THE CITY OF WINNIPEG

BY-LAW NO. 62/2011

A By-law of THE CITY OF WINNIPEG to prohibit smoking in certain outdoor locations

WHEREAS section 134 of *The City of Winnipeg Charter* provides that Council may pass by-laws respecting health hazards and the health and well-being of people, and further provides that such by-laws may include provisions respecting the sale, use, consumption, possession or disposal of substances that may constitute a health hazard;

AND WHEREAS tobacco smoke is a known Class A carcinogen for which there is no safe level of exposure and scientific studies confirm that negative health consequences, including an increased risk of cardiovascular and respiratory disease, can result from even short exposures;

NOW THEREFORE THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

Title

1 This By-law may be cited as the Outdoor Smoking By-law.

Definitions

2 In this By-law

"athletic field" means any outdoor space used for organized athletic or sporting activities that is:

(a) owned by the City of Winnipeg; or

(b) operated by the City of Winnipeg or a community centre;

and includes a soccer pitch, baseball or softball diamond, and football field;

"City of Winnipeg workplace" means any building, portion of a building or other location owned or leased by the City of Winnipeg and used as a place of work by one or more employees of the City of Winnipeg;

"community centre" means a member of the General Council of Winnipeg Community Centres;

"health care facility" means

(a) a hospital designated as such by the *Hospitals Designation Regulation*, Manitoba Regulation 47/93;

(b) an institution providing health care that is funded by the Winnipeg Regional Health Authority, including any Access Centre, Breast Health Centre, Winnipeg Birth Centre, Klinic, Mount Carmel Clinic and Pan Am Clinic; and

(c) a personal care home designated as such by the *Personal Care Homes Designation Regulation,* Manitoba Regulation 108/2000;

"hockey rink" means an outdoor ice surface designed for playing hockey or for recreational skating that is owned by the City of Winnipeg or is operated by the City of Winnipeg or a community centre;

"playground" means any outdoor space owned or operated by the City of Winnipeg that has been set aside for public use by young children, and includes places that contains swings, slides, see-saws, climbing apparatuses, or similar equipment;

"premises" means the parcel of land on which a health care facility is situated and includes any contiguous parcels owned or leased by the health care facility;

"smoking" has the same meaning as in *The Non-Smokers Health Protection Act, C.C.S.M. c. N-92*;

"youth event" means an organized athletic or sporting event in which individuals under the age of 18 are participating;

"WRHA workplace" means any building, portion of a building or other location owned or leased by the Winnipeg Regional Health Authority and used as a place of work by one or more employees of the Winnipeg Regional Health Authority.

Prohibition

3(1) No person shall smoke:

(a) subject to subsection 3(3), within 30 metres of the playing surface of an athletic field or a hockey rink during a youth event;

(b) on a playground;

(c) subject to subsection 3(3), within 30 metres of a swimming pool, wading pool, spray pad or spray park owned or operated by the City of Winnipeg;

(d) on the premises of a primary school, middle school or secondary school, whether a public school or a private school, as those terms are defined in *The Education Administration Act*, C.C.S.M. c. E-10;

(e) subject to subsection (2), on the premises of a health care facility;

(f) within 8 metres from an outdoor entrance providing direct access to a health care facility;

(g) within 8 metres from an outdoor entrance providing direct access to a City of Winnipeg workplace;

(h) within 8 metres from an outdoor entrance providing direct access to a WRHA workplace.

3(2) Clause (1)(e) does not apply to residents of a personal care home who smoke in an outdoor area that

(a) has been designated by the administration of a personal care home as a smoking area for residents of the personal care home and is clearly marked as such; and

(b) is at least 8 metres from any entranceway to a building, window that is capable of being opened, or air intake.

3(3) The prohibitions in clauses 3(1)(a) and 3(1)(c) do not apply to property that is not owned or operated by the City of Winnipeg or a community centre.

Penalties

4 A person who contravenes section 3 is guilty of an offence and is liable on summary conviction

(a) for a first offence, to a fine of not less than $100 and not more than $500;

(b) for a second offence, to a fine of not less than $200 and not more than $700; and

(c) for a third or subsequent offence, to a fine of not less than $300 and not more than $1000.

DONE AND PASSED, this 25th day of May, 2011.

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Mayor

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City Clerk

Approved as to content:

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Director of Community Services

Approved as to form:

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For Director of Legal Services/City Solicitor