

Smoking Control By-law

PH-8 - Consolidated May 23, 2001

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**OFFICE CONSOLIDATION
INCLUDING AMENDMENT NO. PH-8-990001 (October 18, 1999)**

PUBLIC HEALTH

By-law PH-8

**A by-law to provide for the
CONTROL OF SMOKING IN CERTAIN PUBLIC PLACES
AND CERTAIN WORKPLACES**

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WHEREAS subsection 213(1) of the *Municipal Act, R. S. O. 1990, c. M.45*, as amended, authorizes a municipal council to pass a by-law regulating the smoking of tobacco in public places and workplaces within the municipality and for designating public places or workplaces or classes or parts of such places in which smoking tobacco or holding lighted tobacco is prohibited;

THEREFORE the Municipal Council of The Corporation of the City of Humber Bay enacts as follows:

**SHORT TITLE
SMOKING CONTROL BY-LAW**

**Part 1
DEFINITIONS**

1.1 Definitions

In this by-law:

Arena - defined

"arena" shall mean a building or structure or part thereof having a central area in which some sport, activity or performance is played, carried on or presented and which is surrounded by an indoor viewing area, with or without seats, to which the public have access of right or by invitation, expressed or implied, whether by payment of money or not.

Bar - defined

"bar" shall mean the whole or a portion of an establishment in a building or structure or part thereof, in respect of which establishment a liquor sales licence is issued under the Liquor Licence Act and its regulations:

- (a) which whole or portion is used primarily for the sale and service of liquor for immediate consumption by the public on the premises;
- (b) in which whole or portion the sale and service of food is incidental to the sale and service of liquor; and
- (c) which portion, if that is the case, may be accessible from the remainder of the establishment but which portion is nevertheless clearly separated from the remainder of the establishment;

but does not include a restaurant. (PH-1-95003)

Corporation - defined

"Corporation" shall mean The Corporation of the City of Humber Bay.

Drive-in eating place - defined

"drive-in eating place" shall mean an indoor establishment in a building or structure or part thereof where only carry-out service to patrons in motor vehicles is provided.

Graphic symbol - defined

"graphic symbol" shall mean the symbol set out in Form 1 in schedule A to this by-law.

Hallway - defined

"hallway" in relation to a residential premises containing more than four dwelling units, shall mean the interior passage way leading from the lobby to the doors of individual dwelling units and also the interior passage way into which the entrances from individual dwelling units lead.

Letter height - defined

"letter height" shall mean the actual height of the letter whether or not the letter is in lower case or in upper case.

Lunch stand - defined

"lunch stand" shall mean an indoor establishment in a building or structure or part thereof:

- (a) in which food is prepared or kept and offered for sale to or sold for immediate consumption by the public; and
- (b) which adjoins a public eating area.

Occupier - defined

"Occupier" in relation to a premises, shall include,

- (a) a person who is in physical possession of a premises, or
- (b) a person who has responsibility for the control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises,

although there may be more than one occupier of the same premises.

Open service counter area - defined

"open service counter area" shall mean an indoor desk or counter at which is provided service of any kind, whether or not such service involves the exchange of money, including sales service, purchase service, provision of information or advice, and the transfer of money or goods.

Owner - defined

"Owner" in relation to a building or structure, shall mean the registered owner of the land on which the building or structure is situated and includes an agent, trustee or property management company acting on the registered owner's behalf.

Patio area - defined

"patio area" shall mean an outdoor eating area adjoining a restaurant and occupied by seating capacity.

Premises - defined

"Premises" means lands, buildings and structures and also includes,

- (a) public transit vehicles,
- (b) portable structures designed or used as public places.

Prescribed sign - defined

"prescribed sign" shall mean a sign that is in accordance with the applicable regulations contained in this by-law.

Public eating area - defined

"public eating area" shall mean any indoor eating area adjoining a restaurant or lunch stand in which counter space and/or tables with or without seating is provided for the consumption of food.

