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**STAFF REPORT: RECREATION DEPARTMENT**



**REPORT TO:** Committee of the Whole  
**MEETING DATE:** November 13, 2013  
**REPORT NO.:** DOR 13 45  
**SUBJECT:** Report to prohibit smoking in outdoor public spaces  
**PREPARED BY:** Shawn Everitt  
 Director of Community Services

**A. Recommendations**

THAT Council receive Staff Report DOR 13 45 "By-law to prohibit smoking in outdoor public spaces" for information purposes; and,

THAT Council support the County of Grey's request to support the implementation of a By law to prohibit smoking in outdoor public spaces.

**B. Background**

At the October 7, 2013 meeting of Council, correspondence was received from the County of Grey requesting that The Blue Mountains support the request to implement a By law to prohibit smoking in outdoor public spaces. Through discussion on this request the following questions were developed for staff to provide Council with follow up information.

**1) If the By-law is put into effect, who enforces the By-law. Does the County enforce or does it fall to the Town to enforce.**

- a. The By law is enforced by the Grey Bruce Health Unit Tobacco Enforcement Officers, however Municipal By-law Enforcement Officers can also enforce. Through consultation with Manager of Building & By law, Greg Miller, it was identified that if Council's expectation was that Town By-Law Enforcement were to enforce this by-law, a review of staff resources and the delivery of services would be required.

**2) Is it permitted to exempt specific outdoor public spaces**

- a. Currently there is no exemption within the by-law for municipally owned or operated land. If council wishes to make an amendment to the draft By-law, a letter from council would be required. The County would be required to draft a new report and present the draft to the County's Corporate Services Committee to determine if there is a desire to have this exemption included in the By-law. If so, then another draft By-law would be completed and sent to all local municipalities in Grey County for consideration and support or non-support of the draft by-law.

**3) Who is responsible for the supply and installation of signage, and is the cost of supply and install a one-time opportunity**

- a. Staff has confirmed that the Bruce Grey Health Unit does have some funding to help provide a limited supply of signs. The funding is limited and

staff believes that the majority of the funding for the appropriate level of signage would be at the Towns expense.

**4) Are streets and sidewalks captured in this By-law**

- a. The answer is “No”. The By law identifies that a “Public Place” means any building, structure owned or operated by the Corporation of the County of Grey or owned and operated by any Lower Tier Municipality within the County of Grey, or part thereof, whether covered by a roof or not, where 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 a highway within the meaning of the Municipal Act 2001, S.). 2001 C.25;”

**5) How are facilities such as harbours and campgrounds treated under the By-law?**

- a. Harbours are not identified specifically under this By-law. However, the harbour is not owned by the Town. The By-law identifies that a “Recreational Property” means a place owned or operated by The Corporation of the County of Grey or owned by any Lower Tier Municipality within the County of Grey for recreational purposes including, but not limited, to a park, pool, recreation centre, playground, splash pad, skateboard park, arena, stadium, sports fields and playing fields including spectator areas but does not include a highway within the meaning of the Municipal Act 2001, S.). 2001 C.25. Golf Courses, municipally owned beaches and municipally owned campgrounds or trails are not considered a recreational property as defined in this by-law.

**C. The Blue Mountains’ Strategic Plan**

Goal 2. Addressing the Town’s municipal infrastructure needs.

Goal 4. Supporting the development of social and recreational programs to meet the broad range of needs in the community.

**D. Environmental Impacts**

This By-law does promote a healthy lifestyle, as well as promotes a healthy and safe environment for users and visitors of public space.

**E. Financial Impact**

Staff recommends that appropriate level of signage would require approximately 40 to 50 signs at approximately \$80 per sign for supply and installation of signs.

