

THE CORPORATION OF THE CITY OF NORTH BAY

BY-LAW NO. 2012-97

BEING A BY-LAW TO REGULATE SMOKING IN PUBLIC PLACES AND WORKPLACES IN THE CORPORATION OF THE CITY OF NORTH BAY
(AND TO REPEAL BY-LAW NO. 2003-05)

WHEREAS Section 115 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes the Council of a local municipality to pass a by-law to prohibit or regulate the smoking of tobacco in public places and workplaces within the municipality;

AND WHEREAS section 10(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes a municipality to pass by-laws respecting health, safety, and well-being of persons;

AND WHEREAS section 12 of the *Smoke-Free Ontario Act*, S.O. 1994, c. 10, as amended, permits municipalities to enact smoking by-laws that are more restrictive than sections 9 and 10 of the Act;

AND WHEREAS Council authorized the enactment of the by-law to regulate smoking in public places and workplaces by Resolution No. 2012-148 passed at its Regular Meeting on Monday, March 5, 2012;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF NORTH BAY ENACTS AS FOLLOWS:

PART 1 – DEFINITIONS

- 1.1 In this by-law:
- 1.2 “**apartment building**” means a building containing six (6) or more dwelling units;
- 1.3 “**City**” means The Corporation of the City of North Bay;
- 1.4 “**employee**” means a person who performs any work for or supplies any service to an employer, or a person who receives any instruction or training in the activity, business, work, trade, occupation or profession of an employer and includes a volunteer and a person who is self-employed and “employment” has a corresponding meaning;
- 1.5 “**employer**” means any person who, as the owner, proprietor, manager, contractor, superintendent, supervisor 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 of an employee;
- 1.6 “**entranceway**” means the area within a nine metre radius surrounding designated entrances to all municipal buildings and other buildings or properties listed on Schedule “A”, but does not include an outdoor patio as defined in the *Smoke-Free Ontario Act*, S.O. 1994, c. 10 or a street, road or highway;
- 1.7 “**inspector**” means any employee or class of employee of the North Bay Parry Sound District Health Unit authorized by the Medical Officer of Health to carry out an inspection under and to enforce the provisions of this by-law, or a person or class of person appointed by Council of the City as a by-law enforcement officer to enforce this by-law;
- 1.8 “**municipal building**” means any building or portion thereof owned or leased by the Corporation of the City of North Bay;

- 1.9 “**North Bay Regional Health Centre**” (“NBRHC”) means all properties owned or leased solely by the North Bay General Hospital and/or the Northeast Mental Health Centre, being the lands set out in Schedule “B”;
- 1.10 “**outdoor patio**” means an outdoor area or partially enclosed outdoor area that is adjacent to an establishment where food or beverages are sold and where food or beverages, or both, are consumed by the public;
- 1.11 “**person**” includes a corporation;
- 1.12 “**proprietor**” means the person who ultimately controls, governs or directs the activity carried on within a public place and includes the person actually in charge of the premises at any particular time;
- 1.13 “**public place**” means any building, structure, vessel, vehicle or conveyance, or part thereof, whether covered by a roof or not, to which the public has access as of right or by invitation, expressed or implied, whether or not a fee is charged for entry but does not include an outdoor patio or a street, road or highway;
- 1.14 “**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 of a theatrical performance;
- 1.15 “**workplace**” means a building, structure, vessel, vehicle or conveyance or part thereof in which one or more employees work, including any other area utilized by employees but does not include an outdoor patio or a street, road or highway.

PART 2 – WORKPLACES

- 2.1 No person shall smoke in any workplace within the City whether or not a No Smoking sign is posted.
- 2.2 Every employer shall:
- (i) ensure compliance with this by-law;
 - (ii) give notice to each employee in the workplace that smoking is prohibited in the workplace;
 - (iii) post No Smoking signs in accordance with Part 4 of this by-law in conspicuous locations at every entrance and in every washroom in the workplace indicating that smoking is prohibited in the workplace; and
 - (iv) ensure that no ashtrays or like paraphernalia are placed or permitted to remain in any part of the workplace.
- 2.3 Sections 2.1 and 2.2 do not apply to:
- (i) a part of a workplace that is used as a private residence;
 - (ii) a room in a hotel, motel or other place where rooms are rented for sleeping accommodation, provided the room is used for sleeping accommodation only and the room is designated and specifically set aside as a room in which smoking is permitted; or
 - (iii) a workplace located in a dwelling where the only employees of that workplace are persons who live in the dwelling.