Public place - defined

"Public place" shall mean an indoor area in a building or structure or part thereof, whether privately or publicly owned, to which the public have access by right or by invitation, expressed or implied, whether by payment of money or not, but not a place when used exclusively by one or more individuals for a private gathering or other personal purpose and, without restricting the generality of the foregoing, includes:

- (i) an arena;
- (ii) a bar;
- (iii) a billiard hall;
- (iv) a bingo hall;
- (v) a bowling alley;
- (vi) a convention centre;
- (vii) a dance hall;
- (viii) an elevator, escalator, stairway in any building or structure
- (ix) an exhibition building;
- (x) a lobby and interior passage way to dwelling units in a residential premises containing four or more dwelling units;
- (xi) a municipal office;
- (xii) a restaurant, lunch stand, public eating areas;
- (xiii) a theatre.

Public transit vehicle - defined

"public transit vehicle" includes a bus, school bus and a passenger vehicle for hire including but not limited to, a taxicab, limousine and a vehicle for the transportation of handicapped persons.

Reception area - defined

"reception area" shall mean an indoor area of a premises or part thereof, to which the public has access of right or by invitation, expressed or implied, and used by an office or other establishment for the receiving or greeting of customers, clients or other persons dealing with such office or establishment.

Restaurant - defined

"restaurant" shall mean the whole or a portion of an establishment in a building or structure or part thereof:

- (a) which has full kitchen facilities for the preparation of food;
- (b) which is used primarily for the preparation, service and sale of one or more course meals for immediate consumption by the public on the premises; and

- (c) in which seating accommodation is provided;

but does not include a bar, drive-in eating place, lunch stand, patio area or public eating area.^(PH-1-95003)

Seating capacity - defined

"seating capacity" shall mean in respect of seats and standee spaces at tables or a counter area for use by customers for the immediate consumption of food:

- (a) except as provided in clause (b) of this definition, the total number of seats and standee spaces for use by customers; or
- (b) where any section of seats or standee spaces contiguous to each other is temporarily closed to use by customers and is identified as such by one or more clearly visible signs, the remaining number of seats or standee spaces available for use by customers.

Second-hand smoke - defined

"second-hand smoke" shall mean:

- (a) smoke exhaled by a person while smoking a lighted cigarette, or cigar, pipe or tobacco in any other form; or
- (b) smoke produced by a lighted cigarette, cigar or pipe, or from lighted tobacco in any other form;

and includes the smoke resulting from the mixture of smoke produced by the actions described in clauses (a) and (b). However, it does not include smoke that has drifted into an area in which smoking is prohibited from an area in which smoking is not prohibited.

Service line - defined

"service line" shall mean an indoor line of two or more persons awaiting service of any kind, regardless of whether or not such service involves the exchange of money, and includes sales service, purchase service, provision of information or advice, and the transfer of money or goods.

Standee space - defined

"standee space" in relation to a lunch stand, public eating area and restaurant, means a space at a table or counter area provided for the use of customers while consuming food or beverages in a standing position.

Structure - defined

"structure" includes a tent or an enclosure using an air-supported system.

Theatre - defined

"theatre" shall mean an indoor area in a building or structure or part thereof used for the production and viewing of the performing arts or the screening and viewing of motion pictures by the public.

To smoke - defined

"to smoke" shall mean:

- (a) to inhale and exhale the smoke of a lighted cigarette, cigar or pipe, or of lighted tobacco in any other form; or
- (b) to produce or permit the production of second-hand smoke.

Workplace - defined

"Workplace" includes a public transit vehicle.

Part 2 GENERAL PROVISIONS

2.1 Other Statutes - conflict

In the event of a conflict between a provision of this by-law and a provision of any Act or regulation thereto, the provision that is the most restrictive of smoking prevails.

