



OFFICE CONSOLIDATION

BYLAW NUMBER 57M92

**BEING A BYLAW OF THE CITY OF CALGARY
TO REPEAL AND REPLACE BYLAW NUMBER
15M85, THE SMOKING BYLAW**

(As Amended by Bylaw Number's 1M2000, 46M2001, 51M2001: **Effective: 2002 Jan. 01**, 39M2002: **Effective: 2003 March 01**, 43M2006; 47M2006)

WHEREAS Council considers it expedient and desirable for the health, safety, and welfare of the inhabitants to regulate smoking in the City of Calgary;

AND WHEREAS it has been determined that non-smoking is the norm for the Province of Alberta;

AND WHEREAS Council considers it expedient and desirable that all workplaces have policies pertaining to the regulation of smoking;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF CALGARY ENACTS AS FOLLOWS:

1. This Bylaw may be cited as "The Smoking Bylaw".

DEFINITIONS

2. In this Bylaw,

- (a) "*business*" means carrying on a commercial or industrial undertaking of any kind or nature or the provision of a professional, personal or other service and includes any activity carried on by an educational institution, municipality, or charitable organization;
- (a.1) "*Chief Executive Officer*" means the person designated by Council as its chief administrative officer, or his designate;
- (b) "*City*" means the City of Calgary, a municipal corporation of the Province of Alberta and includes the area contained within the boundaries of the City of Calgary where the context so requires;
- (c) "*designated smoking place*" means a smoking area, smoking premises or smoking room;
- (d) "*designated smoking area sign*" means a designated smoking area sign prescribed by this Bylaw;
- (e) "*educational institution*" means a school as defined by the School Act, a university and private college as defined by the Universities Act, and a public and private college as defined by the Colleges Act;
- (f) "*employee*" includes a person who:

- (i) performs any work for or supplies any services to an employer, or
- (ii) receives any instruction or training in the activity, business, work, trade, occupation or profession of the employer;
- (g) "*employer*" includes any person who as the owner, proprietor, manager, superintendent 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 a person therein;
- (h) "*hospital*" includes a hospital, auxiliary hospital and nursing home as defined in the Hospitals Act and a health clinic;
- (i) "*licensed gaming event*" means a lottery scheme as defined by the Criminal Code of Canada which takes place in a building or part of a building;
- (j) REPEALED BY B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**
- (k) REPEALED BY B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**
- (l) "*Medical Officer of Health*" has the same meaning as in the Public Health Act and refers to the medical officer of health having jurisdiction in the City of Calgary;
- (l.1) "*officer*" means a person appointed as a Bylaw Enforcement Officer pursuant to the Municipal Government Act, or a Police Officer;
- (l.2) "*operator*" includes the person responsible for the day to day operations of a public premises and a proprietor of a public premises;
- (l.3) "*outdoor patio*" includes:
 - (a) a public premises where food or beverages are served that is not fully contained within an enclosed building; and
 - (b) an outside extension of an eating or drinking establishment regardless of whether it is covered;
- (m) REPEALED BY B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**
- (n) "*plus 15 system*" means an above grade pedestrian circulation system that includes both plus 15 and plus 30 walkways, bridges, lane links and connecting stairs from street level;
- (o) REPEALED BY B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**
- (p) "*proprietor*" means, where applicable:
 - (i) the person who ultimately controls, governs or directs the activity carried on within any premises referred to in this Bylaw and includes the person usually in charge thereof;
 - (ii) a Hospital Board appointed pursuant to the provisions of the Alberta Hospitals

