

The Corporation of the Municipality of Brighton

By-Law No. 007-2014

Being a By-Law to regulate and prohibit all tobacco use on municipally owned parkland property in the Municipality of Brighton

Whereas, the Council of the Municipality of Brighton wishes to prohibit tobacco smoking and limit the impact of all tobacco use on persons using the Municipality's parks and recreational properties, particularly for the benefit of young people, for the health of the public generally, to protect, and enhance the quality and use of Municipal property, and to improve the environmental and social conditions on Municipal parkland properties, through a by-law which prohibits all uses of tobacco;

And Whereas, Section 115 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes the council of local municipalities to pass by-laws to prohibit or regulate the smoking of tobacco in public places and workplaces;

And Whereas, it is desirable for the health, safety, and well-being of the citizens of the Municipality of Brighton to provide for regulating tobacco products, smoking, and second hand smoke, for the better protection of persons from conditions injurious to health in accordance with the provisions of both this by-law, and the *Smoke-Free Ontario Act*;

Now Therefore the Council of the Corporation of the Municipality of Brighton enacts as follows:

Part 1: Definitions

For the purpose of this by-law, the following definitions and interpretations shall apply:

- 1.1. **Tobacco product** means tobacco in any processed or unprocessed form, that may be smoked, inhaled or chewed, including snuff, but does not apply to products intended for use in nicotine replacement therapy.
- 1.2. **Parkland property** means any park or common area owned or leased and maintained by the Municipality of Brighton for the purpose of recreational use. This shall include any playground equipment, sport field and playground area including, but not limited to, soccer pitches, baseball diamonds, tennis courts, players benches, spectators areas, beaches, splash pads, dog parks, skate parks. This also includes any children's playground equipment, including, but not limited to, swing sets and climbing apparatus, including the surrounding playground equipment area owned or leased by the Municipality.

Part 2: Prohibitions

- 2.1 No person shall use any tobacco product on, or in, any municipally owned parkland property.
- 2.2 No person shall use any tobacco product in any building owned by the Municipality of Brighton.
- 2.3 No person shall smoke, or chew tobacco, or hold lighted tobacco within a nine (9) metre radius of any of the following:
 - a) Any public skatepark, playground, beach, wading pool or splash pad, or sportsfield, including spectator areas, bleachers, and players' benches.

Part 3: Signage

- 3.1 The Municipality of Brighton shall ensure that a sufficient number of signs are conspicuously posted to clearly identify that smoking, and other tobacco use, is strictly prohibited.

Part 4: Exception

- 4.1 Smoking undertaken as part of a religious ceremony or as part of a cultural activity by a bona fide Aboriginal group is permitted as an exception.

Part 5: Offences and Penalties

- 5.1 Any person violating any of the provisions of this by-law is guilty of an offence and upon conviction shall be liable to a penalty pursuant to the *Provincial Offences Act*.
- 5.2 Each day a contravention continues may be deemed to be a separate offence.

Part 6: Conflicts, Severability and Enactment

- 6.1 Subject to subsection 13 of the *Smoke Free Ontario Act*, 1994, S.O. 1994, c. 10 (the *Act*), in the event of a conflict between the provisions of sections 9 and 10 of the *Act*, and this By-Law, the provision which is more restrictive of all tobacco use shall prevail.
- 6.2 Should a court declare a part or whole of any provision of this By-Law to be invalid, or of no force and effect, the provision, or part, is deemed severable from this By-Law, and it is the intention of Council that the remainder survive, and be applied and enforced, in accordance with its terms to the extent possible under the law.

Part 7: Review

- 7.1 Council shall review this by-law every five years.

Part 8: Effective Date

- 8.1 This by-law shall come into force and take effect on **May 1, 2014**.

Read a first, second and third time and finally passed this 3rd day of March, 2014.

Original signed by:

Mark A. Walas, Mayor

Original signed by:

Gayle J. Frost, CAO/Clerk