

**CITY OF YORKTON
SASKATCHEWAN**

BYLAW NO. 38/2003

**BEING A BYLAW OF THE CITY OF YORKTON IN THE PROVINCE OF
SASKATCHEWAN TO REGULATE SMOKING IN PUBLIC PLACES AND
WORK PLACES WITHIN THE CITY OF YORKTON**

WHEREAS Section 8 of *The Cities Act* empowers cities to enact bylaws to provide for the safety, health and welfare of people and the protection of people and property;

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 because of its adverse effects and risk to the health of the inhabitants and workers of the City of Yorkton;

AND WHEREAS, it is desirable for the health, safety and welfare of the inhabitants and workers of the City of Yorkton to provide for the prohibiting of smoking and second-hand smoke in public places and work places in accordance with the provisions of this by-law;

NOW THEREFORE, the Council of the City of Yorkton in Council assembled enacts as follows:

1. **TITLE**
This Bylaw may be cited as “The No-Smoking in Public Places and Work Places Bylaw”.
2. **PURPOSE**
It is acknowledged that smoking and environmental tobacco smoke are hazardous to public health, and it is Council’s ultimate goal to eliminate smoking in all enclosed public places and work places.
3. **DEFINITIONS**
 - (a) “arena” means any building, location or 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 events;
 - (b) “ashtray” means a receptacle for tobacco ashes and for cigar and cigarette butts;
 - (c) “bingo establishment” means an enclosed place or premises for which a bingo license has been issued by the Liquor and Gaming Authority;
 - (d) “casino” means a casino as defined in *The Saskatchewan Gaming Corporation Act*; or an enclosed places or premises for which a casino license has been issued by the Liquor and Gaming Authority;

- (e) “common area” means an enclosed area of a building that is open to the general public for the purposes of access to a retail store, office or establishment or any enclosed area of an apartment building, condominium or other multi-unit residential building that is open to the general public, and includes corridors, passageways, stairways, lobbies, reception areas and public washrooms;
- (f) “City” means The City of Yorkton;
- (g) “City Clerk” means the person appointed as the City Clerk for the City of Yorkton or his/her duly authorized representative or designate;
- (h) “Council” means the City Council of the City of Yorkton;
- (i) “food court” means an area within a shopping mall where food or drinks are offered for sale or sold to the public for immediate consumption;
- (j) “home based business” means the public portion of a private residence;
- (k) “Inspector” means any person employed by the City of Yorkton as an authorized Bylaw Enforcement Officer, his designate or anyone acting on behalf of the City to enforce the provisions of this bylaw.
- (l) “licensed establishment” licensed by the Saskatchewan Liquor and Gaming Authority where persons under 19 years of age are not permitted to enter, either as a patron or as an employee;
- (m) “patio” means an area outdoors that is not covered by a temporary or permanent roof, or if covered by a temporary or permanent roof, has one or more exterior openings that comprises at least 25% of the total perimeter of all patio walls and is open to the movement of outdoor air at all times;
- (n) “person” includes a corporation;
- (o) “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;
- (p) “private club” means a not for profit corporate establishment that operates solely for the benefit and pleasure of its members;
- (q) “proprietor or other person in charge” means the corporation, employer, partnership, owner or any person in charge to control, govern or direct the activity carried on within the premises designated as prohibited areas under this bylaw and includes the person who is actually in charge thereof at any particular time;
- (r) “public building” means any enclosed building or group of buildings to which the public has access;
- (s) “public facility” means any hall, room or banquet area that is publicly owned and rented for an event or function;
- (t) “public place” means the whole or part of an indoor area to which the general public is invited or permitted access;
- (u) “public restroom” means any restroom or washroom to which the public has access;
- (v) “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;

- (w) “restaurant” means an enclosed place or premises engaged in the sale and service of food or drink or both food and drink to the public for consumption on the premises, for which a public eating establishment license has been issued pursuant to *The Public Health Act, 1994*;
- (x) “retail store” means any building or part of a building, booth, stall or place where goods and/or services are exposed for sale or offered for sale by retail;
- (y) “service line” means an indoor/outdoor 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 moneys or goods;
- (z) “shopping mall” means any enclosed building or group of buildings containing one or more retail shops;
- (aa) “smoke” or “smoking” includes carrying a lighted cigar, cigarette, pipe or any other lighted smoking instrument and “smoke” has a corresponding meaning; and
- (bb) “tavern” means the establishment of an enclosed place or premises for which a tavern permit has been issued pursuant to *The Alcohol and Gaming Regulation Act, 1997*.
- (cc) “workplace” means any enclosed area of a building or structure to which an employee is employed and includes private office areas, washrooms, corridors, lounges, eating areas, reception areas, elevators, escalators, foyers, hallways, stairways, amenity areas, lobbies, laundry rooms and parking garages utilized by an employee;

