

TOWN OF SOUTHEY
BYLAW NO. 12-2019

THE SMOKING BYLAW

THE COUNCIL OF THE TOWN OF SOUTHEY ENACTS AS FOLLOWS:

Purpose

1 The purpose of this Bylaw is to regulate smoking and vaping in public places.

Authority

2 The authority for this bylaw is section 8 of *The Municipalities Act* and section 15 of *The Tobacco Control Act*.

Definitions

3 In this Bylaw:

- (a) **“Town”** means the Town of Southey as a municipal corporation as well as the geographical area, as the context requires;
- (b) **“enclosed public place”** means all or any part of a building or other enclosed place or conveyance to which the public is customarily admitted or invited and includes:
 - (i) a public building or facility, including any part of a public building or facility that is rented out for private events;
 - (ii) a building, enclosed place or facility owned or leased by a private club that restricts admission to members and guests; and
 - (iii) the common areas of a multi-unit residential building;
- (c) **“licensed premises”** means any of the following places:
 - (i) the portion of a place for which a restaurant permit, tavern permit or special use permit has been issued pursuant to *The Alcohol and Gaming Regulation Act, 1997*; and
 - (ii) the portion of a tent or other portable shelter used in connection with an event which is open to the public or to which the public is customarily admitted or invited and for which a permit or an

endorsement or an extension to an existing permit has been issued pursuant to *The Alcohol and Gaming Regulation Act, 1997*;

- (d) **“outdoor public event”** means any outdoor area of Town owned, controlled or operated property including any sidewalk or street, being used for any public event where the public is invited to gather, including but not limited to:
 - (i) a market, contest, festival, celebration, fair, exhibition or concert; or
 - (ii) an outdoor public event held on any Town property which is leased to a third party; or
 - (iii) any event for which a Town rental or use permit is required;
- (e) **“outdoor public place”** means any outdoor area of Town owned, controlled or operated property that is open to the public or to which the public is customarily admitted or invited, and includes any outdoor recreational facility, utility easement, floodplain or buffer strip but does not include a street or sidewalk except during any outdoor public event, in which case a street or sidewalk being used as part of an outdoor public event is no longer excluded;
- (f) **“outdoor recreational facility”** means any outdoor Town owned, controlled or operated playground, athletic field, spray pad, swimming pool, skating rink, skate park, picnic table, picnic shelter, gazebo, off leash area, outdoor exercise facility, running track, open-air stadium or other sports facility, hard surface court or athletic field, golf course, multi-use pathway or park;
- (g) **“outdoor seating area”** means an outdoor area or structure commonly referred to as a patio, deck, terrace or rooftop, whether enclosed or not, that is open to the public or to which the public is customarily admitted or invited that is operated as part of a restaurant or licensed premises, but does not include an outdoor area or structure made available by a restaurant or licensed premises if:
 - (i) there is no seating of any kind provided in the area or in the structure;

- (ii) there is no service of any kind provided in the area or in the structure;
and
 - (iii) there is no food or drink permitted in the area or in the structure at any time;
- (h) **“owner”** means any owner, lessee or operator;
- (i) **“restaurant”** means any of the following places:
- (i) an enclosed public place for which a public eating establishment license has been issued pursuant to *The Public Health Act, 1984*;
 - (ii) the portion of a tent or other portable shelter used in connection with a community event that is open to the public or to which the public is customarily admitted or invited and for which a temporary food service license has been issued pursuant to *The Public Health Act, 1984*; or
 - (iii) a public place in which food is served or sold for the purpose of consumption at the premises and to which the public is customarily admitted or invited, commonly described as a restaurant, café, concession or other similar description;
- (j) **“sidewalk”** means the sidewalk constructed on or adjacent to a part of a street or that portion of a street intended primarily for use by pedestrians
- (k) **“smoke or smoking”** means to inhale, exhale, burn, carry or control a lighted cigarette, cigar, pipe, or similar equipment that burns any substance or generates smoke, and includes the use of a hookah pipe, water pipe or bong;
- (l) **“street”** means any street, alley or other road designed and intended for or used by the general public for the passage of vehicles, and includes any area primarily intended to be used for the parking of vehicles and the necessary passageways on that area; and does not include a pedestrian mall, public square or plaza or any part thereof;

- (m) **“vape or vaping”** means the use of an electronic cigarette, vaporizer, or any other heated smoking equipment used to vaporize any substance whether or not it contains nicotine; and
- (n) **“vape retail store”** means a fully enclosed premises where the sole function of the premises is the sale of electronic cigarettes, vaporizers and other heated smoking equipment.

