

# CITY OF HUMBOLDT

## BYLAW NO. 06/2004

### A BYLAW OF THE CITY OF HUMBOLDT TO REGULATE CONTROL AND PROHIBIT SMOKING IN ENCLOSED PUBLIC PLACES

---

Whereas it is deemed expedient and in the public interest to regulate, control and prohibit the smoking of tobacco products in enclosed public places;

Now therefore the Municipal Council of the City of Humboldt enacts as follows:

#### Short Title

1. This Bylaw may be cited as *The Smoking Bylaw*.

#### Purpose

2. The purpose of this Bylaw is to promote the safety, health and welfare of people through:
  - (a) the adoption of the restrictions on the smoking or holding of lighted tobacco in certain places as set forth in *The Tobacco Control Act*, S.S., 2001 c.T-14.1; and
  - (b) the imposition of additional provisions respecting the smoking or holding of lighted tobacco in certain enclosed public places in the City of Humboldt that are more restrictive than the provisions in *The Tobacco Control Act*.

#### Definitions and Schedules

- 3(1) In this Bylaw, in any amending bylaws, and in any schedules attached hereto, the following words and terms shall have the following meanings unless there is something in the subject matter inconsistent therewith:
  - (a) the term “bingo establishment” means the portion of any enclosed place or premises for which a bingo license has been issued by the Liquor and Gaming Authority;
  - (b) the word “City” means the Municipal Corporation of the City of Humboldt or, where the context requires, the geographical area within the city limits of the City of Humboldt;
  - (c) the term “enclosed public place” means all or any part of any building or other enclosed place that is open to the public or to which the public is customarily admitted or invited;
  - (d) the term “enforcement officer” means the person appointed pursuant to section 6 as the Enforcement Officer for the purpose of enforcing this Bylaw;

- (e) the term “Liquor and Gaming Authority” means the authority continued as the Liquor and Gaming Authority pursuant to section 3 of *The Alcohol and Gaming Regulation Act*, S.S., 1997, c.A-18.011;
  - (f) the term “No-Smoking Sign” means the depiction of the International “No-Smoking” Symbol as set out in Appendix “1”;
  - (g) the word “restaurant” means an enclosed place or premises for which a public eating establishment license has been issued pursuant to The Public Health Act, 1994, S.S., 1994 c.P-37.1 and includes any lounge or other area maintained or operated in conjunction therewith for which a restaurant permit has been issued, or an endorsement obtained, pursuant to *The Alcohol and Gaming Regulations Act*;
  - (h) the word “summons” means a summons within the meaning of the *Criminal Code of Canada*, R.S., c.C-34;
  - (i) the word “tavern” means the portion of an enclosed place or premises for which a tavern permit has been issued pursuant to *The Alcohol and Gaming Regulations Act* and includes any private club to which the public is customarily admitted or invited;
  - (j) the term “private club” means an establishment that operates solely for the benefit and pleasure of the members of a non-profit corporation or service club and to which a special use permit has been issued pursuant to *The Alcohol and Gaming Regulation Act*.
  - (k) the word “tobacco” means tobacco in any form in which it is used or consumed, and includes snuff and raw leaf tobacco, but does not include any food, drug or device that contains nicotine to which the *Food and Drug Act (Canada)* applies.
- (2) The following schedules, appendixes and forms are attached to, and form part of, this Bylaw,

Schedule “A” – Offences for which Notice of Violation may be issued.

Form “1” – Notice of Violation.

Appendix “1” – International “No Smoking” symbol.

### **Smoking In Certain Places Prohibited**

- 4(1) No person shall smoke or hold lighted tobacco in any enclosed public place where such activity is prohibited pursuant to section 11 of *The Tobacco Control Act*.
- (2) In addition to subsection (1), in the City no person shall smoke or hold lighted tobacco in the following places:

- (a) any enclosed portion of an office building, retail store, or other business or commercial establishment to which the public is ordinarily permitted access;
  - (b) entrances, means of “egress”, means of exit way out;
  - (c) a video arcade, an enclosed amusement center or theatre;
  - (d) a vehicle used for public transit or a commercial vehicle for hire that is used to transport members of the public;
  - (e) a billiard hall;
  - (f) a bingo establishment;
  - (g) a bowling center;
  - (h) a restaurant;
  - (i) a casino;
  - (j) a tavern; and
  - (k) a private club.
- (3) No proprietor of a place or premises to which section 4 applies:
- (a) shall fail to post and display the No-Smoking Signs in the manner, size, and location prescribed in *The Tobacco Control Act*;
  - (b) shall allow persons to smoke or hold lighted tobacco products in such place or premises.

