

**HALIFAX REGIONAL MUNICIPALITY
BYLAW NUMBER S-203
RESPECTING SMOKE FREE PLACES**

WHEREAS the Regional Council of the Halifax Regional Municipal has the authority to pass by-laws, for municipal purposes respecting the health, well being, safety and protection of persons pursuant to Section 172(1)(a) of the *Municipal Government Act*, Stats. N. S. 1998, C. 18;

AND WHEREAS it has been determined that second hand tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars and pipes) is a health hazard to persons exposed to it;

AND WHEREAS the Province of Nova Scotia has enacted the *Smoke-free Places Act*, the purpose of which is to protect persons from the hazardous effects of second hand tobacco smoke to the extent set out in that legislation;

AND WHEREAS, pursuant to Section 16 of the *Smoke-free Places Act*, that Act does not affect any other authority to regulate, restrict or prohibit smoking and where there is a conflict between the *Smoke-free Places Act* and any other authority regulating, restricting or prohibiting smoking, the more restrictive authority prevails to the extent of the conflict;

AND WHEREAS the Regional Council of the Halifax Regional Municipality has determined to enact this By-law to put in place regulations on smoking within Halifax Regional Municipality which are more restrictive than those contained in the *Smoke-free Places Act*;

THEREFORE BE IT ENACTED by the Council of the Halifax Regional Municipality as follows:

Short Title

1. This By-law shall be known as By-law S-203 and may be cited as the Smoke Free Places By-law.

Definitions

2. In this By-law:

- (a) "ashtray" means any receptacle for tobacco ashes and for cigar and cigarette butts whether originally designed for that purpose or not;
- (b) "casino" means any gaming facility operating under a casino license issued under the authority of the Nova Scotia Gaming Commission pursuant to the *Gaming Control*

Act ;

- (c) “drinking establishment” means a lounge, cabaret, beverage room, tavern or club licensed under the *Liquor Control Act*, but not including a sidewalk or other patio associated therewith;
- (d) “Inspector” means a person appointed by the Chief Administrative Officer of the Municipality to administer this By-law;
- (e) “Municipality” means the Halifax Regional Municipality;
- (f) "proprietor" means the person who controls, governs or directs the activity carried on within the kinds of premises referred to in this By-law and includes the person who is actually in charge thereof at any particular time and the person who is the assessed owner or the occupant of the premises as shown on the Assessment Roll for the Halifax Regional Municipality;
- (g) “restaurant” means an establishment engaged in the sale and service of food to the public for consumption on the premises, and includes a sidewalk café, a sidewalk or other patio associated with the restaurant and an Eating Establishment licensed under the Liquor Control Act;
- (h) "smoke" or "smoking" includes the carrying of a lighted cigar, cigarette, pipe or any other ignited tobacco smoking equipment.
- (i) “tobacco bar” means a drinking establishment that generates ten percent or more of its total annual gross income in a calendar year from the on-site sale of tobacco products and the rental of on-site humidors.

Prohibition

3. (1) No person shall smoke in
- (a) a restaurant;
 - (b) a drinking establishment;
 - (c) a casino;
 - (d) a private club, excluding legions;
 - (e) a place that is being used for bingo

in the Halifax Regional Municipality.

(2) No proprietor of a place referred to in subsection (1) shall permit smoking in that place.

(3) The proprietor of a place referred to in subsection (1) shall ensure that no ashtrays are placed or allowed to remain in that place.

Exceptions

3A Notwithstanding Clauses (b), (c) and (d) of subsection (1) of Section 3, smoking is permitted in that area of a drinking establishment, casino or private club

(a) that is separately enclosed and ventilated in accordance with the standards prescribed for smoking areas by the regulations adopted pursuant to the *Smoke-free Places Act*, Acts, N. S. 2022, C. 12, from any part of the drinking establishment, casino or private club in which smoking is prohibited;

(b) that does not exceed twenty-five percent of the total indoor drinking area of the drinking establishment, casino or private club; and

(c) that no person under the age of nineteen years is permitted to enter or be in;

provided that food is not served in that area.

Exemption

3B Clause (b) of subsection (1) of Section 3 does not apply to a tobacco bar.

Signage

4. (1) The proprietor of a place referred to in subsection (1) of Section 3 shall affix to all entrance doors of the place at a height of 1.25 to 1.75 metres from the floor a sign which is clearly visible from the outside of the place indicating that the place is smoke-free and that smoking is not permitted in the place pursuant to HRM By-law S-203 and the sign may be in keeping with the architectural character of the place.

(2) Any sign prohibiting smoking that refers to a previous by-law of the Municipality or of a previous municipality is deemed to be referring to this by-law.

Enforcement

5. Where an Inspector finds that a proprietor is not complying with a provision of this By-law, the Inspector may order the proprietor to comply with the provision and may require the order to be carried out within such period of time as the Inspector specifies.

Offense and Penalty

6. (1) Any person, other than a proprietor, who contravenes any section of this By-law is guilty of an offence and liable on summary conviction is liable to a fine of not less than fifty dollars (\$50.00) and not more than two thousand dollars (\$2000.00).

(2) Any proprietor who contravenes any section of this By-law or fails to comply with an order made pursuant to Section 5 of this By-law is guilty of an offence and liable on summary conviction for a first offence to a fine of not less than two hundred dollars (\$200.00) and not more than two thousand dollars (\$2000.00), for a second offence to a fine of not less than five hundred dollars (\$500.00) and not more than five thousand dollars (\$5,000.00) and for a third or subsequent offence to a fine of not less than one thousand dollars (\$1,000.00) and not more than ten thousand dollars (\$10,000.00).

Repeal

7. Halifax Regional By-law S-200, the Smoking By-law is hereby repealed.

Transitional

8. Section 3A of this By-law shall have no effect on and after the 1st day of January 2008.

Done and passed in Council this 15th day of April, 2003

MAYOR

MUNICIPAL CLERK

I, Vi Carmichael, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of the Halifax Regional Council held on, April 15, 2003.

Vi Carmichael, Municipal Clerk

Notice of Motion:	January 28, 2003
First Reading	February 4, 2003
“Notice of Intent” Publication:	March 8, 2003
Second Reading	April 15, 2003
Approval of Service Nova Scotia and Municipal Relations:	N/A
Effective Date:	April 19, 2003