

**BY-LAW 2002-300**

**BEING A BY-LAW OF THE CITY OF GREATER  
SUDBURY TO REGULATE SMOKING IN PUBLIC  
PLACES AND WORKPLACES**

**WHEREAS** the Council of the City of Greater Sudbury has the authority to pass By-laws prohibiting and regulating the smoking of tobacco and the carrying of lighted tobacco products in public places and workplaces within the municipality pursuant to Section 213 of the Municipal Act, R.S.O. 1990, Chap. M.45, as amended;

**AND 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 or discomfort for the inhabitants and workers in the City of Greater Sudbury;

**AND WHEREAS** it is desirable for the health, safety, and welfare of the inhabitants and workers in the City of Greater Sudbury to provide for a smoke free environment;

**THEREFORE THE COUNCIL OF THE CITY OF GREATER SUDBURY  
ENACTS AS FOLLOWS:**

**SHORT TITLE**

1. This By-law may be cited as the "Smoke Free Public Places and Workplaces By-law."

**DEFINITIONS**

2. In this By-law,

"**amusement arcade**" means any premises to which the public has access to machines or devices that may be used for playing games solely for the entertainment and amusement of the players;

"**arena**" means any 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 show events;

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

**“billiard hall”** means any premises, the primary purpose of which is the playing of the game of snooker, pool or billiards;

**“bingo hall”** means any premises where the conduct of bingo events is licensed;

**“bowling alley”** means premises at which lanes are made available to members of the public for rental to play the game of bowling;

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

**“business office”** means any premises at which one or more persons carries out the administration, management, direction or conduct of a public or private agency or business;

**“casino”** means an establishment within the meaning of the Gaming Control Act, 1992;

**“common area”** means any portion of any public building or structure including a residential condominium or multiple dwelling unit apartment building, to which the public or residents may have access, whether as of right or by invitation, express or implied, and includes but is not limited to reception areas for receiving or greeting customers, clients, patients, guests or other persons, entranceways, service lines, elevators, escalators, hallways, stairwells, foyers, lobbies, laundry rooms, meeting rooms, amenity areas and public washrooms;

**“employee”** includes a person who performs any work for or supplies any services to an employer, for remuneration or not, or receives any instructions or training in the activity, business, work, trade, occupation or profession of the employer;

**“employer”** includes 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 of a person therein;

**“enforcement officer”** means any person appointed by the Council of the City of Greater Sudbury as a Municipal By-law Enforcement Officer, any person appointed by the Minister of Health as a Provincial Offences Officer under the Tobacco Control Act, 1994 or any person appointed by the Minister of Labour as a Provincial Offences Officer under the Smoking in the Workplace Act, or any police officer of the City of Greater Sudbury;

**“entranceway”** means the area within a nine metre radius surrounding any entrance to a public building or workplace, but does not include a public highway;

**“municipal building”** means any building or portion thereof owned or leased by the City of Greater Sudbury;

**“non-smoking policy”** means a written policy that prohibits smoking in the workplace in accordance with this By-law;

**“person”** includes a corporation;

**“personal service shop”** means any premises or part thereof wherein a personal service is performed including, but not necessarily restricted to a barber shop, hairdressing shop, esthetics salon, tattoo or body piercing parlour, shoe repair shop, tailor or dressmaking shop, a dry cleaning depot, a laundromat, a photographic studio, an undertakers establishment, a tanning salon, or any body-rub parlour or adult entertainment parlour as defined in the Municipal Act;

**“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;

**“place of refreshment”** means any place or part thereof where food, drink, or alcohol is offered for sale or is sold to the public for immediate consumption and includes but is not limited to, a restaurant, a food court, a dining room, a café, a cafeteria, a take-out restaurant, an ice cream parlour, a tea or lunch room, a dairy bar, a coffee shop, a donut shop, a snack bar, a refreshment stand, a banquet hall or facility, a bar, a nightclub, or roadhouse;

**“proprietor or other person in charge”** means the person who controls, governs or directs the activity carried on within the designated public place and includes the owner of the premises and the person who is actually in charge thereof at any particular time;

**“public building”** means any 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;

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

**“professional office”** means the business premises of one or more persons duly qualified, licensed or registered under the laws of the Province of Ontario to be members of a self-regulating profession or to perform medical or therapeutic services;

