



OFFICE CONSOLIDATION

Smoke Free By-Law 115-99

(As amended by By-laws 172-99, 173-2000 and 212-2000)

A by-law to regulate smoking in all public places and workplaces within the City of Brampton and to repeal By-law 283-87, as amended

WHEREAS it has been determined that environmental tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars or pipes), also known as second-hand smoke, is a health hazard because of its adverse effects and risk to the health of the inhabitants and workers of the City of Brampton;

AND WHEREAS the Medical Officer of Health for the Region of Peel has declared that second-hand smoke is a serious health hazard, particularly to children;

AND WHEREAS it is desirable for the health, safety, and welfare of the inhabitants and workers of the City of Brampton to provide for the prohibiting and abating of smoking and second-hand smoke in accordance with the provisions of this by-law;

AND WHEREAS Section 213 of the *Municipal Act*, R.S.O. 1990, c. M 45 authorizes the Councils of local municipalities to pass by-laws regulating the smoking of tobacco in public places and workplaces within the municipality and designating public places or workplaces as places in which smoking tobacco is prohibited;

NOW THEREFORE the Council of the Corporation of the City of Brampton hereby ENACTS as follows:

SHORT TITLE

1. This by-law may be referred to as the "Smoke-free By-law".

DEFINITIONS

2. In this by-law,

"City" means The Corporation of the City of Brampton in the Regional Municipality of Peel;

"Class "A" Public Place" means a building or portion of a building used for the sale and service of food or drink or both food and drink to the public for consumption on the premises which includes but is not limited to:

- (1) a dinner theatre
- (2) a restaurant
- (3) a banquet hall
- (4) a food court or indoor patio

“Class “B” Public Place” means a building or portion of a building used as a bowling centre, skating rink, curling club, or other similar use.

“Class “C” Public Place” means a building or portion of a building used for playing billiards and where the principal business is the provision of billiard tables for direct or indirect hire or gain, which may include but is not limited to a billiard hall;

“Class “D” Public Place” means a public place used for the playing of games of chance as defined by the *Gaming Control Act*, 1992, which may include but is not limited to:

- (1) a bingo hall
- (2) a casino

“Class “E” Public Place” means a building or portion of a building used for the sale and service of food or drink or both food and drink to the public for consumption on the premises, and which has been licensed pursuant to the Liquor Control Board of Ontario, and where no patron under the age of nineteen (19) years of age is admitted, which may include but is not limited to:

- (1) a bar or tavern
- (2) an entertainment lounge
- (3) a night club

“common area” means that portion of any building or structure including a commercial or retail establishment, residential condominium or multiple dwelling unit apartment building, to which the public or residents may have access, whether as of right or by invitation, express or implied and includes but is not limited to a reception area for receiving or greeting customers, clients, patients, guests or other persons, elevators, escalators, hallways, stairwells, foyers, lobbies, laundry rooms and amenity areas but excludes the dwelling units:

“designated smoking room” is a room that is completely enclosed on all sides by solid floor-to-ceiling walls, windows or solid floor-to-ceiling partitions that is equipped with a separate ventilation system that maintains a minimum ventilation rate of thirty (30) litres per second per person, based on the maximum occupancy, that is ventilated directly to the outside air and exhausted at a rate of at least one hundred and ten per cent (110%) of supply. Such exhaust must be no less than three (3) metres from any air intake or opening;

“employee” includes any person who:

- (1) performs any work or supplies any services to an employer; or
- (2) is self employed; or
- (3) is a volunteer and is otherwise defined by clause (1);

“employer” includes any person who, as the owner, proprietor, manager, superintendent, or overseer of any activity, business, work, trade, occupation or profession, has control over or direction of or is directly or indirectly responsible for the employment of a person, whether paid or unpaid, therein;

“enclosed” means closed in by a roof or ceiling and walls with an appropriate opening or openings for ingress or egress;

“food court or indoor patio” means an area located within a public place that is used in conjunction with a restaurant or take-out eating establishment, where unenclosed seating accommodation is provided or where meals or refreshments are consumed by the public;

“Medical Officer of Health” means the Medical Officer of Health for the Regional Municipality of Peel, duly appointed under the *Health Protection and Promotion Act*, R.S.O. 1990, c.H 7, as amended, and includes any staff acting on his or her behalf;

“proprietor” means any person who ultimately controls, governs or directs the activity carried on within a public place, and includes the person actually in charge of the premises;

“public place” means the whole or part of an indoor area, whether covered by a roof or not, to which the public has access as of right or by invitation, express or implied, including transit shelters, public transit vehicles, public washrooms and common areas;

“public transit vehicle” means any vehicle used for transporting the public and includes busses including a school bus and taxicabs;

“smoke” or “smoking” includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment but does not include smoking where smoking is an element of a stage production or theatrical performance;

“workplace” means any enclosed area of a building or structure other than a private residence in which an employee works and includes any vehicle in which an employee works which is provided by the employer, except where a workplace is also a public place, the provisions of this by-law respecting public places shall prevail.

