



**THE CORPORATION OF THE TOWN OF INGERSOLL
BY-LAW NO. 10-4550**

Being a By-Law to prohibit smoking near municipal entrances and lands.

WHEREAS section 115 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a municipality may prohibit or regulate the smoking of tobacco in public places and workplaces within the municipality and Section 128(1) of said Act provides that a municipality may prohibit and regulate with respect to matter that in the opinion of Council are or could be public nuisances;

AND WHEREAS it has been determined that smoking and second hand tobacco smoke is a nuisance because of its irritating and discomforting properties and is a health hazard because of its impairing, adverse effect and risk to the health of individuals residing in or visiting the Town of Ingersoll.

THEREFORE the Municipal Council of the Corporation of the Town of Ingersoll enacts as follows:

SHORT TITLE

“Smoking Outdoors on Town owned Property”.

1.0 DEFINITIONS AND INTERPRETATIONS

- 1.1 Definitions and Interpretations in this by-law,
- 1.2 "Authorized Person" means any individual employed by or authorized by the Town of Ingersoll as a municipal by-law enforcement officer to enforce this by-law, or any officer of the Ingersoll Community Police Service.
- 1.3 “Town” means The Corporation of the Town of Ingersoll;
- 1.4 “Council” means the Town Council of the Corporation of the Town of Ingersoll;
- 1.5 “Person” includes an individual or corporation and shall include the plural where the context requires. Wherever the word ‘he’ or ‘him’ is used, it shall mean and include the feminine or neuter gender wherever the context so requires;
- 1.6 “Town facility” means any building, structure or premise to which the Town holds right of ownership to, including a building, structure or premise which is leased by the Town;

- 1.7 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 a Town owned property.
- 1.8 “Officer” means a person appointed by Council as Municipal Law Enforcement Officer, a Police Officer or other individual duly appointed to enforce this by-law;
- 1.9 “Outdoors” means any open space which is outside of a facility, building, structure, premise including any temporary building, structure or part thereof, whether covered by a roof or not.
- 1.10 “Property” means that which belongs exclusively to the Town of Ingersoll and to which legal rights apply;
- 1.11 “Smoke or Smoking” includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment or product but does not include smoke or smoking where smoke or smoking is used in a stage production of a theatrical performance;
- 1.12 “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.
- 1.13 “Playground Equipment” means any kind of structure or apparatus which is customarily found in a park like setting and which a person may engage in play-like activities such as climbing, swinging, hanging, crawling, jumping, stepping, whether over, across, under, through or upon for enjoyment, exercise and/or as part of relating to others of any age. Without restricting the generality thereof, playground equipment includes swings, slides, climbing apparatus, facilities expressly designed for skate boarding.
- 1.14 “Spectator Seating Area” means any area designated for the viewing of a sport.

2.0 SMOKING PROHIBITED

- 2.1 No person shall smoke outdoors on any Town owned sports field including but not limited to soccer fields, baseball diamonds, or tennis courts whether or not a “No Smoking” sign is posted.
- 2.2 No person shall smoke outdoors on any walkway set out on or through Town owned and occupied property whether or not a “No Smoking” sign is posted.
- 2.3 No person shall smoke outdoors within 9 meters of any Town facility entrance including but not limited to the Ingersoll District Memorial Arena, Victoria Park Community Centre, Town Centre, Fire Hall, Police Station, Public Works Department, Fusion Youth Activity & Technology Centre, and Public Washrooms.

2.4 No person shall smoke within 9 meters of the following designated Town facilities for the purpose of this by-law:

- a) Splash Pads
- b) Playground Equipment
- c) Spectator Seating Area
- d) Ball Diamonds
- e) Soccer Fields
- f) Basketball Courts
- g) Tennis Courts

3.0 EXEMPTIONS

3.1 Notwithstanding Section 2.2 such prohibition shall not apply to a municipal sidewalk.

4.0 SIGNAGE REQUIRED

4.1 The Town may post and maintain in conspicuous locations at each required location a sign at least 14 centimetres (5.5 inches) by 14 centimetres (5.5 inches) in size that includes depiction of the international No Smoking symbol at least 7.5 centimetres (3 inches) high, and lettering at least 0.8 centimetres (5/16 inch) high and at least 0.2 centimetres (1/16 inch) wide at the narrowest point, with the rest of the letter sized proportionately, which reads "The Corporation of the Town of Ingersoll" Maximum Fine (\$5000)"

4.2 Where a sign is posted the sign shall have the proportions, characteristics and minimum measurements set out in Section 4.1, and shall be as depicted in "Schedule A" and shall consist of two (2) contrasting colours, or if the lettering and graphic symbol are to be applied directly to the surface or to be mounted on a clear panel, the lettering and graphic symbol shall contrast with the background.

4.3 Despite the fact that the symbol referred to in Schedule "A" is a cigarette, it may include a lighted cigar, cigarette, pipe or any other lighted smoking instrument.

4.4 Deviations from the colour or content of the sign prescribed by this Section that do not affect the substance or that are not calculated to mislead do not vitiate the sign.

5.0 OFFENCES

5.1 Any person who contravenes any of the provisions of this by-law is guilty of an offence;

5.2 Any person who hinders or obstructs a person lawfully carrying out the enforcement of this by-law is guilty of an offence;

5.3 Any person found guilty of an offence under the provision of this by-law shall be liable to a fine of not more than five thousand dollars (\$5,000.00) as provided for in the Provincial Offences Act, R.S.O 1990, chapter 33, or any successor thereof.

6.0 ENFORCEMENT

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

7.0 CONFLICTS

7.1 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.

8.0 SEVERABILITY

8.1 If any section of this by-law or part thereof is found in any court of law to be illegal or beyond the power of the Municipality to enact, such section or part thereof shall be deemed to be severable and all other sections or parts of the by-law shall be deemed to be separate and independent thereof and to be enacted as such.

9.0 ENACTMENT

9.1 This by-law shall come into effect on the day it is passed.

READ a first and second time this 3rd day of May, 2010.

READ a third time and finally passed this 3rd day of May, 2010.

Paul Holbrough, Mayor

Elaine Clark, Clerk

Schedule "A"



DRAFT