

CORPORATION OF THE CITY OF CLARENCE-ROCKLAND

BY-LAW NO. 2016-62

BEING A BY-LAW WITH RESPECT TO SMOKING IN PUBLIC PLACES AND WORKPLACES.

WHEREAS Section 115 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that, without limiting sections 9, 10 and 11 a municipality may prohibit or regulate the smoking of tobacco in public places and workplaces, including defining "Public Place" for the purpose of the by-law;

AND WHEREAS the Council of the Corporation of the City of Clarence-Rockland has adopted by-laws no. 2003-141 and 2003-142 respecting smoking in public places and workplaces respectively;

AND WHEREAS it has been determined that second-hand smoke continues to be a serious health hazard because of its adverse effects and risk to the health of inhabitants and workers in the Corporation of the City of Clarence-Rockland;

AND WHEREAS it is desirable for the purpose of promoting and protecting the health, safety and welfare of inhabitants and workers in the Corporation of the City of Clarence-Rockland to repeal by-laws no. 2003-141 and no. 2003-142 and adopt a newly revised by-law in order to ensure that all public places and workplaces will be free from second hand smoke.

THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF CLARENCE-ROCKLAND ENACTS AS FOLLOWS:

PART 1 - DEFINITIONS

In this by-law:

- 1.1 **By-law Enforcement Officer** means an officer appointed by the City of Clarence-Rockland to enforce its municipal by-laws;
- 1.2 **Children's Playgrounds** means an area which is primarily used for the purposes of children's recreation, and is equipped with children's play equipment, such as, but without being limited to slides, swings, climbing apparatuses, splash pads, wading pools, or sandboxes. Playgrounds at hotels, motels and inns are included, but does not apply to personal apartment or condominium properties;
- 1.3 **City** means the City of Clarence-Rockland;

- 1.4 **Common area** means any indoor area of a building that is open to the public for the purposes of access to a retail shop, establishment or office and includes corridors, passageways, unenclosed eating areas in corridors, passageways, public rest rooms, unenclosed public seating areas and unenclosed public standing areas, whether or not the eating area, seating area or standing area is leased
- 1.5 **Council** means the City Council of the City of Clarence-Rockland;
- 1.6 **Employee** includes a person who,
- i) performs any work for or supplies any services to an employer, or
 - ii) receives any instructions or training in the activity, business, work, trade, occupation or profession of the employer;
- 1.7 **Employer** includes 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 of a person herein;
- 1.8 **hookah** means a single or multi-stemmed instrument for vaporizing and smoking flavored tobacco, called shisha, whose vapor or smoke is passed through a water basin—often glass-based—before inhalation. It may also mean an oriental tobacco pipe with a long, flexible tube that draws the smoke through water contained in a bowl. Also refer to a “water pipe”;
- 1.9 **inspector** means a person appointed by Council as a municipal law enforcement officer to enforce this by-law;
- 1.10 **municipal building** means any building that is owned or operated by the Corporation of the City of Clarence-Rockland;
- 1.11 **narghile** means a Middle Eastern tobacco pipe in which the smoke is drawn through water before reaching the lips. Also refers to a “hookah”;
- 1.12 **person** includes a corporation;
- 1.13 **proprietor or other person in charge** means the person who controls, governs or directs the activity carried on within the premises designated as prohibited areas under this by-law and includes the person who is actually in charge thereof at any particular time;
- 1.14 **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 a street, road or highway;

- 1.15 **sheesha** or **shisha** may refer to a “hookah” or a “water pipe”;
- 1.16 **smoke** or **smoking** includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment used to smoke any tobacco or non-tobacco substances;
- 1.17 **sports fields** means an area used primarily for the purpose of sports such as, but without being limited to the following, but not including golf, whether or not a fee is paid for the use for soccer, football, basketball, tennis, baseball, softball or cricket, skating, beach volleyball, running swimming, skateboarding owned by a municipality, the province, or a post-secondary institution. It does not include recreational trails;
- 1.18 **water pipe** means a device used for smoking tobacco, marijuana, etc., in which the smoke passes through water before it is inhaled, or a smoking device that consists of a bowl mounted on a vessel of water which is provided with along tube and arranged so that smoke is drawn through the water where it is cooled and up the tube to the mouth.
- 1.19 **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 a street, road or highway.

PART 2 - INTERPRETATION

- 2.1 This by-law applies to the smoking of tobacco in every designated public place and in every workplace within the geographic limits of the City of Clarence-Rockland.