WORKPLACE REQUIREMENTS

3. (1) No person shall smoke in a workplace except in a designated smoking room.
- (2) The designated smoking room in a workplace shall be used for no other purpose than a designated smoking room.
 - (a) Notwithstanding subsection 3(2), where an employer is a tobacco company, a designated smoking room, as identified on Schedule “A” hereto may be used to conduct business **(173-2000)**.
- (3) Where a workplace is a vehicle, other than a public transit vehicle, and no person other than the driver has authority to operate and ride in the vehicle, the provisions of this section do not apply.

EMPLOYER OBLIGATIONS

- 4.1 Where a workplace meets the criteria set out in Schedule D, an employer may file with the City of Brampton a timetable of Phased Implementation consistent with the requirements set out in Schedule D, which achieves full compliance with the requirements of the by-law, and as long as the employer adheres to such timetable of Phased Implementation, the employer shall be deemed to be in compliance with the requirements of the By-law **(212-2000)**.

- 4.2 In the event an employer fails to adhere to the timetable for Phased Implementation which it has filed with the City, the employer shall be deemed to be in contravention of the provisions of this by-law **(212-2000)**.

Every employer shall:

- (1) prohibit smoking in the workplace other than in the designated smoking room;
- (2) prohibit ashtrays and like paraphernalia in areas where smoking is prohibited;
- (3) post signs at every entrance to the workplace indicating that smoking is prohibited in the workplace except in designated smoking rooms;
- (4) post “No Smoking” signs in areas where smoking is prohibited;
- (5) post “Health Warning” signs at the entrance of any designated smoking room.

PUBLIC PLACE REQUIREMENTS

5. (1) No person shall smoke in a public place except in a designated smoking room in accordance with this section **(172-99)**.
- (2) For the purposes of this section, access to the designated smoking room must not be required by the public for thoroughfare to the washrooms, food service areas or entrances.
- (3) No designated smoking room shall occupy more than:
 - (a) 25% of the available seating area for a Class A and Class B public place;
 - (b) 25% of the occupiable space for a Class C or Class E public place;
or
 - (c) 50% of the available seating in a Class D public place.
- (4) Every employer and every proprietor of a public place that purports to have a designated smoking room shall, upon the request of a municipal law enforcement officer or public health inspector, produce a report from a qualified individual which verifies that the ventilation system in the designated smoking room complies with the requirements of this by-law as set out in the definition of “designated smoking room”.
- (5) Despite this section, a proprietor of a Class “A” public place may establish an unenclosed smoking area no greater in size than 25% of the available seating. The designated area must be contiguous, not in the center of an open space and easily identifiable by way of walls, movable partitions or other physical delineation.
- (6) Despite this section, a proprietor of a Class “B” public place may establish an unenclosed smoking area no greater in size than 25% of the available seating in the food service area. The designated area must be contiguous, not in the center of an open space and easily identifiable by way of walls, movable partitions or other physical delineation.

- (7) Despite this section, a Class B public place which is used as a bowling centre may establish an unenclosed smoking area no greater in size than 25% of available seating which is not within ten (10) feet of any playing area.
- (8) Despite this section, a proprietor of a Class “C” public place may establish an unenclosed smoking area no greater in size than 25% of occupiable space. The designated area must be contiguous, not in the center of an open space and easily identifiable by way of walls, movable partitions or other physical delineation.
- (9) Despite this section, a proprietor of a Class “D” public place may establish an unenclosed smoking area no greater in size than 50% of available seating. The designated area must be contiguous, not in the center of an open space and easily identifiable by way of walls, movable partitions or other physical delineation.
- (10) Despite this section, a proprietor of a Class “E” public place may establish an unenclosed smoking area no greater in size than 25% of occupiable space. The designated area must be contiguous, not in the center of an open space and easily identifiable by way of walls, movable partitions or other physical delineation.
- (11) Where smoking areas are permitted in:
 - (a) hospitals as defined in the *Public Hospitals Act*;
 - (b) a private hospital as defined in the *Private Hospitals Act*;
 - (c) a psychiatric facility under the *Mental Health Act* or *Mental Hospitals Act*;
 - (d) a nursing home as defined in the *Nursing Homes Act*;
 - (e) a home special care as defined in the *Homes for Special Care Act*;
 - (f) an approved charitable home as defined in the *Charitable Institutions Act*;

pursuant to the *Tobacco Control Act*, R.S.O. 1994, c. 10, as amended, the provisions of that Act shall prevail.

PROPRIETOR OBLIGATIONS

6. Every proprietor of a public place shall:
 - (1) Prohibit smoking except where smoking is permitted.
 - (2) Post “Health Warning” sign in compliance with this by-law at the entrance to every designated smoking room.
 - (3) Post “No Smoking” signs conspicuously throughout the establishment in compliance with this by-law where smoking is prohibited in the establishment.
 - (4) Prohibit ashtrays and like paraphernalia in areas where smoking is prohibited.
 - (5) Clearly identify unenclosed smoking areas by way of walls, moveable partitions or other physical delineation.

