



CORPORATION OF THE TOWN OF HUNTSVILLE

BY-LAW NUMBER 2010-45, as amended

Being a By-law to prohibit smoking outdoors on Town of Huntsville owned Property

WHEREAS: the Municipal Act, S.O. 2001 c.25 s 115 provides that without limiting section 10, a municipality may prohibit or regulate the smoking of tobacco in public places and provide for the definition of a "public place" for the purpose of the by-law;

AND WHEREAS: the District of Muskoka By-law No. 2002-04 has been repealed;

AND WHEREAS: the Smoke Free Ontario Act, S.O. c. 10 does not address the issue of smoking in public places;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF HUNTSVILLE HEREBY ENACTS AS FOLLOWS:

INTERPRETATION

1.00 Short Title

1.01 This By-law may be cited as the "Smoke Free By-law" of the Corporation of the Town of Huntsville.

2.00 Number

2.01 In this By-law, unless the contrary intention is indicated, words used in singular shall include the plural.

3.00 Definitions

3.01 For the purpose of interpreting the provisions in this By-law, the following definitions shall apply:

"Agent" or "Authorized person" means an individual employed by or otherwise authorized by the Town of Huntsville whose duties include the monitoring of Town owned property;

"Council" means the Council of the Corporation of the Town of Huntsville;

"Designated Smoking Area" means an area that is set aside and with signage indicating that smoking is allowed in this area;

Provided that such area shall be:

- i) a minimum of nine (9) metres from any entrance, exit, building opening of any Town facility including but not limited to parkland, playground, sports field, spectator seating area, ice surface whether or not a "No Smoking" sign is posted.

“Highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines there of;

“Municipal Sidewalk” means a sidewalk intended for pedestrians located between that portion of a highway intended for the general passage of vehicles and the lateral property line but does not include a sidewalk located within the boundary of any Town owned property;

“Officer” means a person appointed by Council as a Municipal By-law Enforcement Officer, a Police Officer or other individual duly appointed to enforce this By-law;

“Outdoors” means any open space which is outside of a facility, building, structure or premise including any temporary building, structure or part thereof, whether covered by a roof or not; but shall not include a highway intended for the passage of vehicles or the vehicles, whether open or closed upon such a highway;

“Parking Lot” means an area which has been established or set out for the legal parking of vehicles,

“Person” includes an individual or corporation;

“Property” means that which belongs exclusively to the Town of Huntsville and to which legal rights apply;

“Public Place” means any property, whether publicly or privately owned, to which members of the public have access as of right or by express or implied invitation, whether on payment of any fee or not;

“Smoke” or “Smoking” includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment or product;

“Town” means the Corporation of the Town of Huntsville;

“Town Facility” means any building, structure or premise which the Town holds right of ownership to, including a building, structure or premise which is leased by the Town;

“Walkway” means that area of land designated or designed specifically for the passage of pedestrians and shall include a pathway but shall not include a sidewalk.

4.00 Smoking Prohibited

- 4.01 No Person shall smoke outdoors on any property owned and occupied by the Town including but not limited to property upon which is located a Town facility, parkland, playground, sports field, spectator seating area, ice surface etc. whether or not a “No Smoking” sign is posted.
- 4.02 No person shall smoke outdoors on any walkway or pathway set out on or through Town owned and occupied property whether or not a “No Smoking” sign is posted.
- 4.03 Notwithstanding Section 5.01 no person shall smoke anywhere on Park Drive.

5.00 Exemptions

- 5.01 Notwithstanding Section 4.02 such prohibition will not apply to a municipal sidewalk or highway.
- 5.02 Designated Smoking Area.

6.00 Offence

- 6.01 Any person who obstructs a person lawfully carrying out the enforcement of this by-law is guilty of an offence.
- 6.02 Any person who contravenes any provision of this By-law is guilty of an offence and, upon conviction, is liable to a fine as provided for in the Municipal Act, 2001 or the Provincial Offences Act as per Schedule "A".

7.00 Enforcement

- 7.01 The provisions of this by-law respecting smoking outdoors on Town owned property shall be enforced by an officer or person deemed to be an agent of the Corporation of the Town of Huntsville for the purpose of addressing unauthorized activity on Town property.

8.00 General Provisions

- 8.01 All Schedules referred to in this By-law are deemed to be part of this By-law.
- 8.02 Where the time for doing any act or taking any proceeding expires on a Saturday, Sunday or holiday when Town Hall is closed, the act or proceeding may be done on the next business day.

9.00 Severability and Conflict

- 9.01 If any provision or part of a provision of this by-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.
- 9.02 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.

10.00 Commencement

- 10.01 This By-law comes into force on, the 17th day of May, 2010.

READ a **FIRST** time this 26th day of April, 2010

Mayor (Claude Doughty)

Clerk (Kathleen Gilchrist)

READ a **SECOND** and **THIRD** time and **FINALLY PASSED** this 17th day of May, 2010.

Mayor (Claude Doughty)

Clerk (Kathleen Gilchrist)

CORPORATION OF THE TOWN OF HUNTSVILLE

PART 1 PROVINCIAL OFFENCES ACT

**By-law No. 2010-45, as amended – Prohibit Smoking Outdoors
on Town-owned Property**

SCHEDULE "A"

Item	Column 1 Short Form Wording	Column 2 Provision creating or defining offences	Column 3 Set Fine
1	Obstructs Officer/Agent/Authorized Person	6.01	\$ 300.00
2	Smoking in Prohibited Area	4.00	\$ 300.00

NOTE: *The general penalty provision for the offences listed above is Section 6.01 of the By-law 2010-45, as amended, a certified copy of which has been filed.*