

Authority: Board of Health Report No. 5, Clause No. 1,
as amended and adopted by City of Toronto Council on July 6, 7 and 8, 1999
Enacted by Council: July 8, 1999

CITY OF TORONTO

BY-LAW No. 441-1999

A by-law to regulate smoking in public places and workplaces in the City of Toronto and to repeal smoking by-laws in the former municipalities.

WHEREAS continued exposure to environmental tobacco smoke in public places and workplaces is an unacceptable health risk; and

WHEREAS it is desirable to promote the health and well being of persons, especially children, in the municipality; and

WHEREAS subsection 213(2) of the *Municipal Act* authorizes the Council of a local municipality to pass a by-law regulating the smoking of tobacco in public places or workplaces and designating public places or workplaces or classes or parts of such places as places in which smoking tobacco or holding lighted tobacco is prohibited;

The Council of the City of Toronto HEREBY ENACTS as follows:

PART I DEFINITIONS

1. In this by-law,

“class “A” public place” means an enclosed building or an enclosed portion of building used for the sale and service of food or drink or both food and drink to the public for consumption on the premises but does not include a food court, indoor patio or a class “E” public place. A class “A” public place includes a dinner theatre and a restaurant;

“class “B” public place” means a public place which is used for bowling and includes a bowling centre;

“class “C” public place” means a public place used primarily for playing billiards and includes 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*, and includes a casino and a race track but does not include a class “F” public place;

“class “E” public place” means an enclosed building or an enclosed portion of a building used for the sale and service of food and drink to the public for consumption on the premises which is licensed under the *Liquor Licence Act* and where no patron under the age of nineteen (19) years of age is admitted to the premises at any time. A class “E” public place includes a bar, an entertainment

lounge and a night club. A class "E" public place does not include a premises otherwise defined in this by-law;

"class "F" public place" means a public place where the principal business is the operation of a bingo hall;

"designated smoking room" for workplaces and for class "A", class "B", class "C", class "D" and class "E" public places means a room in which smoking is permitted and,

- (a) is fully enclosed and is not a washroom, a waiting area, a transaction counter or wicket at a race track, or an area used for public thoroughfare;
- (b) in the case of a workplace, is not greater in size than twenty-five percent (25%) of the occupiable space;
- (c) in the case of a public place, is not greater in size than twenty-five percent (25%) of the occupiable public space;
- (d) has a capacity of not more than twenty-five percent (25%) of the occupancy load; and
- (e) 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 load that is ventilated directly to the outside air and exhausted at a rate of at least one hundred and ten percent (110%) of supply. Such exhaust must be no less than three (3) metres from any air intake or opening.

"designated smoking room" for a class "F" public place means a room in which smoking is permitted and,

- (a) is fully enclosed and is not a washroom, a waiting area, a counter or location where bingo cards are purchased, a bingo calling area, or an area used for public thoroughfare;
- (b) is not greater in size than fifty percent (50%) of the occupiable public space;
- (c) has a capacity of not more than fifty percent (50%) of the occupancy load;
- (d) 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 load that is ventilated directly to the outside air and exhausted at a rate of at least one hundred and ten

percent (110%) of supply. Such exhaust must be no less than three (3) metres from any air intake or opening.

“employee” means a person who performs any work for or supplies any service to an employer, and includes a volunteer and a person who is self employed and employment has a corresponding meaning;

“employer” means any person who, as the owner, manager, contractor, 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 an employee, whether paid or not, therein;

“enclosed” means closed in by a roof or ceiling and walls with an appropriate opening or openings for ingress or egress, which openings are equipped with doors which are kept closed except when actually in use 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 City of Toronto Health Unit or any person acting under his or her authority;

“proprietor” means the person who ultimately controls, governs or directs the activity carried on within the premises referred to in section 6, and includes the person actually in charge of the premises;

