



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number 283-87

A by-law to regulate
smoking in public areas
in the City of Brampton

WHEREAS Section 104 of the Municipal Act, R.S.O. 1980, Chapter 302 provides as follows:

104. Every Council may pass such By-laws and make such regulations for the health, safety, morality and welfare of the inhabitants of the Municipality in matters not specifically provided for by this Act as may be deemed expedient and are not contrary to law, and for governing the proceedings of the Council, the conduct of its members and the calling of meetings:

AND WHEREAS paragraph 134 of section 210 provides that By-laws may be passed by Councils of Local Municipalities,

134. For prohibiting and abating public nuisances;

AND WHEREAS it has been determined that second-hand tobacco smoke (exhaled smoke and smoke from idling cigarettes, cigars and pipes) is a public nuisance, because of its irritating and discomforting properties and is a health hazard because of its impairment, adverse effect and risk to health, to the inhabitants of the City of Brampton;

AND WHEREAS it is desirable for the health, safety, and welfare of the inhabitants of the City of Brampton to provide for regulating smoking and second-hand smoke for the better protection of persons from conditions injurious to health in accordance with the provisions herein;

AND WHEREAS it is desirable to provide for the prohibiting and abating of second-hand smoke in accordance with the provisions herein.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF BRAMPTON ENACTS AS FOLLOWS:

1. Definitions:

As used in this By-law, the following terms shall have the meanings indicated:

- a) "city" means the City of Brampton;
- b) "common and public area" means any indoor eating area adjoining a restaurant or lunch stand, occupied by seating capacity;
- c) "drive-in eating place" means an eating establishment where only carry-out service to patrons in motor vehicles is provided;

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- d) "lunch counter" means an eating area comprised of a long narrow table or other surface along one side of which seats may be provided, and on which food prepared on the premises for immediate consumption is served;
- e) "lunch stand" means a premises or part of a premises on which food is prepared and offered for sale to or sold for immediate consumption by the general public or public at large adjoining a common and public area;
- f) "patio area" means an outdoor eating area adjoining a restaurant occupied by seating capacity;
- g) "proprietor" means a person who ultimately controls, governs, or directs the activity carried on within the kinds of premises referred to in this By-law and includes the person actually in charge thereof;
- h) "reception area" means the public space used by an office or other establishment for the receiving or greeting of customers, clients, or other persons dealing with such office or establishment;
- i) "refreshment stand" means an eating establishment where only food already prepared for immediate consumption by the public or public at large, without cooking, is served;
- j) "restaurant" means a building or similar structure or part of a building or part of a structure in which food is prepared and offered for sale to or sold for immediate consumption by the general public or public at large on the premises on which seating accommodation is provided for more than twenty persons, but does not include a drive-in eating place, lunch counter, refreshment stand, patio area or common and public area;
- k) "retail shop" means a building or part of a building, booth, stall or place where any goods including foodstuffs are exposed or offered for sale by retail, including barbershops and hairdressing establishments, but does not include a place where the only trade or business carried on is that of:
 - (1) a licensed hotel or tavern;
 - (2) a restaurant, drive-in eating place, lunch counter, refreshment stand, patio area or common and public area;
 - (3) the custom blending of tobaccos, or the sale of tobaccos, pipes, cigars or smokers' sundries;
- l) "seating capacity" means the number of seats available for use by patrons or customers engaging in the immediate consumption of food while seated;

- m) "second-hand smoke" means:
- (1) exhaled smoke;
 - (2) smoke from an idling,
 - (a) cigarette; or
 - (b) cigar; or
 - (c) pipe; or
 - (d) tobacco using or constructed device,but does not include smoke that has drifted into a place or area in which smoking is prohibited from a place or area in which smoking is not prohibited;
- n) "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 and includes awaiting sales service, purchase service, provision of information or advice, and the transfer of money or goods; and
- o) "smoke or smoking" means the production of fumes or other volatile products resulting from the burning of tobacco or tobacco substitutes; and
- p) "theatre" means a building or part of a building intended for the screening and viewing of motion pictures or the production and staging of public performances of cultural, musical or dramatic entertainment.

Retail Shops

2. (1) No person shall smoke in any retail shop except in a part thereof used as a lunch counter, refreshment stand, or a part used as offices by members of the staff.
- (2) For the purposes of subsection 1, "Office" does not include an open service counter area.
3. (1) The proprietor of a retail shop shall post or cause to be posted one or more signs in accordance with the requirements of section 25 or section 26.
- (2) The sign or signs shall be conspicuously posted so as to be clearly visible from all parts of each floor of the retail shop referred to in section 2.