### **Sign Removal, Alteration, etc., Prohibited**

5. No person shall remove, cover up, mutilate, deface or alter any No-Smoking Sign displayed or posted pursuant to the Bylaw.

### **5. A. Ashtrays Prohibited**

Every proprietor of a place or premises mentioned in Subsection 4(1) shall ensure that ashtrays and similar products associated with the use of tobacco are not available for use in the place or premises.

### **Enforcement Officers Appointed**

6. The following persons are appointed as bylaw enforcement officers and are authorized to enforce the provisions of this Bylaw and, for such purposes, are deemed to be designated

officers pursuant to section 324 of *The Cities Act* for the purposes of inspecting places and premises:

- (a) a peace officer within the meaning of the *Criminal Code of Canada*, R.S., c.C-34;
- (b) a public health officer within the meaning of *The Public Health Act, 1994*; and
- (c) any other person appointed by City Council for the purpose of enforcing this Bylaw.

#### **6. A. Obstruction, False Statement, etc. Prohibited**

No person shall obstruct or hinder a bylaw enforcement officer who is acting pursuant to the authority of this Bylaw.

No person shall knowingly make a false or misleading statement to a bylaw enforcement officer or produce a false document or thing to a bylaw enforcement officer.

#### **Evidence**

- 7. In a prosecution for an offence pursuant to this Bylaw, the trial judge may infer that any substance or object in question is tobacco within the meaning of this Bylaw from the fact that a witness describes it as tobacco or by a name that is commonly applied to tobacco.

#### **Offences and Penalties**

- 8(1) Subject to section 9, every person who contravenes the provisions of this Bylaw is guilty of an offence and liable, on summary conviction:
  - (a) in the case of an individual, to a fine not exceeding \$10,000.00, or imprisonment for not more than one year, or both;
  - (b) in the case of a corporation, to a fine, not exceeding \$25,000.00, or imprisonment of the directors of the corporation for not more than one year, or both.

#### **Notice of Violation**

- 9(1) Where a person commits or is alleged to have committed an offence for which a penalty is set out in Schedule "A" of this Bylaw, a peace officer or any other person authorized by the City Council shall issue a Notice of Violation to such person.
- (2) The Notice of Violation shall be in the form or substantially in the form of Form "1" and shall provide for the voluntary payment of a penalty in the amount set forth in Column A of Schedule "A" for the offence which the person is alleged to have committed. If no amount is set forth in Column A for that particular offence, the penalty shall be in the amount set forth in Column B of Schedule "A" for that offence.

- (3) Voluntary payment of a penalty specified in a Notice of Violation shall be made on or before the date indicated on the Notice of Violation. Voluntary payment shall be made in person at the front counter of the City Hall during normal business hours.
- (4) If payment of the amount specified on the Notice of Violation is made on or before the date indicated on the Notice of Violation, the person alleged to have committed the offence shall not be liable to prosecution for the offence indicated.
- (5) If payment of the amount specified on the Notice of Violation is not made on or before the date indicated on the Notice of Violation, the peace officer or authorized person, as the case may be, shall lay information under oath as to the offence before a Justice of the Peace for the purpose of obtaining a Summons.
- (6) Summons shall be issued by a Justice of the Peace and shall be served by a peace officer or other authorized person.
- (7) Nothing in this section shall be construed to prevent any person from exercising his or her right to defend a charge of contravention of any provision of this Bylaw.

### **Disposal of Evidence**

10. Any tobacco seized as evidence in a prosecution of an offence under this Bylaw shall be disposed of in accordance with the provisions set forth in *The Tobacco Control Act*.