2.2 Signs - posted - visible - areas - designated

Where smoking is prohibited in a premises or any part thereof, unless explicitly indicated otherwise in this by-law, the owner or occupier shall post or cause to be posted one or more prescribed signs in such a manner as:

- (a) to be clearly visible in the premises or part thereof in which smoking is prohibited; and
- (b) to clearly identify the parts thereof in which smoking is and is not prohibited.

2.3 Metric - imperial measurement

The inclusion in this by-law in parenthesis of imperial measure is for convenience only and in the event of any discrepancy between metric measure and the corresponding imperial measure, the metric measure applies.

Part 3 PUBLIC PLACES - GENERAL

3.1 Smoking - public places - prohibited

No person shall smoke in a premises or part thereof that is used as a public place, except as expressly provided in this by-law. (PH-1-94001)

3.2 Smoking - public place - exception

Unless otherwise indicated in this by-law, the owner or occupier of a premises used as a public place may designate up to and including 40 % of the total floor area of that part of the premises being used as a public place, as an area in which smoking is permitted.

Part 4 PUBLIC PLACES - ARENAS

4.1 Smoking - interior passageways - prohibited

No person shall smoke in an interior passageway through which the public normally pass between any exterior doorway of an arena and the area for viewing any sport, activity or performance.

4.2 Smoking - in publicly-owned arena - prohibited

No person shall smoke in any part of an arena owned or operated by the Corporation.

4.3 Smoking - in privately-owned arena - prohibited - exception

No person shall smoke in any area of an arena, not owned or operated by the Corporation, to which the public have access of right or by invitation, express or implied, whether by payment of money or not, except as provided in section 4.4 of this by-law.

4.4 Smoking area - designation - maximum size

The owner or occupier of an arena not owned or operated by the Corporation may designate not more than 40% of the area mentioned in section 4.1 of this by-law for the purpose of smoking.

Part 5 PUBLIC PLACES - BILLIARD PLACES

5.1 Billiard places - bars - exception

Despite any section of this by-law, the owner or occupier may designate 100% of the floor area occupied by billiard tables or similar game devices, typically used by players engaged in billiards or similar games, if the floor area is contiguous with a bar and is not separately enclosed. (PH-1-95003)

5.2 Signs - posted - billiard places

The provisions of section 8.13 of this by-law apply with the necessary modifications where an owner or occupier makes a designation under section 5.1 (PH-1-95003)

Part 6
PUBLIC PLACES - BINGO HALLS

6.1 Bingo Halls - Exception

Despite any section of this by-law, the owner or occupier of a bingo hall may designate not more than 60% of the total floor area for the purpose of smoking. (re-enacted by PH-1-95002)

Part 7
PUBLIC PLACES - ELEVATORS - ESCALATORS - STAIRWAYS

7.1 Smoking - prohibited

Except as provided in section 7.2 of this by-law, no person shall smoke in an elevator or on an escalator or on a stairway in any building or structure that is a public place.

7.2 Exception - private dwellings

Section 7.1 of this by-law does not apply to elevators, escalators or stairways in residential premises containing fewer than four dwelling units.

7.3 Sign - posted - escalator - stairway - visible

Where smoking is prohibited on an escalator or a stairway, the owner or occupier shall post or cause to be posted one or more signs so as to be clearly visible to any person using the escalator or stairway or part thereof.

7.4 Sign - posted - elevator - interior wall - facing door

Where smoking is prohibited on an elevator, the owner or occupier shall post a sign on the interior wall facing the elevator door so as to be clearly visible to persons entering into the elevator.

7.5 No exception to prohibition

Section 3.2 of this by-law shall not apply to Part 7.

Part 8
PUBLIC PLACES - LUNCH STANDS - BARS - RESTAURANTS
PUBLIC EATING AREAS

8.1 Smoking - in lunch stand - prohibited

No person shall smoke in a lunch stand.

8.2 Smoking - in restaurant - prohibited - exception

Except as provided in section 8.4 of this by-law, no person shall smoke in a restaurant or public eating place.