PART 3 - ADMINISTRATION

- 3.1 The City of Clarence-Rockland By-law Enforcement Officers are responsible for the administration and enforcement of this by-law.

PART 4 – PUBLIC PLACES

- 4.1 The following are designated public places for the purposes of this by-law:
 - a) the common area of a public building;

- b) an indoor service line or service counter in any premise to which the public has access;
- c) a place of public assembly;
- d) a public restroom;
- e) a food court;
- f) a public facility;
- g) a reception area;
- h) the public portion of an amusement arcade;
- i) a municipally owned building with the exception of a public facility;
- j) a bingo hall;
- k) a bowling alley;
- l) a billiard hall;
- m) the public portion of any restaurant;
- n) the public portion of any bar;
- o) an arena;
- p) the public portion of any retail shop;
- q) the common area of a shopping mall
- r) the public portion of any laundromat;
- s) the public portion of any barber shop or hairdressing establishment;
- t) a school bus;
- u) a taxicab;
- v) a limousine;

w) a private club.

- 4.2 No person shall smoke in any public place that is designated in Section 4.1 of this by-law, whether or not a No Smoking sign is posted.
- 4.3 No person shall smoke or hold lighted tobacco within a nine (9) meters radius of any entrance of any municipal building.
- 4.4 For the purposes of patios, decks and porches or similar structures, they are considered an indoor area when covered by a roof and more than 50% of the perimeter is enclosed with walls or coverings or a similar nature. This calculation includes the main wall of the building when attached to the main building.

PART 5 - WORKPLACES

- 5.1 No person shall smoke in any workplace, whether or not a No Smoking sign is posted, with the exception of private office of a company which has no employees.

PART 6 - SIGNS

- 6.1 Every proprietor or other person in charge of any public place designated or regulated under this by-law shall ensure that a sufficient number of signs as prescribed by Section 6.4 are conspicuously posted so as to clearly identify that smoking is prohibited.
- 6.2 In addition to complying with the requirements of section 6.1, every proprietor or person in charge of a shopping mall or other public building referred to in Section 4.1 shall ensure that,
 - a. signs are posted in accordance with Section 6.4 in every common area of the shopping mall or other public building,
 - b. signs are posted at every entrance to the shopping mall or other public building, which are visible and in sufficient numbers, clearly indicating in English and in French that smoking is prohibited in the common areas of the shopping mall or other public building, and
 - c. signs referred to in clauses (a) and (b) are in accordance with Section 6.4.
- 6.3 Despite Section 6.1, every proprietor or other person in charge of a bar, bingo hall, billiard and private club shall ensure that a sign or signs are

posted at every entrance to the bar, bingo hall, billiard and private club that clearly identifies that smoking is prohibited.

- 6.4 Every sign that is posted and maintained in accordance with this by-law must comply with the following requirements as illustrated in Schedule 'A':
- (i) The graphic symbol shall be on a white background with the circle and the interdictory stroke in red.
 - (ii) The words "No Smoking" must be included above the graphic and the words "City of Clarence-Rockland By-law / Règlement municipal de la Cité de Clarence-Rockland" must be included below the graphic symbol in letters and figures at least five (5) percent of the diameter of the circle in the symbol;
 - (iii) In addition to the graphic symbol required by subsection 6.4 (i), other appropriate symbols may be included, such as directional arrows.
- 6.5 Despite the fact that the symbol referred to in subsection 6.4 (i) is a cigarette, the provisions of this by-law that prohibit smoking in designated public places and workplaces apply to all forms of the smoking of tobacco, including cigarettes, cigars, hookahs, narghiles, pipes, sheeshas, shishas, water pipes or any other lighted smoking instrument.
- 6.6 With respect to size of the graphic symbol, the diameter of the circle in the symbol referred to in subsection 6.4 (i) shall be not less than the number of centimeters prescribed below, based upon the maximum viewing distance in direct line of sight, as follows:
- i) three (3 m) meters or less - ten (10 cm) centimeters,
 - ii) six (6 m) meters or less - fifteen (15 cm) centimeters,
 - iii) twelve (12 m) meters or less - twenty (20 cm) centimeters,
 - iv) twenty-four (24 m) meters or less - thirty (30 cm) centimeters,
 - v) forty-eight (48 m) meters or less - forty (40 cm) centimeters,
 - vi) seventy-two (72 m) meters or less - sixty (60 cm) centimeters.

