

Authority: Item 4, Committee of the Whole
Report 02-002,
C.M. March 6, 2002

Bill No. 054

CITY OF HAMILTON

BY-LAW NO. 02-054

A BY-LAW TO REGULATE SMOKING IN PUBLIC PLACES AND WORKPLACES

WHEREAS it has been determined that the presence of second-hand smoke, which is also referred to as environmental tobacco smoke, in public places and workplaces is a serious risk to health and a discomfort for persons within the municipality;

AND WHEREAS it is desirable for the purpose of promoting and protecting the health and well-being of persons within the municipality to ensure that all public places and workplaces will be entirely free of second-hand smoke at the soonest reasonable time;

AND WHEREAS it is important to ensure that all persons in the community, including those who have medical conditions which are exacerbated by exposure to second-hand smoke, may enjoy equal access to public places and workplaces, without being excluded by the presence of second-hand smoke;

AND WHEREAS subsection 213(2) of the Municipal Act authorizes the council of a local municipality to pass a by-law regulating the smoking of tobacco in public places and workplaces in the municipality and designating public places or workplaces, or classes or parts of such places, as places in which smoking tobacco or holding lighted tobacco is prohibited;

AND WHEREAS on January 1, 2001, the area municipalities within the Regional Area of the former Regional Municipality of Hamilton-Wentworth were dissolved, and the new City of Hamilton was constituted as a body corporate, pursuant to subsection 2(1) of the City of Hamilton Act, 1999, S.O. 1999, c. 14;

AND WHEREAS it is considered equitable for the proprietors of public places and workplaces within the former municipalities which comprise the municipal area of the new City of Hamilton, that the smoking of tobacco be regulated in a uniform manner throughout the municipal area of the new City of Hamilton;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

PART I: DEFINITIONS

1. In this By-law:

“bingo hall” means premises that are used for the purpose of holding bingo lotteries licensed by the City of Hamilton under the authority of an order-in-council of the Province of Ontario pursuant to section 207 of the Criminal Code of Canada;

“ceiling” means the overhead inside lining of a room within a building or structure, but does not include any form of inside lining which is composed of either a pervious material or a combination of pervious and impervious materials;

“common area” means any portion of a building or structure to which the public or residents or tenants may have access, whether as of right or by invitation, expressed or implied;

“designated smoking area” means an area within a Class “C”, Class “D”, Class “E”, or Class “F” public place which is located so that members of the public are not required to go through such an area in order to gain access to a common area or public washroom, and which does not exceed:

- (a) twenty-five per cent of the indoor seating area of a Class “C” or Class “E” public place; or
- (b) fifty per cent of the indoor seating area of a Class “D” or Class “F” public place;

“designated smoking room” means,

- (a) in the case of a class of public place designated under subsection 2(1), an area which is fully enclosed and is located so that members of the public are not required to go through such area in order to gain access to a common area or public washroom, and which does not exceed:
 - (i) twenty-five per cent of the indoor seating area of a Class “A”, Class “B”, Class “C”, Class “E”, or Class “G” public place;
 - (ii) fifty per cent of the indoor seating area of a Class “D” or Class “F” public place; or,
- (b) in the case of a workplace, an area which is fully enclosed and is located so that neither the proprietor nor employees are required to go through such area in order to gain access to a work area, common area, or washroom, in which no work of any kind is performed and no activities other than smoking are permitted, and which does not exceed twenty-five per cent of the indoor floor area of the workplace;

and which employees are not required to go through in order to serve persons in an area where smoking is prohibited, and which is equipped with a separate ventilation system which complies with the requirements of subsection 6(1);

“employee” means a person who performs any work for or supplies any service to an employer, or a person who receives any instructions or training in the activity, business, work, trade, occupation, or profession of any employer and includes a volunteer, and a person who is self-employed, and **“employment”** has a corresponding meaning;

