

## THE CORPORATION OF THE CITY OF GUELPH

### By-law Number (1995)-14892 (**Office Consolidation**)

A by-law to regulate smoking in public places and workplaces in the City of Guelph and to adopt Municipal Code Amendment #160 which amends the Corporation of the City of Guelph's Municipal Code.

WHEREAS Section 213.(2) of the Municipal Act, R.S.O. 1990, Chapter M.45 provides municipalities with the authority to pass a by-law regulating the smoking of tobacco in public places and workplaces:

THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF GUELPH ENACTS AS FOLLOWS:

#### SHORT TITLE

1. This by-law may be cited as “the Smoking By-law”.

#### INTERPRETATION

2. For the purposes of this by-law, the following terms shall have the corresponding meanings:
  - (a) “**Bus**” includes any public transit bus, school bus or other bus used for hire;
  - (b) “**City**” means the Corporation of the City of Guelph;
  - (c) “**Employee**” includes a Person whose services are contracted for by an Employer, and “**Employees**” shall have a corresponding meaning;
  - (d) “**Employer**” means a Person who employs one or more Employees or who contracts for the services of one or more Persons;
  - (e) “**Enclosed Workplace**” means an enclosed building or structure in which an Employee works and includes a shaft, tunnel, caisson or similar enclosed space;
  - (f) “**Escalator, Elevator, Stairway**” mean any escalator, elevator or stairway to which the general public has access including elevators and stairways in apartment buildings;
  - (g) “**Inspector**” means any City Employee authorized by the City Clerk to carry out inspections under and to enforce the provisions of this By-law, any police officer of the Guelph Police Service, or the Medical Officer of Health or any Employee of the Wellington-Dufferin-Guelph Health Unit designated by him or her;
  - (h) “**Municipal Building**” includes any building owned and operated by the City;
  - (i) “**Person**” includes a corporation;
  - (j) “**Proprietor**” means any Person who has control of, is in charge of, manages or owns a Public Place as set out in this by-law;
  - (k) “**Public Place**” includes a bingo hall, bowling alley, Bus, Escalator, Elevator, Stairway, Municipal Building, Public Restroom, Restaurant, Service Line, Theatre and taxi cab;
  - (l) “**Public Restroom**” means any restroom in any building or structure to which the general public has access including a restroom in a Restaurant, bowling alley, bingo hall, gas station, shopping centre, Theatre, arena and the like;
  - (m) “**Restaurant**” means any premises where food, drink or alcohol is offered for sale or is made available to the public for immediate consumption together with any part of which the public has access, and includes, for greater certainty and without limiting such, any restaurant, bar, coffee shop, snack bar, the eating area of a mall or shopping centre and the like. [**Amended by (2003)-17197**]

- (n) **“Service Line”** means any place in any building or structure where a Person lines up for service or for retail sales of products and includes a food service line or counter;
- (o) **“Smoking”** includes the carrying of a lighted cigar, cigarette, pipe or other lighted smoking device, and **“Smoke”** shall have a corresponding meaning; and
- (p) **“Theatre”** means any place where film or a live stage performance is exhibited to the public and includes a cinema, concert hall and the like, but does not include a drive-in theatre.
- (q) **“Ashtray”** includes any receptacle actually used or designed to be used to deposit tobacco ashes, or to deposit cigar or cigarette butts. **[Added by (2003)-17197]**

### GENERAL PROHIBITIONS

#### 3. No Person shall Smoke:

- (a) on any Bus;
- (b) on any Escalator, Elevator or Stairway;
- (c) in any Municipal Building;
- (d) in any Public Restroom;
- (e) in any Service Line;
- (f) in any Theatre; or
- (g) in any area of a Public Place that is designated as a non-Smoking area.

### PROPRIETORS AND EMPLOYERS TO ENSURE COMPLIANCE

- 4. (a) Every Proprietor shall ensure compliance with the provisions of this by-law within his or her Public Place.
- (b) Every Employer shall ensure compliance with the provisions of this by-law within his or her Enclosed Workplace.

