

**BY-LAW RESPECTING SMOKING
IN THE
MUNICIPALITY OF THE COUNTY OF VICTORIA**

WHEREAS the *Municipal Government Act* authorizes Council to make by-laws for municipal purposes respecting the health, well being, safety and protection of persons, public health and safety and to regulate persons, activities and things in, on or near public places or places open to the public;

AND WHEREAS the Council for the Municipality of the County of Victoria recognizes exposure to second-hand smoke to be a public health hazard;

AND WHEREAS Council wishes to protect the public of the Municipality of the County of Victoria from exposure to second-hand smoke in public places or places open to the public;

BE IT ENACTED by the Council for the Municipality of the County of Victoria as follows:

1. This by-law shall be known as By-Law Number and may be referred to as the *Non-Smoking By-Law*;
2. This by-law applies throughout the Municipality of the County of Victoria;
3. This by-law prohibits smoking in public places or places open to the public in the Municipality of the County of Victoria;
4. In this by-law:
 - (1) “*drinking establishment*” means any lounge, pub, tavern, cabaret club, or beverage room licensed under the *Liquor Control Act* of Nova Scotia;
 - (2) “*public place*” and “*place open to the public*” means any building or any portion of any enclosed or partly enclosed premises intended for public access and use whether for

business, commercial, civil, political, travel, religious, social, educational, entertainment, recreational or like purpose, and without limiting the generality of the foregoing, includes lobby, reception area, service area, hallways, stairwells, elevators, escalators, and public washrooms;

- (3) “*proprietor*” means any person who owns, manages, possesses or controls such building or premises or otherwise directs the activity conducted in or at such building or premises, and includes the person identified on the Assessment Roll for the Municipality of the County of Victoria as the assessed owner or occupant of the premises except where the Municipality has been given notice in writing of a change in ownership or has been provided with the name of a person identified as having exclusive possession and control of the premises;
- (4) “*reception area*” or “*service area*” means a space used for receiving or greeting customers, clients or other persons dealing with a provider of services or goods, and includes any adjoining area not physically separated by solid walls, floors and ceilings;
- (5) “*restaurant*” means an establishment engaged in the sale and service of food for consumption on the premises, and includes an interior food court, a sidewalk or patio café, a licensed dining room or licensed restaurant and a temporary use of a facility as a restaurant on the occasion of such uses;
- (6) “*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, provision of information, transactions or advice, and transfers of money or goods;
- (7) “*smoke*” or “*smoking*” includes the possession of a lighted cigar, cigarette, pipe or any other lighted smoking equipment;

- (8) “*store*” means a building or part of a building, booth, stall or place used for the purpose of retail or wholesale trade or services;

5. No person shall smoke in any of the following places:

- (1) any public place or place open to the public, including but not limited to the following:
 - a. any drinking establishment;
 - b. any restaurant;
 - c. any store;
 - d. any business or commercial premises;
 - e. any arena, bowling alley, pool hall;
 - f. any shopping center or shopping mall;
- (2) any unenclosed areas adjoining any public place;
- (3) within a radius of 5 metres (15 feet) of any public entrance or air intake to any public place;
- (4) any service counter or reception area in any premises including unenclosed areas behind such service counters;
- (5) any service line in any premises;
- (6) any elevator, escalator, or stairway which is generally used by or open to the public;
- (7) any public transportation facilities, including shelters, and public transportation vehicles with the exception of taxis;

- (8) any rest room or toilet facilities used by or open to the public;
 - (9) any school bus.
6. The proprietor or person in charge of any place referred to in section 4 of this by-law shall ensure that signage is displayed at the entrance to and within the place giving reasonable, clear and sufficient notice of the smoking prohibition.
 7. The proprietor or person in charge of any place referred to in section 4 of this by-law shall not permit or cause to be permitted smoking in such place and shall ensure that any person found smoking is immediately directed to stop smoking, failing his or her compliance, is directed to leave place.
 8. Any person who fails to comply with a directive given by a proprietor or employee or agent of the proprietor pursuant to section 6 of this by-law is guilty of an offence.
 9. Any person who violates any section of this by-law is guilty of an offence and, on summary conviction, is liable to a fine of not less than one hundred dollars (\$100.00) and not more than ten thousand dollars (\$10,000.00) for such offence and in default of payment to imprisonment for a period of not more than ninety (90) days.
 10. Every day during which an offence pursuant to this by-law continues is a separate offence.
 11. The Chief Administrative Officer or his or her delegate may serve a Notice of Violation on any person whom he or she has reasonable grounds to believe has violated any section of this by-law allowing that person to pay the sum of \$50 to the Municipality of the County of Victoria within 14 days of date of the Notice to avoid prosecution for the subject violation.

This is to certify that the by-law of which this is a true copy, was duly passed at a duly called meeting of the Municipal Council of the Municipality of the County of Victoria held on the 18th day of November, 2002.

Given under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this 29th day of November, 2002.

Mr. A. W. (Sandy) Hudson