**“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;

**“retail shop”** means any premises, booth, stall or place where goods are exposed for sale or offered for sale by retail;

**“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 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, provision of information, transactions, advice, and transfers of money or goods;

**“service trade”** means an establishment which provides a non-personal service or craft to the general public, including but not necessarily restricted to, a make-your-own-beer and/or wine establishment, a print or copy shop, a dog grooming establishment, a monument engraving shop or the business premises of a printer, plumber, tinsmith, craftsman, painter, carpenter, cabinet maker, electrician, taxidermist, pest exterminator, roofer, insulation installer, furrier, weaver, upholsterer, interior decorator, caterer, engraver, cleaner or locksmith;

**“shopping mall”** means any enclosed premises containing one or more retail shops;

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

**“workplace”** means any enclosed area or premises, to which the public may or may not have access either express or implied, in which an employee or

employer works and includes, but is not limited to, washrooms, corridors, lounges, eating areas, reception areas, elevators, escalators, foyers, hallways, stairways, amenity areas, lobbies, laundry rooms and parking garages utilized by an employee or employer and includes a bus, taxicab, limousine and other vehicles for hire.

## **PART I - SMOKING IN PUBLIC PLACES**

### **GENERAL PROHIBITION**

3. The following are designated public places for the purposes of this By-law:
- the common area of a public building;
  - an indoor service line or service counter in any premise to which the public has access;
  - a place of public assembly, including a building, structure or portion thereof for the gathering of persons for the purposes of education, worship, business, recreation, entertainment or amusement and includes but is not restricted to a concert hall, public hall, theatre, cinema, auditorium, gymnasium, sport or fitness facility, indoor swimming pool, locker room, community centre, library, museum or art gallery;
  - a public restroom;
  - a place of refreshment;
  - a public facility;
  - an amusement arcade;
  - a municipal building;
  - a bingo hall;
  - a bowling alley;
  - a billiard hall;

- a casino;
  - an arena;
  - a business or professional office, retail, personal or other service shop or a service trade;
  - the common area of a shopping mall;
  - a bus;
  - a taxicab; and
  - a limousine.
4. No person shall smoke in a designated public place.

#### PROPRIETORS' DUTIES

5. The proprietor or other person in charge of a designated public place shall ensure that no ashtrays are placed or allowed to remain in any public place where smoking is prohibited pursuant to this By-law.
6. No proprietor or other person in charge of a designated public place shall permit smoking where smoking is prohibited under this By-law.

### **PART II - SMOKING IN THE WORKPLACE**

#### GENERAL PROHIBITION

7. When a non-smoking policy has been adopted for a workplace, no person shall smoke in the workplace.
8. When a non-smoking policy has been adopted for a workplace, no employer shall permit smoking in the workplace.

## EMPLOYERS' DUTIES

9. (1) Every employer shall, on or before May 31, 2003, adopt and implement a non-smoking policy that prohibits smoking in respect of each workplace in the City of Greater Sudbury under the control, supervision or ownership of the employer.

(2) Where, after May 31, 2003, a workplace is created or comes into existence, the employer of such workplace shall within seven days after such workplace is created or comes into existence, adopt, implement and post a copy of a non-smoking policy that prohibits smoking in respect of each such workplace under the control, supervision or ownership of the employer.

10. Every employer required by this By-law to adopt and implement a non-smoking policy shall:

- a) ensure compliance with this By-law;
- b) inform all of the employees that smoking is prohibited in the workplace except as provided by this By-law;
- c) prohibit smoking in the workplace except as provided by this By-law;
- d) post and keep continuously displayed a copy of the non-smoking policy in a prominent place(s) accessible to all employees in the workplace;
- e) prohibit ashtrays and like paraphernalia in areas where smoking is prohibited; and
- f) conspicuously post no smoking signs in areas where smoking is prohibited, in accordance with Part III of this By-law.

## INSPECTION OF WORKPLACE

11. (1) For the enforcement of this By-law, an enforcement officer, upon producing proper identification, may, at all reasonable hours, enter any workplace or any building or structure in which a workplace is situate and may make examinations, investigations and inquiries.

