

The Corporation of the Town of Kirkland Lake

Bylaw 13-072

**Being a Bylaw to Prohibit Smoking in
Children's Playgrounds and on Joe Mavrinac Community Complex Property
Within Town of Kirkland Lake**

WHEREAS Section 11 (2)(6) and Section 115 of the Municipal Act, 2001, as amended, permits Councils of a Municipality to pass By-Laws and make regulations for the health, safety and well-being of persons and prohibiting smoking in public spaces within the Municipality.

AND WHEREAS Council wishes to prohibit tobacco smoking and limit the impact of tobacco smoke on persons using the Town's recreation spaces, particularly for the benefit of young persons, for the health of the public generally, to protect and enhance the quality and use of recreation spaces, and to improve the environmental and social conditions in the areas where our children play;

NOW THEREFORE THE COUNCIL OF THE TOWN OF KIRKLAND LAKE HEREBY ENACTS AS FOLLOWS:

GENERAL PROVISIONS

1.1 SHORT TITLE

This Bylaw shall be cited as the *'Smoke-Free Recreation Space Bylaw'*.

1.2 SCOPE

The provisions of the Bylaw shall apply to all Town owned and/or operated playgrounds and the grounds surrounding the Joe Mavrinac Community Complex within the geographic limits of the Town of Kirkland Lake, except where otherwise provided.

1.3 ENFORCEMENT

The provisions of this by-law shall be enforced by Municipal Bylaw Enforcement Officers, Peace Officers, Provincial Health Officials or any person deemed to be an agent of the Corporation of the Town of Kirkland Lake for the purpose of addressing unauthorized activity on Town property.

1.4 CONFLICTS WITH OTHER BYLAWS

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

DEFINITIONS

Definitions of words, phrases and terms used in this Bylaw that are not included in the list of definitions in this section shall have the meanings which are commonly assigned to them in the context in which they are used in the Bylaw.

The words, phrases and terms defined in this section have the following meaning for the purposes of this Bylaw:

- 2.1 **"Tobacco product"** means tobacco in any processed or unprocessed form that may be smoked, inhaled or chewed, including snuff, and includes any other type of tobacco product substitute such as herbal cigarettes.
- 2.2 **"Smoke" or "Smoking"** includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment or product.
- 2.3 **"Playground"** means any Town-owned and/or operated play areas:
 - Kirkland Lake Splashpark
 - O'Meara Playground
 - Queen Elizabeth Playground
 - Kinross Park Playground
 - Fifth Street Tot Lot
 - Kirkland Lake Soccer Fields
 - Kirkland Lake Extreme Park
- 2.4 **"Community Complex"** means the Joe Mavrinac Community Complex.

- 2.5 **"Officer"** means a person appointed by Council as a Municipal By-law Enforcement Officer, a Police Officer, a Health Unit Officer or other individual duly appointed to enforce this By-law.
- 2.6 **"Grounds surrounding the Joe Mavrincac Community Complex"** are identified on the attached map (Schedule A).

REGULATIONS

No person shall:

- 3.1 smoke, hold lighted cigarette or use any smoking product on playground property owned and/or operated by the Town of Kirkland Lake or on the grounds surrounding the Community Complex as identified on the attached map (Schedule A);
- 3.2 fail to leave the identified property after authorized staff has given the person notice or direction to leave for smoking tobacco on designated property; or
- 3.3 enter or use designated property after authorized staff has prohibited the person's entry or use for smoking tobacco on designated property.

The prohibitions in section 3 above apply whether or not a "No Smoking" sign of any format or content is posted.

PENALTIES

- 4.1 Any person who obstructs a person lawfully carrying out the enforcement of this by-law is guilty of an offence.
- 4.2 Any person who contravenes any provision of this By-law is guilty of an offence and is subject to a fine recoverable under the Provincial Offences Act.
- 4.3 Where a provision of this bylaw conflicts with a provision of another by-law in force in the Town of Kirkland Lake, the provisions that establish the higher standards shall prevail in order to protect the health, safety and welfare of the general public.

ENFORCEMENT

- 5.1 The provisions of this by-law respecting smoking on Town owned and/or operated playground property and Community Complex grounds shall be enforced by an officer or person deemed to be an agent of the Corporation of the Town of Kirkland Lake for the purpose of addressing unauthorized activity on Town property.

VALIDITY

- 6.1 If any provision or part of a provision of this by-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

EXCEPTIONS

- 7.1 In the occurrence of a "special event", the organizing body may request special permission for a designated smoking area, through their rental agreement application, to be approved by the Director of Community Services.

- 8.1 That Bylaw 12-065 is hereby repealed.

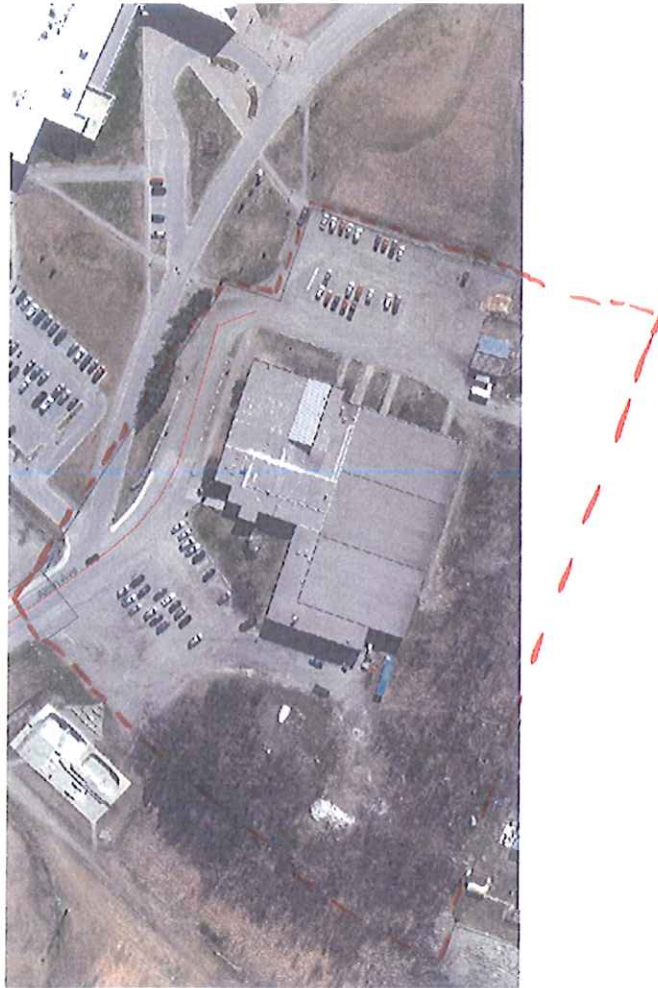
This Bylaw will come into effect on the day of its passing.

Read a first, second and third time, enacted and passed this 13th day of August 2013.

William Enouy, Mayor

Jo Ann Ducharme, Clerk

SCHEDULE A to Bylaw 13-072



**THE CORPORATION OF THE TOWN OF KIRKLAND LAKE
PART 1 PROVINCIAL OFFENCES ACT**

BY-LAW NO. 13-072 Being a by-law to Prohibit Smoking in Children's Playgrounds and on Joe Mavrinac Community Complex Property within the Town of Kirkland Lake

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1	Smoking on Playground Property	Section 3.1	\$200.00
2	Smoking on Grounds Surrounding the Community Complex	Section 3.1	\$200.00

NOTE: Penalty provision for the offences indicated above is Section 4 of By-law 13-072,
a certified copy of which has been filed