

# THE CORPORATION OF THE TOWN OF CALEDON

## By-law Number 2003-140

being a By-law to regulate smoking in all public places and workplaces within the Town of Caledon and to repeal By-law 89-55 and By-law 99-73

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 Town of Caledon;

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 Town of Caledon to provide for the prohibiting and abating of smoking and second-hand smoke in accordance with the provisions of this By-law;

AND WHEREAS the Council for the Corporation of the Town of Caledon considers it to be in the public interest to have Caledon 100% smoke free by October 1, 2003 by the elimination of unenclosed smoking areas and designated smoking rooms and the removal of any existing unenclosed smoking areas and designated smoking rooms by October 1, 2003;

AND WHEREAS section 115 of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, 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 or holding lighted tobacco is prohibited;

NOW THEREFORE the Council of The Corporation of the Town of Caledon hereby ENACTS as follows:

### Definitions

1. In this By-law,

"common area" means that portion of any building or structure including a commercial or retail establishment, residential condominium or multiple dwelling unit apartment building, other than a dwelling unit to which the public may have access, whether as of right or by invitation, express or implied and includes, and 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

"employee" means any person who:

- (1) performs any work or supplies any services to an employer with or without remuneration, or
- (2) is self-employed, or
- (3) is a volunteer and is otherwise defined by clause (1)

"employer" means 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 or services of a person, whether paid or unpaid, therein

"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 and includes:

- (1) a building or structure or part thereof 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 and is not limited to:
  - (a) a dinner theatre
  - (b) a restaurant
  - (c) a banquet hall
  - (d) a food court or indoor patio;
- (2) a building or structure or part thereof used as a bowling centre, skating rink, curling club, or other similar use;
- (3) a building or structure or part thereof 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 and is not limited to a billiard hall;
- (4) a building or structure or part thereof used for the playing of games of chance as defined by the *Gaming Control Act*, 1992, S.O. 1992, c. 24, as amended, which may include and is not limited to:
  - (a) a bingo hall
  - (b) a casino; and
- (5) a building or structure or part thereof 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 and is not limited to:
  - (a) a bar or tavern
  - (b) an entertainment lounge
  - (c) a night club

"public transit vehicle" means any vehicle used for transporting the public and includes a school bus and a passenger vehicle used for hire

"smoke" or "smoking" includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment but does not include smoke or smoking where smoke or smoking is used in a stage production or theatrical performance

"Town" means The Corporation of the Town of Caledon, in the Regional Municipality of Peel

"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**

2. (1) No person shall smoke in a workplace.
- (2) Where a workplace is also a public place, the provisions of this by-law respecting public places shall prevail.

#### **Employer Obligations**

3. Every employer shall
  - (1) prohibit smoking in the workplace,
  - (2) prohibit ashtrays and like paraphernalia in any area of the workplace, and
  - (3) post signs in a conspicuous location at every entrance to the workplace indicating that smoking is prohibited in the workplace.

#### **Public Place Requirements**

4. No person shall smoke in a public place.

#### **Proprietor Obligations**

5. Every proprietor of a public place shall
  - (1) prohibit smoking except where smoking is permitted,
  - (2) post "No Smoking" signs in compliance with this by-law conspicuously throughout the establishment where smoking is prohibited, and
  - (1) prohibit ashtrays and like paraphernalia in areas where smoking is prohibited.

#### **Signage Requirements**

##### **No Smoking Signs**

6. (1) 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 "A" and consist of two (2) contrasting colours, unless the lettering and graphic symbol is applied directly to surface or to be mounted on a clear panel, the lettering and graphic symbol shall contrast with the background colour.
- (2) A no smoking sign that was in compliance with By-law 89-55, as amended, or with By-law 99-73, as amended, shall be deemed to comply with this by-law.

#### **Offences**

7. 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**

8. This by-law shall come into full force and effect on October 1, 2003.

#### **Severability of Sections**

9. 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 therefrom and to be enacted as such.

**Enforcement**

- 10. (1) 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, structures or parts thereof that are subject to this by-law at any reasonable time for the purposes of determining whether there is compliance with this by-law and for this purpose may make such examinations, investigations and inquiries as are necessary.
- (2) Despite subsection (1), a municipal law enforcement officer or public health inspector acting under the direction of the Medical Officer of Health shall not exercise a power to enter a place or part of a place that is used as a dwelling unless there is compliance with subsection 430 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended.

**Conflict**

- 11. Where the provisions of the *Tobacco Control Act, 1994*, S.O. 1994, c. 10, as amended, apply, the provisions of that Act shall prevail.

**Schedules**

- 12. Schedule "A" attached hereto forms part of this by-law.

**Repeal**

- 13. By-law Number 99-73, as amended, is repealed, effective on the implementation date of this by-law.