8.3 Lunch Stand - no exception to prohibition

Section 3.2 of this by-law does not apply to a lunch stand and designation of any part of a lunch stand for the purposes of permitting smoking is prohibited.

8.4 Smoking area - restaurant - designation - maximum size - time limit

The owner or occupier of a restaurant or public eating area may designate for the purpose of smoking not more than the following percentages of the seating capacity of the restaurant or public eating area:

- (a) during the period ending December 31, 2001, 100 % where the seating capacity of the restaurant or public eating area does not exceed twenty-five;
- (b) during the period commencing January 1, 1996 and ending December 31, 1998, 50% where the seating capacity of the restaurant or public eating area exceeds twenty-five;
- (c) during the period commencing January 1, 1999 and ending December 31, 2001, 25% where the seating capacity of the restaurant or public eating area exceeds twenty-five; and
- (d) commencing January 1, 2002, 0% regardless of the seating capacity of the

restaurant or public eating area.^(PH-1-95003)

8.4.1 Smoking area - seating - contiguous to each other

The seating capacity designated under section 8.4 of this by-law:

- (a) shall be comprised of seats or standee spaces that are contiguous to each other; and
- (b) shall not include any useable outdoor seating capacity.^(PH-1-95003)

8.5 Smoking area - clearly separated - non-smoking area

Every owner or occupier of a restaurant or public eating area in which seating capacity is designated under this by-law for the purpose of smoking:

- (a) shall clearly separate the area occupied by the seating capacity not so designated; and
- (b) shall not designate an entrance, a stairwell, rest room, lobby, the centre of an open indoor space, or any area in which a person waits to be seated for the purpose of smoking.^(PH-1-95003)

8.6 Signs - placed - posted - prescribed form

Where smoking is prohibited in a restaurant in which customers are not directed to a table by the owner, occupier or an employee of the restaurant, or where smoking is prohibited in a public eating area, the owner or occupier shall:

- (a) place or cause to be placed one or more prescribed signs, having either lettering with a minimum height of .7 centimeters (.25 inches) or a graphic symbol with a minimum diameter of 5.2 centimeters (2 inches), on the table or other surface on which food is placed for consumption by customers or on an adjacent surface; and^(PH-1-96004)
- (b) post or cause to be posted one or more prescribed signs.

8.7 Signs - placed - clearly visible - area identified

Where a sign is placed in accordance with section 8.6 of this by-law, it shall be conspicuously placed so as:

- (a) to be clearly visible on the table or other surface on which it has been placed; and
- (b) to clearly identify the table or other surface as being in the area in which smoking is prohibited.

8.8 Signs - posted - in area - prescribed form

Where smoking is prohibited in a restaurant in which customers are directed to a table by the owner, occupier or an employee of the restaurant, the owner, occupier shall post or cause to be posted one or more prescribed signs.

8.9 Smoking - non-smoking preference - determination

Where an owner or an employee of a restaurant or any other person on behalf of the owner or occupier:

- (a) directs customers to a waiting area; or
- (b) takes advance reservations by telephone or otherwise;

the owner, occupier, employee or other person shall determine, in advance of seating the customer, the preference of the customer for an area in which smoking is permitted or an area in which smoking is prohibited, and shall direct the customer to the preferred area.

8.10 Smoking - in bar - prohibited

Except as provided in section 8.11 of this by-law, no person shall smoke in a bar.

8.11 Smoking - in bar - permitted

Subject to section 8.12, the proprietor of a bar may designate 100% or less of the floor area of the establishment used as a bar for the purpose of smoking.

8.12 Smoking - in bar - conditions

Where the bar does not comprise the whole of an establishment in a building or structure or part

thereof, the floor area designated under section 8.11 of this by-law shall be contiguous to any designated smoking area located in the remainder of the establishment.