“employer” means a person who as the owner, operator, manager, contractor, superintendent, supervisor, or overseer of any activity, business, work, trade, occupation, or profession has control over or direction of, or is directly or indirectly responsible for, the employment of an employee;

“fully enclosed” means closed in from the floor to a ceiling or a roof by walls, with one or more openings in such walls for ingress and egress, and which openings are equipped with self-closing, tight-fitting doors that are kept closed when not being used for ingress and egress;

“former municipality” means the City of Hamilton, the Town of Dundas, the City of Stoney Creek, the Town of Ancaster, the Town of Flamborough, and the Township of Glanbrook, which municipalities were dissolved by subsection 5(1) of the City of Hamilton Act, 1999, S.O. 1999, c. 14;

“indoor seating area” means

- (a) in the case of a Class “A”, Class “B”, Class “C”, Class “D”, Class “E”, or Class “F” public place means that portion of the premises which is normally open to the public, and which contains fixed or non-fixed seating, and includes dance floors, but does not include common areas, washrooms, kitchens, coat-rooms, or storage areas; or
- (b) in the case of a Class “G” public place, means that portion of the common areas of a residential care facility which are used for recreation, socializing, or the service of food or drink or both food and drink to tenants of the facility which contains fixed or non-fixed seating;

“Medical Officer of Health” means the Medical Officer of Health of the City of Hamilton appointed pursuant to section 62 of the Health Protection and Promotion Act, R.S.O. 1990, c. H.4, and includes an associate medical officer of health and an acting medical officer of health, and an authorized designate of the Medical Officer of Health;

“outdoor patio” means an area contiguous to a public place or a workplace which is not enclosed by a roof or walls, other than not more than two walls which are exterior walls of the public place or workplace or an adjoining building or structure;

“private club” means an establishment which is maintained and operated by a not-for-profit corporation or unincorporated association solely for the benefit and enjoyment of its members, and which has passed or adopted by-laws or policies regulating the admission of persons to the corporation or association, the classes and conditions of membership, the suspension and termination of membership, the qualification and membership of directors and the time for and duration of, and the manner of their election and their remuneration, and the holding of an annual general meeting of members, and which requires the payment of fees and dues by members on an annual basis, and which issues cards or other documents to members which state the name of the member and the date on which his or her membership expires;

“proprietor” means the person who controls, governs, or directs the activities carried on within a public place or workplace, and includes the person actually in charge of the premises;

“public place” means any building or structure, or part thereof, or vehicle, vessel, or conveyance, whether covered by a roof or not, to which the public has access as of right or by invitation, express or implied, and whether or not a fee is charged for entry;

“residential care facility” means a residential complex that is occupied by four or more persons for the purpose of receiving advice, information, or supervision in the activities of daily living, which includes the activities that maintain an individual’s sufficient nutrition, hygiene, warmth, rest, and safety;

“roof” means the exterior top covering of a building or structure which is composed of either a pervious or an impervious material or a combination of pervious and impervious materials;

“smoke” or **“smoking”** includes the carrying of a lighted cigar, cigarette, pipe, or any other lighted smoking equipment but does not include the act of smoking where smoking is an element of a stage production or a theatrical performance;

“stadium” means a building or structure used for the purpose of holding athletic, racing, sporting, musical, or cultural events in which tiers of individual seats are provided for the comfort of persons attending such events, whether covered by a roof or not, and includes an arena;

“wall” means,

- (a) in the case of a room within a building or structure, the side of a room which is composed of an impervious material; or
- (b) in the case of an outdoor patio, any structure which encloses any side of the area of the patio which is composed of either a pervious or an impervious material or a combination of pervious and impervious materials;

“workplace” means a building or part of a building in which one or more employees or the proprietor works, including employee eating, changing, and lounge areas and any vehicle, vessel, or conveyance in which an employee works, but does not include a workplace which is located within a dwelling, unless employees or members of the public attend at such workplace in connection with the business or other activity carried on at the premises.

