

BYLAW NO. 21

A BYLAW RESPECTING SMOKE FREE PLACES

WHEREAS the Council of the Region of Queens Municipality has the authority to pass bylaws respecting the health, well-being, safety and protection of persons within its jurisdiction – pursuant to Section 172(1)(a) of the *Municipal Government Act*, S.N.S 1998, Chapter 18;

AND WHEREAS it has been determined that 2nd hand tobacco smoke and smoke from other products such as cannabis (that is, exhaled smoke as well as the smoke from idling smoking devices) constitutes a health hazard to those who are exposed to it;

AND WHEREAS the Province of Nova Scotia has enacted the *Smoke Free Places Act* the purpose of which is to protect persons from the hazards of exposure to 2nd hand smoke;

AND WHEREAS, pursuant to Section 16 of the *Smoke Free Places Act*, the Act does not affect any other authority to regulate, restrict or prohibit smoking and where there is a conflict the more restrictive authority prevails to the extent of the conflicting provision or provisions;

THEREFORE BE IT ENACTED as follows:

OFFICIAL DETAILS

1. This Bylaw shall be known as Bylaw Number 21 and may be cited as the “Smoke Free Places Bylaw”. The products included in this bylaw are: cigarettes, pipes, electronic smoking devices, other weeds and substances (including cannabis) and water pipes.

DEFINITIONS

2. In this Bylaw:
 - (a) **“ashtray”** means any item which is used as a receptacle for tobacco or other substances such as cannabis ashes, or for disposal of cigar or cigarette butts, or as a receptacle for the bowl of a pipe, regardless of whether originally designed for such purpose;
 - (b) **“Council”** means the Council of the Region of Queens Municipality;
 - (c) **“enclosed place”** means the inside or other enclosed part of a building, vehicle or watercraft or other indoor space but does not include a private residence;
 - (d) **“Inspector”** means the person appointed by Council to administer this Bylaw:

- (e) **“Licensed Premises”** means any premises licensed under the *Liquor Control Act* of Nova Scotia and includes any outside portion thereof such as, but not limited to, a patio, deck or sidewalk portion;
- (f) **“manager of an enclosed place”** means any person who has responsibility for, and control over, the activities of the enclosed place and includes the owner of the enclosed place;
- (g) **“place of employment”** means an enclosed place, other than a vehicle, in which employees perform the duties of their employment and includes an adjacent corridor, lobby, stairwell, elevator, escalator, eating area, washroom, restroom or other common area frequented by employees during the course of their employment but does not include a rental unit of roofed accommodation within the meaning of the *Tourist Accommodations Act*;
- (h) **“restaurant”** means an establishment engaged in the sale and service of food to the public for consumption on the premises and includes a sidewalk café, a sidewalk or patio associated with such restaurant;
- (i) **“smoke” or “smoking”** means to smoke, inhale or exhale smoke from, burn, carry, hold or otherwise have control over a lit or heated cigarette, cigar, pipe, water pipe, electronic cigarette or other device that burns or heats tobacco, cannabis, or other substance that is intended to be smoked or inhaled;
- (j) **“tobacco”** means tobacco in any form, whether consumed by smoking, by chewing or as snuff.
- (k) **“cannabis”** means cannabis in any form, whether consumed by smoking the substance through *any means* including: hand pipes, water pipes, vaporizing, hookahs and rolling papers.

PROHIBITIONS

- 3. No person shall smoke in any part of an enclosed place that is or includes:
 - (a) any enclosed place referred to in Sec. 5 of the *Smoke Free Places Act* of Nova Scotia which list is attached hereto as Appendix “A”;
 - (b) a licensed premises;
 - (c) a restaurant;
 - (d) a private club as defined in the regulations attached hereto as Appendix “B” pursuant to the *Smoke Free Places Act* of Nova Scotia;
 - (e) a place that is used for bingo;
 - (f) a school bus when transporting persons to or from school or to or from any activity, event or function associated with a school; or

(g) any place of employment;

except as provided for elsewhere in this bylaw.