8.13 Signs - posted - restaurant - bar

The owner or occupier of a restaurant or bar shall post or cause to be posted, at each entrance to the establishment for the information of the public using such entrance, prescribed signs, subject to the necessary modifications thereto, and containing the following statement: (PH-1-96004)

- (a) where none of the useable floor area of the establishment is designated for the purpose of smoking, "This Is A Smoke-Free Environment";
- (b) where a portion but not all of the useable floor area of the establishment is designated for the purpose of smoking, "Smoking Prohibited Except In Designated Areas"; or
- (c) where all of the useable floor area of the establishment is designated for the purpose of smoking, "WARNING: Tobacco Smoke Is Not Restricted In This Establishment". (PH-1-95003)

Part 9

PUBLIC PLACES - RECEPTION AREAS

9.1 Smoking - prohibited

No person shall smoke in a reception area.

9.2 Smoking - at service counter - prohibited

No person shall smoke at any service counter adjoining such reception area.

9.3 No exception to prohibition

Section 3.2 of this by-law shall not apply to reception areas and/or service counters adjoining reception areas and the designation of any part of a reception area for the purposes of permitting smoking is prohibited.

Part 10

PUBLIC PLACES - RESIDENTIAL LOBBY - HALLWAY

10.1 Smoking - prohibited

No person shall smoke in a lobby or hallway leading to dwelling units in a residential premises containing four or more dwelling units.

10.2 No exception to prohibition

Section 3.2 of this by-law shall not apply to the lobby or hallway leading to dwelling units in residential premises containing four or more dwelling units and designation of any part of such a lobby or hallway for the purposes of permitting smoking is prohibited.

Part 11

PUBLIC PLACES - SERVICE COUNTERS - SERVICE LINES

11.1 Smoking - prohibited

No person shall smoke in a service line or service counter in any premises.

11.2 No exception to prohibition

Section 3.2 of this by-law shall not apply to a service line or service counter area and the designation of any part of a service line or service counter area for the purposes of permitting smoking is prohibited.

Part 11.1

PUBLIC PLACES - SLOT MACHINE FACILITY

11.1.1 Slot machine facility - exception

Despite any section of this by-law, the operator of the slot machine facility located on the premises of the Western Fair Association may designate not more than 60% of the total floor area used for the horse racing/slot machine facility for the purposes of smoking.

11.1.2 Total floor area - exemptions

The computation of the total floor area of the horse racing/slot machine facility shall not include the area of the lobby, stairways, hallways, escalators, elevators and areas operated as restaurants.

Part 12 PUBLIC PLACES - THEATRES

12.1 Smoking - in theatre - prohibited

No person shall smoke in a building or structure or part thereof that is used as a theatre. (PH-1-94001)

12.2 No exception to Prohibition

Section 3.2 of this by-law shall not apply to a building or part thereof used as a theatre and designation of any part a theatre for the purposes of permitting smoking, is prohibited.

Part 13 WORKPLACES - PUBLIC TRANSIT VEHICLES

13.1 Smoking - in public transit vehicle- prohibited

No person shall smoke:

- (a) in any public transit vehicle operated by The Humber Bay Transit Commission;
- (b) in any school bus as defined in subsection 175 (1) of the *Highway Traffic Act, R.S.O. 1990, c. H.8*, as amended; or
- (c) in any public transit vehicle operated by or on behalf of the Corporation and used for the transportation of handicapped person

13.2 Public Transit vehicles - signs to be posted

The owner of a public transit vehicle referred to in section 13.1 shall post or cause to be posted one or more prescribed signs in such a manner as to be clearly visible to any person entering the said vehicle and one or more signs to be clearly visible from all parts of the interior of the public transit vehicle.

13.3 Taxicab - limousine - consent required

No person shall smoke in a public transit vehicle commonly called a taxicab or limousine, except upon such occasions as prior consent is given by all passengers being carried at the time and the driver of the taxicab or limousine.