### **Bylaw Repealed**

11. Bylaw No. 11/2000, a Bylaw of the City of Humboldt to prohibit, control and regulate smoking in any enclosed public place, is repealed.

### **Coming Into Force**

12. This Bylaw shall come into force on the day that is three (3) months from the day of its final passing.

---

Mayor: Dennis Korte

---

City Clerk: Sandra Pauli

Introduced and read a first time the 27<sup>th</sup> day of January, 2004.  
Read a second time the 27<sup>th</sup> day of January, 2004.  
Read a third time the 23<sup>rd</sup> day of March, 2004.

## **SCHEDULE “A”**

### **Bylaw No. 06/2004, the Smoking Bylaw**

Offences for which a Notice of Violation May be Issued

<u>Section #</u>	<u>Description of Offence</u>	<u>Column “A”</u>	<u>Column “B”</u>
4(1) & (2)	Smoking or holding lighted tobacco in prohibited place.	\$100.00	\$150.00
4(3)(a)	Failing to post “No-Smoking” signs as required.	\$75.00	\$100.00
5.	Removing, covering up, mutilating, defacing or altering a “No-Smoking” sign.	\$100.00	\$150.00

# FORM "1"

## Bylaw No. 06/2004, the Smoking Bylaw

### Notice of Violation

#### NOTICE OF VIOLATION CITY OF HUMBOLDT'S SMOKING BYLAW

Issued by: \_\_\_\_\_ Ticket No. \_\_\_\_\_

Date of Offence: \_\_\_\_\_

Name of Accused: \_\_\_\_\_

Address of Accused: \_\_\_\_\_

Location of Violation: \_\_\_\_\_

Description of Violation: \_\_\_\_\_  
\_\_\_\_\_

TYPE OF OFFENSE	Penalty	
	Notice of Violation	Court Summons
_____ Smoking where prohibited	\$100.00	\$150.00
_____ Failing to post required signs	\$ 75.00	\$100.00
_____ Remove, deface signs	\$100.00	\$150.00

Deadline for Voluntary Payment: \_\_\_\_\_

You are charged with a violation of the City of Humboldt's Smoking Bylaw.

A voluntary payment may be paid at City Hall in accordance with the instructions on the reverse.

If payment is received on or before the deadline for voluntary payment (noted above), you will not be prosecuted for this violation. Please also note that the voluntary payment is less than the full penalty prescribed by the Bylaw for this offence.

Avoid prosecution by paying promptly. Unless payment is received by the City of Humboldt in accordance with the instructions contained herein, a Criminal Code (Canada) Summons will be issued commanding you to appear in Court with respect to this matter. In addition, the penalty will increase to the maximum specified in the Bylaw for this offence.

Payment instructions are on the reverse.

## FORM "1", continued

### Bylaw No. 06/2004, the Smoking Bylaw

#### Notice of Violation

### PAYMENT INSTRUCTIONS

1. Make all cheques or money orders payable to the "City of Humboldt".
2. Do not mail cash. The City of Humboldt assumes no responsibility for cash sent through the mail.
3. Where a receipt is required, payment may be made in person at City Hall, 715 Main Street, Humboldt, Saskatchewan, during normal business hours. Ticket must be presented with payment.
4. Where a receipt is not required, payment may be mailed to the City Treasurer, City of Humboldt, Box 640, Humboldt, Saskatchewan, S0K 2A0. Enclose ticket and payment in envelope.
5. Avoid prosecution by paying promptly. If prompt payment is not received in accordance with the instructions contained herein, a Criminal Code (Canada) Summons will be issued commanding you to appear in Court with respect to this matter.
6. The voluntary payment provided herein is reduced from the full penalty prescribed in the Smoking Bylaw. If prompt payment is not received in accordance with the instructions contained herein, the penalty will increase in accordance with the provisions of the Smoking Bylaw.
7. For enquiries, please contact \_\_\_\_\_.



**APPENDIX “1”**  
**Bylaw No. 06/2004, the Smoking Bylaw**

International “No Smoking” Symbol