- (6) Prohibit the entry of patrons under the age of nineteen (19) years to any Class E public place.
- (7) Post an “Age Restriction” sign in compliance with this by-law at the entrance to every Class E public place.

SIGNAGE REQUIREMENTS

7. Health Warning Signs

- (1) Where a health warning sign is required to be posted under this by-law, the sign shall carry the texts “Warning - this area contains tobacco smoke, which causes cancer, heart disease, lung disease, and can harm your baby” and display the graphic symbol having the measurements, proportions and characteristics as illustrated in Schedule A.

No Smoking Signs

- (2) Where a no smoking sign is required to be placed or posted under this by-law the sign shall have the proportions, characteristics and minimum measurements as set out in Schedule B and consist of two (2) contrasting colours, unless the lettering and graphic symbol is to be applied directly to surface or to be mounted on a clear panel in which case the lettering and graphic symbol shall contrast to the background colour.
- (3) A no smoking sign which was in compliance with by-law 283-87 shall be deemed to comply with the provisions of this by-law.

Age Restriction Sign

- (4) Where an age restriction sign is required to be placed or posted under this by-law the sign shall carry the text “Warning – entrance to this establishment is restricted to patrons who are 19 years of age or older”, and display the graphic symbol having the measurements, proportions and characteristics as illustrated in Schedule C.

OFFENCES

8. Any person who contravenes any provisions of this by-law is guilty of an offence and upon conviction is liable to a fine in accordance with the *Provincial Offences Act*, R.S.O. 1990, c.P. 33, as amended.

IMPLEMENTATION DATES

9.
 - (1) This by-law shall come into full force and effect three months after the date of passage by Council.
 - (2) Subsections 5 (5), (6) and (7) shall cease to be of full force and effect on June 1, 2001 and shall be deemed to be automatically repealed upon that date, without further amendment to this by-law.
 - (3) Subsections 5 (8), (9), and (10) and subsections 6 (5), (6) and (7) shall cease to be of full force and effect on June 1, 2004 and shall be deemed to be automatically repealed upon that date, without further amendment to this by-law.

SEVERABILITY OF SECTIONS

10. If any section or sections of this by-law, or parts thereof are found by any Court of law to be illegal or beyond the power of Council to enact, such section or sections parts thereof shall be deemed to be severable and all other sections or parts of this by-law shall be deemed to be separate and independent there from and to be enacted as such.

ENFORCEMENT

11. A municipal law enforcement officer, or public health inspector acting under the direction of the Medical Officer of Health, may enter and inspect all buildings or portions of a building that are subject to this By-law, at any time of the day or night, for the purposes of carrying out the enforcement of this By-law.

SCHEDULES

12. Schedules "A", "B" and "C" to by-law 115-99 are deleted and the attached Schedules I, II and III are substituted therefor **(172-99)**.

REPEAL

13. By-law Number 283-87, as amended, is repealed effective the implementation date of this by-law.

READ a FIRST, SECOND and THIRD time and PASSED in OPEN COUNCIL, this 14TH day of JUNE, 1999.

THE CORPORATION OF THE CITY OF BRAMPTON

Original Signed by: Peter Robertson, Mayor

Original Signed by: Leonard J. Mikulich, City Clerk

Schedule I to By-law 172-99

Schedule A to By-law 115-99

(Health Warning Signs)

Schedule II to By-law 172-99

Schedule B to By-law 115-99

(No Smoking Signs)

Schedule III to By-law 172-99

Schedule C to By-law 115-99

(Age Restriction Signs)

Schedule 1 to By-law 212-2000

Schedule D to By-law 115-99

1. Where a workplace meets all of the following Criteria, an employer shall be entitled to file a timetable for Phased Implementation provided such Phased Implementation meets the Minimum Requirements set out below.

Criteria to determine whether a workplace may qualify for Phased Implementation:

- The non-office area of the workplace is a minimum of 500,000 square feet and has a ceiling height of at least 30 feet.

Minimum Requirements of Phased Implementation Timetable:

- All proposed Designated Smoking Rooms to be constructed shall be identified at the outset, in the materials filed with the City as part of the timetable for Phased Implementation.
- At least 50% of all Designated Smoking Room space proposed to be provided in the Phased Implementation shall be completed by December 31, 2002.
- The remaining Designed Smoking Room space proposed to be provided in the Phased Implementation shall be completed by June 30, 2005, and full compliance with the requirements of the by-law shall be achieved by this date.
- Every Phased Implementation must include an appropriate method by which the employer advises its employees of the timetable, on a regular and on-going basis.
- Office areas within the building shall fully comply with the requirements of the by-law, and may not be subject to phased implementation.