt Medical Clinic/Doctors Office
Cobalt Classic Theatre
Cobalt Museums (Mining Museum, Fire Fighters Museum and Bunker Military Museum)
Cobalt Arena
Cobalt Train Station
Cobalt Public Works facility
Cobalt Water Treatment Facility
Cobalt Municipal Office
Cobalt Community Hall
Cobalt Fire Hall
Golden Age Club
Cobalt Historical Society Headframe

APPENDIX "B"

**Workplaces that would like to be included under the Town of Cobalt
By-Law NO 2012-003**

APPENDIX "C"

Requirements for Signage

"No Smoking " or Designated Smoking Area Signs shall:

- (a)** Be conspicuously posted so as to clearly identify that smoking is prohibited on municipal property or workplaces that want to be included under the Town of Cobalt By-law NO 2011-039, where smoking is prohibited.
- (b)** Include a symbol of a cigarette within an interdictory symbol together with the words "Town of Cobalt By-law", and may include additional wording that does not detract from the message that smoking is no 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.
- (d)** 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.
- (e)** 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 within any public washroom and at every entrance to a non-smoking area.
- (f)** Where a designated smoking area is allowed under this by-law (e.g. entertainment event on municipal property) signage for the designated area must be conspicuously posted so as to clearly identify that area. This signage shall 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 and shall contrast the "no smoking" signage.