13.4 Sign - posted - conspicuous - content - requirement

The owner of a taxicab or a limousine shall post or cause to be posted a sign having the following content:

Smoking is prohibited in this taxicab/limousine unless permitted by prior mutual consent of all passengers and driver.

City of Humber Bay Smoking Control By-law;

and such sign shall be conspicuously posted and large enough so as to be clearly visible to the passengers of the taxicab or limousine.

Part 14 PRESCRIBED SIGNS - GENERAL REGULATIONS

14.1 Sign - text - No Smoking

Except as otherwise expressly provided in this by-law, every sign that prohibits smoking shall carry the text "NO SMOKING" in upper case or lower case letters, or a combination of both. (PH-1-96004)

14.2 Colours - contrasting

Every sign that prohibits smoking shall consist of 2 contrasting colours, or consist of lettering contrasting to the background colour where the lettering is applied directly to a surface or is mounted on a clear panel.

14.3 Lettering - height requirement - Table 1

Every sign that prohibits smoking shall consist of lettering not less than the height set out in column 2 of Table 1 for the corresponding viewing distance in direct line of sight in column 1.

TABLE 1	
COLUMN 1 (Distance in Metres)	COLUMN 2 (Height in Centimeters)
3 or less (9.84 feet)	3 (1.18 inches)
6 (19.68 feet)	5 (1.97 inches)
12 (39.36 feet)	8 (3.15 inches)
25 (82.00 feet)	10 (3.94 inches)
50 (164.0 feet)	15 (5.91 inches)
75 (246.0 feet)	20 (7.88 inches)

14.4 Lettering size - requirement

Every sign that prohibits smoking shall include in the text at the bottom of each sign, "City of Humber Bay Smoking Control By-law" in letters and figures not less than:

- (a) 1 centimeter (.39 inches) in height for signs with letter size of 3 centimeters (1.18 inches); and
- (b) 1/4 of the height of the letters for all other sizes of signs having lettering greater than 3 centimeters (1.18 inches). (PH-1-96004)

14.5 Graphic symbols - use - permitted

Despite sections 14.1 to 14.4 inclusive of this by-law, a graphic symbol in accordance with Form 1 may be used to indicate no smoking areas.

14.6 Sign - graphic symbol - text optional

Every sign incorporating a graphic symbol may include the text "City of Humber Bay Smoking Control By-law" in letters and if included, such lettering shall occupy at least 5% of the diameter of the circle of such a symbol.

14.7 Graphic symbol - colour - requirement

Every graphic symbol shall consist of a white background having a circle and interdictory stroke in red over an outline of a cigarette drawn in black as shown in form 1.

14.8 Graphic symbol signs - size

All signs incorporating the graphic symbol, shall consist of a symbol shown in Form 1 having a diameter not less than the diameter set out in column 2 of Table 2 for the corresponding maximum viewing distance in direct line of sight in column 1.

TABLE 2	
COLUMN 1 (Distance in Metres)	COLUMN 2 (Height in Centimeters)
3 or less (9.84 feet)	10 (3.94 inches)
6 (19.68 feet)	15 (5.91 inches)
12 (39.36 feet)	20 (7.88 inches)
25 (82.00 feet)	30 (11.82 inches)
50 (164.0 feet)	40 (15.76 inches)
75 (246.0 feet)	60 (23.64 inches)

14.9 Graphic symbol - directional arrows - permitted

A sign incorporating the graphic symbol may contain a directional arrow.

14.10 Graphic symbol - representation - in other forms

Notwithstanding that the graphic symbol in Form 1 contains a cigarette, the prohibition shall include a cigar, pipe or lighted tobacco in any other form.

14.11 Deviations - from sign content - permitted - condition

Minor deviations from the wording or colour requirements for a prescribed sign that do not affect the substance or that are not calculated to mislead do not vitiate a sign.

14.12 Deviation from wording re fine - permitted - condition

Signs bearing the words "maximum fine \$2000.00" are deemed to be in conformity with the by-law so long as they were posted prior to the passing of the by-law and meet all other requirements of this by-law.

