



THE CORPORATION OF THE TOWN OF COBOURG

BY-LAW NUMBER 019-2015

A BY-LAW TO PROHIBIT SMOKING AND THE USE OF OTHER TOBACCO PRODUCTS IN PUBLIC PLACES WITHIN THE TOWN OF COBOURG

WHEREAS pursuant to Section 115 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes councils of local municipalities to pass by-laws to prohibit or regulate the smoking of tobacco in public places;

AND WHEREAS pursuant to Section 11 (6) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended provides that lower tier municipalities have the authority to pass by-laws respecting the health, safety and well being of persons;

AND WHEREAS it is desirable for the health, safety, and well-being of the citizens of the Town of Cobourg to provide for the regulating of smoking, and tobacco products, for the improved protection of persons from conditions injurious to health in accordance with the provisions of both this by-law, and the *Smoke-Free Ontario Act*;

NOW THEREFORE the Municipal Council of the Corporation of the Town of Cobourg enacts as follows:

DEFINITIONS:

1. In this By-law:

“**Ashtray**” shall mean any type of receptacle for tobacco ashes and for cigar and cigarette butts;

“**Town**” means the Corporation of the Town of Cobourg;

“**Clerk**” means the Clerk of the Corporation of the Town of Cobourg;

“**Council**” means the elected Council of the Corporation of the Town of Cobourg;

“**Home occupation**” shall mean a home occupation as defined, from time to time, in the Town’s Comprehensive Zoning By-law;

“**Inspector**” shall mean a person appointed by Council from time to time as a municipal By-law enforcement officer to enforce this By-law; a public health inspector acting under the direction of the Medical Officer of Health.; a person appointed as a Provincial Offences Officer as defined under the *Provincial Offences Act*, R.S.O. 1990, c.P33 as amended; or any police officer of the Cobourg Police Service;

“**Outdoor public place**” means any property owned, leased or controlled by the Town of Cobourg, including without limitation; parks, beaches, bus shelters, splash pads, pools and any area that is within a nine-metre radius of an exterior of a building located on any property owned, leased or controlled by the Town of Cobourg, whether or not a “No Smoking” sign is posted, but does not include the following:

- a) highways;
- b) road allowances abutting a regional or municipal property;
- c) municipal sidewalks, except for that portion of any municipal sidewalk that is within a nine-metre radius of exterior of a building located on any property owned, leased or controlled by the Town of Cobourg;
- d) parking lots or any area designated for the parking of motor vehicles;
- e) walking or hiking trails; and
- f) rights-of-way.

“**Person**” shall mean every natural person, partnership, association and corporation;

“**Public place**” means the whole or any part of an enclosed indoor area covered by a permanent roof or ceiling to which the public has access by right, permission or invitation, express or implied, and whether publicly or privately owned and shall include a private club, school bus, public transportation vehicle and taxi cab;

“**Recreational Area**” shall mean any land, structure and/or building within the municipal limits of the Town of Cobourg that is owned or controlled by the Municipality and is used or designed to be used for athletic, social, leisure or cultural activities;

“**smoke**” or “**smoking**” shall mean holding or carrying a lighted cigar, cigarette, pipe or any other lighted smoking material or equipment; and

“**Tobacco product**” shall mean tobacco in any processed or unprocessed form, that may be smoked, inhaled, or chewed, but does not apply to products intended for use in nicotine replacement therapy.

SMOKING AND USE OF ANY TOBACCO PRODUCTS IN PUBLIC PLACES

2. No person shall smoke or use any tobacco product while in a public place within the Town of Cobourg.
3. No person who owns, occupies or operates a public place within the Town shall permit smoking or use of any tobacco product in such public place.
4. No person who owns, occupies or operates a public place within the Town shall place or set out an ashtray in such public place or allow an ashtray to remain in such public place.
5. No person shall smoke or use any tobacco product within **twenty (20) meters** of the edge of the playing surfaces of all children’s playgrounds, and publicly owned sports playing fields and surfaces and recreational facilities in Town of Cobourg; and signs will be posted accordingly.
6. No person shall smoke or use any tobacco product in any outdoor public place and within **nine (9) meters** of the exterior of any building located on any property owned, leased or controlled by the Town of Cobourg.