### RESTAURANTS

- 5. (a) Every Proprietor of a Restaurant shall designate a portion of the in-door seating provided in such Restaurant as an area where Smoking is prohibited and the amount of seating designated shall be:
  - (i) commencing in the year 1995, at least 50% of the total seating provided;
  - (ii) commencing in the year 1997, at least 60% of the total seating provided;
  - (iii) commencing in the year 1999, at least 75% of the total seating provided;
- (b) Commencing in the year 2000, no Person shall Smoke in any Restaurant within the City of Guelph.
- (c) Every Proprietor shall ensure that the minimum designated seating required in Section 4(a) of this by-law is discrete.

### BINGO HALLS

- 6. No Person shall Smoke in any bingo hall within the City of Guelph. **[Amended by (2000)-16387]**

### BOWLING ALLEYS

- 7. No Person shall Smoke in any bowling alley within the City of Guelph. **[Amended by (2000)-16387]**

### TAXI CABS

- 8. No person shall Smoke in any Taxi Cab unless all Persons in such Taxi Cab agree to permit such Person to Smoke.

## WORKPLACES

9. (a) No Person shall Smoke in an Enclosed Workplace except in an area designated in accordance with this by-law to permit Smoking.
- (b) An Employer may designate an area of not more than 25% of an Enclosed Workplace as an area in which Smoking is permitted provided that such area:
  - (i) is separately enclosed from the remainder of the Enclosed Workplace; and
  - (ii) is an area to which non-Smoking Employees do not require access including an office, storage area, eating area and the like.
- (c) This Section shall not apply in respect of any Municipal Building.

## OTHER LEGISLATION TO APPLY

10. Smoking in hospitals, nursing homes, psychiatric facilities, homes for special care, charitable institutions, pharmacies, establishments where goods or services are sold to the public, schools, day nurseries, financial institutions, video or amusement arcades, the common areas of enclosed shopping malls, self-serve laundries, shelters or stations used as part of a public transit system and hairdressing establishments or barber shops is governed by the Tobacco Control Act, S.O. 1994, Chapter 10, or any successor thereof.

## SIGNS TO BE POSTED

11. Every Proprietor of a Restaurant, bingo hall and bowling alley shall ensure that every designated area in such Restaurant, bingo hall or bowling alley where Smoking is prohibited is identified with signs and such signs:
  - (a) are at least 46 centimetres (18 inches) by 30 centimetres (12 inches) in size and the lettering on such signs shall be at least 4 centimetres (1 ½ inches) high and 2.5 centimetres (1 inch) wide;
  - (b) are posted at all entrances to the area where Smoking is prohibited;
  - (c) clearly indicate that the area to which they apply is a non-Smoking area;
  - (d) are clearly visible to the public; and
  - (e) are in place at all times.

## ASHTRAYS

- 11.1 (a) Every Proprietor of a Public Place shall ensure that no Ashtray is placed in or permitted to remain in any area of such Public Place in which Smoking is prohibited by this By-law.
- (b) Every Employer shall ensure that no Ashtray is placed in or permitted to remain in any area of his or her enclosed Workplace in which Smoking is prohibited by this By-Law. **[Subsection 11.1 added by (2003)-17197]**

## INSPECTIONS

12. An Inspector may, at any reasonable time, enter any Public Place for the purposes of determining compliance with this by-law.

## OFFENCE

13. Every Person who contravenes any provision of this by-law is guilty of an offence.

PENALTY

14. Every Person who is convicted of an offence under any provision of this by-law shall be liable to a penalty as set out in Section 61 of The Provincial Offences Act, R.S.O. 1990, Chapter P.33, or any successor thereof.

PRIOR BY-LAWS REPEALED

15. By-law Numbers (1997)-9437 and (1987)-12506 are hereby repealed.

MUNICIPAL CODE AMENDED

16. Chapter 253 of The Corporation of the City of Guelph's Municipal Code is hereby deleted, and this by-law substituted therefor, being Municipal Code Amendment # 160.

EFFECTIVE DATE OF CERTAIN SECTIONS

17. Subsections 9(a) and (b) of this by-law shall not come into effect until the 1st day of January, 1996.

**PASSED this SEVENTEENTH day of JULY, 1995.**

Original Signed by:  
Joe Young – Mayor

Original Signed by:  
Lois A. Giles – City Clerk