“private club” means a not for profit corporate establishment that operates solely for the benefit and pleasure of its members, that directs its publicity and advertisements to its members and has passed by-laws regulating the admission of persons and the conditions of membership, the fees and dues of members, the issue of membership cards, the suspension and termination of memberships, the qualification of and the remuneration of the directors, the time for and the manner of electing directors and the time, place and notice to be given for the holding of meetings of the members and of the board of directors;

“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, expressed or implied;

“public transit vehicle” includes a school bus and a passenger vehicle used for hire;

“smoke or smoking” includes the carrying of a lighted cigar or cigarette, pipe or any other lighted smoking equipment;

“workplace” means a building or part of a building in which one or more employees work, including employees’ eating and lounge areas, includes a public transit vehicle (other than a taxi cab or livery cab) and any other conveyance in which an employee

works. In the case of Toronto City Hall, workplace includes the taxi tunnel, the official parking garage, the main employee parking garage and the glass house.

PART II WORKPLACES

2. (1) Where a workplace is also a public place, the provisions of this by-law respecting public places shall prevail.
- (2) Where a workplace is also a private club, the provisions of this by-law do not apply.
3. (1) No person shall smoke in a workplace except in a designated smoking room.
- (2) The designated smoking room referred to in subsection (1) shall be used for no other purpose than a designated smoking room.
4. Section 3 and subsection 5(a) do not apply to those areas of a workplace where smoking is otherwise permitted by this by-law.
5. Every employer shall,
 - (a) prohibit smoking in the workplace except where smoking in the workplace is permitted by this by-law;
 - (b) conspicuously post no smoking signs in areas where smoking is prohibited;
 - (c) where designated smoking rooms are established, conspicuously post health warning signs at the entrance of each designated smoking room;
 - (d) prohibit ashtrays and like paraphernalia in areas where smoking is prohibited; and
 - (e) conspicuously post signs at every entrance to the workplace indicating that smoking is prohibited in the workplace except in designated smoking rooms.

PART III PUBLIC PLACES

6. (1) No person shall smoke in a public place.
- (2) The prohibition set out in subsection (1) does not apply to
 - (a) a designated smoking room in a public place, or
 - (b) a smoking area established and designated pursuant to subsections 6(3), 6(4), 6(5), 6(6), 6(7) or 6(8).

- (3) Despite subsection (1), a proprietor of a class “A” public place may establish and designate an unenclosed smoking area no greater in size than twenty-five percent 25% of the occupiable public space in the premises. The designated smoking area must be contiguous and clearly identifiable.
- (4) Despite subsection (1), a proprietor of class “B” public place may establish and designate an unenclosed smoking area no greater in size than twenty-five per cent (25%) of the occupiable public space in the premises. The designated smoking area must be contiguous and clearly identifiable.
- (5) Despite subsection (1), a proprietor of a class “C” public place may establish and designate an unenclosed smoking area no greater in size than twenty-five per cent (25%) of the occupiable public space of the premises. The designated smoking area must be contiguous and clearly identifiable.
- (6) Despite subsection (1), a proprietor of a class “D” public place may establish and designate an unenclosed smoking area no greater in size than twenty-five per cent (25%) of occupiable public space in the premises. The designated area must be contiguous and clearly identifiable.
- (7) Despite subsection (1), a proprietor of a class “E” public place may establish and designate an unenclosed smoking area no greater in size than twenty-five per cent (25%) of occupiable public space in the premises. The designated smoking area must be contiguous and clearly identifiable.
- (8) Despite subsection (1), a proprietor of a class “F” public place may establish and designate an unenclosed smoking area no greater in size than twenty-five percent (25%) of occupiable public space in the premises. The designated smoking area must be contiguous and clearly identifiable.
- (9) This by-law does not apply to,
 - (a) a hospital 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 for special care as defined in the *Homes for Special Care Act*;
 - (f) an approved charitable home as defined in the *Charitable Institutions Act*;
 - (g) a home for special care as defined in the *Homes for the Aged and Rest Homes Act*.