PART II: SMOKING RESTRICTIONS IN PUBLIC PLACES AND WORKPLACES

2. (1) The following classes of public places are designated as places within which smoking is permitted under section 3:

Class “A” - A public place used for the sale and service of food or drink or both food and drink to the public for consumption on the premises, but does not include a food court, an indoor patio, or a Class “E” or Class “F” public place. A Class “A” public place includes a restaurant and take-out service incidental to such restaurant, an area for children’s play equipment or dedicated to recreational activities which are ancillary to the sale and service of food or drink, and a common area or room within a private club that has been rented for any purpose.

Class “B” - A public place used to play the game of bowling.

Class “C” - A public place used to play the game of billiards or a game of a similar nature.

Class “D” - A public place used to play or operate games of chance as defined in the Gaming Control Act, 1992, S.O. 1992, c. 24. A Class “D” public place includes a casino, a slot machine facility, and a bingo hall.

Class “E” - A public place used for the sale and service of food or drink or both food and drink to the public for consumption on the premises which is licensed under the Liaur Licence Act and where no person under the age of 19 years, other than an employee, is admitted to the premises at any time. A Class “E” public place includes a place commonly referred to as a bar or a tavern.

Class “F” - A public place used for the sale and service of food or drink or both food and drink to the public for consumption on the premises which is licensed under the Liaur Licence Act and where no person under the age of 19 years, other than an employee, is admitted to the premises at any time and which is licensed as a public hall under City of Hamilton By-law No. 01-156, where pre-recorded music, or live choreographical, dramatic, literary, or musical performances are provided at all times when alcoholic beverages are being served, and to which members of the public are admitted only

between the hours of 8 p.m. and 2 a.m., or between the hours of 8 p.m. and 3 a.m. on New Year's Day. A Class "F" public place includes a place commonly referred to as a night club or an entertainment lounge.

Class "G" - Common areas of a residential care facility which are used for recreation, socializing, or the service of food or drink or both food and drink to tenants of the facility.

(2) An establishment may contain more than one class of public place designated under subsection (1), provided that each class of public place:

- (a) is completely separated from every other class of public place by floor-to-ceiling walls, without doors or opening of any kind;
- (b) is equipped with a separate ventilation system that exhausts air directly to the outdoors;
- (c) is equipped with self-closing, tight-fitting doors at all openings to a common area, if smoking is permitted in an unclosed designated smoking area within such a class of public place; and
- (d) does not share a kitchen, washroom, or any other facilities with any other class of public place.

3. (1) No person shall smoke in a public place or a workplace.

(2) Despite subsection (1), a person may smoke in a class of public place described in Column 1 of the following Table within an area or room described in Column 2 of the table until the date set out in Column 3 of the Table.

TABLE

COLUMN 1 <i>Class of Public Place</i>	COLUMN 2 <i>Area or Room Where Smoking Permitted</i>	COLUMN 3 <i>Terminal Date for Permitted Smoking</i>
Class "A"	Designated smoking room not exceeding 25% of indoor seating area	May 31 st , 2008
Class "B"	Designated smoking room not exceeding 25% of indoor seating area	May 31 st , 2008
Class "C"	Unenclosed ^a designated ^d smoking area not exceeding 25% of indoor seating area	May 31 st , 2004
	Designated smoking room not exceeding 25% of indoor seating area	May 31 st , 2008
Class "D"	Unenclosed designated smoking area not exceeding 50% of indoor seating area	May 31 st , 2004
	Designated smoking room not exceeding 50% of indoor seating area	May 31 st , 2008

Class "E"	Unenclosed designated smoking area not exceeding 25% of indoor seating area	May 31 st , 2004
	Designated smoking room not exceeding 25% of indoor seating area	May 31 st , 2008
Class "F"	Unenclosed designated smoking area not exceeding 50% of the indoor seating area	May 31 st , 2004
	Designated smoking room not exceeding 50% of indoor seating area	May 31 st , 2008
Class "G"	Designated smoking room not exceeding 25% of the common areas used for recreation, socializing, or the service of food or drink or both food and drink to tenants of the facility	May 31 st , 2008