SIGNS

7.
 - a) Every person who owns, occupies or operates a public place shall ensure that signs indicating that smoking and use of any other tobacco product as defined in this By-law is prohibited in the public place are posted at every entrance thereto which signs shall be conspicuous and clearly visible.
8.
 - a) The signs referred to in this by-law shall consist of graphic symbols that comply with the provisions of this by-law.
 - b) A white background with the circle and the interdictory stroke in red shall be the graphic symbol used to indicate the areas where smoking is prohibited pursuant to this by-law, as demonstrated in Schedule “B”.

- c) Despite the fact that the symbol referred to in subsection (b) above is a cigarette, it shall be deemed to refer to a lighted cigar, cigarette, pipe or any other lighted smoking instrument, as well as represent any prohibited tobacco product defined, and as listed in the provisions of this By-law.
- d) With respect to size of the graphic symbol, the diameter of the circle in the symbol referred to in subsection (b) above shall be not less than ten (10) centimeters.

OFFENCES, FINES AND ENFORCEMENT

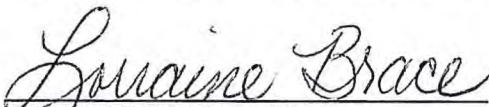
- 9.
 - a) The provisions of this by-law respecting the designation of non-smoking areas, the posting of signs and the duties imposed on the proprietor or other person in charge of a public place shall be enforced by inspectors.
 - b) An inspector may, at any reasonable time, enter any designated public place for the purposes of determining compliance with this by-law.
- 10. Every person who hinders or obstructs a person lawfully carrying out the enforcement of this by-law is guilty of an offence.
- 11. Every person who contravenes a provision of this by-law is guilty of an offence and upon CONVICTION, is liable to the penalties provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as well as subject to the set fines set out herein Schedule "A" of this by-law.

GENERAL

- 12. Subject to subsection 1 of the *Smoke Free Ontario Act*, 1994, S.O. 1994, c. 10 ; in the event of a conflict between the provisions of sections 9 and 10 of the Act, and this By-Law, the provision which is more restrictive of all tobacco use shall prevail.
- 13. If any term or provision of this By-law or the application thereof to any person shall to any extent be held to be invalid or unenforceable, the remainder of this by-law or the application of such term or provision to all persons other than those to whom it was held to be invalid or unenforceable, shall not be affected thereby and each term and provision of this by-law shall be separately valid and enforceable to the fullest extent permitted by law.
- 14. This by-law shall come into force and take effect on the date that it is approved by the Council of the Corporation of the Town of Cobourg, and, subject to the date that the Regional Senior Justice of the Ontario Court of Justice approves each set fine as set out in Schedule "A" for the offences listed under this by-law, and in accordance with the *Provincial Offences Act*, R.S.O 1990 CHAPTER P.33.
- 15. THAT the following Town of Cobourg By-laws be hereby repealed:
By-law No. 02-2003, By-law No. 063-2010, By-Law No. 12-2011
By-law No. 077-2013.

READ a first, second and third time and finally passed in Open Council this 23rd day of February, 2015.


MAYOR


MUNICIPAL CLERK

SCHEDULE "A"

**The Corporation of the Town of Cobourg
By-Law No. 019-2015: To Prohibit Smoking and the use of other
Tobacco products in Public Places By-law.
Part I Provincial Offences Act**

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provisions creating or defining offence	COLUMN 3 Set Fine
1.	Smoke or use of other Tobacco product in a public place.	Section 2	\$105.00
2.	Permit smoking or use of other Tobacco product in a public place.	Section 3	\$105.00
3.	Allow ashtray to remain in a public place.	Section 4	\$105.00
4.	Smoke or use any tobacco product within twenty (20) meters of any playing surfaces and sports fields.	Section 5	\$105.00
5.	Smoke or use and tobacco product in an outdoor public place and within (9) meters of any municipally owned buildings.	Section 6	\$105.00
6.	Fail to use the approved sign.	Section 7 (a)	\$105.00
7.	Hinder or obstruct person from enforcing by-law	Section 10	\$105.00

NOTE: The general penalty provision for the offences listed above is Section 11 of By-law #019-2015, a certified copy of which has been filed.

SCHEDULE "B"



TOWN OF COBOURG
By-Law No. 019-2015