- Act;
- (iii) a Board of Governors appointed pursuant to the provisions of the Colleges Act, Technical Institutes Act or Universities Act;
 - (vi) a Board of Trustees elected pursuant to the provisions of the School Act, or a Trustee appointed pursuant to the provisions of the Department of Education Act; and
 - (v) the President of an Educational Institution that is administered directly by the Province of Alberta and referred to as a Provincially Administered Institution pursuant to the Department of Advanced Education Act;
- (q) “*public premises*” means any place to which the public may have either express or implied access for the purpose of worship, entertainment, recreation, business, amusement, education, transportation, consumption of food or drink, or for the provision and receipt of services;
- (r) “*public washroom*” means any washroom or lavatory open to the general public.
- (s) “*reception area*” means the public space used by an office or any business establishment for the receiving of customers, clients, patients, or other persons dealing with such office or establishment.
- (t) REPEALED BY B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**
- (u) REPEALED BY B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**
- (v) “*service line*” means an indoor line of one (1) or more persons awaiting a service of any kind, regardless of whether or not such a service involves the exchange of money, including but not limited to sales, provision of information, transactions or advice, and transfers of money or goods;
- (v.1) “*smoking area*” means that part of a public premises designated by an employer as a smoking area in accordance with this Bylaw;
- (w) “*smoking policy*” means a policy which addresses the health concerns of employees and employers and attempts to accommodate the preferences of smokers and non-smokers, and which, if smoking is permitted, prescribes designated smoking areas;
- (w.1) “*smoking premises*” means a transitional public establishment designated by an operator or proprietor as a smoking premises in accordance with this Bylaw;
- (w.2) “*smoking room*” means a portion of a transitional public establishment designated by an operator or proprietor as a smoking room in accordance with this Bylaw;
- (x) “*taxi*” means any taxi licensed pursuant to the provisions of the City of Calgary Taxi Licensing Bylaw;
- (x.1) “*transitional public establishment*” means a public premises where the primary activity is the service and consumption of food or drink, or the conduct of licensed gaming events;
- (y) “*workplace*” includes the whole or any part of a building, structure, vehicle or passenger conveyance in which a business is carried on but excludes:

- (i) any part which constitutes public premises, and
- (ii) private residences.

(B/L 1M2000, 2000 January 24)
(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)

PROHIBITION AND EXCEPTIONS

- 3. (1) No person shall carry or possess a lit cigarette, cigar or pipe, or burn tobacco in any manner in a public premises.
- (2) Except when on a public sidewalk, no person shall carry or possess a lit cigarette, cigar or pipe, or burn tobacco in any manner within 3 metres of an entrance or exit to a public premises.
- (3) No person shall permit ashtrays or objects intended to be a receptacle for a cigarette butt to be placed in indoor areas where smoking is prohibited by this Bylaw.
- (4) No person shall provide services or allow services to be provided to any person who is carrying or possesses a lit cigarette, cigar or pipe in an area or premises in which smoking is prohibited by this Bylaw.
- (5) No person shall carry or possess a lit cigarette, cigar or pipe, or burn tobacco in any manner in Olympic Plaza.
- (6) For the purposes of subsection (5):

“Olympic Plaza” means the area bounded on the north by 7th Avenue S.E., on the east by Macleod Trail S.E., on the south by 8th Avenue S.E. and on the west by 1st Street S.E., but excluding lots 39 and 40 of Block 52 on Plan A.

(B/L 46M2001, 2001 October 01)
(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)
(B/L 43M2006, 2006 July 24)

DESIGNATED SMOKING AREAS

Note: Section 3.1(b), (c) & (d) ceased to be of any force and effect as of January 01, 2008 (see Section 8.7)

- 3.1 Notwithstanding Section 3, a person may smoke in:
 - (a) a smoking area;
 - (b) a smoking room, provided the smoking room was built prior to July 1, 2006;
 - (c) a premises where the primary activity is the conduct of licensed gaming events; or
 - (d) within a gaming establishment – bingo, as defined by the City of Calgary Land Use Bylaw.

(B/L 47M2006, 2006 October 17)

3.2 An employer, operator or proprietor shall ensure that:

- (a) no person carries a lit cigarette, cigar or pipe, or burns tobacco on premises controlled or owned by them unless they have designated smoking places; and
- (b) that people carry lit cigarettes, cigars or pipes or burn tobacco on their premises only in those designated smoking places.

3.3 DELETED BY B/L 47M2006, 2006 OCTOBER 17.

(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)

(B/L 47M2006, 2006 October 17)

4. (1) In a workplace the employer may designate smoking areas on the premises provided the employer:

- (a) adopts, implements and maintains a written smoking policy;
- (b) gives notice of the smoking policy to all employees within fourteen (14) days after the policy is adopted or amended; and
- (c) ensures that:
 - (i) the portion of the premises designated as a smoking area is not accessible to persons under the age of 18 at any time;
 - (ii) the portion of the premises designated as a smoking area is not accessible to the public; and
 - (iii) employees do not have to pass through the smoking area to access washrooms or other staff facilities.

(B/L 46M2001, October 01)

(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)

Note: Section 4(2) ceased to be of any force and effect as of January 01, 2007 (see Section 8.6)

(2) An operator or proprietor of a transitional public establishment may designate their premises as a smoking premises in which smoking is permitted, if they:

- (a) ensure that the entire premises is not accessible to persons under the age of 18 at any time;
- (b) ensure that signs indicating that the premises is a smoking premises are posted prominently at all the public entrances to the premises and within the premises; and
- (c) ensure that the entire premises is separated from any other adjacent or attached public premises by doors which remain closed except while people and goods are passing through them, and is enclosed by a ceiling and floor to ceiling walls containing no inside openings.