**Short Title**

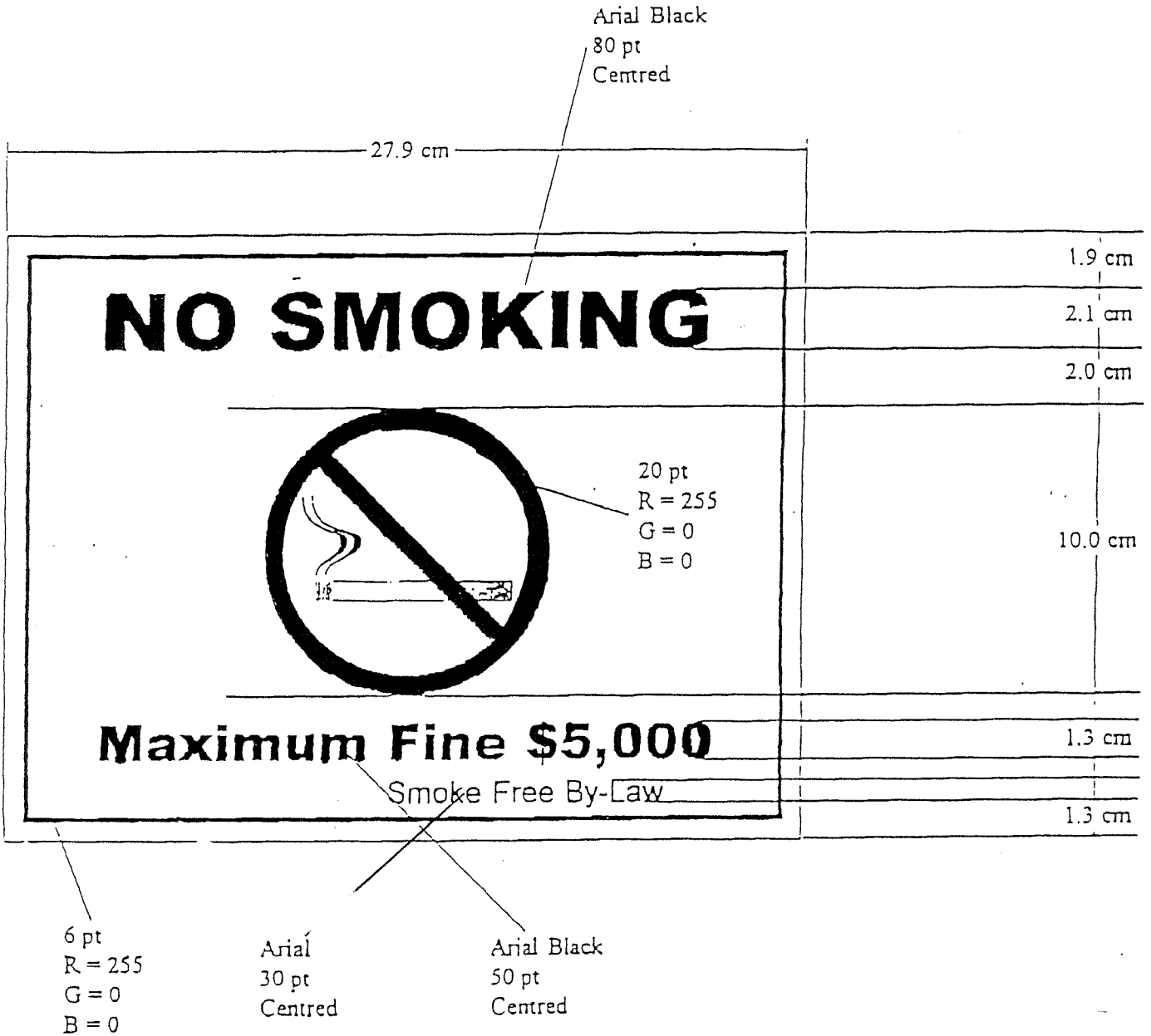
- 14. This by-law may be referred to as the "Smoke-free By-law".

READ A FIRST, SECOND AND THIRD TIME  
 AND PASSED IN OPEN COUNCIL  
 THIS 14<sup>th</sup> DAY OF JULY 2003

Carol Seglins, Mayor  
 Cheri Cowan, Clerk

**SCHEDULE "A" TO  
BY-LAW 2003-140**

**(No Smoking Signs)**



THE CORPORATION OF THE TOWN OF CALEDON

By-law Number 2003-177

being a by-law to amend By-law 2003-140 (Smoke-free By-law)


NOW THEREFORE the Council of the Corporation of the Town of Caledon hereby enacts as follows:

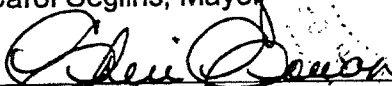
1. That By-law 2003-140 be amended by adding the following section immediately following section 14:
  - "15. 1061393 Ontario Limited, operating as Bolton Bingo Centre, is exempt from By-law 2003-140 upon the following conditions:
    - (1) it operates at 2 Industrial Road, Bolton,
    - (2) it maintains any licence or licences required for the purpose of operating a bingo hall in good standing,
    - (3) it complies with Regional Municipality of Peel Smoke-free By-law 14-2003 as amended, and
    - (4) it constructs a designated smoking room in accordance with the requirements of the applicable law by 1 June 2004."

READ A FIRST, SECOND AND THIRD TIME

AND PASSED IN OPEN COUNCIL

THIS 6<sup>th</sup> DAY OF OCTOBER 2003

  
\_\_\_\_\_  
Carol Seglins, Mayor

  
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Cheri Cowan, Clerk

