

The Corporation of the Township of Burpee and Mills

By-law No. 03 -15

Smoke Free By-Law

Being a By-law to provide for the regulation of the Smoking of Tobacco within the municipality

WHEREAS it has been determined that environmental tobacco smoke (exhaled smoke and the smoke from lighted cigarettes, cigars or pipes), also known as second-hand smoke, is a health hazard because of its adverse effects and risk to the health of the inhabitants and workers within the Municipality of Burpee and Mills;

AND WHEREAS the Medical Officer of Health of the Sudbury & District Health Unit has declared that second-hand smoke is a serious health hazard for adults, children, and employees;

AND WHEREAS it is desirable for the health, safety, and welfare of the inhabitants and workers of the Municipality of Burpee and Mills to provide for the prohibition and abatement of smoking and second-hand smoke in accordance with the provisions of this By-Law;

AND WHEREAS section 115 of the *Municipal Act, 2001, S.O. 2001, c.25* as amended, authorizes the Council of the Municipality of Burpee and Mills to pass by-laws 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;

NOW THEREFORE the Council of the Municipality of Burpee and Mills hereby ENACTS as follows:

DEFINITIONS

1. In this By-Law:

“common area” means that part of any building or structure including a commercial or retail establishment, residential condominium or multiple dwelling unit apartment building, other than a private residence, to which the public may have access, whether as of right or by invitation, express or implied and includes, but is not limited to, a reception area for receiving or greeting customers, clients, guests or other persons, hallways, stairwells, foyers, lobbies, laundry rooms and amenity areas;

“employee” means any person who:

(1) performs work or supplies any services to an employer with or without remuneration: or

(2) is a volunteer;

“employer” means 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 or services of a person, whether paid or unpaid, therein;

“enclosed” means closed in by a roof or ceiling and walls with an appropriate opening or openings for ingress and egress;

“food court or outdoor patio” means an area located within or adjacent to a public place that is used in conjunction with a restaurant or take-out eating establishment, where unenclosed seating accommodation is provided or where meals or refreshments are consumed by the public;

“Medical Officer of Health” means the Medical Officer of Health duly appointed under the *Health Protection and Promotion Act, R.S.O. 1990, c.H.7*, as amended, and includes any staff acting on his or her behalf;

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

“public place” means the whole or part of an indoor area, whether covered by a roof or not, to which the public has access as of right or by invitation, expressed or implied, including food courts or outdoor patios, public shelters, public transit vehicles, public washrooms and common areas

“public transit vehicle” means any vehicle used for transporting the public and includes a school bus and a passenger vehicle used for hire;

“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 or theatrical performance;

“workplace” means any enclosed area of a building or structure other than a private residence in which an employee works and includes any vehicle in which an employee works which is provided by the employer, except where a workplace is also a public place, the provisions of this By-law respecting public places shall prevail.

WORKPLACE REQUIREMENTS

1. (1) No person shall smoke in a workplace whether or not a sign is posted;
- (2) Subsection 1. (1) of this By-law does not apply to a part of a workplace that is a private residence or, to a workplace located in a dwelling where the only employees of the workplace are persons who live in the dwelling
- (3) Where a workplace is also a public place, the provisions of this By-law respecting public places shall prevail.

EMPLOYER OBLIGATIONS

2. Every employer shall:
 - (1) prohibit smoking or holding of lighted tobacco in the workplace;
 - (2) prohibit ashtrays and like paraphernalia in the area of the workplace;
and
 - (3) post signs in a conspicuous location at every entrance to the workplace indicating that smoking is prohibited in the workplace.
 - (4) Ensure compliance with this By-law

PUBLIC PLACE REQUIREMENTS

3. (1) No person shall smoke or hold lighted tobacco in a public place;

PROPRIETOR OBLIGATIONS

4. Every proprietor of a public place shall:
 - (1) prohibit smoking or holding lighted tobacco;

- (2) post “No Smoking” signs, as provided for in subsection 5 of this By-law, conspicuously throughout the establishment where smoking is prohibited;
- (3) prohibit ashtrays and like paraphernalia in all areas where smoking is prohibited;
- (4) inform any person who is smoking in a prohibited area that smoking in that area is prohibited.

SIGNAGE REQUIREMENTS

5. 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 Schedule “A” and consist of two (2) contrasting colours; or if the lettering and graphic symbol is applied directly to a surface, or mounted on a transparent panel, the lettering and graphic symbol shall contrast with the background colour.

OFFENCES

6. Any person who contravenes any provisions of this By-law is guilty of an offence and upon conviction is liable to a fine in accordance with the *Provincial Offences Act, R.S.O. 1990, c.P.33*, as amended.

IMPLEMENTATION DATES

7. (1) This By-law shall come into full force and effect on the date on which it is passed.

SEVERABILITY OF SECTIONS

8. (1) If any section or sections of this By-law, or parts thereof are found by any Court of competent jurisdiction to be illegal or beyond the power of Council to enact, such section or sections or parts thereof shall be deemed to be severable from this By-law and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and to be properly enacted and to be of full force and effect.

ENFORCEMENT

9. (1) A municipal by-law enforcement officer acting under the direction of the Municipality of Burpee and Mills may enter and inspect all buildings, structures or parts thereof that are subject to this By-law at any reasonable time for the purposes of determining whether there is compliance with this By-law

(2) Despite subsection (1), a municipal by-law enforcement officer, acting under the direction of the Municipality of Burpee and Mills, shall not exercise a power to enter a place or part of a place that is used as a dwelling unless there is compliance with section 115 of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended.

SHORT TITLE

10. This By-law may be referred to as the “Smoke-free By-law”

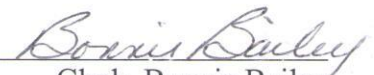
THE CORPORATION OF THE MUNICIPALITY OF BURPEE MILLS SMOKE-FREE BY-LAW

READ a first time this 2 day of JUNE, 2003

Read a second and third time and finally

PASSED this 7 day of JULY, 2003.


Reeve, Ken Noland


Clerk, Bonnie Bailey