Hospitals

4. (1) Except as provided in subsection 3, no person shall smoke in any area of a hospital to which members of the public have access.
- (2) Except as provided in subsection 3, no person shall smoke in a patient care area in a hospital.

- (3) Subject to the Fire Marshals Act, the proprietor may designate not more than 50% of the patient lounges, within patient care areas of a hospital for the purpose of smoking.
5. (1) Where an area is designated under subsection 3 of section 4, smoking shall be permitted in the area so designated, and the proprietor of the hospital shall post or cause to be posted one or more signs in the area, marked "Smoking In This Area Only".
 - (2) Where smoking is prohibited in an area of the hospital, the proprietor shall post or cause to be posted one or more signs in accordance with the requirements of section 25 or section 26.
 - (3) The sign or signs shall be conspicuously posted:
 - (a) so as to be clearly visible from:
 - (1) all parts of the area to which the members of the public have access other than the patient care area; and
 - (2) all parts of the patient care area; and
 - (b) so as to clearly identify the area in which smoking is and is not prohibited.

Banks, Financial Institutions and Municipal Offices and Buildings

6. (1) Except as provided in subsection 2 no person shall smoke in a bank, financial institution, municipal office or municipal building.
 - (2) Subject to the Fire Marshals Act, the proprietor may designate not more than 40% of the total floor area of the bank, financial institution or municipal office for the purpose of smoking.
7. (1) Where an area is designated under subsection 2 of section 6, smoking shall be permitted in the area so designated.
 - (2) Where smoking is prohibited in an area of a bank, financial institution or municipal office, the proprietor shall post or cause to be posted one or more signs in accordance with the requirements of section 25 or section 26.
 - (3) The sign or signs shall be conspicuously posted so as to:
 - (a) be clearly visible from all parts of the bank, financial institution or municipal office; and
 - (b) clearly identify the area in which smoking is and is not prohibited.

Reception Areas

8. (1) Except as provided in subsection 2, no person shall smoke in a reception area.

(2) Subject to the Fire Marshals Act and except for a reception area;

(a) accessory to an office or premises where health care services are provided; or

(b) having a total floor area of less than 13.1 square metres,

the proprietor may designate an area of not more than 40% of the floor area of the reception area for the purpose of smoking.

(3) Where an area is designated under subsection 2, at least 13.1 square metres shall be allocated as a non-smoking area.

9. (1) Where an area is designated under subsection 2 of section 8, smoking shall be permitted in the area so designated, and the proprietor of the reception area shall post or cause to be posted one or more signs in the area, marked "Smoking In This Area Only".

(2) Where smoking is prohibited in a reception area or part thereof, the proprietor shall post or cause to be posted one or more signs in accordance with the requirements of section 25 or section 26.

(3) The sign or signs shall be conspicuously posted:

(a) so as to be clearly visible from all parts of the reception area; and

(b) so as to clearly identify the areas in which smoking is and is not prohibited.

Elevators, Escalators and Stairways

10. (1) Except as provided in subsection 2, no person shall smoke in an elevator or on a stairway in any public building or part thereof, or in the common areas of any multiple residential building.

(2) Subsection 1 does not apply to elevators, escalators or similar devices to which the Elevators and Lifts Act does not apply.

11. (1) Where smoking is prohibited in an elevator or an escalator or on a stairway, the proprietor of the building or part thereof shall post or cause to be posted one or more signs in accordance with the requirements of section 25 or section 26.

(2) The sign or signs shall be conspicuously posted so as to be clearly visible to users of the elevator or escalator or stairway upon entering into the elevator or using the escalator or stairway.

(3) Where a sign is required to be posted under subsection 2 in respect of the use of an elevator, the sign shall be posted on the interior wall facing the elevator door.

Service Lines

12. No person shall smoke in a service line on any premises.
13. (1) The proprietor of the building or part thereof in which there is a service line shall post or cause to be posted one or more signs in accordance with the requirements of section 25 or section 26.
- (2) The sign or signs shall be conspicuously posted so as to be clearly visible to all persons in the service line.

School Buses

14. No person shall smoke in a school bus.
15. (1) The proprietor of a school bus shall post or cause to be posted one or more signs in accordance with the requirements of section 25 or section 26.
- (2) The sign or signs shall be conspicuously posted so as to be clearly visible to all persons on the school bus.

