

THE CORPORATION OF THE MUNICIPALITY OF FRENCH RIVER

BY-LAW 2012-39

**BEING A BY-LAW TO REGULATE SMOKING IN PUBLIC PLACES,
IN WORKPLACES AND IN ALL MUNICIPAL PROPERTIES INCLUDING PUBLIC
OUTDOOR SPACES IN THE CORPORATION OF THE MUNICIPALITY OF FRENCH
RIVER**

WHEREAS section 115 of the *Municipal Act, 2001, C. 25*, as amended, authorizes the council of a local municipality to pass a by-law regulating the smoking of tobacco in public places and workplaces within the municipality and designating public places or workplaces or classes or parts of such places as places in which smoking tobacco or holding/carrying lighted tobacco is prohibited;

AND WHEREAS it has been determined that second-hand smoke (exhaled smoke and the smoke from idling cigarettes, cigars and pipes) is a serious health hazard because of its adverse effects and risk to the health of all of the inhabitants and workers in the Corporation of the Municipality of French River.

AND WHEREAS it is desirable for the purpose of promoting and protecting the health, safety and welfare of the inhabitants and workers of the Corporation of the Municipality of French River to ensure that all public places and workplaces and municipal buildings and properties, and public parks and playgrounds and recreational fields and beaches, will be free from second-hand smoke;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE
MUNICIPALITY OF FRENCH RIVER ENACTS AS FOLLOWS:**

SHORT TITLE

This By-law may be cited as the "Smoke Free By-law."

PART I - DEFINITIONS

In this by-law,

1.01 "amusement arcade" means any premises to which the public has access to machines or devices that may be used for playing games solely for the entertainment and amusement of the players;

1.02 "arena" means any premises comprised of, but not restricted to, a rink, floor or ice surface, spectator seating areas, dressing rooms and canteen facilities, to which the public has access to view or participate in sporting or other show events;

1.03 "ashtray" means a receptacle for tobacco ashes and for cigar and cigarette butts;

1.04 "billiard hall" means any premises, the primary purpose of which is the playing of the game of snooker, pool or billiards;

1.05 "bingo hall" means any premises where the conduct of bingo events is licensed;

1.06 "bowling alley" means premises at which lanes are made available to members of the public for rental to play the game of bowling;

1.07 "bus" means any public transit bus, school bus or other bus used for hire;

1.08 "business office" means any premises at which one or more persons carries out the administration, management, direction or conduct of a public or private agency or business;

1.09 "casino" means an establishment within the meaning of the Gaming Control Act,1992;

1.10 "common area" means any portion of any public building or structure including a residential condominium or multiple dwelling unit apartment building, to which the public or residents may have access, whether as of right or by invitation, express or implied, and includes but is not limited to reception areas for receiving or greeting customers, clients, patients, guests or other persons, entranceways, service lines, elevators, escalators, hallways, stairwells, foyers, lobbies, laundry rooms, meeting rooms, amenity areas and public washrooms;

1.11 "employee" means a person who, for remuneration or not, performs any work for or supplies any service to an employer, or a person who receives any instruction or training in the activity, business, work, trade, occupation or profession of an employer and includes a volunteer and a person who is self-employed and "employment" has a corresponding meaning;

1.12 "employer" includes any person who as the owner, proprietor, manager, contractor, 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 therein;

1.13 "enforcement officer" means any person or class of person appointed by the Council of the Corporation of the Municipality of French River as a Municipal By-law Enforcement Officer or Building Inspector, to carry out an inspection under and to enforce the provisions of this by-law; This also means any person appointed by the Minister of Health as a Provincial Offences Officer under the Smoke Free Ontario Act 2006 (SFOA), to carry out the provisions of the SFOA.

1.14 "entranceway" means the main entrance to a public building or workplace, but does not include any ancillary entrances, or any public highway;

1.15 "inspector" means any employee or class of employee, or a person or class of person appointed by Council of the Municipality as a by-law enforcement officer to enforce this by-law, such as a building inspector;

1.16 “Municipality or municipality” means the Corporation of the Municipality of French River;

1.17 “municipal building” means any building and/or property/land or portion thereof owned or leased by the Corporation of the Municipality of French River; and this also includes but is not limited to entrance ways, windows, air intakes;

1.18 “municipal property or municipal properties” means any building, and/or property/land or portion thereof owned, operated or leased by the Corporation of the Municipality of French River;

1.19 "non-smoking policy" means a written policy that prohibits smoking in the public place, workplace, and or outdoor space in accordance with this by-law;

1.20 “outdoor patio” means an outdoor area or partially enclosed outdoor area that is adjacent to an establishment where food or beverages are sold and where food or beverages or both are consumed by the public;