\$60 for sign and post  
\$20 for installation and equipment costs

\$80.00 X 50 signs= \$4,000

**F. In Consultation With**

Terry Green, Manager of Parks & Trails  
Ryan Gibbons, Manager of Harbour & Cemetery  
Aaron McMullen, Facilities Supervisor  
Greg Miller, Manager of Building & By-law services CBO  
Heather Morrison, County of Grey Deputy Clerk  
Angela Neuman, Bruce Grey Health Unit

**G. Attached**

1. County of Grey Correspondence received on October 7<sup>th</sup>, 2013

Respectfully submitted,

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Shawn Everitt, Director of Community Services

**For more information, please contact:**  
Shawn Everitt, Director of Community Services  
519-599-3131 ext. 281  
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SEP 13 2013

## Clerk's Department

595 9<sup>th</sup> Avenue East, Owen Sound Ontario N4K 3E3  
519-376-2205 / 1-800-567-GREY / Fax: 519-376-8998

September 10, 2013

The Blue Mountains  
Attention Corrina Giles, Clerk  
32 Mill Street  
Thornbury, ON N0H 2P0

Dear Corrina:

Please find enclosed a draft by-law regarding the regulating of smoking in public places, known as the Smoke Free Outdoor Spaces By-law. A resolution was passed at the July 2, 2013 session of Grey County Council directing staff to prepare a draft by-law for circulation to the lower tier municipalities in Grey County to determine if a triple majority is achieved as required by Section 115 (1) of the *Municipal Act, 2001*, as amended.

The following are inclusions in the draft by-law:

- No smoking within nine metres of a municipally owned or operated building
- No smoking within nine metres of a municipally owned or operated recreational property
- A set fine schedule for offences under this by-law

In order for this draft by-law to be approved, it must be approved, by resolution, by a majority of the lower tier councils within Grey County who represent a majority of the ratepayers of Grey County.

If the two majorities noted above are achieved, the by-law will be presented to Grey County Council for its consideration. If approved by Grey County Council, triple majority will be achieved and the by-law put in place.

Should you have any questions, please feel free to contact me.

Yours truly,

A handwritten signature in black ink, appearing to read "H Morrison".

Heather Morrison  
Deputy Clerk/Records Manager  
(519) 372-0219 & ext 1376  
[heather.morrison@grey.ca](mailto:heather.morrison@grey.ca)  
[www.grey.ca](http://www.grey.ca)

# Corporation of the County of Grey

## By-Law XXXX-13

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### A By-law to Regulate Smoking in Public Places in the County of Grey

WHEREAS Section 115(1) of the Municipal Act, 2001, S.O. 2001, authorizes the Council of a municipality to pass a by-law regulating smoking in public places and workplaces within the municipality and designating such places or parts thereof as places in which smoking tobacco or holding lighted tobacco is prohibited;

AND WHEREAS It has been determined that environmental tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars or pipes), also known as second-hand smoke, is a public nuisance because of its irritating and discomforting properties and is a serious health hazard because of its adverse effects and risk to the health of all of the inhabitants and workers in the County of Grey;

AND WHEREAS smoke-free by-laws are known to contribute to the prevention of youth smoking and cause cessation among smokers;

NOW THEREFORE BE IT RESOLVED THAT THE COUNCIL OF THE CORPORATION OF THE COUNTY OF GREY HEREBY ENACTS AS FOLLOWS:

#### 1. Definitions

- a. **"County"** means the Corporation of the County of Grey;
- b. **"Municipality"** means any Lower Tier Municipality within the Corporation of the County of Grey;
- c. **"Municipal building"** means any building that is owned or operated by The Corporation of the County of Grey and any building that is owned or operated by any Lower Tier Municipality within the County of Grey;
- d. **"Officer"** means a Municipal Law Enforcement Officer appointed by any Lower Tier Municipality within the County of Grey, any Tobacco Enforcement Officer and any Public Health Inspector employed by the Grey Bruce Health Unit;
- e. **"Person"** includes an individual, firm, business, corporation or partnership;

