

Corporation of the Township of Fauquier-Strickland

By-law number 2004-08

Being a by-law respecting smoking in public and work places in the Township of Fauquier-Strickland

Whereas, Council of the Corporation of the Township of Fauquier-Strickland has the authority to pass by-laws prohibiting and regulating the smoking of tobacco and the carrying of lighted tobacco products in public places and workplaces within the municipality pursuant to Section 115(1) of the Municipal Act, 2001, as amended.

And Whereas it has been determined that second hand tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars and pipes) is a health hazard or discomfort for many inhabitants of the Township of Fauquier-Strickland.

And Whereas, Council of the Corporation of the Township of Fauquier-Strickland submitted two (2) questions to the electors, at the regular municipal election held on November 10, 2003, asking whether they were in favour for Council to adopt a non-smoking by-law.

And Whereas, a majority of eligible electors voted and a majority were in favour of a non-smoking by-law for public places and for municipal buildings open to the public.

Therefore, Council of the Corporation of the Township of Fauquier-Strickland, enacts as follows:

Part I - Public places and municipal buildings open to the public

1. **Definitions:**

- 1.1 **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.

- 1.2 Reception area: means the public space used by an office or establishment for the receiving or greeting of customers, clients or other persons dealing with such office or establishment.
- 1.3 School bus: means a public vehicle licensed for the purpose of transporting children to and from school or to or from activity, event or function associated therewith.
- 1.4 Bar: means an establishment licensed by the Alcohol and Gaming Commission of Ontario where persons under 19 years of age are not permitted to enter, either as a patron or as an employee.
- 1.5 Barber shop or hairdressing establishment: means a building, location or premises where hair is styled, cut, trimmed, treated or washed.
- 1.6 Township: means the Corporation of the Township of Fauquier-Strickland.
- 1.7 Ashtray: means a receptacle for tobacco ashes and for cigar and cigarette butts.
- 1.8 Council: means council of the Corporation of the Township of Fauquier-Strickland.
- 1.9 Service line: means an indoor line of two (2) or more persons awaiting service of any kind regardless of whether or not such service involves the exchange of money, including but not limited to sales, transactions, provision of information or advice and transfers of money or goods.
- 1.10 Smoke/smoking: includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment.
- 1.11 Public building: means any enclosed building or group of buildings to which the public has access.
- 1.12 Public place: means the whole or part of an indoor area to which the general public is invited or permitted access and includes a school bus.

- 1.13 Place of public assembly: means the whole or part of an indoor area to which the public has access by right or by invitation, express or implied, whether by payment of money or not.
- 1.14 Workplace: means a building, structure, vessel, vehicle or conveyance or part thereof, in which one or more employees work including enclosed similar spaces.
- 1.15 Public portion: means an area of any building to which the public has access.
- 1.16 Person: includes a corporation.
- 1.17 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.
- 1.18 Restaurant: means an establishment engaged in the sale and service of food or drink or both food and drink to the public for consumption on the premises.
- 1.19 Bingo hall: means any building, location or premises where the conduct of bingo events is licensed.
- 1.20 Public rest room: means any rest room or washroom to which the public has access.
- 1.21 Public facility: means any hall, room, banquet area that is publicly owned and is rented for an event or function.
2. 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 a service counter in any premise to which the public has access.
 - c) a place of public assembly.

- d) a public rest room.
 - e) a public facility.
 - f) a reception area.
 - g) a municipally owned building.
 - h) a bingo hall
 - i) the public portion of any restaurant.
 - j) the public portion of any bar.
 - k) the public portion of any retail shop
 - l) the public portion of any barber shop or hairdressing establishment
 - m) a school bus
 - n) a taxicab
 - o) a limousine
 - p) a billiard hall
3. No person shall smoke in any public place designated under paragraph 2 of this by-law.
4. The 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 paragraphs 6, 7 and 9 are conspicuously posted so as to clearly identify that smoking is prohibited.
5. Despite paragraph 4, the proprietor or other person in charge shall ensure that signs are posted at every point of access to a building.
6. The following graphic symbol shall be used to indicate the areas where smoking is prohibited on a white background with the circle and the interdictory stroke in red, with a cigarette, letters and figures in black.

