



**THE CORPORATION OF THE CITY OF MISSISSAUGA
SMOKING BY-LAW 94-14**

(amended by 180-15, 137-18)

WHEREAS second-hand smoke is the smoke from lighted tobacco, and there is no known safe level of exposure to second-hand smoke;

AND WHEREAS sections 8, 9 and 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, ("*Municipal Act, 2001*") authorize The Corporation of the City of Mississauga ("City") to pass by-laws necessary or desirable for municipal purposes;

AND WHEREAS the City has the capacity, rights, powers and privileges of a natural person, and may pass by-laws for prohibiting or regulating, for purposes considered necessary or desirable including the use and protection of public assets, social and environmental purposes, the delivery of services, and for the health, safety and well-being of persons under the authority of *Municipal Act, 2001*;

AND WHEREAS subsection 115(1) of the *Municipal Act, 2001* provides that without limiting section 11, a municipality may prohibit or regulate the smoking of tobacco in public places and workplaces;

AND WHEREAS City Council wishes to prohibit tobacco smoking and limit the impact of tobacco smoke on persons using the City's parks and other public spaces, buildings and structures, particularly for the benefit of young persons, for the health of the public generally, to protect and enhance the quality and use of City property, and to improve the environmental and social conditions on City properties, buildings and structures through a by-law which prohibits the smoking of tobacco;

AND WHEREAS City Council intends to provide for enforcement and to allow prohibitions of use or entry to City property where persons fail to comply with the by-law;

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

DEFINITIONS AND INTERPRETATION

1. In this By-law the following terms have the prescribed meanings unless the context otherwise requires:
 - (a) **"Authorized Staff"** means an Officer, or any staff of the City whose duties include those provided for or assigned under this By-law, and shall include a Director;

- (b) **"Director"** means the Director of Parks & Forestry, Director of Culture or the Director of Facilities and Property Management, and includes a person acting in their capacity during absence or illness, and their designate for the purposes of this By-law;
 - (c) **"Medical Officer of Health"** means the Medical Officer of Health for the Regional Municipality of Peel, duly appointed under the *Heath Protection and Promotion Act*, R.S.O. 1990, c. H.7, as amended;
 - (d) **"Officer"** means a municipal law enforcement officer appointed by the municipality, a public health inspector acting under the direction of the Medical Officer of Health or a person appointed as a Provincial Offences Officer as defined under the *Provincial Offences Act*, R.S.O. 1990, c.P33, as amended;
 - (e) **"Public Space"** means the list of properties, addresses, places and areas in Schedule "A" attached to and forming a part of this By-law, but does not in any case include a highway; which may include parks as defined under the City's Parks By-law 186-05, as amended; or other publically accessible outdoor areas owned or operated by the City of Mississauga;
 - (f) **"smoking tobacco"** includes the holding of tobacco while the product is alight or emitting smoke, and the verb "smoke" shall include a similar meaning; and
 - (g) **"tobacco"** includes pipe tobacco, water-pipe tobacco, cigarettes, cigars, cigarillo's or any similar product made with or containing tobacco.
2. For the purposes of interpretation, a Public Space includes all outdoor areas in a park or property including those parts covered by water or which are located within the abutting road allowances, and includes the internal trails, paths, walkways, parking, lots and lanes for vehicular or pedestrian use, specifically including both public and restricted access portions of such property, and further this By-law applies to a person while they are within or on a vehicle within such areas.

PROHIBITION

3. No person shall: (137-18)
- (a) smoke tobacco or smoke/consume cannabis on a Public Space;
 - (b) fail to leave a Public Space after Authorized Staff has given the person notice or direction to leave for smoking tobacco or smoking/consuming cannabis on a Public Space;
 - (c) enter or use a Public Space after Authorized Staff have prohibited the person's entry or use for smoking tobacco or smoking/consuming cannabis on a Public Space.

4. The prohibitions in section 3 above apply whether or not a "No Smoking" sign of any format or content is posted.
5. The prohibitions in section 3 above do not apply to those areas adjacent or within a Public Space, delineated as smoke permitted areas, if any.
6. The City may post "No Smoking" signs in a conspicuous location in areas where smoking is prohibited.
7. No person shall remove, cover up or alter any sign which has been posted pursuant to section 6.

ADMINISTRATION AND ENFORCEMENT

8. The Director of Parks & Forestry and the Director of Facilities and Property Management, are responsible for administration and enforcement of this By-law respectively, and may appoint delegates or assign duties to City staff under this By-law.
9. City staff who carry out any action under this By-law are deemed to be Authorized Staff for the purposes of this By-law, in the absence of evidence to the contrary.
10. A Director may issue, extend or vary a prohibition of entry or use by a person on a Public Space under this By-law, including without limiting the generality of the foregoing, making such prohibition applicable to other Public Space or making a prohibition for any term including for longer than one year, in their absolute discretion.
11. Where any person contravenes any provision of this By-law, an Officer may direct such person to comply with this By-law. Every person so directed shall comply with such direction without delay.
12. Where an Officer has reasonable grounds to believe that an offence has been committed by a person, the Officer may require the name, address and proof of identity of that person, and the person shall supply the required information.

OBSTRUCTION

13. No person shall hinder, obstruct or interfere with an Officer lawfully conducting an inspection under this By-law.

OFFENCES AND PENALTIES

14. Any person who contravenes a provision of this By-law is guilty of an offence and upon conviction is liable to a to a fine, and such other penalties, as provided for in the *Provincial Offences Act*, R.S.O. 1990, c.P.33, and the *Municipal Act, 2001*, as both may be amended from time to time.

SCHEDULES

15. All schedules attached to this By-law shall form part of this By-law.

CONFLICTS, SEVERABILITY AND ENACTMENT

16. Subject to subsection 13(3) of the *Smoke Free Ontario Act*, S.O. 1994, c. 10 (the "Act"), in the event of a conflict between any provisions of this By-law and the Act, a regulation or municipal by-law that deals with smoking, the provision which is more restrictive of smoking shall prevail.

17. Should a court of competent jurisdiction declare any section, clause or provision of this By-law to be invalid or of no force and effect, the provision or part is deemed severable from this By-law and it is the intention of City Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under law.

18. This By-law shall come into force and effect on May 1, 2014.

ENACTED AND PASSED this 23rd day of April, 2014

Signed by: Hazel McCallion, Mayor and Crystal Greer, City Clerk

SCHEDULE “A”
PUBLIC SPACES
(amended by 180-15)

1. 300 City Centre Drive
2. 301 Burnhamthorpe Road West
3. Mississauga Celebration Square
4. Scholars’ Green – (275 Prince of Wales Drive); and
5. Scholars’ Green Phase II – (300 Rathburn Road West)