7. Every proprietor shall,
- (a) prohibit smoking except where smoking is permitted;
 - (b) post no smoking signs conspicuously where smoking is prohibited in the premises;
 - (c) conspicuously post a health warning sign at the entrance of an establishment where unenclosed smoking is permitted;
 - (d) conspicuously post a health warning sign at the entrance of every designated smoking room;
 - (e) prohibit ashtrays and like paraphernalia in areas where smoking is prohibited;
 - (f) ensure that an unenclosed designated smoking area be contiguous; and
 - (g) clearly identify an unenclosed designated smoking area.

**PART IV
SIGNAGE REQUIREMENTS**

8. (1) Where a health warning sign is required to be posted by this by-law the sign shall,
- (a) carry the text “Warning This area contains tobacco smoke which causes cancer, heart disease, lung disease and can harm your baby”;
 - (b) display the graphic symbol having the measurements, proportions and characteristics as illustrated in Schedule A at the end of and forming part of this by-law;
 - (c) be posted in English and any other language as the Medical Officer of Health may decide.
9. (1) Where a no smoking sign is required to be placed or posted pursuant to this by-law, the sign shall
- (a) have the proportions, characteristics and minimum measurements illustrated in Schedule B at the end of and forming part of this by-law;
 - (b) consist of two (2) contrasting colours, or if the lettering and graphic symbol is to be applied to a surface or to be mounted on a clear panel, the lettering and the graphic symbol shall contrast to the background colour;

- (c) be posted in English and any other language the Medical Officer of Health may decide.

10. Where an employer or proprietor prohibits smoking throughout the entire workplace or public place under the control, supervision or ownership of that employer or proprietor, the Medical Officer of Health may permit that employer or proprietor to post signs in a form, size and location satisfactory to the Medical Officer of Health that indicate that the entire workplace or public place is smoke free and, where permission has been given under this section, paragraph 5(b) and paragraph 7(b) do not apply to that workplace or public place provided that smoking continues to be prohibited throughout that workplace or public place.

PART V OFFENCES

- 11.** Any person who contravenes any provision of this by-law is guilty of an offence.

PART VI REPEAL PROVISIONS

- 12.** (1) The following are repealed,
- (a) Borough of East York By-law Number 148-96, as amended, being a by-law to Protect East York Workers and Inhabitants from Environmental Tobacco Smoke;
 - (b) City of Etobicoke Municipal Code Chapter 220-Smoking By-law;
 - (c) City of North York By-law 32931, as amended, being a by-law to regulate or prohibit smoking in public places or workplaces;
 - (d) City of Scarborough By-law Number 24983, being a by-law to protect City of Scarborough workers and inhabitants from secondhand tobacco smoke;
 - (e) City of Toronto Municipal Code Chapter 301, Smoking, as amended;
 - (f) City of York By-law Number 3320-96 being a by-law to protect inhabitants and workers in the City of York from environmental tobacco smoke.
- (2) Despite subsection (1), the by-laws referred to in subsection (1) continue to apply to offences that occurred before the by-laws were repealed.

PART VII TRANSITION PROVISIONS

- 13.** (1) Subsections 6(3) and 6(4) of this by-law are repealed on June 1, 2001.

- (2) Subsections 6(5), 6(6), 6(7) and 6(8) of this by-law are repealed on June 1, 2004.
- (3) Despite subsections (1) and (2), this by-law, as it read before subsections 6(3), 6(4), 6(5), 6(6), 6(7) and 6(8) were repealed, continues to apply to proceedings in respect of offences that occurred before subsections 6(3), 6(4), 6(5), 6(6), 6(7) and 6(8) were repealed.

14. This by-law comes into force three months after the date it is enacted and passed by Council.

ENACTED AND PASSED this 8th day of July, A.D. 1999.

CASE OOTES,
Deputy Mayor

NOVINA WONG,
City Clerk

(Corporate Seal)

SCHEDULE "A"

Toronto By-law

Warning

This area contains
tobacco smoke,
which causes
cancer, heart disease,
lung disease, and can
harm your baby.



Medical Officer of Health

59A.34355

Red

SCHEDULE "B"