1.21“park or parkland” means any and all lands owned or portion thereof owned or leased or operated by the municipality that has been or hereafter may be set apart, designated, dedicated or established by Council as public parkland; such land may include passive parks, playgrounds, pools and water parks, splash pads, skate board parks, trails, athletic fields, natural parks, beaches, entertainment facility, cemeteries, heritage and ecological preserves;

1.22 “permitted event” means an event for which a permit has been issued by The Municipality of French River for municipal property;

1.23 "person" includes a corporation;

1.24 "personal service shop" means any premises or part thereof wherein a personal service is performed including, but not necessarily restricted to a barber shop, hairdressing shop, esthetics salon, tattoo or body piercing parlour, shoe repair shop, tailor or dressmaking shop, a dry cleaning depot, a laundromat, a photographic studio, an undertakers establishment, a tanning salon, or any body-rub parlour or adult entertainment parlour as defined in the Municipal Act;

1.25 "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;

1.26 "place of refreshment" means any place or part thereof where food, drink, or alcohol is offered for sale or is sold to the public for immediate consumption and includes but is not limited to, a restaurant, a food court, a dining room, a cafe, a cafeteria, a take-out restaurant, an ice cream parlour, a tea or lunch room, a dairy bar, a coffee shop, a donut shop, a snack bar, a refreshment stand, a banquet hall or facility, a bar, a nightclub, or roadhouse;

1.27 "playground area" means an outdoor area established within parkland fitted with equipment such as, but not limited to, slides, swings and climbing equipment. The area is usually identified by a defined border which encloses an area of sand, rubber or any similar safety surface;

1.28 "proprietor or other person in charge" means the person who controls, governs or directs the activity carried on within the designated public place and includes the owner of the premises and the person who is actually in charge of the premises thereof at any particular time;

1.29 "public building" means any enclosed building or group of buildings to which the public or employees have access;

1.30 "public facility" means any hall, room, or banquet area that is publicly owned and is rented for an event or function;

1.31 "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 an outdoor patio or a street, road or highway. This may include and is not limited to: place of refreshment;

1.32 "public restroom" means any restroom or washroom to which the public has access;

1.33 "professional office" means the business premises of one or more persons duly qualified, licensed or registered under the laws of the Province of Ontario to be members of a self-regulating profession or to perform medical or therapeutic services;

1.34 "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;

1.35 "recreation field" means any portion of parkland that is used for athletic, recreational or musical purposes to conduct organized activities. This includes, but is not limited to, a ball field, soccer pitch, football field, tennis court, player bench area, spectator area, bleachers, food and beverage concession, skateboard park, outdoor pools, outdoor rink or permitted events

1.36 "retail shop" means any premises, booth, stall or place where goods are exposed for sale or offered for sale by retail;

1.37 "school bus" means a public vehicle licensed for the purpose of transporting children to and from school or to or from any activity, event or function associated therewith;

1.38 "service counter" means an indoor counter where a person receives a service including, but not limited to, the exchange of money, sales, provision of information, transactions, advice, or the transfer of money or goods;

1.39 "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, including but not limited to sales, provision of information, transactions, advice, and transfers of money or goods;

1.40 "service trade" means an establishment which provides a non-personal service or craft to the general public, including but not necessarily restricted to, a make-your-own-beer and/or wine establishment, a print or copy shop, a dog grooming establishment, a monument engraving shop or the business premises of a printer, plumber, tinsmith, craftsman, painter, carpenter, cabinet maker, electrician, taxidermist, pest exterminator, roofer, insulation installer, furrier, weaver, upholsterer, interior decorator, caterer, engraver, cleaner or locksmith;

1.41 "shopping mall" means any enclosed premises containing one or more retail shops;

1.42 "smoke" or "smoking" includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment, and smoke has a corresponding meaning; and does not include or prohibit the holding of lit tobacco if the activity is carried out for traditional Aboriginal cultural or spiritual purposes, as per the Smoke Free Ontario Act 2006.

1.43 "workplace" means any enclosed area or premises, including but is not limited to, a building, structure, vessel, vehicle or conveyance or part thereof, to which the public may or may not have access either expressed or implied, in which one or more employees or employer works and includes any other area in the building, structure, vessel, vehicle or conveyance utilized by the employees, but is not limited to, washrooms, corridors, lounges, eating areas, reception areas, elevators, escalators, foyers, hallways, stairways, amenity areas, lobbies, laundry rooms and parking garages utilized by an employee or employer and includes a bus, taxicab, limousine and other vehicles for hire, but does not include an outdoor patio.