- (3) Only one unenclosed designated smoking area is permitted in a Class "C", Class "D", Class "E", or Class "F" public place.
- (4) Despite subsection (1), a person may smoke in a designated smoking room in a workplace.
- (5) Despite subsection (1), a person may smoke in a designated smoking room which has been constructed and maintained in accordance with the requirements of a by-law referred to in section 17, provided that construction has been fully completed prior to the date when this By-law is passed.
- (6) Despite subsection (1), smoking is permitted in that part of a public place or a workplace which is an outdoor patio.
- (7) Where a workplace is also a public place, the provisions of this By-law which apply to a public place shall prevail at all times when the public place is open to the public.
- (8) Where a workplace is also a private club, subsection (1) does not apply to a common area or room within the premises of the club.
- (9) Despite subsection (8), where a common area or a room within a private club has been rented for any purpose, subsection (1) applies to any such common area or room.
- (10) In subsection (9), "rented" includes any permission to use such common area or room in exchange for money or other valuable consideration, or a gift or donation of goods or services to the not-for-profit corporation or unincorporated association which maintains and operates the private club, or to any of its members, directors, officers, or employees.
- (11) Subsections (2) to (5) and (7) to(10) are repealed on June 1, 2008.

PART III: PROPRIETORS' DUTIES AND SIGNS

4. (1) A proprietor shall not permit a person to smoke in a place where smoking is prohibited under this by-law.
- (2) Where smoking is prohibited under this By-law, a proprietor shall ensure compliance with this By-law and shall inform any person who is smoking in a prohibited area that smoking in that area is prohibited.
5. (1) The proprietor of a public place which meets the criteria under subsection 2(1) for designation as a Class "C", Class "D", Class "E", or Class "F" public place may request that the public place be registered as the corresponding class of public place by completing and filing a statement in a form approved by the Medical Officer of Health.
- (2) The proprietor of public place which meets the criteria for designation as a Class "C", Class "D", Class "E", or Class "F" public place shall file the statement under subsection (1) with the Medical Officer of Health prior to permitting any person to smoke within an area or room described in column 2 of the Table under subsection 3(2) for a Class "C", Class "D", Class "E", or Class "F" public place.
- (3) The Medical Officer of Health shall refuse to register a public place as a Class "C", Class "D", Class "E", or Class "F" public place, if there are reasonable grounds to believe that the public place does not meet the criteria for registration as the class of public place which the proprietor has requested under subsection (1).
- (4) The proprietor of a public place which has been registered as a Class "C", Class "D", Class "E", or Class "F" public place under subsection (1) shall not permit a person at any time to smoke in such premises in accordance with the provisions which permit smoking in any other class of public place which are set out in the Table under subsection 3(2).
- (5) Where a public place has been registered as a Class "C", Class "D", Class "E", or Class "F" public place under subsection (1), the proprietor shall notify the Medical Officer of Health forthwith of any changes in the construction, use, or operation of the public place which are relevant to the criteria under subsection 2(1).
- (6) The Medical Officer of Health may revoke the registration of a public place as a Class "C", Class "D", Class "E", or Class "F" public place if any changes in the construction, use, or operation of the public place result in the public place failing to meet the criteria under subsection 2(1) for designation as the corresponding class of public place.

