

**REPEALED BY THE SMOKING REGULATION BY-LAW NO. 88/2003
APRIL 30, 2003**

THE CITY OF WINNIPEG

**THE SMOKING REGULATION BY-LAW
NO. 7870/2001**

**A By-law of THE CITY OF WINNIPEG to
regulate smoking.**

WHEREAS Subsection 433(1) of *The City of Winnipeg Act* S.M. 1989-90, c.10 provides:

"General power

433(1) The council may make any regulations which, in the opinion of the council are necessary

- (a) to promote or improve cleanliness and sanitary conditions in the city;
- (b) to prevent any act, practice or thing regarded by the council as injurious to or tending to create conditions adversely affecting public health."

AND WHEREAS Subsection 6(1) of *The Non-Smokers Health Protection Act* S.M. 1989-90, c.S125 provides:

"Municipality may pass by-law

6(1) Notwithstanding the provisions of this Act, a municipal council may pass a by-law to limit or ban smoking in any enclosed public place in the municipality."

AND WHEREAS Council has determined that Environmental Tobacco Smoke in enclosed public places is injurious to or tends to create conditions adversely affecting public health and particularly to children;

NOW THEREFORE THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

1. This By-law shall be known as "**The Smoking Regulation By-law**".

2. In this by-law

"enclosed public place" means any part of an enclosed place to which members of the public have access, including, without restricting the generality of the foregoing,

- (a) any part of
 - (i) an office building,
 - (ii) a retail store or other commercial establishment, or the common areas of a residential building or shopping mall,
- (b) a health care facility,
- (c) a day care centre or nursery,
- (d) an educational institution or facility,
- (e) a restaurant, and
- (f) an elevator, pedestrian walkway, corridor or tunnel or bus shelter;

"health care facility" means a place where a person may receive medical examination, treatment or care, and includes a hospital, clinic and medical practitioner's office;

"licensed premises" means licensed premises as defined in *The Liquor Control Act*, R.S.M. 1988, c. L160;

"motor vehicle" means a motor vehicle used for the public transportation of persons or property;

"private club" means a not for profit corporate establishment that operates solely for the benefit and pleasure of its members, that directs its publicity and advertisements to its members and has passed by-laws regulating the admission of persons and the conditions of membership, the fees and dues of members, the issue of membership cards, the suspension and termination of memberships, the qualification of and the remuneration of the directors, the time for and the manner of electing directors on an annual or periodic basis and the time, place and notice to be given for the holding of meetings of the members and of the board of directors and that does not allow non-members to enter the club unless accompanied by a member;

"private social function" means a specific social event for which an entire enclosed room or hall has been reserved and at which attendance is limited to people who have been specifically invited or designated by the sponsor, but does not include events which are held primarily for the purpose of business, sales or education;

"proprietor" means the owner of an enclosed public place, and includes a person who carries on or manages the activities carried on in an enclosed public place;

"restaurant" includes any part of a coffee shop, cafeteria, sandwich stand, food court or other eating establishment that is located in an enclosed public place and is open to members of the public, whether or not it is licensed premises or a portion of licensed premises;

"shopping mall" means a complex of commercial establishments designed for the sale of goods or services or both to members of the public;

"smoke" & "smoking" means

- (a) smoking a cigarette, cigar, pipe or other device used for smoking tobacco, or
- (b) having control of a lighted cigarette, cigar, pipe or other device used for smoking tobacco;

"smoking area" means an area marked and identifiable by a sign indicating that smoking is permitted in that area.

"tobacco product" means tobacco leaves and any product manufactured from tobacco that is intended to be used for smoking, inhaling or chewing and includes nasal and oral snuff, cigarette paper, tubes and filters.

3. Subject to Section 4, as of January 1, 2002 no person shall smoke in:

- (a) an enclosed public place; or
- (b) a motor vehicle

where anyone under the age of 18 is allowed to attend or be present.

4. A proprietor may allow smoking in

- (a) that portion of a licensed premise which has a beverage room, cocktail lounge, cabaret, sports facility or spectator activities license issued under *The Liquor Control Act* R.S.M. 1988, c. L160, that restricts children under the age of 18 from being in the area;
- (b) a room or hall used exclusively for a private social function;
- (c) a private club;
- (d) an area of a nursing home designated by the proprietor and for use by residents only;

- (e) guest rooms in hotels, motels and inns.

5. A proprietor who designates a smoking area under Section 4 shall take reasonable steps to minimize the drifting of smoke into the non-smoking area.

6. Every enclosed public place to which this By-law applies shall be clearly and conspicuously posted with a sufficient number of signs as prescribed by Section 7, which signs shall be clearly visible.

7. (1) The signs referred to in this By-law shall:

- (a) carry the text "no smoking" in capital or lower case letters or a combination thereof, either alone or in conjunction with other words which do not detract from the purpose of the sign of indicating a place or area in which smoking is prohibited;
- (b) consist of at least two (2) contrasting colours which make the text of the sign clearly legible in whatever lighting is used in the place or area in which the sign is posted or if the text is to be applied directly to a surface or to be mounted on a clear panel, set the text out in a colour which contrasts with the background so that the text is clearly legible in whatever lighting is used in the place or area; and
- (c) set the text out in letters of such a style and size and be posted in such places as will make them clearly legible to persons within the place or area in which the smoking is prohibited, but in any case the text shall not be less than 100 millimetres in size.

(2) (a) In the alternative to subsection (1), the signs referred to in this By-law shall consist of graphic symbols that comply with the provisions of this subsection.

- (b) The following graphic symbol shall be used to indicate the areas where smoking is permitted:



on a white background with the circle in green.

- (c) The following graphic symbol shall be used to indicate "no smoking" areas:



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

- (d) To the symbols referred to in clauses (b) and (c) hereof, there may be added additional appropriate symbols such as directional arrows.
 - (e) With respect to the size of the graphic symbol referred to in clauses (b) and (c), the diameter of the circle in the symbol shall be of such size as will make it clearly discernible by persons within the place or area to which the symbol relates but in any case not less than 100 millimetres.
 - (f) Notwithstanding that the symbol in clauses (b) and (c) illustrates a cigarette, they shall also refer to and represent a lighted cigar or pipe.
- (3) The signs referred to in this By-law shall be posted in such number of places as, having regard to size of the printed text or symbol thereon and the place of posting, will give every person in the place or area to which the sign relates, a clear and unobstructed view of at least two of the signs.
- (4) No person shall remove, alter, conceal, deface or destroy any sign posted pursuant to this By-law.
8. A person who contravenes a provision of this By-law is guilty of an offence and is liable on summary conviction to the following penalties:
- (a) For a first offence, to a fine of not less than One Hundred (\$100.00) Dollars in the case of an individual and Five Hundred (\$500.00) Dollars in the case of a corporation or partnership;
 - (b) For a second offence, to a fine of not less than Two Hundred (\$200.00) Dollars in the case of an individual and Seven Hundred (\$700.00) Dollars in the case of a corporation or partnership;
 - (c) For a third offence or subsequent offence, to a fine of not less than Three Hundred (\$300.00) Dollars in the case of an individual and One Thousand (\$1,000.00) Dollars in the case of a corporation or partnership.
9. A decision of a Court that one or more of the provisions of this By-law are invalid in whole or in part does not affect the validity, effectiveness or enforceability of the other provisions or parts of the provisions of this By-law.

10. This by-law comes into force on January 1, 2002.

11. By-law No. 3541/83 of The City of Winnipeg and all amendments thereto are repealed as of January 1, 2002.

DONE AND PASSED in Council assembled this 18th day of July, A.D., 2001.