PART II - WORKPLACES

2.1 No person shall smoke in any workplace within the Municipality of French River whether or not a No Smoking sign is posted.

2.2 Every employer shall:

- (i)** ensure compliance with this by-law;
- (ii)** prohibit smoking in the workplace;
- (iii)** inform each employee in the workplace that smoking is prohibited in the workplace;
- (iv)** post No Smoking signs in accordance with Part IV of this bylaw in conspicuous locations at every entrance and washrooms in the workplace indicating that smoking is prohibited in the workplace; and
- (v)** ensure that no smoking paraphernalia like ashtrays or matches are placed or permitted to remain in any part of the workplace.

2.3 Section 2.1 does not apply to,

- (i) a part of a workplace that is used as a private residence; or
- (ii) a workplace located in a dwelling where the only employees of that workplace are persons who live in the dwelling.

PART III - PUBLIC PLACES

3.1 No person shall smoke within 9 m from any entranceway of a public place within the Municipality of French River whether or not a No Smoking sign is posted;

3.2 No person shall smoke on or within 9 m of any Municipal playground area within the Municipality of French River whether or not a No Smoking sign is posted.

3.3 No person shall smoke on or within 9 m of any recreation field within the Municipality of French River whether or not a No Smoking sign is posted;

3.4 No person shall smoke on or within 9 m of any park or parkland within the Municipality of French River whether or not a No Smoking sign is posted.

3.5 No person shall smoke while under or within 9 m of the Alban Park Pergola/Gazebo within the Municipality of French River whether or not a No Smoking sign is posted;

3.6 Every proprietor of a public place shall:

- (i) Ensure compliance with this bylaw;
- (ii) Prohibit smoking in the public place;
- (iii) Post No Smoking signs in accordance with Part IV of this bylaw in conspicuous locations at every entrance and washrooms in the public place indicating that smoking is prohibited in the public place;
- (iv) Ensure that no smoking related paraphernalia including ashtrays or matches are placed or permitted to remain in the public place.

PART IV - SIGNAGE REQUIREMENTS

4.1 The proprietor or other person in charge of any public place, and every employer designated or regulated under this by-law shall ensure that a sufficient number of signs are conspicuously posted at each entrance to the public place or workplace so as to identify clearly that smoking is prohibited.

4.2 In addition, in every shopping mall or other public place referred to, the proprietor or other person in charge of the shopping mall or other public place shall ensure that:

- a) Signs are posted in every common area of the shopping mall or other public place;
- b) Signs are posted at every entrance to the shopping mall or other public place, which are visible and in sufficient numbers, clearly indicating that smoking is prohibited in the common areas of the shopping mall or other public place; and

c) Signs referred to in clauses (a) and (b) are in accordance with the provisions of this by-law.

4.3 The signs referred to in this by-law shall consist of graphic symbols and text that comply with the provisions of this section:

a) The following graphic symbol, which is the depiction of the international No Smoking symbol, shall be used to indicate that smoking is prohibited; a black cigarette on a white background with the circle and the interdictory stroke in red;



b) The graphic symbol referred to in subsection a) shall include the text " (ad title name here) By-law/Règlement municipal de la (ad title name here) " in letters and figures at least XX(XX%) percent of the diameter of the circle in the symbol (as determined by Council);

c) With respect to size of the graphic symbol, that is the depiction of the international No Smoking symbol, shall be no less than 7.5 centimetres (3 inches),

d) Despite the fact that the symbol referred to in subsection a) is a cigarette, it shall include a lighted cigar, cigarette, pipe or any other lighted smoking instrument;

e) 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; an

f) The following graphic design will be utilized for smoke –free public outdoor spaces within the Municipality of French River as listed in Schedule A;



g) Any sign prohibiting smoking that refers to a former by-law of the Municipality of French River is deemed to be referring to this By-law.

PART V - ENFORCEMENT

5.1 An enforcement officer of the Corporation of the Municipality of French River may, at any reasonable time, enter any public place or workplace for the purposes of determining compliance with this by-law.

5.2 No enforcement officer or by-law officer or inspector of the Corporation of the Municipality of French River may enter a workplace that is also a dwelling without the consent of the occupant or without first obtaining and producing a warrant.

5.3 The provisions of this by-law respecting the designation of non-smoking areas, the posting of signs and the duties imposed on the proprietor, employer or other person in charge of a playground area, recreation field, park, public place or workplace shall be enforced by municipal by-law officers or municipal enforcement officers

PART VI - OFFENCES

6.1 Any person who contravenes any of the provisions of this by-law, or who hinders or obstructs an enforcement officer or by-law officer or inspector lawfully carrying out the enforcement of this by-law, is guilty of an offence and upon conviction is liable to a fine of not more than five thousand dollars (\$5,000.00) as provided for in the *Provincial Offences Act*, R.S.O. 1990, chapter 33, or any successor thereof.