7. The graphic symbol referred to in paragraph 6 shall include the text "Township of Fauquier-Strickland By-law, Maximum penalty \$5000.00" in letters and figures of a height which is at least five (5%) percent of the diameter of the circle of the symbol, in English or french.
8. Despite the fact that the symbol referred to in paragraph 6 is a cigarette, it shall include a lighted cigar, cigarette, pipe or any other lighted smoking instrument.
9. The graphic symbol shall contain a circle having a minimum diameter, based upon the maximum viewing distance and direct line of site, as follows:
 - a) three (3 m) metres or less - ten (10 cm) centimetres
 - b) six (6 m) metres or less - fifteen (15 cm) centimetres
 - c) twelve (12 m) or less - twenty (20 cm) centimetres
 - d) twenty-four (24 m) or less - thirty (30 cm) centimetres
 - e) forty-eight (48 m) or less - forty (40 cm) centimetres
 - f) seventy-two (72 m) or less - sixty (60 cm) centimetres
10. Despite paragraph 9, the diameter of the circle in the symbol erected at every point of access to a building or within a taxicab, a limousine or a school bus, shall not be less than ten (10 cm) centimetres.
11. Deviations from the colour or content of the signs prescribed in paragraphs 6 and 7 that do not affect the substance or that are not calculated to mislead, do not vitiate the signs.
12. The proprietor or other person in charge of a public place regulated under this by-law shall ensure that no ashtrays are placed or allowed to remain in any public place where smoking is prohibited.
13. No proprietor or other person in charge of a public place shall permit smoking where smoking is prohibited.

Part II - Workplace

14. Every employer shall, on June 30 2004, adopt and implement a non-smoking policy that prohibits smoking in respect to each workplace in the Township of Fauquier-Strickland under the control, supervision or ownership of the employer.

15. Where, after June 30, 2004, a workplace is created or comes into existence, the employer of such workplace shall within 7 days after such workplace is created, adopt and implement a non-smoking policy that prohibits smoking in respect of each such workplace under the control, supervision or ownership of the employer.

16. This by-law does not apply to,

- a. a part of a workplace that is used as a private residence
 - b. a workplace located in a dwelling where the only employees of that workplace are persons who live in the dwelling.
17. Every employer required to adopt and implement a non-smoking policy shall,
- a. maintain the non-smoking policy in the workplace for which it was adopted
 - b. provide a copy of the non-smoking policy to each employee in the workplace within seven (7) days after the day upon which the non-smoking policy was adopted and each new employee thereafter.
 - c. erect signs in the workplace in accordance with paragraphs 6, 7 and 9 at every point of access to the workplace indicating that smoking is prohibited in the workplace.
18. When the non-smoking policy has been adopted for a workplace, no person shall smoke in the workplace.
19. When the non-smoking policy has been adopted for a workplace, no employer shall permit smoking in the workplace.
20. The signs referred to in this part shall consist of graphic symbols that comply with the provisions of paragraphs 6, 7, 8, 9, 10 and 11 of this by-law.
21. Every employer shall prohibit ashtrays and like paraphernalia in areas where smoking is prohibited.

Part III - General

22. Any person who contravenes any of the provisions of this by-law is guilty of an offence.
23. Any person who smokes in a workplace in contravention of paragraph 18, is guilty of an offence.

24. Any employer who permits smoking in the workplace in contravention of paragraph 19, is guilty of an offence.
25. Any employer who refuses, fails or neglects to perform any of the duties imposed upon him, her or it under any of the provisions of this by-law is guilty of an offence.
26. 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 or an employer for a workplace, shall be enforced by a person or class of persons appointed by Council of the Township of Fauquier-Strickland or by inspectors of the Porcupine Health Unit.
27. A person or class of persons appointed by Council of the Township of Fauquier-Strickland or the inspectors of the Porcupine Health Unit may, at any reasonable time, enter any designated public place or workplace for the purposes of determining compliance with this by-law.
28. Any person who hinders or obstructs a person lawfully carrying out the enforcement of this by-law is guilty of an offence.
29. Every person who is convicted of an offence is liable to a fine of not more than Five Thousand (\$5,000.00) Dollars as provided for in the Provincial Offences Act, R.S.O. 1990, Chapter P. 33.
30. If a provision of this by-law conflicts with the *Smoking in the Workplace Act*, R. S. O. 1990, Chapter S. 13 or a regulation or another by-law, the provision that is the most restrictive on smoking shall prevail.
31. If any paragraph or paragraphs 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 paragraph or paragraphs or parts thereof shall be deemed to be severable and all other paragraphs or parts of this by-law shall be deemed to be separate and independent therefrom and to be enacted as such.
32. This by-law shall come into effect on the day of its passing.

Read a first time this _____
_____ 2004.

Reeve

Clerk

Read a second time this _____
_____ 2004.

Reeve

Clerk

Read a third time and passed this _____
_____ 2004.

Reeve

Clerk

