

Smoke Free Public Places

PH-10 – Enacted February 17, 2003

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Note: This by-law comes into effect July 1, 2003

Bill No. 98
2003

By-law No. PH-10

A By-law to Regulate Smoking in Public Places in
the City of London.

WHEREAS it has been determined that second hand tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars and pipes) is a health hazard for inhabitants of the City of London; and

WHEREAS it is desirable for the health, safety, and welfare of the inhabitants of the City of London to provide for a smoke-free environment in public places; and

WHEREAS the Municipal Council of The Corporation of the City of London has the authority to pass bylaws prohibiting and regulating the smoking of tobacco and the carrying of lighted tobacco products in public places within the City pursuant to Section 115 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended.

THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

SMOKE FREE PUBLIC PLACES BY-LAW

Definitions

1. In this by-law:

“arena” means any building, location or premises comprised of, but not restricted to, a rink, floor or ice surface, spectator seating areas, dressing rooms and canteen facilities, to which the public has access to view or participate in sporting or other events;

“ashtray” means a receptacle for tobacco ashes and for cigar and cigarette butts;

“billiard hall” means any building, location or premises to which members of the public are invited or permitted entry for the purpose of playing billiards;

“bingo hall” means any building, location or premises where the conduct of bingo events is licensed;

“bowling alley” means any building, location or premises to which members of the public are invited or permitted entry for the purpose of bowling;

“bus” means any public transit bus, school bus or other bus used for hire;

“casino” means an establishment within the meaning of the *Gaming Control Act, 1992*, and includes any building, location or premises where the conduct of one or more gaming events is held for the purpose of raising money for a charity or non-profit organization;

“City” means The Corporation of the City of London or the municipality of the City of London, as the context requires;

“common area” means any indoor area of a building that is open to the public for the purposes of access to a retail shop, establishment or office and includes corridors, passageways, public restrooms, unenclosed eating areas in corridors, unenclosed public seating areas and unenclosed public standing areas, whether or not the eating area, seating area or standing area is leased;

“Council” means the Municipal Council of the City of London;

“designated public place” means a public place as designated under section 2 of this by-law;

“enforcement officer” means a person appointed by the Middlesex-London Board of Health to enforce this by-law or any person appointed by Council as a municipal tobacco by-law enforcement officer to enforce this by-law or any police officer of the London Police Force;

“food court” means an area within a shopping mall where food or drink is offered for sale or sold to the public for immediate consumption;

“hallway” in relation to a residential premises containing more than four dwelling units, means the interior passage way leading from the lobby to the doors of individual dwelling units and also the interior passage way into which the entrances from the individual dwelling units lead;

“limousine” means a public motor vehicle required to be licensed by the City as a limousine and used primarily to provide transportation services to the public;

“limousine service” means the use of a limousine for the conveyance of one or more passengers in exchange for a fee or other consideration;

“occupier” means the person who has responsibility for and control over the condition of a designated public place or the activities there carried on, or control over persons allowed to enter the designated public place;

“outdoor area” means an area that:

- (1) (a) is not covered by a temporary or permanent roof; or
 - (b) if covered by a temporary or permanent roof, has one or more unobstructed, exterior openings in the walls surrounding the roofed area:
 - (i) located between the floor and a height of 2.44 metres above the floor; and
 - (ii) equal in area to at least 35% of the total wall surface, such wall surface to be calculated as if the roofed area were surrounded by walls 2.44 metres in height;
- (2) does not share open windows with a place of refreshment;
- (3) does not share open doors with a place of refreshment, except when doors are being opened by individuals to enter or exit the outdoor area;
- (4) does not have thermostat controlled heating or air conditioning system nor does it share a thermostat controlled heating or air conditioning system with a place of refreshment; and
- (5) has circulation of fresh air throughout the area.

“person” includes a corporation;

“place of public assembly” means the whole or part of an indoor area to which the public has access by right or by invitation, express or implied, whether by payment of money or not, but does not include an outdoor area;

“place of refreshment” means any premises where food or drink is offered for sale or is sold to the public for immediate consumption together with any part where the public has access, and includes, without limiting such, a restaurant, a dining room, a dairy bar, a coffee shop, a donut shop, a snack bar, a refreshment stand, a banquet hall or facility, a bar, and a nightclub, but does not include an outdoor area;

“proprietor” means the owner or occupier of a designated public place;

“public building” means any partially or completely enclosed building or group of buildings to which the public has access;

“public facility” means any hall, room, or banquet area that is publicly owned and is rented for an event or function, but does not include an outdoor area;

“public place” means the whole or part of an indoor area to which the general public is invited or permitted access, but does not include an outdoor area;

“public portion” means the area of any building to which the public has access;

“public restroom” means any restroom or washroom to which the public has access;

“reception area” means the public space used by an office or establishment for the receiving or greeting of customers, clients or other persons dealing with such office or establishment;

“school bus” means a public vehicle licensed for the purpose of transporting children to and from school or to or from any activity, event or function associated therewith;

“service counter” means an indoor counter where a person receives a service including, but not limited to, the exchange of money, sales, provision of information, transactions, advice or the transfer of money or goods;

“service line” means an indoor line of two (2) or more persons awaiting service of any kind regardless of whether or not such service involves the exchange of money, including but not limited to sales, transactions, provision of information or advice and transfers of money or goods;

“shopping mall” means any enclosed building or group of buildings containing one or more retail shops;

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

“taxicab” means a public motor vehicle required to be licensed as a taxicab by the City or a motor vehicle designed for carrying less than ten passengers and operated under the authority of the *Public Vehicles Act*, and

“taxicab service” means the use of a taxicab for the conveyance of one or more passengers in exchange for a fee or other consideration.

