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THE CORPORATION OF THE CITY OF NORTH BAY

BY-LAW NO. 31-88

BEING A BY-LAW RESPECTING SMOKING

WHEREAS Section 104 of the Municipal Act, R.S.O. 1980, Chapter 302 provides as follows:

"302. Every council may pass such by-laws and make such regulations for the health, safety, morality and welfare of the inhabitants of the municipality in matters not specifically provided for by this Act as may be deemed expedient and are not contrary to law."

AND WHEREAS paragraph 134 of subsection 1 of section 210 provides that by-laws may be passed by the councils of local municipalities;

"134. For prohibiting and abating public nuisances".

AND WHEREAS it has been determined that second-hand tobacco smoke (exhaled smoke and smoke from idling cigarettes, cigars and pipes) is a public nuisance because of its irritating and discomforting properties and is a health hazard because of its impairment, adverse effect and risk to health, to the inhabitants of the City of North Bay;

AND WHEREAS it is desirable for the health, safety and welfare of the inhabitants of the City of North Bay to provide for regulating smoking and second-hand smoke for the better protection of persons from conditions injurious to health in accordance with the provisions of this by-law;

AND WHEREAS it is desirable to provide for the prohibition and abating of second-hand smoke in accordance with the provisions of this by-law.

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

1. In this By-law:-

- (a) "City" means the City of North Bay;
- (b) "Multi-unit residential building" means a building with common access to six (6) or more dwelling units;
- (c) "place of public assembly" means a building or part of a building used for civic, political, travel, religious, social, educational, recreational or like purposes;
- (d) "Proprietor" means the person who ultimately controls, governs or directs the activity carried on within the kinds of premises referred to in this by-law and includes the person actually in charge thereof;
- (e) "Reception area" means the public space used by an office, multi-unit residential building or other establishment for the receiving or greeting of customers, clients, residents or other persons dealing with such office, residence or establishment;
- (f) "Restaurant" means a building or similar structure or part of a building or part of a structure in which food is prepared and offered for sale to or sold for immediate consumption by the general public or public at large on the premises in which seating accommodation is provided for more than thirty persons;

- (g) "Retail Shop" means a building or part of a building, booth, stall or place where any goods including foodstuffs are exposed or offered for sale by retail, but does not include a place where the only trade or business carried on is that of,
 - (i) a licensed hotel or tavern,
 - (ii) a restaurant,
 - (iii) the custom blending of tobaccos, or the sale of tobaccos, pipes, cigars or smokers' sundries.
- (h) "Seating Capacity" means the number of seats available for use by patrons or customers engaging in the immediate consumption of food while seated;
- (i) "Second-hand smoke" means
 - (i) exhaled smoke,
 - (ii) smoke from an idling,
 - A. Cigarette, or
 - B. Cigar, or
 - C. Pipe, or
 - D. Any other tobacco using or constructed devicebut does not include smoke that has drifted into a place or area in which smoking is prohibited from a place or area in which smoking is not prohibited;
- (j) "Service line" means an indoor line of two or more persons awaiting service of any kind, regardless of whether or not such service involves the exchange of money, and includes awaiting sales service, purchase service, provision of information or advice and the transfer of money or goods;
- (k) "Smoke" or "Smoking" means produce or production of second-hand smoke.

RETAIL SHOPS

- 2. (1) Except as provided in subsection (2) no person shall smoke in any area of a retail shop to which members of the public have access.
- (2) Subject to the Fire Marshal's Act, the proprietor of a retail shop may designate not more than 50% of the total floor area of the retail shop to which members of the public have access as an area which may be used for the purpose of smoking.
- (3) Where part of an area is designated under subsection 2 of section 2 smoking shall be permitted in the area so designated and the proprietor of such designated area shall post or cause to be posted one or more signs in the area, marked "Smoking In This Area Only".
- 3. (1) The proprietor of a retail shop shall post or cause to be posted one or more signs in accordance with the requirements of section 20 or section 21.
- (2) The sign or signs shall be conspicuously posted so as to be clearly visible from all parts of each floor of the retail shop referred to in section 2.