6. (1) The proprietor of a class of public place or of a workplace in which smoking is permitted within a designated smoking room shall ensure that:
 - (a) the room is equipped with a separate ventilation system that maintains a minimum ventilation rate of 30 litres per second per person, based on the maximum number of persons permitted in the room by the proprietor, that is ventilated to the outside air and exhausted at a rate of at least 110 per cent of supply, and which ventilation system includes one or more exhausts located not less than three metres horizontally from any air intake or opening;
 - (b) the ventilation system of the room is operating at all times when any person is allowed to be present in such rooms;
 - (c) a door to the room is not maintained in an open position by any means, except when actually being used for ingress and egress; and
 - (d) the number of persons in the room does not exceed the maximum number of persons who may be present in the room in accordance with the requirements of clause (a).
- (2) The proprietor of an establishment which contains more than one class of public place designated under subsection 2(1) shall ensure that each class of public place complies with the requirements of subsection 2(2).
7. (1) The proprietor of a public place or a workplace in which smoking is permitted within a designated smoking room shall complete a statement in a form approved by the Medical Officer of Health, with respect to the dimensions and construction of the room, and the nature and capacity of the ventilation system with which the room is equipped.
- (2) The statement under subsection (1) shall be accompanied by a statement from a licensed professional engineer or a person holding a licence issued by the City of Hamilton as a contractor or master in the trade of heating, ventilation, and air-conditioning, certifying:
 - (a) the rate at which the ventilation system is exhausting air from the designated smoking room to the outside air; and,
 - (b) the rate at which replacement air is supplied to the designated smoking room.
- (3) The statement required under subsection (2) shall be signed by the professional engineer or person holding a licence referred to under subsection (2), and shall indicate the date on which the functioning of the ventilation system was tested,

which date shall not be more than thirty days prior to the date when the statement must be filed.

- (4) The proprietor shall file the statement under subsection (1) with the Medical Officer of Health prior to permitting any person to smoke within a designated smoking room.
 - (5) The proprietor shall obtain a statement setting out the information required under subsection (2) within each twelve-month period following the date on which a statement has been filed under subsection (4).
 - (6) The proprietor shall maintain a copy of each statement obtained under subsection (5) on the premises and shall make the copy of the statement available for inspection by an inspector appointed for the purpose of enforcing this By-law at any reasonable time.
8. (1) Where an inspector appointed for the purpose of enforcing the provisions of this By-law believes on reasonable grounds that the ventilation system of a designated smoking room is not functioning in accordance with the requirements of this By-law, or of a by-law referred to in section 17, as the case may be, the inspector may require the proprietor of the public place or workplace to provide a statement from a licensed professional engineer or a person holding a licence issued by the City of Hamilton as a contractor or master in the trade of heating, ventilation, and air-conditioning, certifying:
- (a) the rate at which the ventilation system is exhausting air from the designated smoking room to the outside air; and,
 - (b) the rate at which replacement air is supplied to the designated smoking room.
- (2) The statement required under subsection (1) shall be signed by the professional engineer or person holding a licence referred to in subsection (1), and shall indicate the date upon which the functioning of the ventilation system was tested, which date shall not be prior to the date on which the request was made.
 - (3) The proprietor shall provide the statement required under subsection (1) to the Medical Officer of Health within fifteen days of the date when the request was made.
9. (1) Every proprietor shall ensure that “no smoking” signs are clearly visible in all areas within public places and workplaces where smoking is prohibited under this By-law.