(B/L 51M2001, 2001 November 12)

(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)

Note: Section 4(2.1) ceased to be of any force and effect as of January 01, 2008 (see Section 8.7)

(2.1) An operator or proprietor of a transitional public establishment, including gaming, bingo and casino establishments, who has built a smoking room prior to July 1, 2006, may designate their premises as a non-smoking premises in which smoking is permitted in smoking rooms, and shall:

- (a) ensure that the smoking room is not accessible to persons under the age of 18 at any time;
- (b) ensure that patrons or staff do not have to pass through the smoking room to access washroom facilities or non-smoking public portions of the establishment;
- (c) ensure that signs are posted prominently at all the public entrances to the premises;
- (d) ensure that signs indicating that persons are entering a smoking room are posted prominently at all entrances to the smoking room; and
- (e) ensure that the smoking room is separated from the rest of the premises or establishment by doors which remain closed except while people and goods are passing through them, and are enclosed by a ceiling and floor to ceiling walls containing no inside openings.

(B/L 51M2001, 2001 November 12)

(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)

(B/L 47M2006, 2006 October 17)

(2.2) An operator shall ensure that no person under the age of 18 years enters or remains in a place that has been designated as a:

- (a) smoking area;
- (b) smoking premises; or
- (c) smoking room

(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)

Note: Section 4(3) ceased to be of any force and effect as of January 01, 2007 (see Section 8.6)

(3) In a hospital, the hospital board may designate smoking areas on the premises provided the hospital board;

- (a) adopts, implements and maintains a written smoking policy;
- (b) gives notice of the smoking policy to all employees within fourteen (14) days after the policy is adopted or amended; and
- (c) ensures that the portion of the premises designated as smoking areas are:
 - (i) not accessible to persons under the age of 18 years;

- (ii) designated clearly and prominently by posting signs at all entrances to the smoking room which state, "WARNING YOU ARE ENTERING A SMOKING ROOM No persons under the age of 18 are permitted entry at any time", as set out in Schedule "A" to this Bylaw; and
- (iii) separated from the rest of the premises or establishment by doors which remain closed except while people and goods are passing through them, and are enclosed by a ceiling and floor to ceiling walls containing no inside openings.

(B/L 46M2001, 2001 October 01)

(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)

Note: Section 4(4) ceased to be of any force and effect as of January 01, 2007 (see Section 8.6)

- (4) In an educational institution the proprietor may designate smoking areas on the premises provided the proprietor:
 - (a) in the case of an area designated for employees, complies with Subsection (1); and
 - (b) does not designate any portion of a classroom as a designated smoking area; and
 - (c) ensures that the portion of the premises designated as smoking areas are:
 - (i) not accessible to persons under the age of 18 years;
 - (ii) designated clearly and prominently by posting signs at all entrances to the smoking room which state, "WARNING YOU ARE ENTERING A SMOKING ROOM No persons under the age of 18 are permitted entry at any time", as set out in Schedule "A" to this Bylaw; and
 - (iii) separated from the rest of the premises or establishment by doors which remain closed except while people and goods are passing through them, and are enclosed by a ceiling and floor to ceiling walls containing no inside openings.

(B/L 46M2001, October 01)

(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)

- (5) REPEALED BY B/L 39M2002, 2002 December 16

(B/L 46M2001, 2001 October 01)

(B/L 51M2001, 2001 November 12)

(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)

- (6) Notwithstanding any other provision in this Bylaw, no person shall designate any of the following as smoking places:
 - (a) a reception area;
 - (b) a waiting room;
 - (c) an area containing a service line or service counter;

- (d) an escalator, elevator or stairway;
- (e) a public washroom;
- (f) a plus 15 system; or
- (g) an outdoor patio

(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)

5. (1) Where, pursuant to this Bylaw, a proprietor or employer is required to adopt a written smoking policy, he shall, upon the demand of a Officer, provide a true copy of the policy to the Officer.
- (2) Where, pursuant to this Bylaw, a proprietor or employer has adopted, maintained and implemented a smoking policy he shall give notice of the smoking policy to all new employees within seven (7) days after the employee is hired.