HOSPITALS

4. (1) Except as provided in subsection 2, no person shall smoke in any area of a hospital.
- (2) Subject to the Fire Marshal's Act, the proprietor may designate not more than 20% of the floor area or the area of any other part of a hospital, other than a patient care area, for the purpose of smoking.
5. (1) Where an area is designated under subsection 2 of section 4, smoking shall be permitted in the area so designated and the proprietor of the hospital shall post or cause to be posted one or more signs in the area, marked "SMOKING IN THIS AREA ONLY".
- (2) Where smoking is prohibited in an area of the hospital, the proprietor shall post or cause to be posted one or more signs in accordance with the requirements of section 20 or section 21.
- (3) The sign or signs shall be conspicuously posted,
 - (a) so as to be clearly visible from,
 - (i) all parts of the area to which the members of the public have access other than the patient care area;
 - (ii) all parts of the patient care area; and
 - (b) so as to clearly identify the areas in which smoking is and is not permitted.

BANKS, FINANCIAL INSTITUTIONS AND MUNICIPAL BUILDINGS

6. (1) Except as provided in subsection 2, no person shall smoke in a bank, financial institution or municipal building.
- (2) Subject to the Fire Marshal's Act, the proprietor may designate not more than 50% of the total floor area of the bank, financial institution or municipal building for the purpose of smoking.
7. (1) Where an area is designated under subsection 2, smoking shall be permitted in the area so designated.
- (2) Where smoking is prohibited in an area of the bank, financial institution or municipal building, the proprietor shall post or cause to be posted one or more signs in accordance with the requirements of section 20 or section 21.
- (3) The sign or signs shall be conspicuously posted,
 - (a) so as to be clearly visible from all parts of the bank, financial institution or municipal office; and
 - (b) so as to clearly identify the areas in which smoking is and is not prohibited.

RECEPTION AREAS

8. (1) Except as provided in subsection 2, no person shall smoke in a reception area.
- (2) Subject to the Fire Marshal's Act, and except for a reception area,
 - (a) accessory to an office or premises where health care services are provided; or
 - (b) having a total floor area of less than 13.1 square metres,

the proprietor may designate an area of not more than 50% of the floor area of the reception area for the purpose of smoking.

- (3) Where an area is designated under subsection 2 of section 8, at least 13.1 square metres shall be allocated as a non-smoking area.
- 9.
- (1) Where an area is designated under subsection 2 of section 8, smoking shall be permitted in the area so designated and the proprietor of the reception area shall post or cause to be posted one or more signs in the area, marked "SMOKING IN THIS AREA ONLY".
 - (2) Where smoking is prohibited in a reception area or part thereof, the proprietor shall post or cause to be posted one or more signs in accordance with the requirements of section 20 or section 21.
 - (3) The sign or signs shall be conspicuously posted,
 - (a) so as to be clearly visible from all parts of the reception area; and
 - (b) so as to clearly identify the areas in which smoking is and is not prohibited.

ELEVATORS, ESCALATORS AND STAIRWAYS

- 10.
- (1) Except as provided in subsections 2 and 3, no person shall smoke in an elevator or on an escalator or on a stairway, in any building or part thereof.
 - (2) Subsection 2 does not apply to elevators, escalators or similar devices to which the Elevators and Lifts Act does not apply.
 - (3) Subsection 1 does not apply to residential buildings which are not multi-unit residential buildings.
- 11.
- (1) Where smoking is prohibited in an elevator or on an escalator or on a stairway, the proprietor of the building or part thereof shall post or cause to be posted one or more signs in accordance with the requirements of section 20 or section 21.
 - (2) The sign or signs shall be conspicuously posted so as to be clearly visible to users of the elevator or escalator or stairway upon entering into the elevator or using the escalator or stairway.
 - (3) Where a sign is required to be posted under subsection 2 in respect of the use of an elevator, the sign shall be posted on the interior wall facing the elevator door.

SERVICE LINES

12. No person shall smoke in a service line on any premises.
- 13.
- (1) The proprietor of the building or part thereof in which there is a service line, shall post or cause to be posted one or more signs in accordance with the requirements of section 20 or section 21.
 - (2) The sign or signs shall be conspicuously posted so as to be clearly visible to all persons in the service line.