Theatres

16. (1) Except as provided in subsection 2, no person shall smoke in an enclosed indoor area being used as a theatre.
- (2) Subject to the Fire Marshals Act, for the purpose of subsection (1), "Theatre" does not include a theatre lobby except that part which is occupied by a "service line" in accordance with section 12.
17. (1) Where part of an area is designated under subsection 2 of section 16, smoking shall be permitted in the area so designated and the proprietor of such enclosed area being used as a theatre shall post or cause to be posted one or more signs in the area, marked "Smoking In This Area Only".
- (2) Where smoking is prohibited in an enclosed indoor area, or part thereof, being used as a theatre, the proprietor shall post or cause to be posted one or more signs in accordance with the requirements of section 25 or section 26.
- (3) The sign or signs shall be conspicuously posted so as to:
- (a) be clearly visible from all parts of the enclosed area being used as a theatre; and
- (b) clearly identify the areas in which smoking is and is not prohibited.

- (4) Where an area is designated under subsection 2 of section 16 in a theatre in which moving pictures are shown:
- (a) a notice or sign shall be shown on the screen or other means of display; or
 - (b) a verbal announcement shall be made, at the beginning of each show or display, indicating the area in which smoking is prohibited and the area in which smoking is permitted.

Places of Public Assembly

18. (1) Except as provided in subsection 2, no person shall smoke in an enclosed indoor area being used as a place of public assembly.
- (2) Subject to the Fire Marshals Act, the proprietor of a place of public assembly may designate not more than 40% of the total floor area being used as a place of public assembly for the purpose of smoking.
- (3) For the purpose of this section, "place of public assembly" means a place to which members of the general public or people at large are admitted but does not include a place of public assembly or other place of assembly when used for the private assemblage of persons and does not otherwise include any areas specifically dealt with by this by-law.
19. (1) Where part of an area is designated under subsection 2 of section 18, smoking shall be permitted in the area so designated and the proprietor of such enclosed area being used as a place of public assembly shall post or cause to be posted one or more signs in the area, marked "Smoking In This Area Only".
- (2) Where smoking is prohibited in an enclosed indoor area, or part thereof, being used as a place of public assembly, the proprietor shall post or cause to be posted one or more signs in accordance with the requirements of section 25 and section 26.
- (3) The sign or signs shall be conspicuously posted so as to:
- (a) be clearly visible from all parts of the enclosed area being used as a place of public assembly; and
 - (b) clearly identify the areas in which smoking is and is not prohibited.

Restaurants

20. (1) Except as provided in subsection 2, no person shall smoke in a restaurant.
- (2) Subject to the Fire Marshals Act, the proprietor may designate not more than 70% of the seating capacity of the restaurant for the purpose of smoking.

- (3) The areas in the restaurant comprised of seating capacity designated under subsection 2 and the seating capacity not so designated shall be comprised of two areas with seats in each contiguous to each other.
- (4) Every proprietor shall provide a permanent partition, moveable divider or adequate signage to clearly separate the area occupied by seating capacity designated under subsection 2 from the area occupied by the seating capacity not so designated.
- (5) Every proprietor shall post or cause to be posted a sign at the front entrance of the restaurant having the following content:

Smoking is prohibited in this restaurant unless specifically permitted in designated areas pursuant to City of Brampton By-law 283-87, Maximum Fine - \$2000.00

21. (1) Where part of the seating capacity is designated under subsection 2, section 20, smoking shall be permitted in the area occupied by the seating capacity so designated.
- (2) Where smoking is prohibited in a restaurant, the proprietor shall:
 - (a) place or cause to be placed one or more tent signs or stand-up signs on the table or other surface on which food is served for consumption therefrom, which signs shall be in accordance with the requirements of section 25, and prepared in a manner which accords with the decor of the restaurant premises; or
 - (b) post or cause to be posted one or more signs in accordance with the requirements of section 26.
- (3) Where a sign is placed in accordance with clause (a) of subsection 2, it shall be conspicuously placed so as to:
 - (a) be clearly visible on the table or other surface; and
 - (b) clearly identify the table or other surface as being in the area in which smoking is prohibited.
- (4) Where a sign is posted in accordance with clause (b) of subsection 2, it shall be posted:
 - (a) so as to be clearly visible from all parts of the area occupied by seating capacity designated under subsection 2 of section 20; and
 - (b) so as to clearly identify the area occupied by the seating capacity not so designated.
- (5) Where a proprietor of a restaurant or his employee or any other person on his behalf:
 - (a) directs patrons to a seating or waiting area; or
 - (b) takes advance reservations by telephone,

the proprietor or his employee or any other person shall determine in advance of the seating, the preference of the patron or prospective patron for an area in which smoking is permitted or an area in which smoking is prohibited and shall direct the patron to the preferred area.

Taxicabs

22. (1) No person shall smoke in a taxicab except with the consent of all passengers and the driver of the taxicab.
- (2) The proprietor of the taxicab shall post or cause to be posted a sign having the following content:
- Smoking is prohibited in this taxicab unless permitted by mutual consent of all passengers and driver.
City of Brampton By-law No. 283-87
Maximum Fine - \$2,000.00
- (3) The sign shall be conspicuously posted so as to be clear to the passengers of the taxicab.