Outdoor Public Seating Areas

- 4 No person shall smoke or vape in any outdoor seating area.
- 5 The owner of any area to which section 4 applies shall ensure that signs indicating that smoking and vaping is prohibited are displayed in a conspicuous location at all entrances to the outdoor public area and at least one sign in a conspicuous location in each outdoor seating or waiting area.
- 6 Signs required pursuant to section 5 must:
 - (a) be at least 12.7 centimeters x 12.7 centimeters in size;
 - (b) include, in black or red on a white background, the international symbol designating no smoking, with the symbol having a diameter of at least 9 centimeters;
 - (c) include the words: “Smoking and Vaping Prohibited” or “No Smoking or Vaping”, or other similar wording, in black on a white background; and
 - (d) be clearly visible.
- 7 The absence of a sign as required by sections 5 and 6 does not relieve any person from compliance with section 4 of this Bylaw.
- 8 No owner of an area to which section 4 applies shall permit smoking or vaping within that area.

Outdoor Public Place

- 9 No person shall smoke or vape in any outdoor public place.

Public Places

- 10 No person shall smoke or vape within 10 meters outside of any doorway, window or air intake of an enclosed public place.
- 11 No person shall vape in any enclosed public place.

Exemptions

- 12 Nothing in this Bylaw prohibits a person from smoking or vaping for the purposes of traditional spiritual or cultural practices or ceremonies, if smoking or vaping is an integral part of the traditional spiritual or cultural practices or ceremonies being carried out with the consent of the owner of that place.
- 13 The onus to prove that the exemption in section 12 applies shall be on the person alleged to be in violation.
- 14 Section 11 does not apply to any places exempted from the application of section 11(2) of *The Tobacco Control Act*.
- 15 Nothing in this Bylaw prohibits a person from vaping for the sole purpose of testing the device, or sampling products used with the device, prior to purchase within a vape retail store.
- 16 Council may consider and approve any further exemption for an outdoor public event.

Enforcement

- 17 Any person who contravenes any provision of this Bylaw is guilty of an offence punishable on summary conviction by a fine in an amount not exceeding:

The General Penalty Bylaw 6-2019, not less than \$100.00 and not more than \$1000.00

- 18 For the purpose of enforcement of this Bylaw the following persons are designated officers:
 - (a) any person employed by the Town of Southey in the following positions:
 - (i) Manager of Bylaw Enforcement;
 - (ii) Bylaw Enforcement Officer;
 - (b) any person designated by the Town as a Bylaw Enforcement Officer; and

- (c) any tobacco enforcement officer appointed under *The Tobacco Control Act* or any public health officer appointed under *The Public Health Act, 1994*.

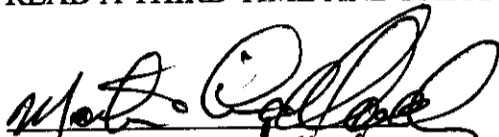
Effective Date

19 This Bylaw comes into force on November 12, 2019.

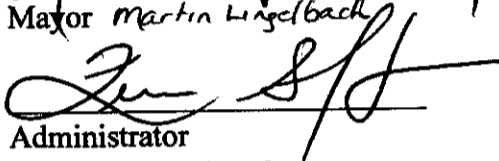
READ A FIRST TIME THIS 12th DAY OF November, 2019

READ A SECOND TIME THIS 12th DAY OF November, 2019

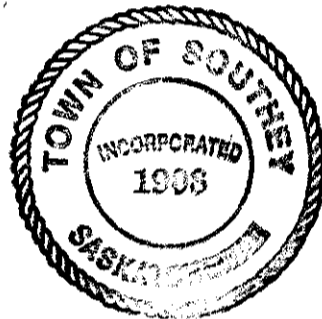
READ A THIRD TIME AND PASSED THIS 12th DAY OF November, 2019.



Mayor Martin Lingelbach



Administrator
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