PART 3 – PUBLIC PLACES

- 3.1 No person shall smoke in any public place within the City whether or not a No Smoking sign is posted.
- 3.2 Every proprietor of a public place shall:
- (i) ensure compliance with this by-law;
 - (ii) give notice to each person in the public place that smoking is prohibited in the public place;
 - (iii) post No Smoking signs in accordance with Part 4 of this by-law in conspicuous locations at every entrance and in every washroom in the public place indicating that smoking is prohibited in the public place; and
 - (iv) ensure that no ashtrays or like paraphernalia are placed or permitted to remain in any public place.
- 3.3 Sections 3.1 and 3.2 do not apply to a room in a hotel, motel or other place where rooms are rented for sleeping accommodation, provided the room is used for sleeping accommodation only and the room is designated and specifically set aside as a room in which smoking is permitted.
- 3.4 No person shall smoke on the NBRHC property, as designated in Schedule “B” of this by-law.
- 3.5 No person shall smoke on City property as designated in Schedule “C” of this by-law.

PART 4 – ENTRANCEWAY PROHIBITION

- 4.1 No person shall smoke in:
- (i) an entranceway to a municipal building designated by Official Signs on display;
 - (ii) a designated workplace entranceway as set out in Schedule “A”; or
 - (iii) the entranceway to an apartment building as set out in Schedule “D”.
- 4.2 No person shall place or cause to be placed a receptacle for smoking within the 9 metre radius of a designated entranceway.
- 4.3 An entranceway to 4.1(ii) or 4.1(iii) may be designated as a non-smoking entranceway under this by-law, by amendment to Schedule “A” hereof, at the request of the employer or proprietor, respectively. The owner or proprietor of a building may submit a letter to the City Clerk to request a designated entranceway by including the following details:
- (i) the name, mailing address, and phone number of the employer or proprietor requesting the prohibition; and
 - (ii) the address of the property and a description of the location of the entranceway to be designated as non-smoking.

PART 5 – SIGNAGE REQUIRED

- 5.1 Every employer and every proprietor shall post and maintain in conspicuous locations at each entrance to the facility and in every washroom, a sign at least 14 centimetres (5.5 inches) by 14 centimetres (5.5 inches) in size that includes:

- (i) a depiction of the international No Smoking symbol at least 7.5 centimetres (3 inches);
 - (ii) lettering at least 0.8 centimetres (5/16 inch) high and at least 0.2 centimetres (1/16 inch) wide at the narrowest point; and
 - (iii) with the rest of the lettering sized proportionately, which reads "City of North Bay; Maximum Fine (\$5000)".
- 5.2 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 Section 5.1 as depicted in Schedule "E" and consists of two (2) contrasting colours, or if the lettering and graphic symbol is to be applied directly to surface or to be mounted on a clear panel, the lettering and graphic symbol shall contrast with the background.
- 5.3 Despite the fact that the symbol referred to in Schedule "E" is a cigarette, it may include a lighted cigar, cigarette, pipe or any other lighted smoking instrument.
- 5.4 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.
- 5.6 Any sign prohibiting smoking that refers to a previous version of this by-law or that fails to refer to a by-law number is deemed to be referring to this by-law.
- 5.7 Where an entranceway has been designated as non-smoking under Part 4 of this by-law, the employer or proprietor shall post and maintain in a conspicuous location adjacent to the designated entrance a sign at least 14 centimeters (5.5 inches) by 14 centimeters (5.5 inches) in size that includes:
- (i) a depiction of the international No Smoking symbol at least 7.5 centimeters (3 inches) in height;
 - (ii) lettering at least 0.8 centimetres (5/16 inch) high and at least 0.2 centimetres (1/16 inch) wide at the narrowest point that reads "Smoking is prohibited within 9 metres of this entranceway"; and
 - (iii) with the rest of the lettering sized proportionately, which reads "City of North Bay Bylaw".
- as set out in Schedule "F".

PART 6 – INSPECTIONS

- 6.1 An inspector may, at any reasonable time, enter any public place or workplace for the purposes of determining compliance with this by-law.
- 6.2 No person shall hinder or obstruct, or attempt to hinder or obstruct, any inspector who is exercising a power or performing a duty under this by-law, including carrying out an inspection.

