



BY-LAW RESPECTING SMOKING IN THE CAPE BRETON REGIONAL MUNICIPALITY

(As Amended to November 18, 2003)

BE IT ENACTED by the Regional Council of the Cape Breton Regional Municipality as follows:

Short Title

1. This By-law shall be known as the “Smoking By-law.”

Purpose

2. (a) The purpose of the by-law is to significantly limit the public’s exposure to the damaging effects of second-hand smoke.
(b) To protect employees who work in indoor public places from the damaging effects of second hand smoke.

Interpretation

3. In this By-law:
 - (a) “**Casino**” means any gaming facility operating under a casino license issued under the NS Gaming Control Act under authority of the NS Gaming Commission or subsequent successor;
 - (b) “**Drinking Establishment**” means a licenced lounge, cabaret, beverage room or tavern but does not include a licensed dinning room, or restaurant;
 - (c) “**Health Care Complex**” means any health care hospital;
 - (d) “**Mall**” means any public area which is totally enclosed and to which commercial establishments have access and includes food fairs and similar congregations of food establishments, which are grouped together and provide common seating for patrons, but does not include parts of structures otherwise defined in this by-law;

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- (e) **“Patio”** means any outdoor seating area which is not covered, in whole or in part, by a roof or awning;
- (f) **“Place of Public Assembly”** means a building or part thereof, used, or intended to be used, by the public, whether gratis or for a fee, for civic, political, travel, religious, social, educational, entertainment, recreational or like purposes, including but not limited to, bowling alleys, pool halls, the lobby or hallways, lunch room, cafeteria of an institution or office building or the open space portions of a shopping center or shopping mall, including a food court area not separated from the open space portions by a physical enclosure, and includes a retail store;
- (g) **“Proprietor”** means the person who controls, governs or directs the activity carried on within the kinds of premises referred to in this by-law and includes the person who is the assessed owner or the occupant of the premises, and includes a corporation, as shown on the Assessment Roll for the Cape Breton Regional Municipality;
- (h) **“Reception Area”** means the space used by an office or establishment for the receiving or greeting of customers, clients or other persons dealing with such office or establishment;
- (i) **“Restaurant”** means an establishment or that portion of an establishment, engaged in the sale and service of food to the public for consumption on the premises, and includes a licensed dining room, a sidewalk café and a roof covered patio but does not include a drinking establishment;
- (j) **“Retail Store”** means a building or part of a building, booth, stall or place used for the purpose of retail trade or services, but does not include:
 - i) a place where the only trade or business carried on is that of a restaurant, licensed dining room, or drinking establishment; or
 - ii) a place where the only trade or business carried on is that of the custom blending of tobaccos, or sale of tobaccos, pipes, cigars or smokers' sundries; or a cigar parlour or pleasure smoking room;
- (k) **“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:
 - i) sales;
 - ii) provision of information, transactions or advice, and
 - iii) transfers of money or goods;

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(l) “**Smoke**” or “**Smoking**” includes the carrying of lighted cigar, cigarette, pipe or any other lighted smoking equipment.

Smoking Restrictions

4.1 No person shall smoke, and no proprietor shall permit smoking, in any of the following places, excepting a premises where the only trade or business carried on is the custom blending of tobaccos, or the sale of tobaccos, pipes, cigars, or smoker’s sundries:

- (a) In a restaurant, a limited service food establishment, a casino, drinking establishment or bingo hall;
- (b) a place of public assembly;
- (c) arenas, bowling alley or pool hall;
- (d) any service counter in any premises including unenclosed areas behind such service counters;
- (e) any service line on any premises;
- (f) any reception area including any unenclosed area adjoining a reception area;
- (g) any hotel room or motel room designated by the proprietor as non-smoking;
- (h) any elevator, escalator, or stairway which is generally used by and open to the public;
- (i) any public transportation facilities and vehicles;
- (j) any taxicab or limousine, shuttle or tour vehicle licensed under the Cape Breton Regional Municipality;
- (k) any restrooms generally used by and open to the public;
- (l) school buses;
- (m) healthcare hospital complex
- (n) any building exterior or outside area under the control of the owner or the proprietor designated as a non-smoking area with appropriate signage.

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No Smoking in Designated Areas

5. 1. Subject to an order of the Provincial Fire Marshal or of a Fire Chief areas designated as **NON-SMOKING AREAS** shall be kept free of all ashtrays and other such items for the discarding of smoking material.

Signs Required

- 6.1 The person in charge or, the proprietor of premises and the operator of any public transportation vehicle, school bus, taxi, limousine, shuttle or tour vehicle shall ensure that a sufficient number of signs as prescribed by this by-law are displayed so as to be clearly visible from all parts of the premises or transportation vehicle.

Exterior Signs

- 6.2 The proprietor of a building where smoking is prohibited shall affix to all entrance doors of the establishment at a height of 1.25 to 1.75 metres from the floor a sign which is clearly visible from the outside indicating whether or not the premises provides a non-smoking area and the sign may be in keeping with the architectural character of the building.