SCHOOL BUSES

- 14.
- (1) No person shall smoke in a school bus.
 - (2) The proprietor of a school bus shall post or cause to be posted one or more signs in accordance with the requirements of section 20 or 21.
 - (3) The sign or signs shall be conspicuously posted so as to be clearly visible to persons on the school bus.

THEATRES AND OTHER PLACES OF PUBLIC ASSEMBLY

15. (1) Except as provided in subsection 2, no person shall smoke in an enclosed indoor area being used as a place of public assembly.
- (2) Subject to the Fire Marshal's Act, the proprietor of the place of public assembly may designate not more than 50% of the total floor area being used as a place of public assembly, for the purpose of smoking.
- (3) For the purpose of this section, "place of public assembly" means a place to which members of the general public or people at large are admitted but does not include a place of public assembly or other place of assembly when used for private or personal assemblage of persons.
16. (1) Where part of an area is designated under subsection 2 of section 15, smoking shall be permitted in the area so designated and the proprietor of such enclosed area being used as a place of public assembly shall post or cause to be posted one or more signs in the area, marked "SMOKING IN THIS AREA ONLY".
- (2) Where smoking is prohibited in an enclosed indoor area or part thereof being used as a place of public assembly, the proprietor shall post or cause to be posted one or more signs in accordance with the requirements of section 20 or section 21.
- (3) The sign or signs shall be conspicuously posted,
- (a) so as to be clearly visible from all parts of the enclosed area being used as a place of public assembly; and
- (b) so as to clearly identify the areas in which smoking is and is not prohibited.
- (4) Where an area is designated under subsection 2 of section 15 in a place of assembly in which moving pictures are shown,
- (a) a notice or sign shall be shown on the screen or other means of display; or
- (b) a verbal announcement shall be made,
- at the beginning of each show or display, indicating the area in which smoking is prohibited and the area in which smoking is permitted.

RESTAURANTS

17. (1) Except as provided in subsection 2, no person shall smoke in a restaurant.
- (2) Subject to the Fire Marshal's Act, the proprietor may designate not more than 80% of the seating capacity of the restaurant for the purpose of smoking.
- (3) The seating capacity designated under subsection 2 shall be comprised of seats contiguous to each other.
- (4) Every proprietor shall provide a moveable divider to clearly separate the area occupied by the seating capacity designated under subsection 2 from the area occupied by the seating capacity not so designated.
18. (1) Where part of the seating capacity is designated under subsection 2 of section 17, smoking shall be permitted in the area occupied by the seating capacity so designated.

- (2) Where smoking is prohibited in a restaurant, the proprietor shall,
 - (a) place or cause to be placed one or more tent signs or stand-up signs on the table or other surface on which food is served for consumption therefrom; or
 - (b) post or cause to be posted one or more signs in accordance with the requirements of section 2.
- (3) Where a sign is placed in accordance with clause (a) of subsection 2, it shall be conspicuously placed,
 - (a) so as to be clearly visible on the table or other surface, and
 - (b) so as to clearly identify the table or other surface as being in the area in which smoking is prohibited.
- (4) Where a sign is posted in accordance with clause (b) of subsection 2, it shall be posted,
 - (a) so as to be clearly visible from all parts of the area occupied by seating capacity designated under subsection 2 of section 17;
 - (b) so as to clearly identify the area occupied by the seating capacity not so designated.
- (5) Where a proprietor of a restaurant or his employee or any other person on his behalf,
 - (a) directs patrons to a seating or waiting area; or
 - (b) takes advance reservations by telephone,

the proprietor or his employee or any other person shall determine in advance of seating, the preference of the patron or prospective patron for an area in which smoking is permitted or an area in which smoking is prohibited and shall direct the patron to the preferred area.

TAXICABS AND MUNICIPAL VEHICLES

19. (1) No person shall smoke in a taxicab or a municipal vehicle except with the consent of all passengers and the driver of the taxicab or municipal vehicle.
- (2) The proprietor of the taxicab shall post or cause to be posted a sign having the following contents:

"Smoking is prohibited in this (taxicab)
unless permitted by mutual consent of all
passengers and driver".
City of North Bay By-law No. 31-88
Maximum Fine - \$500.00
- (3) The sign shall be conspicuously posted so as to be clearly visible to the passengers of the taxicab or (municipal vehicle).