(2) No enforcement officer may enter a workplace that is also a dwelling without the consent of the occupant or without first obtaining and producing a warrant.

### **PART III - SIGN REQUIREMENTS**

12. The proprietor or other person in charge of any public place, and every employer designated or regulated under this By-law shall ensure that a sufficient number of signs as prescribed by Section 13 are conspicuously posted at each entrance to the public place or workplace so as to identify clearly that smoking is prohibited.

13. In addition to Section 12, in every shopping mall or other public place referred to in Section 3, the proprietor or other person in charge of the shopping mall or other public place shall ensure that:

- a) signs are posted in accordance with Section 14 in every common area of the shopping mall or other public place;
- b) signs are posted at every entrance to the shopping mall or other public place, which are visible and in sufficient numbers, clearly indicating that smoking is prohibited in the common areas of the shopping mall or other public place; and
- c) signs referred to in clauses (a) and (b) are in accordance with Section 14.

14. The signs referred to in this By-law shall consist of graphic symbols and text that comply with the provisions of this section:

- a) the following graphic symbol shall be used to indicate that smoking is prohibited:



- a black cigarette on a white background with the circle and the interdictory stroke in red;
- b) the graphic symbol referred to in subsection a) shall include the text "City of Greater Sudbury By-law/Règlement municipal de la ville du Grand Sudbury" in letters and figures at least five (5%) percent of the diameter of the circle in the symbol;
- c) with respect to size of the graphic symbol, the diameter of the circle in the symbol referred to in this section shall be not less than ten (10 cm) centimetres;
- d) despite the fact that the symbol referred to in subsection a) is a cigarette, it shall include a lighted cigar, cigarette, pipe or any other lighted smoking instrument;
- e) 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; and
- f) any sign prohibiting smoking that refers to a By-law of a former

municipality dissolved by the City of Greater Sudbury Act, 1999 or to By-law 2001-7L of the City of Greater Sudbury are deemed to be referring to this By-law.

#### **PART IV - GENERAL**

##### OFFENCES

15. Any person who smokes in a designated public place in contravention of section 4 is guilty of an offence.
16. Any proprietor or person in charge of a designated public place who permits smoking in the public place in contravention of section 4 is guilty of an offence.
17. Any proprietor or other person in charge of a designated public place who refuses, fails or neglects to perform any of the duties imposed upon him, her or it under this By-law is guilty of an offence.
18. Any person who smokes in a workplace in contravention of section 7 is guilty of an offence.
19. Any employer who permits smoking in the workplace in contravention of section 7 is guilty of an offence.
20. Any employer who refuses, fails, or neglects to perform any of the duties imposed upon him, her or it under this By-law is guilty of an offence.
21. Any person who hinders or obstructs an enforcement officer lawfully carrying out the enforcement of this By-law is guilty of an offence.

##### FINES

22. Every person who is convicted of an offence is liable to a fine of not more than the maximum fine provided for in the Provincial Offences Act, R.S.O. 1990, chap. P. 33.

## EXEMPTIONS

23. This By-law shall not apply to,

- (a) a part of a workplace that is used as a private residence; or
- (b) a workplace located in a dwelling where the only employees of that workplace are persons who live in the dwelling.

24. (1) Despite any other provision of this By-law, a designated public place with a separately ventilated smoking area which was fully constructed and in operation on or before October 23, 2002, and which complied then and continues to comply with all requirements established for such areas in section 11 of By-law 2001-7L of the City of Greater Sudbury, may continue to permit smoking within the separately ventilated smoking area until May 31, 2004.

(2) On June 01, 2004, the exemption set forth in section 24 (1) shall expire.

## CONFLICTS

25. 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

26. 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 therefrom and to be enacted as such.

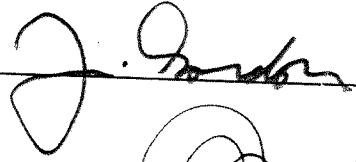
## EFFECTIVE DATES


27. This By-law shall come into effect on May 31, 2003.

REPEAL

28. This By-law repeals By-law 2001-7L of the City of Greater Sudbury.

**READ THREE TIMES AND PASSED IN OPEN COUNCIL** this 14th day of  
November, 2002.

  
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Mayor

  
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Clerk