Part I General Prohibitions for Public Places

Public Places

2. The following are designated public places for the purposes of this by-law:
 - (a) the common area of a public building;
 - (b) an indoor service line or service counter in any premise to which the public has access;
 - (c) a place of public assembly;
 - (d) a public restroom;
 - (e) a food court;
 - (f) a public facility;

- (g) a reception area;
- (h) a municipally-owned building;
- (i) a bingo hall;
- (j) a bowling alley;
- (k) a billiard hall;
- (l) the public portion of any place of refreshment;
- (m) the public portion of any casino;
- (n) an arena;
- (o) the common area of a shopping mall;
- (p) a bus;
- (q) a taxicab during a taxicab service;
- (r) a limousine during a limousine service; and
- (s) a lobby or hallway to dwelling units in a residential premises containing four or more dwelling units.

Prohibition

3. No person shall smoke in any designated public place, listed in section 2 of this by-law.

**Part II
Sign Requirements**

Signs

4. The proprietor of any designated public place shall ensure that a sufficient number of signs as prescribed by section 6 are conspicuously posted at each entrance so as to clearly identify that smoking is prohibited.

Posting

5. Despite Section 4, in every shopping mall or other public building referred to in Section 2, the proprietor of the shopping mall or other public building shall ensure that:

- (a) signs are posted in accordance with section 6 in every common area of the shopping mall or other public building,
- (b) signs are posted at every entrance to the shopping mall or other public building, which are visible and in sufficient numbers, clearly indicating that smoking is prohibited in the common areas of the shopping mall or other public building, and
- (c) signs referred to in clauses (a) and (b) are in accordance with section 6.

Graphic Symbols

6. (1) The signs referred to in this by-law shall consist of graphic symbols that comply with the provisions of this section.
- (2) The following graphic symbol shall be used to indicate the areas where smoking is prohibited pursuant to this by-law:

Image not available

a black cigarette on a white background with the circle and the interdictory stroke in red.

- (3) The graphic symbol referred to in subsection (2) shall include the text "City of London By-law" in letters at least five (5%) percent of the diameter of the circle in the symbol.
- (4) To the symbols referred to in subsection (2) there may be added additional appropriate symbols such as directional arrows.
- (5) Despite the fact that the symbol referred to in subsection (2) is a cigarette, it shall include a lighted cigar, cigarette, pipe or any other lighted smoking instrument.
- (6) With respect to size of the graphic symbol, the diameter of the circle in the symbol referred to in subsection (2) shall be not less than the number of centimetres prescribed below, based upon the maximum viewing distance in direct line of sight, as follows:
 - (a) three (3 m) metres or less - ten (10 cm) centimetres,
 - (b) three (3 m) metres or more - fourteen (14 cm) centimetres.
- (7) Despite subsection (6), the diameter of the circle in the symbol referred to in subsection (6) used pursuant to section 5 to be erected at the entrance to every shopping mall or other public building shall be a minimum of ten (10cm) centimetres.
- (8) Deviations from the colour or content of the signs prescribed by this section that do not affect the substance or that are not calculated to mislead do not vitiate the signs.
- (9) Despite subsection (6), with respect to taxicabs or limousines, the diameter of the circle in the graphic symbol referred to in subsection (2) and used pursuant to subsection (6) shall be not less than ten (10) centimetres.

Prohibited Signs

7. The proprietor of a designated public place shall ensure that no signs stating or implying that smoking is permitted are posted or allowed to remain in any designated public place.

**Part III
General****Ashtrays**

8. The proprietor of a designated public place shall ensure that no ashtrays are placed or allowed to remain in the proprietor's designated public place.

Duties

9. Every proprietor of a designated public place shall ensure compliance with section 3 of this By-law within their designated public place.

10. No proprietor of a designated public place shall permit smoking in the proprietor's designated public place.

11. Every operator of a taxicab shall ensure compliance with Section 3 of this By-law within his or her taxicab during a taxicab service.

12. No operator of a taxicab shall permit smoking in his or her taxicab during a taxicab service.

Offences

13. Every person who contravenes any of the provisions of this by-law is guilty of an offence.

Obstruction

14. Every person who hinders or obstructs, or attempts to hinder or obstruct, an enforcement officer lawfully carrying out the enforcement of this by-law is guilty of an offence.

Penalty

15. 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, C. P. 33, or any successor thereof.

Conflicts

16. If a provision of this by-law conflicts with an Act or a regulation or another by-law, the provision that is the most restrictive of smoking shall prevail.

Severability

17. If any section or sections of this by-law or parts thereof are found in any court of law to be illegal or beyond the power of Council to enact, such section or sections or 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.

Repeal

18. By-law number PH-8 of the City of London is repealed.

Commencement

19. This by-law shall come into effect on July 1, 2003.

PASSED in Open Council on February 17, 2003.

Anne Marie DeCicco
Mayor

Linda M. Rowe
Manager of Legislative Services

First Reading – February 17, 2003
Second Reading - February 17, 2003
Third Reading - February 17, 2003