

The Corporation of the City of Kenora

By-law Number 84 - 2015

A By-law to Regulate and Prohibit all Tobacco use on any Beach in the City of Kenora

Whereas subsection 115(1) of the *Municipal Act, 2001*, S.O. 2001, c.25 as amended provides that a municipality may prohibit or regulate the smoking of tobacco in public places; and

Whereas the Smoke Free Ontario Act recently introduced regulatory amendments to reduce children's exposure to tobacco use and to protect the public from second-hand smoke making smoking within 20 metres of playgrounds illegal; and

Whereas the City of Kenora wishes to prohibit tobacco smoking and limit the impact of all tobacco use on persons using any beach located in the City of Kenora, particularly for the benefit of young people, for the health of the public generally, to protect, and enhance the quality and use of beaches, through a by-law which prohibits all uses of tobacco in any beach area; and

Whereas it is desirable for the health, safety and well-being of the citizens of the City of Kenora 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 bylaw and the Smoke-Free Ontario Act;

Now Therefore Be It Resolved That Council of the City of Kenora enacts as follows:

Part 1 - Definitions and Interpretation

For the purpose of this bylaw, 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. Tobacco Products include, but are not limited to, cigarettes, cigars, cigarillos, pipe tobacco, loose-leaf tobacco, chewing tobacco, spit tobacco, snus and bidis.
- 1.2 **"Beach"** means any waterfront area owned by the Corporation. A Beach may be surfaced with sand, rock, grass, pavement, wood or any other material. A Beach may be used for access to swimming, for active or passive recreation, for sight-seeing or for other enjoyment. The term includes any docks, piers, lookout decks, boardwalks or similar structures.

Part 2 – Prohibitions

- 2.1 No person shall use any tobacco product on, or in, any beach within the City of Kenora.

Part 3 - Signage

- 3.1 The City of Kenora, in partnership with the Northwestern Health Unit shall make effort to post sufficient signage to identify that smoking and other tobacco use, is strictly prohibited in all beaches as defined in Part 1 of this bylaw.

Part 4 – Exception

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

Part 5 – Offences and Penalties

- 5.1 Any person violating any of the provisions of this bylaw 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 – Effective Date

- 7.1 This bylaw shall come into force and take effect upon the passing of this bylaw.

By-law read a First and Second Time this 23rd day of June, 2015

By-law read a Third and Final Time this 23rd day of June, 2015

The Corporation of the City of Kenora:-

David S. Canfield, Mayor

Heather Kasprick, City Clerk