

**THE CORPORATION OF THE TOWN OF
NORTHEASTERN MANITOULIN AND THE ISLANDS
By-law Number 2003-20
Being A By-Law to Foster Community Health And Well-Being
By Limiting the Emission of Second-Hand Tobacco Smoke
In Public Places**

WHEREAS it has been recognized that environmental tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars or pipes), also known as second-hand smoke, is a health hazard because of its adverse effects and risk to the health and well-being of the residents and workers in the Town of Northeastern Manitoulin and the Islands;

WHEREAS the Council of the Corporation of the Town of Northeastern Manitoulin and the Islands has the authority to pass by-laws prohibiting and regulating the smoking of tobacco and the carrying of lighted tobacco products in public places and workplaces within the Municipality pursuant to Section 115 of the Municipal Act, 2001, S.O. 2001, c.25, as amended;

AND WHEREAS the residents and workers in the Town of Northeastern Manitoulin and the Islands have a fundamental right to live, work and enjoy community amenities in the absence of environmental tobacco smoke in public places;

AND WHEREAS this may be accomplished by providing for the prohibiting or limiting of smoking and second-hand smoke in accordance with the provisions of this By-law;

NOW THEREFORE the Council of the Town of Northeastern Manitoulin and the Islands enacts as follows:

1. DEFINITIONS

“Bar” means a building or structure or portion thereof which has all of the following features:

- i) the consumption of alcohol takes place,
- ii) at least 75 percent of sales in the previous year are from the sale of alcohol, and
- iii) the sale or consumption of food is incidental.

For greater certainty without limiting, the generality of the foregoing, this may include taverns, night clubs, pubs, public houses, lounges, adult entertainment parlors and other establishments, licensed under the Liquor License Act, R.S.O. 1990, c.L 19 or its regulations, as amended.

“Community Centre” means any premises comprised of, but not restricted to, a rink, a floor or ice surface, spectator seating areas, dressing rooms and canteen facilities or other place of public assembly, to which the public has access to view or participate in sporting, community, private or other show events and includes, without restricting the generality of the foregoing, a common area of a public building, an indoor service line or service counter in any premise to which the public has access, a place of public assembly, including a building, structure or portion thereof for the gathering of persons for the purpose of education, worship, business, recreation, entertainment or amusement and includes but is not restricted to a concert hall, public hall, theatre, cinema, auditorium, gymnasium, sport or fitness facility, indoor swimming pool, locker room, community centre, library, museum or art gallery.

“Owner” means the owner of a building containing one or more enclosed public places.

“Proprietor” means the person or entity who controls, governs or directs the activity carried on within a Public Place and includes the Owner or a person or entity in charge thereof.

“Public Place” means the whole or part of an indoor area or vehicle to which the public has access by right or by invitation, express or implied, whether by payment of money or not that is open for access or transport by the public.

“**Smoke**” includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment and smoking has a corresponding meaning.

“**Taxicab**” means any vehicle of public transportation and limousine has a corresponding meaning.

“**Town**” means the Corporation of the Town of Northeastern Manitoulin and the Islands.

2. SMOKING IN PUBLIC PLACES

The following provisions shall regulate where smoking is prohibited under this By-law:

- 1) No person shall smoke or hold lighted tobacco in any Public Place, including Community Centres and Taxicabs or Limousines, whether or not a “No Smoking” sign is posted, unless otherwise exempted under this By-law.
- 2) No person shall smoke or hold lighted tobacco in any enclosed facility that is owned or leased by the Town, or within a 9 meter radius extending from the limits of any entryway thereto.
- 3) Notwithstanding the provisions of section 2(2), of this by-law, the 9 meter radius shall be deemed not to extend onto an open public road or street maintained by the Town.
- 4) No person shall smoke or hold lighted tobacco in any vehicle that is owned or leased by the Town.
- 5) Despite the provisions of this section, where a permitted area of smoking has been designated under this By-Law, smoking shall be permitted in the area so designated.

3. LIMITATION ON DESIGNATED SMOKING AREAS

Effective on the designated dates listed below for a bar, a proprietor of such facility shall designate not more than the specified percentage of the total indoor seating of the bar as a permitted area for smoking, if the criteria in Section 4 are met.

<u>Classification – Public Place</u>	<u>June 5, 2003</u>	<u>June 1, 2005</u>
Bars:	50% smoking	0% smoking

4. PERMITTED AREA FOR SMOKING

An area designated under this By-Law as a permitted area for smoking:

- 1) shall be comprised of seats that are contiguous to each other, and
- 2) shall not be located in the centre of an indoor space, or as part of an entrance or waiting area within an establishment, and
- 3) shall not be required as a means of access or thoroughfare between areas in which smoking is prohibited, and
- 4) shall not be required as a sole means of access to washrooms.

5. RESPONSIBILITIES OF OWNERS AND PROPRIETORS

Every Owner and Proprietor shall:

- (1) ensure that “No Smoking” signs are conspicuously posted so that the signs are clearly visible in all areas where smoking is prohibited under this By-law; and
- (2) ensure that ashtrays and other articles used in connection with smoking are not present in areas where smoking is prohibited under this By-law; and
- (3) inform any person who is smoking in a prohibited area that smoking in that area is prohibited; and
- (4) not permit smoking where smoking is prohibited under this By-Law.

6. SIGNS

A “No Smoking” sign which is required to be posted under this By-law shall:

- (1) carry the text “No Smoking”;
- (2) consist of two (2) contrasting colours, or with lettering in contrast to the background colour; and