Bowling Establishments

23. (1) No person shall smoke in a playing area of a bowling establishment.
- (2) For the purpose of this section, "playing area" means those portions of the floor space of the bowling establishment devoted to the playing of the game of bowling and, without limiting the generality of the foregoing, shall include the bowling lanes and scoring tables where applicable.
- (3) The balance of the floor space of a bowling establishment which is accessible to the public shall be deemed to be a place of public assembly and shall be subject to the requirements of section 18.

Bingo Halls

24. (1) Except as provided in subsections 2 and 4 herein, no person shall smoke in a bingo hall.
- (2) The provisions of this By-law do not apply to the playing area of a bingo hall.
- (3) For the purpose of this Section, "playing area" means those portions of the floor space of the bingo hall establishment devoted to the playing of the game of bingo and, without limiting the generality of the foregoing, shall include the playing tables where applicable.
- (4) The balance of the floor space of a bingo hall establishment which is accessible to the public shall be deemed to be a place of public assembly and shall be subject to the requirements of section 18.

No Smoking Signs

25. (1) Every sign that prohibits smoking shall comply with the following requirements:
1. Carry the text "NO SMOKING" in upper case or lowercase letters, or a combination of both.
 2. Consist of two contrasting colours, or consist of lettering contrasting to the background colour where the lettering is applied directly to a surface or is mounted on a clear panel.
 3. Consist of lettering not less than the height set out in column 2 of Table 1, for the corresponding maximum viewing distance in direct line of sight, in column 1.

TABLE 1

<u>Distance in Metres</u> <u>(Column 1)</u>	<u>Height in Millimetres</u> <u>(Column 2)</u>
3 or less	25
6	50
12	75
24	100
48	150
72	200

4. Include in the text at the bottom of each sign, "City of Brampton By-law No. 283-87, Maximum Fine \$2000" in letters and figures not less than:
 - (a) 13 Millimetres in height for a sign with letter size of 25 millimetres; and
 - (b) 1/4 of the height of the letters for all other sizes of signs having lettering greater than 25 millimetres.
5. For the purpose of this section, "letter height" means the actual height of the letter whether or not the letter is in lower case or in upper case.

Graphic Symbol Signs

26. (1) Notwithstanding section 25, a graphic symbol in accordance with subsection 2 herein may be used to indicate no smoking areas.
- (2) Every graphic symbol shall comply with the following requirements:
1. Include the text "City of Brampton By-law No. 283-87, Maximum Fine \$2000" in letters and figures occupying at least 5% of the diameter of the circle of such symbol.

2. Consist of a white background having:
 - (a) a circle and interdictory strike in red upon the background; and
 - (b) a cigarette, letters and figures in black in accordance with the provision of this section.

3. Consist of one of the following symbols:



4. Consist of a symbol shown in subsection 3 having a diameter not less than the diameter set out in column 2 of Table 2 for the corresponding maximum viewing distance in direct line of sight, in column 1.

TABLE 2

<u>Distance in Metres</u> (Column 1)	<u>Height in Millimetres</u> (Column 2)
3 or less	100
6	150
12	200
24	300
48	400
72	600

5. Every graphic symbol may contain a directional arrow.
 - (3) Notwithstanding that the content of a graphic symbol contains a cigarette, the prohibition shall include a cigar, pipe or any other lighted smoking equipment.

Offences

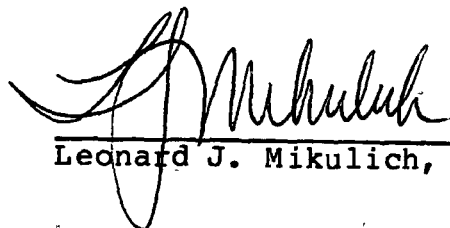
27. No proprietor shall permit second-hand smoke in any place or area in which smoking is prohibited under this By-law.

28. Every person who contravenes any provision of this By-law is guilty of an offence and on conviction, is liable to a fine of not less than \$50 and not more than \$2000, exclusive of costs.

29. This By-law shall be enforced by a Police Officer, Municipal Law Enforcement Officer, Public Health Inspector, or any citizen acting under Section 24 of the Provincial Offences Act.
30. By-law 83-81 is hereby repealed.
31. Section 2 of By-law 177-77, which inter alia regulates smoking on vehicles and premises owned by Brampton Transit, shall remain in force and effect.
32. This By-law shall come into effect on the 1st day of March, 1988.

ENACTED AND PASSED this 23rd day of November , 1987.


Kenneth G. Whillans, Mayor


Leonard J. Mikulich, Clerk