4. The following exceptions apply to certain outdoor areas:

(a) No person shall smoke in the outdoor area of a restaurant, lounge or beverage room except in an area that no person under the age of nineteen years is permitted to enter or be in;

(b) No manager of an outdoor area referred to in Section 4 (a) shall permit any person to smoke in that area except as provided in Section 4 (a);

(c) No person under the age of nineteen years shall enter or be in an outdoor area in which smoking is permitted pursuant to Section 4 (a);

(d) No manager of an outdoor area referred to in Section 4 (a) shall permit any person under the age of nineteen years to enter or be in an area in which smoking is permitted pursuant to Section 4 (a);

(e) Section 4 (a) does not apply to an outdoor area of a restaurant, lounge or beverage room while that area is being used exclusively for a private function at which no person under the age of nineteen years is permitted.

5. The manager of an enclosed place listed in Section 3 shall not permit any person to smoke in that enclosed place – other than as provided for in Section 4 of this bylaw.

6. Notwithstanding all of the above, the obligation of a manager in subsections 4 (b) and 4 (d) and in Section 5, shall be limited to:

(a) requesting, on a minimum of two (2) separate occasions and those being a minimum of two (2) minutes apart, directly of the person who is smoking that he or she stop smoking; and

(b) in the event that the person continues to smoke, to order that person to leave the premises.

7. The manager of an enclosed place listed in Section 3 shall neither place nor permit an ashtray in that enclosed place – other than as provided for in Section 4 of this bylaw.

8. No person shall, at or near any enclosed place listed in Section 2 above, smoke in an outdoor area within four metres of:

(a) an entrance or exit or any sort;

(b) an open window; or

(c) an intake for a building ventilation system.

9. The following limited exception to the total prohibition in Section 3 shall be allowed in the case of the following types of health care facilities:
 - (a) a nursing home or residential care facility licensed under the *Homes for Special Care Act*;
 - (b) a home for aged or disabled persons to which the *Homes for Special Care Act* applies; or
 - (c) a part of a health-care facility used for the acute or long-term care of veteransso long as the smoking takes place in an area that no person under the age of nineteen years is permitted to enter or be in and that is separately enclosed and separately ventilated, as prescribed by Provincial regulations under the *Smoke Free Places Act*, from any part of an enclosed place in which smoking is prohibited by either the *Smoke Free Places Act* or this bylaw.
10. For greater certainty, no person shall smoke in any part of any other health care facility that is an enclosed place, including a facility as defined in the *Hospitals Act*, other than the exceptions outlined in the preceding Section of this bylaw.
11. Nothing in this bylaw affects the rights of aboriginal people respecting traditional aboriginal spiritual or cultural practices or ceremonies.

SIGNAGE

12. The manager of an enclosed place listed in Section 3 shall, inside the enclosed place, post a No Smoking sign in a manner such that the sign is clearly visible to employees or members of the public as soon as they enter said enclosed place.
13. Each No Smoking sign shall consist of text accompanied by a graphic symbol.
14. The graphic symbol shall consist of a red circle on a white background and also contain a smoking cigarette on an angle upward to the right with the smoking end near the centre of the red circle. The graphic symbol shall further also contain a diagonal red stroke running downward from left to right across the centre of the red circle all of which is shown in Appendix "C".
15. The text of each No Smoking sign shall consist of "No Smoking, Smoke Free Places Bylaw" at the top and "Maximum Penalty \$10,000" at the bottom.
16. The size of the circle portion of the graphic symbol for a No Smoking sign posted inside an enclosed place other than a taxi, limousine or bus shall be not less than 10 centimeters.
17. The size of the No Smoking sign posted inside an enclosed place other than a taxi, limousine or bus shall be not less than 15 centimeters.

18. The size of the No Smoking sign posted inside a taxi, limousine or bus, shall not be less than 10 centimeters.

ENFORCEMENT

19. In the event that an Inspector finds that the manager of an enclosed place is not complying with any provision of this bylaw, the Inspector may order the said manager to comply with the provision and may set a time limit within which the said manager is to comply with the order.
20. Any person who hinders or obstructs a person lawfully carrying out the enforcement of this bylaw is guilty of an offence.