- f. **“Public place”** means any building, structure owned or operated by the Corporation of the County of Grey or owned and operated by any Lower Tier Municipality within the County of Grey, or part thereof, whether covered by a roof or not, where 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 a highway within the meaning of the *Municipal Act 2001, S.O. 2001 C. 25*;
- g. **“Recreational property”** means a place owned or operated by The Corporation of the County of Grey or owned or operated by any Lower Tier Municipality within the County of Grey for recreational purposes including, but not limited, to a park, pool, recreation centre, playground, splash pad, skate-board park, arena, stadium, sports fields and playing fields including spectator areas but does not include a highway within the meaning of the *Municipal Act 2001, S.O. 2001 C. 25*. Golf courses, municipally owned beaches and municipally owned campgrounds or trails are not considered a recreational property as defined in this by-law.
- h. **“Smoke” or “smoking”** includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment, but does not include smoke or smoking where smoke or smoking is used in a stage production or a theatrical performance;

## 2. Outdoor Smoking Restrictions

- a) No person shall Smoke in any Public place within Grey County whether or not a No Smoking sign is posted.
- b) No person shall Smoke in a Recreational property or within a nine (9) metre (29.53 feet) radius of any Recreational property:
  - i. The distance shall be measured from the designated entrance to the structure, playing field or park;
  - ii. Where a facility does not have a designated entrance, 9 metres will be from the fence, edge or border of the Recreational property.
- c) No person shall Smoke in a Public place or within a nine metre (29.53 feet) radius of any entrance or exit of any Public place.
- d) The prohibited distances described in sections 3. a), b) and c) shall not extend to any private property unless the consent of the owner has been previously granted and does not include a highway within the meaning of the *Municipal Act 2001, S.O. 2001 C. 25*.

### 3. Signage Requirements

- a) A Municipality shall place tobacco or smoke free signs at the entrances to Recreational properties, citing the relevant distance under Section 2. b) of this by-law.
- b) Signs shall be placed conspicuously at the entrance or exit to each Public place or in appropriate location in the parking lot advising of the no smoking by-law.
- c) Where a No Smoking sign is required to be placed or posted under this by-law, the sign shall have the proportions, characteristics and minimum measurements as set out under the *Smoke Free Ontario Act*.

### 4. Offence and Obstruction

- a) No person shall hinder or obstruct an officer lawfully carrying out enforcement of this by-law.
- b) Any person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine in accordance with the *Provincial Offences Act R.S.O. 1990 C. P 33, as amended* and prescribed in Schedule "A".

### 5. Exemption

- a) Notwithstanding Section 2 of this by-law, tenants who currently reside in social housing units owned or operated by the Grey County Housing Authority, of which the County of Grey is a major stakeholder, will be exempted from the requirements contained within this by-law until such time as they move out of or transfer from their current unit.

### 6. Conflicts

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

### 7. Severability

- a) 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 the County to enact, such section or sections or parts 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.

### 8. Short Title

- a) This by-law shall be cited as the "Smoke Free Outdoor Spaces" by-law.

9. Schedules

- a) Schedule "A"-Fine structure and short form wording

10. Effective Date

- a) This by-law shall come into effect upon third and final reading thereof and shall come into force:
- i. Upon a majority of the councils of all its Lower Tier Municipalities within the County having passed resolutions giving their consent to the by-law; and
  - ii. That the total number of electors in the Lower Tier Municipalities that pass resolutions under clause 10 a) form a majority of all the electors in the County.

ENACTED AND PASSED this xx day of xx, 2013

\_\_\_\_\_  
WARDEN: Duncan McKinlay

\_\_\_\_\_  
CLERK: Sharon Vokes



## Schedule "A"

### Fine Structure

ITEM	COLUMN 1	Provision Creating of Defining Offence	SET FINE
1.	Smoke or hold lighted tobacco within a nine metre radius of Recreational Property	2. b)	\$250.00
2.	Smoke or hold lighted tobacco within a nine metre radius of any entrance or exit of a Public Place	2. c)	\$250.00