4. Smoking Restrictions

We acknowledge that *The Tobacco Control Act* for the Province of Saskatchewan has already prohibited Smoking in certain places, these restrictions apply to the City of Yorkton and are paraphrased and included in the list below:

- a) any enclosed public place to which minors are ordinarily permitted access;
- b) a school building or grounds, including post-secondary educational facilities;
- c) a hospital, or health facility;
- d) a municipally owned building;
- e) any building occupied by the Government of Saskatchewan or any of its Crown corporations, boards, commissions or other agencies;
- f) any building occupied by the Government of Canada or any of its Crown corporations, boards, commissions or other agencies;
- g) a public library;
- h) any office building, retail store or other business or commercial establishment to which the public is ordinarily permitted access;
- i) a video arcade;
- j) an enclosed amusement centre;
- k) a theatre;

- l) a vehicle used for public transport or a commercial vehicle that is used to transport members of the public;
- m) an outdoor bus shelter;

The following are also designated as places where smoking is restricted within the City of Yorkton for the purposes of this by-law:

- a) any place recognized as a workplace;
- b) the common area of a public building;
- c) an indoor service line or service counter in any premise to which the public has access;
- d) a place of public assembly;
- e) a food court;
- f) a public facility;
- g) a reception area;
- h) a municipally owned building;
- i) a Casino;
- j) a bingo establishment;
- k) a bowling alley;
- l) a billiard hall;
- m) any restaurant;
- n) any licensed establishment;
- o) an arena;
- p) the common area of a shopping mall;
- q) a school bus;
- r) a tavern

It is the intent of the bylaw to prohibit smoking in all enclosed public places and work places, therefore if there are any other enclosed public places or work places not mentioned in the above list, that meet the requirements to be Smoke Free, they too would be subject to the Smoking Restrictions as set out in the bylaw.

No person shall smoke in any public place or work place designated as “No Smoking”.

5. EXEMPTIONS

Section 4 of the bylaw does not apply to the following, which are designated as exemptions for the purpose of this bylaw:

- a) a private residence or the private portion of a residence housing a home based business;
- b) guestrooms in hotels, motels, inns and bed/breakfast facilities if they have been designated as smoking rooms;
- c) a separate enclosed ventilated place within a special-care home or personal care home as specified in *The Tobacco Control Act* that meets the prescribed requirements;
- d) a facility as defined in *The Child Care Act* that is a group family child care home or a licensed family child care home during the times in which no child care services are being provided in the facility;

- e) an enclosed public place while it is being used, with the consent of the proprietor, for traditional Aboriginal spiritual or cultural practices or ceremonies, if the use of tobacco or tobacco-related products is an integral part of the traditional Aboriginal spiritual or cultural practices or ceremonies being carried out in that enclosed public place;
 - f) a patio; this patio shall not share open windows with a public place, nor shall the patio share open doors with a public place except when doors are being opened by individuals to enter or exit the outdoor patio;
6. SIGNS
- a) The proprietor of any public place or workplace designated or regulated under this bylaw shall ensure that a sufficient number of signs are conspicuously posted so as to clearly identify that smoking is prohibited.
 - b) In every area referred to in Section 3, the proprietor shall ensure that signs are posted at every entrance to the building and internally, including at the entrance to each washroom and specifically in the area where food and/or beverages are purchased or consumed, at the sole discretion of the proprietor, as considered adequate to ensure compliance.
 - c) The signs referred to in this bylaw shall consist of graphic symbols that comply with the provisions of this subsection.
 - d) The following graphic symbol shall be used to indicate “no smoking” areas:



on a clear/white background with the circle and interdictory stroke in red.

- e) With respect to the size of the graphic symbol referred to in clause (b) the diameter of the circle in the symbol shall be no less than 10.5 cm. with the text “No Smoking” in a letter height of not less than 2 cm.