Interior Signs

- 7 Where smoking is prohibited in a building or a part thereof, or where the proprietor has designated all or part of the premises as non-smoking, the proprietor shall:

- (a) prominently display a sufficient number of signs as prescribed by Section 8, so as to be clearly visible from all parts of the premises to which the signs apply; and

Signs

8. For the purpose of subsection (2) hereof the letter height means the actual height of the letter regardless of whether it is a capital or lower case letter; where a section of this by-law requires a sign to be in accordance with this section, such sign shall:

- (a) carry the text "No Smoking" to designate an area where smoking is prohibited, in capital or lower case letters or a combination of both;
 - (b) have a white background, with red letters in the case of a "No Smoking" sign, provided that this clause shall not apply to signs required to be placed in restaurants which may be of a colour and design in keeping with the character of the restaurant; and
 - (c) with respect to size of lettering, be not less than the following height, based upon the maximum viewing distance in direct line at sight, as follows:

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- 8.1.1 viewing distance of twelve (12) feet or less – letter height of one (1) inch;
- 8.1.2 viewing distance of more than twelve (12) feet and less than twenty-five (25) feet - letter height of two (2) inches;
- 8.1.3 viewing distance of more than twenty-five (25) feet and less than fifty (50) feet – letter height of three (3) inches;
- 8.1.4 viewing distance of more than fifty (50) feet and less than seventy-five (75) feet – letter height of four (4) inches.;
- 8.1.5 viewing distance of greater than seventy-five (75) feet or more – letter height of five (5) inches;
- 8.1.6 include in the text at the bottom of each sign “Cape Breton Regional Municipality By-law” in letters not less than 10-3/8 inches in height.

No Smoking Symbol

- (3) The following graphic symbol may be used to indicate “No Smoking” areas:



On a white background with the circle and interdictory stroke in red.

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Offence and Penalty

9.1 Any person, firm or corporation who violates any provision of this By-law shall upon summary conviction of this by-law be guilty of an offence and, on summary conviction is liable to a fine of not less than the following amounts.

Offences	Individual	Corporation
First	\$ 100.00	\$ 500.00
Second	\$ 200.00	\$ 700.00
Third	\$ 300.00	\$ 1,000.00
Maximum	\$ 1,000.00	\$ 5,000.00

9.2 In default of payment thereof forthwith or within such time as the presiding Provincial Court Judge or Justice of the Peace shall direct, the fine imposed shall be recoverable under the provisions of the Summary Offences Act.

9.3 Every person, firm or corporation who commits an offence of a continuing nature against this By-law upon summary conviction, is liable to a fine of not less than one hundred dollars (\$100) for each day such an offence is continued.

9.4 Where a breach of this By-law is anticipated or is of a continuing nature, the Municipality may apply to a Judge of the Supreme Court of Nova Scotia for an Injunction or other order and the Judge may make any order that he deems necessary to enforce the provisions of this By-law.

9.5 Any By-law or any provision thereof passed and approved by any former Municipality within the boundaries of the County of Cape Breton prior to the effective date of this by law, which conflicts with or acts contrary to the provisions of this By-law are hereby repealed with this By-law becoming law and any other provisions of such By-laws hereby ratified and confirmed insofar as they are not in conflict with the By-law.

9.6 For the purposes of enforcement an officer shall have the right to entry, without warrant or prior notice, for the purposes of administering any of the requirements of this By-law, to all properties affected by this by law, at all reasonable times, in order to ascertain whether such regulations or other By-laws are being observed.

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Enforcement Agreements

10. Any proprietor may through agreement with the Cape Breton Regional Municipality designate a person or persons to be appointed special constables for the purpose of enforcing this by-law on the proprietor's property.

Standing Committee

- 11.1 There shall be a standing committee formed to periodically review this by-law. The intent of the committee will be to assess the by-law's performance with an eye towards amendments, which are deemed to create a more effective by-law.
- 11.2 This committee shall consist of representatives from the following:
 - i. One (1) member from the health care community;
 - ii. One (1) member from the business community;
 - iii. One (1) member from the beverage and dining room community;
 - iv. One (1) member from a advocacy group such as the Canadian Cancer Society, Heart and Lung Foundation or other groups who are aligned to the health concerns associated with smoking;
 - v. Two (2) members at large from the community.
 - vi. The manager responsible for this by law shall appoint members.

PASSED AND APPROVED by Council on the 17th day of April, A.D., 2001, and amended on the 18th day of November, 2003.

JOHN W. MORGAN, MAYOR

**BERNIE WHITE
MUNICIPAL CLERK**

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I, **Bernie White**, Clerk of the Cape Breton Regional Municipality, do hereby certify that the attached is a true and correct copy of the Smoking By-Law of the Cape Breton Regional Municipality as passed and adopted at a meeting of the Cape Breton Regional Council held on the 17th day of April, A.D., 2001, and amended on the 18th day of November, 2003.

Bernie White - Municipal Clerk

EFFECTIVE DATE OF BYLAW: July 7, 2001 (Publication Date)

EFFECTIVE DATE OF AMENDMENTS: November 22, 2003 (Publication Date)