

THE REGIONAL MUNICIPALITY OF HALTON

BY-LAW NO. 24-09

A BY-LAW TO PROHIBIT SMOKING WITHIN NINE METRES FROM ANY ENTRANCE OR EXIT OF BUILDINGS OWNED OR LEASED BY THE REGIONAL MUNICIPALITY OF HALTON OR ITS LOCAL MUNICIPALITIES.

WHEREAS Regional Council in its capacity as the Region's Board of Health has a duty under the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7, as amended, to protect the public from exposure to second-hand smoke;

AND WHEREAS second-hand smoke comes from smouldering cigarettes, cigars or pipes, as well as exhaled smoke;

AND WHEREAS according to Health Canada, there is no known safe level of exposure to second-hand smoke;

AND WHEREAS according to Health Canada, second-hand smoke contains a complex mixture of more than 4,000 chemicals, of which more than 50 are suspected or known carcinogens;

AND WHEREAS, according to Health Canada, second-hand smoke is a serious health risk to all people, especially infants, pregnant women and the elderly, and can increase a non-smoker's risk for diseases such as asthma, heart disease and lung cancer;

AND WHEREAS according to Health Canada, it is estimated that exposure to second-hand smoke causes over 1,000 deaths per year in Canada;

AND WHEREAS subsection 11(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes Regional Council to pass by-laws respecting the health, safety and well-being of persons;

AND WHEREAS subsection 115(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes a municipality to prohibit or regulate the smoking of tobacco in public places and workplaces;

AND WHEREAS Regional Council wishes to enact a by-law in respect of smoking at or near the entrance or exit of all municipally owned or leased buildings.

NOW THEREFORE THE COUNCIL OF THE REGIONAL MUNICIPALITY OF HALTON HEREBY ENACTS AS FOLLOWS:

DEFINITIONS

1. THAT in this By-law:

- (a) “ashtray” means a receptacle or similar equipment for tobacco ashes and for cigarette and cigar butts;
- (b) “Enforcement Officer” means a public health inspector acting under the direction of the Medical Officer of Health for the Region, a person appointed as a provincial offences officer under the Smoke-Free Ontario Act, or any police officer of the Halton Regional Police Service;
- (c) “entrance or exit” means any entrance or exit used by the public and/or staff to enter or exit a municipally owned or leased building, but in the case of a building leased only in part by the Region or a Local Municipality means only such entrance or exit used exclusively for the purpose of entering into or exiting from the premises leased by the Region or the Local Municipality and not for the purpose of entering into or exiting from premises leased by any other tenant(s) or premises used in common with any other tenant(s); “entrance or exit” also means any external serving window of a municipally owned building, or part thereof, which is used as a concession stand;
- (d) “Local Municipality” means the Corporation of the City of Burlington, the Town of Oakville, the Town of Milton or the Town of Halton Hills;
- (e) “Municipality” means the Region or a Local Municipality;
- (f) “municipally owned or leased building” means any building owned or leased, in whole or in part, by the Region or a Local Municipality and includes, but is not limited to, municipal offices, community centres, libraries, indoor swimming pools, arenas, museums, art galleries, public washrooms, recreational centres, police stations, fire halls and ambulance stations, but does not include gazebos; and “municipally owned building” and “municipally leased building” shall have corresponding meanings;
- (g) “Region” means The Regional Municipality of Halton;
- (h) “Regional Council” means the Council of the Region;
- (i) “smoking” includes the carrying or holding of a lighted cigar, cigarette, pipe or any other lighted tobacco; and “to smoke” has a corresponding meaning;
- (j) “Smoke-Free Ontario Act” means the *Smoke-Free Ontario Act*, S.O. 1994, c. 10, as amended;

- (k) “tobacco” means tobacco in any form in which it is used or consumed.

INTERPRETATION AND SCOPE

2. THAT in the event of a conflict between any provisions of this By-law and the Smoke-Free Ontario Act, the provision that is more restrictive of smoking prevails, subject to subsection 13(3) of the Smoke-Free Ontario Act.
3. THAT smoking restrictions in outdoor public places other than those mentioned in this By-law shall be governed by the Smoke-Free Ontario Act and any other applicable legislation and by-laws.

SMOKING PROHIBITED

4. THAT no person shall smoke within nine (9) metres from any entrance or exit of a municipally owned or leased building.