(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)

Community Association Facilities

Note: Section 5.1 ceased to be of any force and effect as of January 01, 2008 (see Section 8.7)

- 5.1 Where a licensed gaming event is being held in a community association facility as a fund raising event to benefit the community association, the operator of the community association facility may designate a self contained room within the facility as a smoking room for the duration of the licensed gaming event, provided the smoking room was built prior to July 1, 2006.

(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)

(B/L 47M2006, 2006 October 17)

- 5.2 If the operator of a community association allows smoking pursuant to Section 5.1, he must ensure:

- (1) Signs which state, "WARNING THESE PREMISES ALLOW FOR SMOKING DURING CERTAIN TIMES", as set out in Schedule "A" to this Bylaw are clearly and prominently posted at all outside entrances to the premises at all times;
- (2) Signs which state, "WARNING YOU ARE ENTERING A SMOKING ROOM No persons under the age of 18 are permitted entry at any time", as set out in Schedule "A" to this Bylaw are clearly and prominently posted at all entrances to the smoking premises or room for the duration of the licensed gaming event;
- (3) Signs in Subsections (1) and (2) comply with Subsections 6(1), 6(2), and 6(3) of this Bylaw;
- (4) Signs referred to in Subsection (2) are removed after the licensed gaming event is over;
- (5) That the portion of the community association facility where smoking occurred not be used for an event where smoking is not allowed unless at least 2 hours has passed between the end of the licensed gaming event and the beginning of the non-smoking

- event; and
- (6) That the premises or the room designated as a smoking place is not accessible to persons under the age of 18 at any time during the licensed gaming event.
(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)

SIGNS

6. Where this Bylaw allows an employer, operator or proprietor to designate smoking rooms or areas by posting signs, the employer, operator or proprietor must:
- (1) post signs that contain the symbol for smoking which is a lit cigarette with a green circle around it;
 - (2) post signs that include the text "Calgary Bylaw Number 57M92" at the bottom;
 - (3) post signs that are no smaller than 8 centimetres by 20 centimetres; and
 - (4) in the case of a smoking area, post signs clearly and prominently at the entrance to the smoking area which state, "WARNING THIS IS A SMOKING AREA No persons under the age of 18 are permitted entry at any time, as set out in Schedule "A" to this Bylaw;

Note: Section 6(5) ceased to be of any force and effect as of January 01, 2008 (see Section 8.7)

- (5) in the case of a smoking room:
- (a) at the public entrances to the transitional public establishment, clearly and prominently post signs which state, "WARNING SMOKING IS PERMITTED WITHIN DESIGNATED ADULT-ONLY ROOMS ON THESE PREMISES", as set out in Schedule "A" to this Bylaw; and
 - (b) at the entrance to the smoking room, clearly and prominently post signs which state "WARNING YOU ARE ENTERING A SMOKING ROOM No persons under the age of 18 are permitted entry at any time, as set out in Schedule "A" to this Bylaw.
(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)
(B/L 47M2006, 2006 October 17)

GENERAL PENALTY PROVISION

7. (1) Any person who contravenes any provision of this Bylaw by:
- (a) doing any act or thing which the person is prohibited from doing; or
 - (b) failing to do any act or thing the person is required to do;
- is guilty of an offence;
- (2) Any person who is convicted of an offence pursuant to this Bylaw is liable on summary conviction to a fine not exceeding \$10,000.00 and in default of payment of any fine imposed, to a period of imprisonment not exceeding six months.
(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)

VIOLATION TICKETS AND SPECIFIED PENALTIES

8. (1) Where an officer believes that a person has contravened any provision of this Bylaw, the officer may commence proceedings against the person by issuing a violation ticket pursuant to the Provincial Offences Procedures Act.
- (2) The specified penalty payable in respect of a violation of a provision of this Bylaw shall be the amount shown as the specified penalty in Schedule "B" of this Bylaw in respect of that provision.
- (3) This section shall not prevent any Officer from issuing a violation ticket requiring a court appearance of the defendant, pursuant to the provisions of the Provincial Offences Procedure Act, or from laying an information in lieu of issuing a violation ticket.
- (4) Nothing in this Bylaw shall limit the authority of a designated officer to take steps to ensure compliance with this Bylaw.
(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)

MINIMUM PENALTIES AND SUBSEQUENT OFFENCES

- 8.1 The minimum penalty which may be imposed for:
 - (a) a first offence in respect of a violation of any provision of this Bylaw shall be \$50.00;
 - (b) a second offence of the same provision of this Bylaw within a twenty-four month period shall be \$100.00;
 - (c) a third or subsequent offence of the same provision of this Bylaw within a twenty-four month period shall be \$200.00.
(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)