PENALTIES

21. Any person, other than a manager of an enclosed place, who violates any part of this bylaw is guilty of an offence and liable, upon summary conviction, to a fine of not less than Fifty Dollars (\$50.00) and not more than One Thousand Dollars (\$1,000.00) and, in default of payment, to a term of imprisonment not to exceed Thirty (30) days.
22. Any manager of an enclosed place who violates any part of this bylaw, or who fails to comply with an order of the Inspector pursuant to Section 19 of this bylaw, is guilty of an offence and liable, upon summary conviction,
 - a. For a 1st offence to a fine of not less than Two Hundred Dollars (\$200.00) and not more than Two Thousand Dollars (\$2,000.00) and in default of payment, to a term of imprisonment not to exceed Thirty (30) days;
 - b. For a 2nd offence to a fine of not less than Five Hundred Dollars (\$500.00) and not more than Five Thousand Dollars (\$5,000.00) and, in default of payment, to a term of imprisonment not to exceed Sixty (60) days; and
 - c. For a 3rd of subsequent offence to a fine of not less than One Thousand Dollars (\$1,000.00) and not more than Ten Thousand Dollars (\$10,000.00) and in default of payment, to a term of imprisonment not to exceed Ninety (90) days.
23. Pursuant to Section 505 (3) of the *Municipal Government Act*, every day during which a violation of this bylaw continues is a separate offence.

VOLUNTARY PAYMENT

24. In the case of an alleged violation of any part of this bylaw by any person other than a manager of an enclosed place, the Inspector may, in lieu of initiating a formal prosecution, issue to the alleged violator a Notice of Violation indicating that the person to whom it is directed has the option of voluntarily pay to the Region of

Queens Municipality the sum of Fifty Dollars (\$50.00) within fourteen (14) days of the date of issuance of the said Notice in order to avoid a formal prosecution.

25. In the case of an alleged violation of any part of this bylaw by a manager of an enclosed place, and where the maximum fine provided for is Two Thousand Dollars (\$2,000.00), the Inspector may, in lieu of initiating a formal prosecution, issue to the alleged violator a Notice of Violation indicating that the person to whom it is directed has the option of voluntarily pay to the Region of Queens Municipality the sum of Two Hundred Dollars (\$200.00) within fourteen (14) days to the date of issuance of the said Notice in order to avoid a formal prosecution.

CONFLICTS

26. In the event that provision of this bylaw conflicts with and Provincial statute or regulation, of any other bylaw, the provision that is the most restrictive of smoking shall prevail.

SEVERABILITY

27. In the event that any part or section of this bylaw is found in any court of law to be illegal or beyond the power of Council to enact, such part or section shall be deemed to be severable and all other sections or parts of this bylaw shall be deemed to be separate and independent and to have been enacted as such.

REPEAL

28. The Bylaw Respecting Smoke Free Places, adopted by the Council of the Region of Queens Municipality on the 1st day of December 2004, is hereby repealed.

OFFICIAL CERTIFICATION

THIS IS TO CERTIFY THAT this bylaw was passed by the Council of the Region of Queens Municipality at a duly constituted meeting of said Council held the 10th day of October, 2017.

SIGNED by the Mayor and Chief Administrative Officer this 17th day of October, 2017.



MAYOR



CHIEF ADMINISTRATIVE OFFICER

OFFICIAL READINGS

READINGS: First: September 12, 2017
Second: October 10, 2017
Date of Publication: September 20, 2017
Newspaper: October 18, 2017
Office of the Minister of Municipal Affairs
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APPENDIX "A"

The list of "enclosed places" taken from the Provincial Statute, being Chapter 12 of the Statutes of Nova Scotia, 2002, *The Smoke Free Places Act*:

- (a) a daycare or pre-school;
- (b) a school, community college or university;
- (c) a library, art gallery or museum;
- (d) A health-care facility;
- (e) a cinema or theatre;
- (f) a video arcade or pool hall;
- (g) a recreational facility where the primary activity is physical recreation, including, but not limited to, a bowling alley, fitness centre, gymnasium, pool or rink;
- (h) a multi-service centre, community centre or hall, arena, fire hall or church hall;
- (i) a meeting or conference room or hall, ballroom or conference centre;
- (j) a retail shop, boutique, market or store or shopping mall;
- (k) a laundromat;
- (l) a ferry, ferry terminal, bus, bus station or shelter, taxi, taxi shelter, limousine or vehicle carrying passengers for hire;
- (m) a vehicle used in the course of employment while carrying two or more employees;
- (n) a common area of a commercial building or multi-unit residential building including, but not limited to, corridors, lobbies, stairwells, elevators, escalators, eating areas, washrooms and restrooms;
- (o) offices of the Government of the Province, a municipality, a village or a school board, or any agency thereof;
- (p) a provincial jail, prison, detention centre, lock-up or reformatory or another provincial penal institution; or
- (q) any building or facility designated by Provincial regulation (made pursuant to the Provincial Smoke-free Places Act).