SIGNS

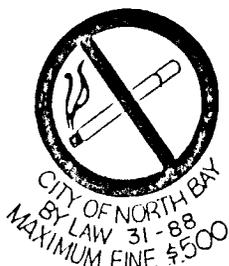
20. (1) Every sign that prohibits smoking shall comply with the following requirements:

1. Carry the text "NO SMOKING" in upper case or lower case letters or a combination of both.
2. Consist of two contrasting colours, or consist of lettering contrasting to the background colour where the lettering is applied directly to a surface or is mounted on a clear panel.
3. Consist of lettering not less than the height set out in Column 2 of Table 1 for the corresponding maximum viewing distance in direct line of sight, in Column 1.

TABLE 1

Distance in Feet (Column 1)	Height in Inches (Column 2)
10 or less	1
20	2
40	3
80	4
160	6
240	8

4. Include in the text at the bottom of each sign, "CITY OF NORTH BAY BY-LAW NO. 31-88 , Maximum Fine \$500.00" in letters and figures not less than,
 - (a) 1/2 inch in height for signs with letter size of 1 inch (1") and
 - (b) 1/4 of the height of the letters for all other sizes of signs having lettering greater than one inch (1").
- (2) For the purpose of subsection 1, "letter height" means the actual height of the letter whether or not the letter is in lower case or in upper case.
- (1) Notwithstanding section 20, a graphic symbol in accordance with subsection 4 may be used to indicate no smoking areas.
- (2) Every graphic symbol shall comply with the following requirements:
 1. Include the text "CITY OF NORTH BAY BY-LAW NO. 31-88 , Maximum Fine \$500.00" in letters and figures occupying at least 5% of the diameter of the circle of such symbol.
 2. Consist of a white background having,
 - (a) a circle and interdictory stroke in red upon the background; and
 - (b) a cigarette, letters and figures in black, in accordance with the provisions of this section.
 3. Consist of one of the following symbols:



- 4. Consist of a symbol shown in paragraph 3, having a diameter not less than the diameter set out in Column 2 of Table 2 for the corresponding maximum viewing distance in direct line of sight, in Column 1.

TABLE 2

Distance in Feet (Column 1)	Height in Inches (Column 2)
10 or less	4
20	6
40	8
80	12
160	16
240	24

- 5. Every graphic symbol may contain a directional arrow.
- (3) Notwithstanding that the content of a graphic symbol contains a cigarette, the prohibition shall include a cigar, pipe or any other lighted smoking equipment.

SECOND-HAND SMOKE

- 22. No proprietor shall permit second-hand smoke in any place or area in which smoking is prohibited under this by-law.

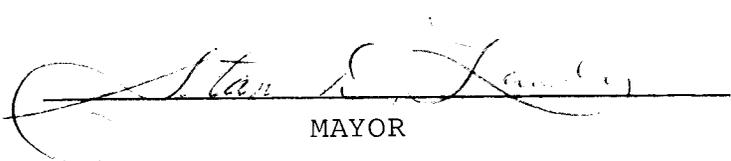
PENALTY AND ADMINISTRATION

- 23. This by-law shall be administered by the Medical Officer of Health for the City of North Bay or by any public health inspector appointed by the Medical Officer of Health or by any peace officer.
- 24. Every person who contravenes any provision of this by law is guilty of an offence and is liable to a fine of not more than \$500.00 exclusive of costs, under the Provincial Offences Act.
- 25. This by-law comes into effect on October 1, 1988.

READ A FIRST TIME IN OPEN COUNCIL THE 25TH DAY OF APRIL , 1988.

READ A SECOND TIME IN OPEN COUNCIL THE 9TH DAY OF MAY , 1988.

READ A THIRD TIME IN OPEN COUNCIL AND ENACTED AND PASSED THIS 9TH DAY OF MAY , 1988.



 MAYOR



 CITY CLERK