- 6.7 Despite subsection 6.6, the diameter of the circle in the symbol referred to in subsection 6.4 used pursuant to Section 6.4 to be erected at the entrance to every shopping mall or other public building shall be a minimum of ten (10 cm) centimeters.
- 6.8 Deviations from the colour or content of the signs prescribed by this section that do not affect the substance or that are not calculated to mislead do not vitiate the signs.
- 6.9 Any sign prohibiting smoking that refers to a by-law of an old municipality is deemed to be referring to this by-law.
- 6.10 Despite subsection 6.6, with respect to taxicabs or limousines, the diameter of the circle in the graphic symbol referred to in subsection 6.4 (i) and used pursuant to Section (7) shall be not less than ten (10) centimeters.

PART 7 - DUTIES

- 7.1 Every proprietor or other person in charge of a designated public place or a workplace in which smoking is prohibited shall ensure compliance with this by-law.
- 7.2 No proprietor or other person in charge of a public place or a workplace in which smoking is prohibited shall place ashtrays or cause or permit ashtrays to be placed or to remain in that designated public place or workplace.

PART 8 – OFFENCES

- 8.1 Any person who contravenes any of the provisions of this by-law is guilty of an offence.
- 8.2 Any person who hinders or obstructs a person lawfully carrying out the enforcement of this by-law is guilty of an offence.

PART 9 – PENALTIES

9.1 Every person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, Chap. P.33, as amended.

PART 10 – ENFORCEMENT

10.1 The provisions of this by-law respecting the designation of non-smoking areas, the posting of signs and the duties imposed on the proprietor or other person in charge of a public place shall be enforced by inspectors.

10.2 An inspector may, at any reasonable time, enter any designated public place for the purposes of determining compliance with this by-law.

PART 11 – CONFLICTS

11.1 If a provision of this by-law conflict with an Act or a regulation or another by-law, the provision that is the most restrictive of smoking shall prevail.

PART 12 – SEVERABILITY

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

PART 13 – SCHEDULES

13.1 Schedule "A"- "Sign graphic symbol" forms part of this by-law;

13.2 Schedule "B"- "Fine Structure and Short Form Wording" forms part of this by- law.

PART 14 - REPEAL

14.1 That By-law No. 2003-141 be and is hereby repealed;

14.2 That By-law No. 2003-142 be and is hereby repealed.

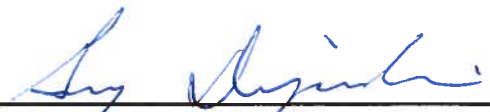
PART 15 – TITLE

15.1 This by-law may be referred to as the "Smoking By-law".

EFFECTIVE DATE

16.1 This by-law shall come into effect on the date of its adoption.

**READ, PASSED AND ADOPTED IN OPEN COUNCIL THIS 6TH DAY OF
SEPTEMBER 2016.**



Guy Desjardins, Mayor



Monique Ouellet, Clerk

Schedule 'A' to By-law 2016-62

Sign Graphic Symbol

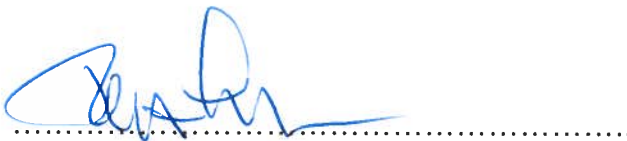


PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 2016-62 of the Corporation of the City of Clarence-Rockland attached hereto is the set fine for that offence. This Order is to take effect on February 24th, 2017.

Dated at Ottawa this 24th day of February 2017.



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Jean G. Legault, Regional Senior Justice
Ontario Court of Justice
East Region

**THE CORPORATION OF THE CITY OF CLARENCE-ROCKLAND
SET FINES**

PART I – PROVINCIAL OFFENCES ACT

Smoking By-law No. 2016-62

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Offence Creating Provision or Defining Offence	COLUMN 3 Set Fine
1.	Smoke in public designated public place	Section 4.2	\$200.00
2.	Smoke or hold lighted tobacco within a nine (9) meters radius of an entrance to a municipal building	Section 4.3	\$200.00
3.	Smoke in a workplace	Section 5.1	\$200.00
4.	Proprietor fail to post no-smoking signs	Section 6.1	\$200.00
5.	Proprietor fail to ensure compliance	Section 7.1	\$200.00
6.	Employer fail to ensure compliance	Section 7.1	\$200.00
7.	Proprietor permit ashtrays	Section 7.2	\$200.00
8.	Employer permit ashtrays	Section 7.2	\$200.00

"NOTE: The penalty provision for the offences indicated above is section 9.1 of By-law no. 2016-62, a certified copy of which has been filed".

Caroline
Approved
Feb 2/17