APPENDIX "B"

This definition of "**private club**" taken from the regulations promulgated by the Province of Nova Scotia pursuant to Chapter 12 of the Statutes of Nova Scotia, 2002, the *Smoke Free Places Act*:

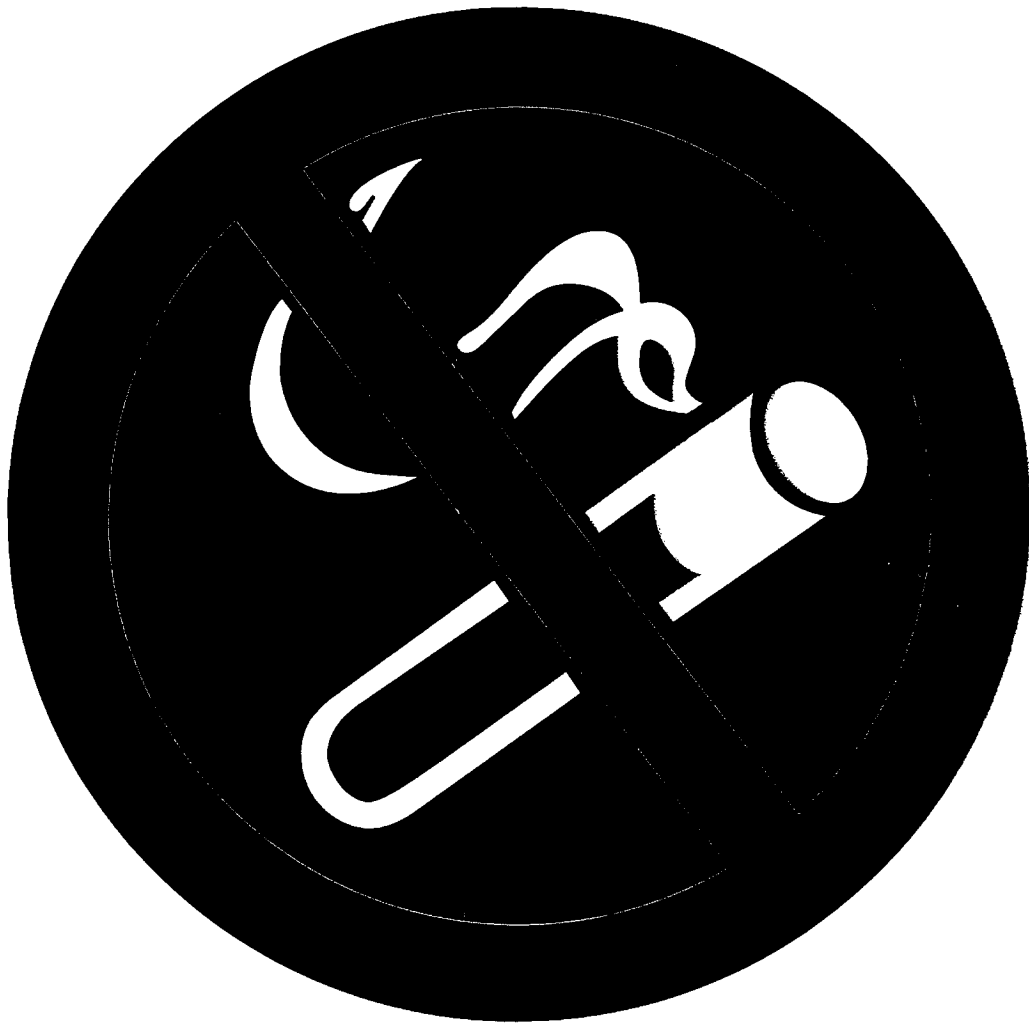
"**private club**" means an enclosed place or that part of an enclosed place out of which a society incorporated under the Societies Act operates for a special purpose according to the society's memorandum of association, if

- (a) the society has a fixed membership list;
- (b) each member of the society pays mandatory annual or periodic membership dues; and
- (c) a non-member of the society cannot enter the enclosed place for the purpose of consuming food or beverages unless accompanied by a member.

APPENDIX "C"

NO SMOKING

Smoke Free Places Bylaw



Maximum Penalty \$10,000