6.2 If this by-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

PART VII - CONFLICTS

7.1 If a provision of this by-law conflicts with an Act or Regulation or another by-law, the provision that is the most restrictive of smoking shall prevail.

PART VIII – SEVERABILITY

8.1 If any section or sections of this by-law or part thereof, is found in any court of law to be illegal or beyond the power of the Municipality of French River to enact, such section or sections or part thereof shall be deemed to be severable and all other sections or parts of the by-law shall be deemed to be separate and independent thereof and to be enacted as such.

PART IX - SCHEDULES

9.1 The schedules, Appendix “A& B”, to this by-law shall be deemed to form part of this by-law.

PART X - REPEAL

10.1 That By-law 2010-12 and all other by-laws inconsistent with this by-law are hereby repealed.

PART XI - EFFECTIVE DATE

11.1 This by-law comes into force and effect on the date of its passing and enactment.

READ A FIRST AND SECOND TIME this 17th day of October 2012.

READ A THIRD TIME AND FINALLY PASSED this 21st day of November, 2012.

**Schedule “A”
Municipality of French River Properties**

Civic Address	Description	Details
Happy Landing Rd	Trout Lake Wharf (No land, water property only)	
1124 Hwy 64 S	Alban Cemetery	
796 HWY 64 S	Alban Community Centre/Fire Hall/Library	
50 St David St S	Noëlville Cemetery	
142 St David St S	Public Works Department	
North Channel Rd	North Channel Wharf (No land, water property only)	
200 St David St N	Jo Chartrand Park	
44 St. Christophe Street	Municipal Complex/Aide aux Seniors/Centre de santé/EMS (Emergency Management Services)	
St David St N	Noëlville Town Park	
15, 17 Dollard St	Noëlville Library/Fire Hall	
21 St Christophe St	Noëlville Arena	
37 St Antoine St	Art Galary/Dentist	
Quesnel Rd	Shanty Bay Wharf	
Sucker Creek Rd	Sucker Creek Wharf	
4585 Hwy 64	Noëlville Lagoon	
330 Houle Rd	Noëlville Landfill Site	
Plouffe Rd	Ouellette Rapids Wharf	

Schedule “B”

**THE CORPORATION OF THE MUNICIPALITY OF FRENCH RIVER
BY-LAW 2012-39: SMOKE FREE BY-LAW**

Set Fine Schedule

Part I Provincial Offences Act

BEING A BY-LAW TO REGULATE SMOKING IN PUBLIC PLACES,
IN WORKPLACES AND IN ALL MUNICIPAL PROPERTIES INCLUDING PUBLIC
OUTDOOR SPACES IN THE CORPORATION OF THE MUNICIPALITY OF FRENCH
RIVER

ITEM	COLUMN 1 Short form wording	COLUMN 2 Provision creating or Defining Offence	COLUMN 3 Set fines
1.			
2.			
3.			
4.			

***NOTE: Penalty provisions for the offences indicated above is Section 6 of By-Law number 2012-39 , a certified copy of which has been filed.**

**THE CORPORATION OF THE MUNICIPALITY OF FRENCH RIVER
BY-LAW 2012-39: SMOKE FREE BY-LAW**

Set Fine Schedule

Part I Provincial Offences Act

BEING A BY-LAW TO REGULATE SMOKING IN PUBLIC PLACES,
IN WORKPLACES AND IN ALL MUNICIPAL PROPERTIES INCLUDING PUBLIC
OUTDOOR SPACES IN THE CORPORATION OF THE MUNICIPALITY OF FRENCH
RIVER

ITEM	COLUMN 1 Short form wording	COLUMN 2 Provision creating or Defining Offence	COLUMN 3 Set fines
1.	Smoking in any workplace.	2.1	\$150.00
2.	Employer – fail to post a no smoking sign in any entranceway or washroom.	2.2(iv)	\$150.00
3.	Smoking within 9m of any entranceway to a public place.	3.1	\$150.00
4.	Smoking within 9m of any Municipal playground.	3.2	\$150.00
5.	Smoking within 9m of any recreation field.	3.3	\$150.00
6.	Smoking within 9m of any park or parkland	3.4	\$150.00
7.	Proprietor – fail to post a no smoking sign in any entranceway or washroom of a public place	3.6(iii)	\$150.00

***NOTE:** Penalty provisions for the offences indicated above is Section 6.1 of By-Law number 2012-39, a certified copy of which has been filed.

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