

**THE CORPORATION OF THE TOWN OF ENGLEHART  
BY-LAW # 2012-06**

BEING A BYLAW TO REGULATE SMOKING ON MUNICIPAL PROPERTY

**WHEREAS** the Town of Englehart 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** 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 Town of Englehart through a by-law which prohibits the smoking of tobacco;

NOW THEREFORE, the Council of the Town of Englehart enacts as follows:

**SECTION 1            TITLE, APPLICATION AND SCOPE**

Short Title

**1 (1)** This By-Law may be cited as the Smoke-Free and Tobacco Control By-Law

Application

**1 (2)** The Provisions of this By-law shall apply to all property within the geographic limits of the Town of Englehart

Scope of By-Law

**1 (3)** Where a provision of this By-law conflicts with a provision of another By-law in force in the Town of Englehart the provisions that establish the higher standard shall prevail in order to protect the health, safety and welfare of the general public.

Conflicts

**1 (4)** When any provision of this By-law is declared invalid for any reason by a court of competent jurisdiction, the remainder of this By-law still continues in force. An invalid provision will not operate to void the entire By-law.

**1(5)** 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.

## **SECTION 2            DEFINITIONS**

For the purpose of this By-Law, the definitions and interpretations given in this section shall govern.

**“Municipal Property”** means any property including the lands surrounding any municipal buildings that is owned, operated or leased by the municipality and includes, but is not limited to, arenas, baseball fields, tennis courts, outdoor rinks, parks, playgrounds, recreational fields, town offices and town garages but does not include any highways, roadways, sidewalks or streets.

**“Municipality”** means the Corporation of the Town of Englehart

**“Officer”** means a Police Officer, a Municipal By-Law Enforcement Officer appointed by the Municipality, a Tobacco Enforcement Officer employed by the Timiskaming Health Unit who is delegated to enforce for the purposes of this bylaw and is also appointed by the Minister of Health for the enforcement of the Smoke-Free Ontario Act and the regulations thereto.

**“Person”** includes a corporation;

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

**“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.

**“Smoke”** means holding lighted tobacco or any other substances intended to be smoked or inhaled by the person holding it.

**“Tobacco Product”** means any processed or unprocessed form that may be smoked, inhaled, or chewed, including but not limited to, blunt wraps, cigarettes, cigarillos, cigars, chew tobacco, pipe tobacco, shisha, and snuff;

**“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, exit or opened window but does not include any highways, roadways, sidewalks, streets or an outdoor patio.

## **SECTION 3            OFFENCES**

### Prohibition

**3 (1)** No person shall smoke at any time, whether or not signs are posted, in the following area;

(a) A Nine (9) metre radius surrounding any entrance or exit of any municipally owned building.

### Signs

**3 (2)** Every proprietor shall post signs in conspicuous locations where smoking is prohibited.

**3 (3)** No person shall remove any sign posted, unless it is to be immediately replaced by the proprietor or by an officer.

### Obstruction

**3 (4)** No person shall hinder, obstruct or interfere with an officer conducting an inspection, refuse to provide identification or refuse to answer questions on matters relevant to the inspection or provide the officer with false or misleading information.

## **SECTION 4            ADMINISTRATION AND ENFORCEMENT**

### Inspection

**4 (1)** For the purpose of determining whether this By-Law is being complied with, an officer may, without a warrant enter and inspect places referred to under section 3 of this By-Law.

### Time of Entry

**4 (2)** The power to enter and inspect a place without a warrant may be exercised only during the place's regular business hours.

### Powers of Officers

**4 (3)** An officer conducting an inspection may;

(a) Examine a record or other thing that is relevant to the inspection;

(b) Demand the production for inspection of a record or other thing that is relevant to the inspection;

(c) Remove for review and copying a record or other thing that is relevant to the inspection;

(d) In order to produce a record in a readable form, use data storage, information processing or retrieval devices or systems that are normally used in carrying business in the place;

(e) Question a person on matters relevant to the inspection;

(f) If he or she finds that a proprietor is not complying with subsection 3 (1), direct the proprietor or a person who the officer believes to be in charge of the public place or workplace, as the case may be, to comply with the provisions and may require the direction to be carried out forthwith or within such period of time as the officer specifies;

(g) Seize any smoke or tobacco product from anyone found to be not complying with subsections 3 (1) to be used as evidence. Any tobacco seized under this section shall be forfeited forthwith.

#### **SECTION 5            OFFENCES AND FINES**

Short Form Wording	Section	Set Fine
Smoke in prohibited place or area	3 (1)	\$250.00
Remove posted sign	3 (3)	\$125.00
Obstruct Officer	3 (4)	NSF

#### **Section 6            Effective Date**

**READ** a first and second time this 23<sup>rd</sup> day of April, 2012

**Read** a third time, enacted and passed this 23<sup>rd</sup> day of April, 2012.

  
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Mayor

  
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Clerk