PART 7 – OFFENCES AND ENFORCEMENT

- 7.1 Any person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine of not more than Five Thousand Dollars (\$5,000.00).
- 7.2 If this by-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter

may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

PART 8 – CONFLICTS

8.1 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.

PART 9 – SEVERABILITY

9.1 If any section or sections of the by-law or parts thereof, are found in any court of law to be illegal or beyond the power of the City to enact, such section or sections or parts 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 have been enacted as such.

PART 10 – REPEAL

10.1 That By-Law No. 2003-05, as amended, is hereby repealed.

PART 11 – EFFECTIVE DATE

11.0 This by-law shall come into effect upon being passed.

READ A FIRST TIME IN OPEN COUNCIL THE 19TH DAY OF MARCH 2012.

READ A SECOND TIME IN OPEN COUNCIL THE 19TH DAY OF MARCH, 2012.

READ A THIRD TIME IN OPEN COUNCIL AND ENACTED AND PASSED THIS 19TH DAY OF MARCH, 2012.

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MAYOR ALLAN McDONALD

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CITY CLERK CATHERINE CONRAD

Schedule “A” to the Corporation of the City of North Bay By-Law No. 2012-97.

Designated **workplaces** with entranceway smoking prohibitions:

Workplace and Address	Entranceway(s)	Date of Designation
Northgate Mall 1500 Fisher Street	Parkdale Entrance	May 1, 2010
Northgate Mall 1500 Fisher Street	Tower Court Entrance	May 1, 2010
Northgate Mall 1500 Fisher Street	Food Court Entrance	May 1, 2010
Northgate Mall 1500 Fisher Street	ONR Entrance	May 1, 2010
Calvary Temple 271 Ski Club Road	All Entrances	May 1, 2010
133 Main Street West	Front Entrance off Main Street Rear Entrance off Oak Street	May 1, 2010
Odd Fellows Temple 1272 Algonquin Avenue	Front Entrance to Algonquin Ave. Rear Side Entrance to Parking lot	May 1, 2010
Momma Poon’s 1260 Algonquin Avenue	Front Entrance to Algonquin Ave. Rear Entrance to Highland Road	May 1, 2010
CIBC 1236 Algonquin Avenue	Front Entrance to Algonquin Ave. Rear Entrance to Highland Road	May 1, 2010
North Bay Parry Sound District Health Unit 681 Commercial Street	All Entrances (1 Public and 2 Employee)	May 1, 2010
North Bay Parry Sound District Health Unit 700 Cassells Street	Rear Main Entrance off Parking Lot	May 1, 2010
Northern Honda 1401 Seymour Street	Main Showroom Entrance, Employee Showroom Fire Exit Service Entrance, Parts/Receiving Entrance, Garage Man-Door at Rear Facing South-East	May 1, 2010
Yes! Employment Services 945 Stockdale Road	Main Entrance, 2 Side Entrances and 2 Rear Entrances	July 26, 2010
One Kids Place 400 McKeown Avenue	Main Entrance Under Canopy to be Designated	July 26, 2010
North Bay Mall 300 Lakeshore Drive	Winners Entrance, No Frills Entrance, Sport Check Entrance	July 26, 2010
True North Chevrolet Cadillac 1370 Seymour Street	All Doors and Entrances	October 31, 2011
The North Bay Food Bank 1319 Hammond Street	Main Entrance	October 31, 2011
PT Works 1831 Cassells Street	Employee Entrance facing Shaw Street, Customer Entrance facing Olive Street	October 31, 2011
The Lighthouse 975 McKeown Avenue	Front Entrance	October 31, 2011
Martel & Mitchell Physiotherapy 760 Cassells Street	Front Entrance	October 31, 2011
First Choice Hair Cutters 975 McKeown Avenue	Front Entrance	October 31, 2011

Schedule "B" to the Corporation of the City of North Bay By-Law No. 2012-97.

