

CITY OF MARTENSVILLE
SMOKING REGULATIONS BYLAW
BYLAW NO. 27-2014

A Bylaw to regulate smoking in the City of Martensville.

WHEREAS it is desirable for the protection, promotion and preservation of health of the residents of the City of Martensville for Council to regulate and prohibit smoking within city facilities, parks, playgrounds and sport fields in the City;

AND WHEREAS Council has consulted with the Saskatchewan Lung Association & Heart and Stroke Foundation;

The Council of the City of Martensville enacts as follows:

TITLE

1. This Bylaw may be cited as "Smoking Regulation Bylaw No.27-2014"

DEFINITIONS

2. In this Bylaw:

- a) "city facilities" means all city owned, operated and leased facilities;
- b) "common areas" means lobbies, foyers, stairwells, hallways, elevators, corridors, cloakrooms, amenity areas, washrooms, food seating areas and other public areas of a city facility building;
- c) "customer service area" means a partially enclosed or unenclosed area, including a balcony or patio that is part of or connected to or associated with a city facility or premises that includes the service of food or alcoholic drinks to customers or other persons for consumption on site;
- d) "leased land/space" means land or space that is owned by the city and leased to another party;
- e) "licensed premises" means any of the following places or premises:
 - (i) the portion of an enclosed public place or premises for which a restaurant permit, tavern permit or special use permit has been issued pursuant to the Alcohol and Gaming Regulation Act, 1997;
 - (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 permit or an endorsement or extension to an existing permit has been issued pursuant to The Alcohol and Gaming Regulation Act, 1997;
- f) "nicotine delivery device" means any product which when smoked causes nicotine to permeate the environment without restriction, and includes electronic nicotine devices such as e-cigarettes;

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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) “parks” means any open green space that is used for the enjoyment of the public for both passive and active recreational activities, which may have facilities for rest or recreation;

i) “playground” means an outdoor area for children to play on;

j) “restaurant” means any of the following places or premises:

- (i) an enclosed public place or premises for which a public eating establishment license has been issued pursuant to The Public Health Act, 1984; or
- (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;

k) “sidewalk cafe” means an outdoor area, located on a public sidewalk, to which members of the general public are invited or permitted access and which abuts and is operated as part of a restaurant;

l) “smoke” or “smoking” means to inhale, exhale, burn, or carry a lighted cigarette, cigar, pipe, or other lighted smoking equipment that burns tobacco or other substance;

m) “sports field” means a field used for outdoor games or activities;

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DUTY OF ADMINISTRATION AND ENFORCEMENT

3. The intent of this Bylaw is to set standards in the general public interest, and not to impose a duty on the city or its employees to enforce its provisions, and:

- (a) a failure to administer or enforce its provisions, or the incomplete or inadequate administration or enforcement of its provisions, does not give rise to a cause of action in favour of any person;

BAN ON SMOKING

4.1 A person must not smoke or use a nicotine delivery device:

- (a) in any city owned, operated or leased facility;
- (b) within any city playground or within 10 (ten) metres of the perimeter of any playground;
- (c) within 10 (ten) metres of recreational activity area or facility within a city park;
- (d) within 10 (ten) metres of the perimeter of any city sports field including bleachers;
- (e) on bleachers, in dugouts or within 10 (ten) metres of playground at Martensville Slo-Pitch Facility;
- (f) within 6 (six) metres measured on the ground from a point directly below any point of any opening into any city building including any door or window that opens or any air intake;
- (g) within 10 (ten) metres of the perimeter of a customer service entrance area at city owned, operated or leased facilities or designated special events (Buster Days, Canada Day, Winter Festival) ;
- (h) in any restaurant, licensed premises including outdoor seating area, deck, and patio or sidewalk cafe if service is provided;

SIGNS BANNING SMOKING

5. Signs indicating banning of smoking must display, or ensure the display of a sign at all times:

- (a) at each entrance to each city facility, park, playground and sports field or customer service area or to where Section 4 prohibits smoking, stating:

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NO SMOKING

THIS IS A SMOKE FREE ENVIRONMENT

AND

(b) on each exterior wall of a city facility or facilities that are situated on city land that is leased, where section 4 prohibits smoking stating:

NO SMOKING

**SMOKING IS PROHIBITED WITHIN SIX METRES OF OPENINGS INTO THIS
BUILDING**

INCLUDING DOORS AND WINDOWS THAT OPEN AND ANY AIR INTAKE.

SIGN REQUIREMENTS

6. All signs referred to in section 5 must:

(a) include the text "City of Martensville No Smoking Bylaw" in letters not less than one quarter of the height of all other letters on the sign;

(b) display the international symbol to designate "No Smoking", or, in areas where smoking is permissible, the international symbol to designate "Smoking Permitted", which symbol must occupy at least 25% of the size of the sign;

(c) consist of at least two contrasting colours, except that if the lettering is on a clear panel then the lettering must contrast to the colour of the background;

(d) be at least 30 cm by 15 cm;

(e) be clearly visible;

CONDITION OF SIGNS

7. A person must not remove, alter, conceal, deface or destroy any sign required under this Bylaw.

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NOTICE OF VIOLATIONS

8. An inspector or official of the City, or a Bylaw enforcement officer, may give notice to any person ordering or directing that person to:

(a) discontinue or refrain from doing anything that contravenes this Bylaw; or

SERVICE OF NOTICE

9. An inspector or official of the city, or a bylaw enforcement officer, may serve a notice under this Bylaw;

(a) by mailing it by registered post to an owner who is the addressee of the notice at the address of the owner shown on the real-property assessment roll prepared pursuant to the Assessment Act;

(b) by handing it to the person who is the addressee of the notice; or

(c) if the notice refers to real property, by posting it on the real property.

OFFENCES UNDER BYLAW

10. A person who:

(a) violates any provision of this Bylaw, or does any act or thing which violates any provision of this Bylaw, or suffers or allows any other person to do any act or thing which violates any provision of this Bylaw;

(b) neglects to do or refrains from doing anything required to be done by any provision of this Bylaw; or

(c) fails to comply, suffers or allows any other person to fail to comply, with an order, direction, or notice given under any provision of this Bylaw;

is guilty of an offence against this Bylaw, and liable to the penalties imposed under Section 11 and Section 12.

FINE FOR OFFENCE

11. Every person who commits an offence against this Bylaw is punishable on conviction by a fine of not less than \$100.00 and not more than \$2,000.00 for each offence, except that a person who commits an offence under Section 10.c. of this Bylaw is liable of a fine of not less than \$500.00 for each offence.

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FINE FOR CONTINUING OFFENCE

12. Every person who commits an offence of continuing nature against this Bylaw is liable to a fine not exceeding \$50.00 for each day such offence continues.

REPEAL

13. Municipal No Smoking Bylaw No. 3-2005 and all amendments are hereby repealed.

SEVERABILITY

14. If any section or lesser portion of this Bylaw is held to be invalid by a Court, such invalidity shall not affect the remaining portions of the Bylaw.

EFFECTIVE DATE

15. This Bylaw shall come into force and take effect when adopted by Council

Read a first time this 16th day of September, 2014

Read a second time this 16th day of September, 2014

Read a third time this 16th day of September, 2014

MAYOR

CITY CLERK