

MUNICIPALITY OF THE COUNTY OF ANTIGONISH

**A By-Law Respecting
Smoking in Public Places**

SHORT TITLE

1. This by-law shall be known and may be cited as the ***“Smoking By-Law”***.

INTERPRETATION

2. In this by-law:
 - (a) ***“air intake”*** includes heating, ventilating and air conditioning intakes as well as windows capable of being opened.
 - (b) ***“drinking establishment”*** means a lounge, pub, tavern, cabaret, beverage room, or any other indoor place that is open to the public that is licensed by the Province of Nova Scotia to sell and serve alcohol.
 - (c) ***“owner”*** means the person who has responsibility for, and control over the activities of a place and includes
 - (i) an owner, part owner, joint owner, or a tenant in common or joint owner of the whole or any part of land or a building;
 - (ii) a tenant;
 - (iii) in the case of the absence or incapacity of the person having title to the land or building, a trustee, an executor, a guardian, an agent, a mortgagee in possession, or a person having the care or control of the lands or building; and
 - (iv) in the absence of proof to the contrary, the person assessed in the assessment roll for the property.
 - (d) ***“person”*** includes a body corporate, a society, and the heirs, executors administrators or other legal representatives of a person.
 - (e) ***“place of public assembly”*** means:
 - (i) a building or portion of a building used or intended to be used by the public, whether free of charge or for a fee, for civic, political, travel, religious, social, educational, commercial, entertainment, recreational or like purposes;
 - (ii) the lobby, hallways or stairwells of an institution or office building;
 - (iii) a shopping centre or shopping mall;
 - (iv) a food court used or intended to be used by the public, in any building; and
 - (v) a retail or wholesale store.

- (f) **“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;
- (g) **“restaurant”** means an establishment engaged in the sale or service of food to the public for consumption on the premises;
- (h) **“retail or wholesale store”** means a building, booth, stall or place, or any portion thereof, used for the purpose of retail or wholesale trade or services;
- (i) **“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: sales, the provision of information, transactions or advice; and transfers of money or goods;
- (j) **“smoke or smoking”** means the act of smoking tobacco, including smoking a cigarette, cigar or pipe as evidenced by the giving off of tobacco smoke and includes the carrying of a lighted cigar, pipe or other lighted smoking equipment.

PRESUMPTION

- 3. Where smoke is given off from a cigarette, cigar, pipe or other lighted smoking equipment it shall be, in the absence of evidence to the contrary, presumed that the substance being smoked is tobacco.

GENERAL PROHIBITION

- 4. No person shall smoke in any of the following places:
 - (a) a place of public assembly;
 - (b) within a radius of 4 metres (13.12 feet) of all public entrances or air intakes of buildings;
 - (c) any service counter in any premises including unenclosed areas behind such service counters;
 - (d) any service line in any premises;
 - (e) any reception area including any enclosed area adjoining a reception area;
 - (f) any elevator, escalator, or stairway that is generally used by and open to the public;
 - (g) any public transportation facilities or vehicles;
 - (h) any rest room, wash room or toilets used by or open to the public;
 - (i) any drinking establishment;
 - (j) any restaurant, including patios or sidewalk cafes;
 - (k) any arena, bowling alley or pool hall.
 - (l) a club, a meeting or conference room or hall, a ballroom, a conference centre or any other enclosed place that is not a place of public assembly, when there is present at that place a person who is in attendance for purposes of employment or voluntary service.

RESPONSIBILITIES OF OWNER

5. (1) The owner of any place enumerated in section 4:
 - (i) shall not permit, or allow or cause to be permitted, smoking in any such place;
 - (ii) shall erect a sign giving notice that smoking is prohibited at all public entrances to the establishment as well as within all parts of the premises to which the prohibition applies;
 - (iii) shall ensure that any person found smoking by the owner or by an employee or agent of the owner is immediately directed to stop smoking and, failing compliance, is directed to leave that place.
- (2) Any person who fails to comply with a directive given pursuant to paragraph (1)(iii) hereof is guilty of an offence.

OFFENCE AND PENALTY

6. (1) Any person who violates any provision of this by-law is guilty of an offence and is liable upon conviction to a fine of not less than one hundred and fifty (\$150) dollars and not more than five thousand (\$5,000) dollars and, in default of payment, to imprisonment for a period not exceeding ninety (90) days.
- (2) Where a body corporate commits an offence under this by-law, any officer, director or member of that body corporate who directed, authorized, assented to, acquiesced in or participated in the violation is guilty of the offence and liable to the punishment herein provided, whether or not the body corporate has been prosecuted.
- (3) Where an offence under this by-law is committed or continued on more than one day, the person committing or continuing the offence is liable to be convicted for a separate offence for each day on which the offence is committed or continued.

PAYMENT IN LIEU OF PROSECUTION

7. In lieu of prosecution under this by-law, the Clerk or his delegate may cause a notice of violation to be served on any person believed on reasonable or probable grounds to have committed an offence under this by-law, which notice shall provide that if the person to whom it is directed pays the sum of \$50 to the Municipality within 14 days of issuance of the notice, no prosecution shall ensue with respect to the matter or matters referred to in the notice. The decision as to whether to issue a notice under this section shall be in the sole and absolute discretion of the Clerk.

I CERTIFY this to be a true copy of “A By-Law Respecting Smoking in Public Places” as adopted on first reading by Council of the Municipality of the County of Antigonish at a meeting held on the 15th day of April, 2003.

Alan J. Bond
Clerk/Treasurer