14.13 Special signs - permission required

Inspectors appointed to enforce this by-law shall have the authority to approve in writing the display of special signs that do not meet all of the requirements of this by-law, if they deem the circumstances warrant such approval, and if the message conveyed by such signs is clear and in general conformity with the provisions of this by-law.

**Part 15
ENFORCEMENT AND PENALTY**

15.1 Prosecutions - public health inspectors

The institution and conduct of prosecutions for offences under this by-law, including the employment of prosecutors, is assigned to public health inspectors without expense to the Corporation.

15.2 Powers of inspectors

An inspector may make such examinations, investigations and inquiries as are necessary to determine whether there is compliance with this by-law.

15.3 Obstruction - prohibited

No person shall obstruct an inspector carrying out an inspection under this by-law.

15.4 Entrance without warrant

An inspector may, at any reasonable time, enter any public place or workplace designated by this by-law for the purpose of determining whether or not there is compliance with the requirements of this by-law.

15.5 Entrance - dwelling

Despite section 15.4, an inspector shall not exercise a power to enter a place, or part of a place, that is used as a dwelling, unless

- (a) the occupier of the dwelling consents to the entry, having first been informed by the inspector of his or her right to refuse consent; or
- (b) if the occupier refuses to give consent, the power to enter is exercised under a warrant issued under section 158 of the *Provincial Offences Act*.

15.6 Fine - for contravention

Any person who contravenes any provision of this by-law is, upon conviction, guilty of an offence and is liable to any penalty as provided in the *Provincial Offences Act*.

15.7 Continuation - repetition - prohibited - by order

The court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

**Part 16
MISCELLANEOUS**

16.1 Validity

It is declared that despite any Part or Parts of this by-law, or sections thereof, may be found by any court of law to be bad or illegal or beyond the power of the Council to enact, such Part or Parts or

sections thereof shall be deemed to be severable and that all other Parts or sections of this by-law are separate and independent there from and enacted as such.

16.2 Review - restaurant - bar - provisions

During the year 2000 Council shall review the provisions of this by-law respecting restaurants and bars and in undertaking such review shall consult with the Ontario Restaurant Association (Humber Bay Region) and the Council for a Tobacco Free Community (Humber Bay-Middlesex) or their successor organizations.

16.3 Re-enactment - bar - definition

On January 1, 2002 section 1.1 of this by-law is amended by deleting the definition of "bar" and substituting the following therefor:

Bar - defined

"bar" shall mean an establishment in a building or structure or part thereof:

- (a) in respect of which a liquor sales licence is issued under the Liquor Licence Act and its regulations;
- (b) which is used primarily for the sale and service of liquor for immediate consumption by the public on the premises; and
- (c) in which the sale and service of food is incidental to the sale and service of liquor;

but does not include a restaurant.^(PH-1-95003)

16.4 Re-enactment - smoking - in bar - permitted

On January 1, 2002, section 8.11 of this by-law is repealed and the following substituted therefor:

8.11 Smoking - in bar - permitted

The proprietor of a bar may designate 100% or less of the useable floor area of the establishment for the purpose of smoking.^(PH-1-95003)

16.5 Repeal - smoking - in bar - conditions

On January 1, 2002, section 8.12 of the by-law is repealed.^(PH-1-95003)

**Part 17
REPEAL - ENACTMENT**

17.1 By-law - previous

By-law PH-1 and all of its amendments are repealed.

17.2 Effective date

This by-law comes into force on the day it is passed.

Passed in Open Council on May 19, 1998.

Dianne Haskett
Mayor

Jeff A. Malpass
City Clerk

First Reading - May 19, 1998
Second Reading - May 19, 1998
Third Reading - May 19, 1998

SMOKING CONTROL BY-LAW PH-8

SCHEDULE A

Form 1 - Graphic Symbol

(Symbol not available. Contact the City Clerk's Office for assistance)