SEVERABILITY

- 8.2 Each provision of this Bylaw is independent of all other provisions, and if any provision of this Bylaw is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.
(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)

GENERAL APPLICATION

- 8.3 Nothing in this Bylaw relieves a person from complying with any federal or provincial law or regulation, other bylaw or any requirements of any lawful permit, order, or licence, and without restricting the generality of the preceding nothing in this Bylaw relieves a person from complying with the provisions of Safety Codes Act (R.S.A. 2000, chapter S-1), and the Occupational Health and Safety Act (R.S.A. 2000, Chapter O-2), and the regulations passed pursuant to those Acts.
(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)

- 8.4 Where this Bylaw refers to another Act, regulation or agency, it includes reference to any Act, regulation or agency that may be substituted therefor.
(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)
- 8.5 (1) Schedule "A" is repealed and the attached documents illustrating the text and content of signage shall become Schedule "A" to this Bylaw.
(2) The attached Schedules shall form part of this Bylaw.
(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)
- 8.6 Subsections 4(2), 4(3) and 4(4) shall cease to be of any force and effect as of January 1, 2007.
(B/L 39M2002, 2002 December 16: **Effective: 2003 March 01**)
(B/L 47M2006, 2006 October 17: **Effective: 2007 January 01**)
- 8.7 Sections and subsections 3.1(b), (c) and (d), 4(2.1), 5.1 and 6(5) shall cease to be of any force and effect as of January 1, 2008.
(B/L 47M2006, 2006 October 17: **Effective: 2008 January 01**)
9. Bylaw 15M85, The Smoking Bylaw, is hereby repealed.
10. This Bylaw shall come into force on July 1, 1993.

READ A FIRST TIME THIS 14TH DAY OF DECEMBER, A.D. 1992.

READ A SECOND TIME AS AMENDED THIS 14TH DAY OF DECEMBER, A.D. 1992.

READ A THIRD TIME AS AMENDED THIS 4TH DAY OF JANUARY, A.D. 1993.

(Sgd.) A. Duerr
MAYOR

(Sgd.) D. Widdes
ACTING CITY CLERK

SCHEDULE "A"

(B/L 39M2002, 2002 December 16: Effective: 2003 March 01, 47M2006)



WARNING
**THIS IS A
SMOKING AREA**

**No persons under the
age of 18 are permitted
entry at any time**

CALGARY BYLAW 57M92



WARNING

**THESE PREMISES
ALLOW FOR SMOKING
DURING CERTAIN TIMES**

CALGARY BYLAW 57M92



WARNING

**YOU ARE ENTERING
A SMOKING ROOM**

**No persons under the
age of 18 are permitted
entry at any time**

CALGARY BYLAW 57M92

WARNING
SMOKING IS PERMITTED
WITHIN DESIGNATED
ADULT-ONLY ROOMS
ON THESE PREMISES

CALGARY BYLAW 57M92



UNCOPY

COPY



WARNING
**THIS IS A
SMOKING AREA**

**No persons under the
age of 18 are permitted
entry at any time**

CALGARY BYLAW 57M92

SCHEDULE "B"
SPECIFIED PENALTIES

(B/L 39M2002, 2002 December 16: Effective: 2003 March 01, 43M2006, 47M2006)

<u>Section</u>		<u>Amount of Specified Penalty in Dollars</u>
3(1)	Smoking in a prohibited place	\$100.00
3(2)	Smoking within 3 metres of an entrance way	\$100.00
3(3)	Placing ash trays	\$200.00
3(4)	Serving a person smoking	\$200.00
3(5)	Smoking in Olympic Plaza	\$100.00
3.2	Allow smoking where prohibited	\$200.00
3.3	DELETED BY 47M2006, 2006 OCTOBER 17	
4(2.2)	Allow person under 18 to enter or remain in a smoking place	\$300.00
4(6)	Designate a prohibited area as a smoking area	\$200.00
5(1), 5(2)	Failure to provide written copy of smoking policy	\$100.00
5.2(1), 5.2(2) 5.2(3), 5.2(4)	Community Association Operators' failure to meet sign obligations	\$200.00
5.2(5)	Allow non-smoking event less than two hours from end of a smoking event in a community association	\$200.00
5.2(6)	Allow person under 18 to enter and remain in a smoking place in a community association	\$300.00
6 (ALL)	Failure to meet sign obligations	\$200.00