The North Bay Regional Health Centre includes the following properties:

1. Parcel 19012 Widdifield & Ferris:
Part of Lot 23, Concession B, former Township of Widdifield, now
City of North Bay, District of Nipissing, Parts 1 to 5 on Plan 36R- 10957 & Parts 9
& 10, on Plan 36R-11367;
Part of Lot 24, Concession B, former Township of Widdifield, now
City of North Bay, Parts 6 to 15 on Plan 36R-10957 and Parts 1, 2, 3 & 5 on Plan
36R-11367;
Save and except parts 1 & 2 on Plan 36R-11522;
Subject to L T77541 partially released by L T 406505;
Subject to LT405939, City of North Bay, in the District of Nipissing.
Municipally known as 50 College Drive
2. Parcel 19063 Widdifield & Ferris;
Part of Lot 23, Concession B, former Township of Widdifield, now
City of North Bay, Parts 11, 12, 13, 14, 15, 16 & 17 on Plan 36R-11367;
Subject to L T405939, L T77541, North Bay, District of Nipissing
Municipally known as 50 College Drive
3. Part of Lot 1, Concession B, of the Township of Commanda, Parts 16 to 25 on
Plan 36R-10957;
Subject to CD118, CD120 and NB162482, City of North Bay, in the District of
Nipissing
Municipally known as 50 College Drive
4. Parcel 6-2 Section 36M-540
Part Block 6, Plan 36M-540, West Ferris
Part 1, Plan 36R-7158
North Bay, District of Nipissing
P.I.N. #49177-0026
Municipally known as 35 Ferris Drive and 43 Ferris Drive
5. Lots 89-92, Lots 121-124, Plan 57 Widdifield
Part Lots 125 and 88, Plan 57
Part Lane Plan 57 abutting Lots 121-131 and
Lots 82-92 as closed by NB53093 as in NB159210
North Bay, District of Nipissing
P.I.N. #49155-0398
Municipally known as 120 King Street West
6. Block A, Plan 116 Widdifield, except MRO
North Bay, District of Nipissing
P.I.N. #49161-0003 and
Block A, Plan 116 Widdifield except SRO
North Bay, District of Nipissing
P.I.N. #49161-0004
Municipally known as 1765 Jane Street

Schedule "C" to the Corporation of the City of North Bay By-Law No. 2012-97.

Corporation of the City of North Bay Properties as follows:

1. The Steve Omischi Sports Field Complex
Located at the south end of Lakeshore Drive
Lot 12, RCP 5, and Part Lot 36, Concession
13, former Township of West Ferris
Parcels 2327 & 8654 Widdifield & Ferris
Municipally known as 1105 Lakeshore Drive

Schedule "D" to the Corporation of the City of North Bay By-Law No. 2012-97.

Designated apartment buildings containing more than six (6) units with entranceway smoking prohibitions:

Apartment Address	Entranceway(s)	Date of Designation
348 Worthington Street East	Front Entrance facing Worthington Street East	May 1, 2010
190 Lavase Road	Front Entrance facing Lavase Road	May 1, 2010
430 Wickstead Avenue	Entrance at front of Office Building	May 1, 2010
420 Wickstead Avenue	Entrance at front of Building facing Wickstead Avenue	May 1, 2010
432 Wickstead Avenue	Entrance at front of Building facing Wickstead Avenue	May 1, 2010
444 Wickstead Avenue	Entrance at front of Building facing Wickstead Avenue	May 1, 2010
462 Wickstead Avenue	Entrance at front of Building facing Wickstead Avenue	May 1, 2010
474 Wickstead Avenue	Entrance at front of Building facing Wickstead Avenue	May 1, 2010
486 Wickstead Avenue	Entrance at front of Building facing Wickstead Avenue	May 1, 2010
40 Judge Avenue	14 separate 6-plex main entrances	May 1, 2010
134 Lindsay Street	Front Entrance	May 1, 2010
141 Lindsay Street	Front Entrance	May 1, 2010
387 Main Street West	Front Entrance	May 1, 2010
198 Hughes Road	Front Entrance	May 1, 2010
135 Worthington Street West	Front Entrance off Worthington Street West	May 1, 2010
365 Lakeshore Drive	Front Entrance to Lobby facing West	May 1, 2010
116 Blair Street	Front Entrance	May 1, 2010
480 Fisher Street	Rear Entrance Parking Lot	May 1, 2010
1272 Algonquin Avenue	Rear Side Entrance to Parking Lot	May 1, 2010
Marina Point Retirement Village 130 Elm Street	Main Entrance	July 26, 2010
Bay Manor 648 Main Street West	Front Entrance Facing Main Street	October 31, 2011
Douglas Court 820 Douglas Street	Front Entrance Facing Douglas Street	October 31, 2011
Elizabeth Court 19 Johnston Road	Front Entrance Facing Johnston Road	October 31, 2011
College Heights 730 Rose Avenue	Front Entrance Facing Private Parking Lot	October 31, 2011



