

## The Town of Berwick

### PROTECTION FROM SECOND-HAND SMOKE BY-LAW

1. This Bylaw shall be known as the Protection from Second-hand Smoke By-law.

#### Background

2. The Municipal Government Act, in Section 172(1)(a), (c) and (d) authorizes a Council to make By-laws for municipal purposes respecting the health, well-being, safety and protection of persons; persons and activities in public places and places open to the public; and nuisances, including burning, odours and fumes.

#### Interpretation

3. In this By-law:
  - a. "grounds of a town building" means the outdoor part of any lot containing a building owned by the town, and any sidewalk immediately adjacent to the lot.
  - b. "playground" means any park or recreational area designed in part to be used by youth that has play or sports equipment installed or has been designated or landscaped for play or sports activities, or any similar facility located within the town.
  - c. "smoke or smoking" means to inhale, exhale, burn or have control over a lighted cigarette, cigar, pipe, hooka pipe, or other lighted smoking implement designed to burn or heat tobacco or any other weed or substance for the purpose of inhaling or tasting of its emissions, but does not include using or having control over nicotine replacement products approved for use by Health Canada.
  - d. "street" means a public or private street, highway, road, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith.

- e. “town property” means real property owned or leased by the town, directly or through the medium of a board or commission, including the Berwick Electric Utility, and any motor vehicle owned or leased by the town, directly or through the medium of a board or commission, including the Berwick Electric Utility.

### **Prohibition**

- 4. No person shall smoke in any of the following places:
  - a. a park or playground on town property or a sidewalk that is adjacent to a park or playground;
  - b. an outdoor recreational facility on town property, including but not limited to a sports field, grandstand, seating area or bleacher;
  - c. the grounds of a town building, except within designated smoking areas;
  - d. the grounds of an event on town property that is open to the public, including but not limited to a festival, market or concert, whether admittance to the event is gratis or for a fee;
  - e. a trail or path on town property or property the town is licensed to maintain;
  - f. a street or sidewalk that fronts a commercially zoned property as identified in the Town’s Municipal Planning Strategy;
  - g. a street along a parade route while the parade is in progress;
  - h. a street within a school area designated under the Motor Vehicle Act, except within an enclosed motor vehicle.
  - i. in or at a bus stop or shelter, or within four (4) meters of a bus stop or shelter.

### **Offence and Penalty**

- 5. Anyone who violates any section of this by-law is guilty of an offence and is liable, on summary conviction, to a fine of not more than two hundred dollars (\$200.00).

### **Severability**

6. In the event that any provision of this by-law becomes or is declared by a court of competent jurisdiction to be illegal or unenforceable, the remainder of this by-law will continue in full force and effect.

### **Force and Effect**

7. This bylaw has effect from and after September 1, 2014.