



By-law Number 289-99

**A by-law to regulate smoking
in all public places and workplaces
within the City of Mississauga and
to repeal By-law 445-79, as amended
(amended by By-law 375-99)**

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 Mississauga;

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 Mississauga 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, 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 or classes or parts of such places as places in which smoking tobacco or holding lighted tobacco is prohibited;

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

DEFINITIONS

1. In this By-law:

“City” means The Corporation of the City of Mississauga in the Regional Municipality of Peel;

“Class “A” Public Place” means 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 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 structure or part thereof used as a bowling centre, skating rink, curling club, or other similar use;

“Class “C” Public Place” means 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 but is not limited to a billiard hall;

“Class “D” Public Place” means 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 but is not limited to:

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

“Class “E” Public Place” means 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 by 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 part 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, 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;

“designated smoking room” is a room within a building or structure or part thereof that is completely enclosed on all sides and separately ventilated as required by the provisions of this By-law;

“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;

“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;

“enclosed” means closed in by a roof or ceiling and walls with an appropriate opening or openings for ingress and 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 owns, occupies or 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 Class “A” to Class “E” Public Places as defined in this By-law;

“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;

“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.

DESIGNATED SMOKING ROOM REQUIREMENTS

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

PUBLIC PLACE REQUIREMENTS

5. (1) No person shall smoke in a public place.(375-99)
- (a) Notwithstanding subsection (1), a person may smoke in a designated smoking room in Class "A", "B", "C", "D", and "E" Public places where permitted by this By-law. (375-99)
- (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 seating area available for patrons in a Class "A" and Class "B" Public Place;
 - (b) 25% of the space occupiable by patrons for a Class "C" or Class "E" Public Place;
 - (c) 50% of the seating available for patrons in a Class "D" Public Place.
- (4) 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.
- (5) Despite this section, a proprietor of a Class "A" Public Place may establish one unenclosed smoking area no greater in size than 25% of the seating available for patrons, easily identifiable by way of walls, movable partitions or other physical delineation and not in the center of an open space.
- (6) Despite this section, a proprietor of a Class "B" Public Place may establish one unenclosed smoking area no greater in size than 25% of the seating available for patrons in the food service area, easily identifiable by way of walls, movable partitions or other physical delineation and not in the center of an open space.

- (7) Despite this section, a proprietor of 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 seating available for patrons which is not within ten feet of any playing area.
- (8) Despite this section, a proprietor of a Class “C” Public Place may establish one unenclosed smoking area no greater in size than 25% of space occupiable by patrons, easily identifiable by way of walls, movable partitions or other physical delineation and not in the center of an open space.
- (9) Despite this section, a proprietor of a Class “D” Public Place may establish one unenclosed smoking area no greater in size than 50% of seating available for patrons, easily identifiable by way of walls, movable partitions or other physical delineation and not in the center of an open space.
- (10) Despite this section, a proprietor of a Class “E” Public Place may establish one unenclosed smoking area no greater in size than 25% of space occupiable by patrons, easily identifiable by way of walls, movable partitions physical delineation and not in the center of an open space.
- (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 institution as defined in the *Charitable Institutions Act*,
 - (g) a home as defined in the *Homes for the Aged and Rest Homes Act*, and
 - (h) a place belonging to a prescribed class,

pursuant to the *Tobacco Control Act, 1994*, 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 a “Health Warning” sign as provided for in subsection 7(1) of this By-law in a conspicuous place at the entrance to every designated smoking room;
 - (3) post “No Smoking” signs as provided for in subsection 7(2) of this By-law conspicuously throughout the establishment where smoking is prohibited;
 - (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 delineations;
 - (6) prohibit the entry of patrons under the age of nineteen (19) years to any Class “E” Public Place; and

- (7) post an “Age Restriction” sign as provided for in subsection 7(4) of this By-law in a conspicuous place at the entrance to every Class “E” Public Place.

SIGNAGE REQUIREMENTS

7. (1) Where a health warning sign is required to be posted under this By-law, the sign shall carry the text “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”.
- (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, or if the lettering and graphic symbol is to be applied directly to surface or to be mounted on a clear panel, the lettering and graphic symbol shall contrast with the background colour.
- (3) Signage which was in compliance with By-law 445-79, as amended, shall be deemed to comply with this By-law.
- (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 nineteen (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 therefrom and to be enacted as such.

ENFORCEMENT

11. (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.
- (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 213(7) of the *Municipal Act*, R.S.O. 1990, c. M.45, as amended.

SCHEDULES

12. Schedules “A”, “B” and “C” attached hereto form part of this By-law.

REPEAL

13. By-law Number 445-79, as amended, is repealed effective the implementation date of this By-law as prescribed in subsection 9(1).

SHORT TITLE

14. This By-law may be referred to as the “Smoke-free By-law”.

ENACTED AND PASSED this 23rd day of June, 1999.

Signed: C. Corbasson, ACTING MAYOR

Signed: A. Grannum, DEPUTY CLERK

**Schedule “A”
(Health Warning Signs)**

Note: Diagrams are available upon request.

Schedule "B"
(No Smoking Signs)

Note: Diagrams are available upon request

**Schedule “C”
(Age Restriction Signs)**

Note: Diagrams are available upon request