SIGNS

5. THAT each Municipality shall ensure that no smoking signs are posted in a conspicuous manner on or immediately next to every entrance or exit of each of its municipally owned or leased buildings and that such signs be in sufficient numbers and in locations to clearly identify the prohibition set out in paragraph 4.
6. THAT the signs referred to in paragraph 5 shall be provided by the Region and shall have a white background with a graphic of the international no smoking symbol and bear the words “Halton Region By-law No. 24-09” above the graphic and “Within Nine Metres” below the graphic. In the year that this By-law comes into force and effect, the costs of the signs required by all Municipalities pursuant to paragraph 5 shall be the Region’s responsibility. In subsequent years, each Municipality shall be responsible for the costs of any additional and replacement signs it requires pursuant to paragraph 5.
7. THAT the owner of a municipally leased building shall permit the Municipality leasing the building, in whole or in part, to post the signs required pursuant to paragraph 5.
8. THAT no person shall remove, cover up, mutilate, deface or alter any sign required to be posted pursuant to paragraph 5.

ASHTRAYS

9. THAT the Municipality, in the case of a municipally owned building, and the owner, in the case of a municipally leased building, shall ensure that ashtrays are not available for use within nine (9) metres from any entrance or exit of such building.

EXCEPTIONS

10. THAT this By-law does not apply to any portion of a highway as defined in the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, or to any private property other than private property which:
 - (a) is owned by the owner of a municipally leased building, and
 - (b) constitutes the area within nine metres from any entrance or exit of such municipally leased building, provided that such area:
 - (i) is not directly adjacent to a doorway that leads to premises leased by any other tenant(s) or premises used in common with any other tenant(s) of the same building and
 - (ii) does not encompass an outdoor patio of any other tenant(s) of the same building on which smoking is permitted.

LISTS OF MUNICIPALLY OWNED OR LEASED BUILDINGS

11.
 - (a) THAT prior to the effective date of this By-law, the Clerk of each Local Municipality shall provide to the Medical Officer of Health a list of all buildings owned or leased, in whole or in part, by the Local Municipality. The list shall include the address of each building and shall indicate whether the building or part of such building is owned or leased by the Local Municipality.
 - (b) THAT the Clerk of each Local Municipality shall notify the Medical Officer of Health in writing of any additional building owned or leased, in whole or in part, by the Local Municipality after the effective date of this By-law. The notice shall include the address of such building and shall indicate whether the building or part of such building is owned or leased by the Local Municipality. The notice shall be given within fifteen (15) days of the building or part of such building being occupied.
 - (c) THAT the Clerk of each Local Municipality shall notify the Medical Officer of Health in writing of the address of any building which has ceased to be owned or leased, in whole or in part, by the Local

Municipality. The notice shall be given within fifteen (15) days of the date on which the building ceases to be owned or leased.

INSPECTIONS AND ENFORCEMENT

12. THAT the provisions of this By-law may be enforced by Enforcement Officers.
13. THAT Enforcement Officers may inspect any entrance or exit of a municipally owned or leased building and the area surrounding any such entrance or exit for the purpose of determining if the provisions of this By-law are being complied with.

OBSTRUCTION, FALSE STATEMENT PROHIBITED

14. (a) THAT no person shall hinder or obstruct an Enforcement Officer who is acting pursuant to the authority of this By-law.

(b) THAT no person shall knowingly produce a false document or make a false or misleading statement to an Enforcement Officer who is acting pursuant to the authority of this By-law.

EVIDENCE

15. THAT in a prosecution pursuant to this By-law, a justice presiding over the proceeding may infer that any substance or thing in question is tobacco within the meaning of this By-law from the fact that a witness describes it as tobacco or by a name that is commonly applied to tobacco.

OFFENCES AND PENALTIES

16. THAT any person who contravenes any provision 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.

EFFECTIVE DATE

17. THAT this By-law comes into force and effect on the date which is ninety (90) days after the date on which the Clerk of the Region has received certified copies of resolutions giving consent to this By-law passed by the councils of three of the Local Municipalities.

HEADINGS FOR REFERENCE ONLY

18. THAT the headings inserted in this By-law are for convenience of reference only and shall not affect the construction or interpretation of this By-law.

SEVERABILITY

19. THAT if, for any reason, any provision of this By-law is held invalid, it is hereby declared to be the intention of Council that all the remainder of this By-law shall continue in full force and effect until repealed, re-enacted or amended, in whole or in part, or dealt with in any other way.

SHORT TITLE

20. THAT the short title of this By-law is the “Halton Region Outdoor Smoking Prohibition By-law”.

READ and PASSED this 1st day of April, 2009.

REGIONAL CHAIR

REGIONAL CLERK