- (2) Despite subsection (1), where smoking is prohibited under this By-law, or by direction of the proprietor, throughout the entire premises of a public place or workplace, the proprietor shall ensure that “no smoking” signs are posted in a conspicuous location at all entrances to the premises.
- (3) Every proprietor shall ensure that health warning signs are posted in a conspicuous location at all entrances to public places in which smoking is permitted in an unenclosed designated smoking area, and that health warning signs are clearly visible in all areas within such public places where smoking is permitted.
- (4) Every proprietor shall ensure that health warning signs are posted in a conspicuous location at all entrances by which customers or employees may enter a designated smoking room which has been constructed and maintained in accordance with the requirements of this By-law or of a by-law referred to in section 17, and that health warning signs are clearly visible in all parts of such rooms.
- (5) The proprietor of a Class “C” public place shall ensure that a sign is posted in a conspicuous location at all entrances by which customers may enter the premises stating that the proprietor has requested that the premises be registered as a Class “C” public place under subsection 2(1) of this By-law.
- (6) The proprietor of a Class “D”, Class “E”, or Class “F” public place shall ensure that a sign is posted in a conspicuous location at all entrances by which customers may enter the premises stating:
 - (a) that the proprietor has requested that the premises be registered as a Class “D”, Class “E”, or Class “F” public place under this by-law; and
 - (b) that persons under the age of 19 years are not permitted to enter the premises at any time.
- (7) The posting of a sign under subsection (5) or (6) does not constitute proof that the public place meets the criteria for registration as a Class “C”, Class “D”, Class “E”, or a Class “F” public place, if an inspector determines on reasonable grounds that the public place does not meet the criteria for registration as a Class “C”, Class “D”, Class “E”, or a Class “F” public place under subsection (1).
- (8) The proprietor of a Class “C”, Class “D”, Class “E”, or Class “F” public place shall ensure that a sign is posted in a conspicuous location at all entrances by which customers may enter the premises, which states the percentage of the indoor seating area of the premises in which smoking is permitted in an unenclosed designated smoking area as set out in Column 2 of the Table under subsection 3(2).
- (9) The proprietor of a class of public place in which smoking is permitted in a designated smoking room shall ensure that a sign is posted in a conspicuous

location at all entrances by which customers may enter the designated smoking room, which states the maximum number of persons who may be present in the room in accordance with the ventilation system required under subsection 6(1) of this By-law or under a by-law referred to in section 17, as the case may be.

- (10) The signs required under subsections (5), (6), (8) and (9) shall be in a form and size approved by the Medical Officer of Health.
10. (1) Subject to subsection (2), every employer shall inform each employee in a workplace not later than May 24, 2002, that smoking is prohibited in the workplace.
- (2) Where an employer has established a designated smoking room, the employer shall inform each employee in a workplace that smoking is prohibited in the workplace, except in the designated smoking room, and that no person may smoke in the room until a statement under subsection 7(1) with respect to the room has been filed with the Medical Officer of Health.
- (3) Despite subsection (2), every employer shall not later than May 1, 2008, inform each employee in a workplace in which a designated smoking room has been established that smoking is not permitted in the designated smoking room after May 3 1, 2008.
11. (1) A “no smoking” sign which is required to be posted under this By-law shall:
- (a) carry the text: “No Smoking” in capital or lower-case letters, or a combination of them;
- (b) consist of two contrasting colours, or if the lettering is to be applied directly to a surface or to be mounted on a clear panel, the lettering shall contrast to the background colour;
- (c) have the following letter heights, based on the maximum viewing distance in the area where smoking is prohibited in direct line of sight:

Maximum Viewing Distance (metres)	Minimum Letter Height (centimetres)
3	2.5
6	5.0
12	7.5
24	10.0
48	15.0
73	20.0

- (d) include in the text at the bottom of the sign, the words “City of Hamilton By-Law No. _____ Maximum Penalty \$5,000.00”, in letters not less than one hundred and twenty-five one-hundredths (1.25) centimetres in height for signs with a letter size less than three (3.0) centimetres, and not less than one-fourth (1/4th) of the height of the letters on all other sizes of signs.
- (2) Despite subsection (1), where a proprietor is required to ensure that “no smoking” signs are posted, the graphic symbol illustrated in Schedule “A” may be used to indicate an area where smoking is prohibited; and
- (a) the symbol shall have the proportions and characteristics illustrated in Schedule “A” and shall include the text “City of Hamilton By-Law No. 02-_____ Maximum Penalty \$5,000.00”, in letters and figures not less than five per cent (5%) of the diameter of the circle in the symbol, and appropriate symbols such as directional arrows may be added;
 - (b) the symbol shall be on a white background with the circle and the interdictory stroke in red, with a cigarette, letters, and figures in black;
 - (c) the diameter of the circle in the symbol shall be not less than the size below, based upon the maximum viewing distance in the area where smoking is prohibited in direct line of sight:

Maximum Viewing Distance (metres)	Minimum Diameter of Circle (centimetres)
3	10
6	15
12	20
24	30
48	40
73	60

- (3) A health warning sign which is required to be posted under this By-law shall:
- (a) carry the text “Warning! This area contains tobacco smoke, which causes cancer, heart disease, and lung disease, and has harmful effects on children and pregnancies.”;
 - (b) display the graphic symbol having the measurements, proportions, and characteristics as illustrated in Schedule “B” to this By-law;

- (c) consist of two contrasting colours, or if the lettering is to be applied directly to a surface or to be mounted on a clear panel, the lettering shall contrast to the background colour; and
 - (d) be printed in English and in such other language as the Medical Officer of Health shall direct.
- (4) Notwithstanding that the symbol referred to in subsection (2) depicts a cigarette, the symbol is deemed to give notice that smoking a cigar, pipe, or any other lighted smoking equipment is prohibited in the area in which the sign is posted.
 - (5) Despite subsections (1) and (2), where smoking is prohibited under this By-law, or by direction of the proprietor, throughout the entire premises of a public place or workplace, the proprietor may post signs in a form and size satisfactory to the Medical Officer of Health which indicate that the entire premises of the public place or workplace is smoke-free.
12. Every proprietor shall ensure that ashtrays, like paraphernalia, and other inducements to smoking are not present in any area where smoking is prohibited under this By-law or by direction of the proprietor.

PART IV: OFFENCES AND ADMINISTRATION

13. Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to the penalties specified by the Provincial Offences Act, R.S.O., 1990, c. P.33.
14. (1) This By-law may be enforced by by-law enforcement officers employed by the City of Hamilton, who are appointed as inspectors for the purpose of enforcing the provisions of this By-law.
- (2) Despite subsection (1), the Medical Officer of Health may appoint persons as inspectors for the purpose of enforcing the provisions of this By-law.
- (3) No person shall obstruct or hinder an inspector from making an inspection to determine whether there is compliance with the provisions of this By-law.

PART V: COMMENCEMENT AND TRANSITION

15. (1) A “no smoking” sign or a health warning sign posted in a public place or workplace under By-laws No. 80-258 or 89-370 of the former City of Hamilton or under a By-law referred to in section 17 that is still in compliance with the applicable By-law shall be deemed to meet the requirements of section 11 of this By-law.

(2) Where an employer has given notice that smoking is prohibited in the workplace or that smoking is prohibited in the workplace except in designated smoking rooms, in accordance with By-law No. 89-370 of the former City of Hamilton or under a By-law referred to in section 17, the employer shall be deemed to meet the requirements of subsections 10(1) and (2) of this By-law.

16. (1) This By-law, except subsection 10(1), comes into force on June 1, 2002.

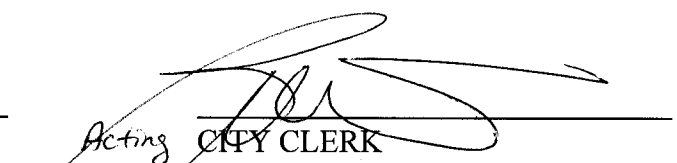
(2) Subsection 10(1) of this By-law comes into force on the date when this By-law is passed.

17. The following By-laws are repealed on June 1, 2002:

Town of Ancaster	Town of Dundas	Town of Flamborough	Town of Glanbrook	City of Hamilton	City of Stoney Creek
98-40	4435-98	98-1 09-S	521-95	98-140	4786-98

PASSED AND ENACTED this 6th day of March, 2002.


MAYOR


Acting CITY CLERK

SCHEDULE "A"
NO SMOKING SIGN (GRAPHIC SYMBOL)



WARNING!



This establishment contains tobacco smoke, which causes cancer, heart disease, and lung disease, and has harmful effects on children and pregnancies.

*Medical Officer of Health
City of Hamilton*

City of Hamilton By-law No. 02- ____