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- f) Notwithstanding the fact that the symbol referred to in clause (d) illustrates a cigarette, it shall include a lighted cigar, cigarette, pipe or any other lighted smoking instrument.
- g) No person shall remove, alter, conceal, deface or destroy any sign posted pursuant to this by-law.

7. Ashtrays

The proprietor of any facility regulated under this by-law shall ensure that no ashtrays are placed or allowed to remain visible in areas where smoking is prohibited pursuant to this bylaw.

8. Duties

- a) No person shall smoke in any area designated as an area where smoking is prohibited pursuant to this bylaw.
- b) The proprietor shall advise any and all patrons violating this bylaw to refrain from smoking immediately.

9. Offences

- a) Any person or proprietor who contravenes any portion of this by-law applicable to them or under their control is guilty of an offence.
- b) Any proprietor who fails to make a reasonable attempt to inform a contravening person of the by-law is guilty of an offence.
- c) Any person or proprietor who hinders or obstructs a person lawfully carrying out the enforcement of this by-law is guilty of an offence.

10. Penalties

- (1) a) Any person who contravenes any provision of this bylaw is guilty of an offence, and may be subject to a fine as specified in Schedule 'A' of this bylaw.
 - b) Where the contravention, continues for more than one day, or commits a second or subsequent offence under this bylaw within one (1) year of committing the first offence, whether or not the second or subsequent offense is the same offence, may be subject to an increased fine as set out below.
 - (c) An Inspector who has reason to believe that a person has contravened a provision of this bylaw may serve on that person a Notice of Violation, which Notice of Violation shall indicate that the City of Yorkton will accept voluntary payment in an amount as prescribed below:
 - (i) for any offense under this bylaw, subject to (ii) below, the sum of One Hundred (\$100.00) Dollars;
 - (ii) the penalty for a second or subsequent offense under this bylaw the sum of Two Hundred (\$200.00) Dollars.
- (2) Where the City of Yorkton receives voluntary payment of the amount prescribed under Section 10(C), the person receiving the Notice of Violation shall not be liable to prosecution for the alleged contravention.
 - (3) Payment of any Notice of Violation does not exempt the person from enforcement of any provision of this Bylaw.
 - (4) Subject to subsection (1) and (2) of this Section, any person who contravenes any provision of this Bylaw is guilty of an offence punishable on summary conviction by a fine of not less than \$100.00 and a fine not exceeding the amounts set out in *The Cities Act*; Section 338(2).

11. Enforcement

- a) The provisions of this by-law respecting the designation of non-smoking areas, the posting of signs and the duties imposed on the proprietor of a facility shall be enforced by the proprietor and if necessary the inspectors.
- b) An inspector, upon producing proper identification, may, at any reasonable time, enter any designated public place or workplace, building or structure in which a work place is situated and make examinations, investigations and inquiries for the purposes of determining compliance with this by-law.

- c) No inspector may enter a workplace that is also a dwelling without the consent of the occupant or without first obtaining and producing a warrant.

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

13. Severability
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.

14. Repealing
That Bylaw 24/2002 passed on the 9th day of September, 2002 is hereby repealed.

15. Effective Date
This bylaw shall come into force and take effect on July 1st, 2004.

MAYOR

CITY CLERK

Read a first time this 17th day of November, A.D., 2003.

Read a second time this 5th day of April, A.D., 2004.

Read a third time this 5th day of April, A.D., 2004.

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SCHEDULE "A"

(as provided for in Section 10)

1. The fine/specified penalty for any offence under this bylaw, subject to (2) and (3) below: \$100.00

2. The fine/specified penalty for a second or subsequent offence under this bylaw: \$200.00

3. Any person who contravenes any provision of this Bylaw is guilty of an offence punishable on summary conviction by a fine of not less than \$100.00 and a fine not exceeding the amounts set out in *The Cities Act*; Section 338(2)
 - Every person who is guilty of an offence is liable of summary conviction to:
 - (a) in the case of an individual, a fine of not more than \$10,000, to imprisonment for not more than one year or to both;
 - (b) in the case of a corporation, a fine of not more than \$25,000, to imprisonment of the directors of the corporation for not more than one year or to both; and
 - (c) in the case of a continuing offence, to a maximum daily fine of not more than \$2,500 per day.