

**Town of Mulgrave
Bylaw No. 35**

**A Bylaw Prohibiting Smoking in Indoor Public Places & Workplaces
in the Town of Mulgrave**

Title

1. This Bylaw shall be known as the Bylaw Prohibiting Smoking in Indoor Public Places and Workplaces in the Town of Mulgrave.

Interpretation

2. In this Bylaw:
 - (a) “drink establishment” means a lounge, pub, tavern, cabaret, or beverage room licensed under the Liquor Control Act.
 - (b) “place of public assembly” means;
 - (i) a building or part thereof used, or intended to be used, by the public, whether gratis or for a fee, for civic, political, travel, religious, social, educational, entertainment, recreational or like purposes;
 - (ii) the lobby or hallways of an institution or office building;
 - (iii) a shopping center or shopping mall;
 - (iv) a food court used or intended to be used by the public, in any building;
 - (v) retail or wholesale store.
 - (c) “proprietor” means a person who owns, manages, possesses, or controls premises or directs activity carried out on premises and includes a person shown on the Assessment Roll for the Town of Mulgrave as the assessed owner or occupant of the premises except where the Town of Mulgrave has been given notice in writing of a change in ownership or has been provided with the name of a person identified as having exclusive possession and control of premises;

- (d) “person” includes a body corporate, society and the heirs, executors, administrators, successors and other legal representatives of a person.
- (e) “reception area” means the space used by an office or establishment for the receiving or greeting of customers, clients or other persons dealing with such office or establishment;
- (f) “restaurant” means an establishment engaged in the sale and service of food to the public for consumption on the premises.
- (g) “retail or wholesale store” means a building or part of a building, booth, stall or place used for the purpose of retail or wholesale trade or services.
- (h) “service line” means an indoor line of two (2) or more persons awaiting service of any kind, regardless of whether or not such service involves the exchange of money including, but not limited to:
 - (i) sales;
 - (ii) provision of information, transactions or advice; and
 - (iii) transfers of money or goods.
- (i) “smoke” or “smoking” means the act of smoking tobacco, including smoking a cigarette, cigar or pipe, as evidenced by the giving-off of tobacco smoke and includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment. Where smoke is given-off from a cigar, cigarette, or pipe, it shall be prima facie evidence that the substance being smoked is tobacco.

General Prohibition

3. No person shall smoke in any of the following places:
 - (a) a place of public assembly;
 - (b) within a radius of one meter (3.28 feet) of all public entrances and air intake to buildings;
 - (c) any service counter in any premises including enclosed areas behind such service counters

- (d) any service line on any premises;
 - (e) any reception area including any unenclosed area adjoining a reception area;
 - (f) any elevator, escalator, or stairway which is generally used by and open to the public;
 - (g) any public transportation facilities excluding taxis;
 - (h) any rest room, washroom or toilets, generally used by and open to the public;
 - (i) any drinking establishment; however, smoking is allowed in those drinking establishments that have a designated room specially equipped with a ventilation system that would draw
 - (j) any restaurant
 - (k) any arena, bowling alley, or pool hall.
4. The proprietor or tenant of any place listed in Section 3 shall not permit smoking in any such place.

Notice Required

5. The person in charge of any place mentioned in Section 3 shall ensure that signs giving sufficient notice of the prohibition of smoking within the establishment are displayed at the entrance to the establishment and within the establishment to be clearly visible from all parts of the premises.

Offence and Penalty

6. The proprietor of any place listed in Section 3 shall ensure that any person found smoking by the proprietor, or employee or agent of the proprietor, is immediately directed to stop smoking and, failing his or her compliance, is directed to leave that place.
7. Any person who fails to comply with a directive given by a proprietor, or an employee or agent of the proprietor pursuant to Section 6 of this Bylaw, is guilty of an offence.
8. Any person who violates any section of this Bylaw is guilty of an offence and on

summary conviction is liable to a fine of not less than fifty dollars (\$50.00) and not more than one hundred dollars (\$100.00) and not less than one hundred dollars (\$100.00) and not more than three hundred dollars (\$300.00) for a second or subsequent offence.

9. Any person who fails to erect a sign contrary to Section 5 is guilty of an offence and is liable upon summary conviction to a fine of not less than fifty dollars (\$50.00) and not more than three hundred dollars (\$300.00) and not less than three hundred dollars (\$300.00) and not more than five hundred dollars (\$500.00) for a second or subsequent offence.
10. Where a company commits any offence pursuant to this Bylaw, any officer or director or the company who directed, authorized, assented to, acquiesced in or participated in the violation of this Bylaw is guilty of the offence and is liable to the punishment provided for the offence, whether or not the company has been prosecuted.
11. Where an offence pursuant to this Bylaw is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed.

Payment in Lieu of Prosecution

12. A person who is alleged to have violated this Bylaw and is given notice of the alleged violation may pay a penalty in the amount of fifty dollars (\$50.00) to an official designated by the Chief Administrative Officer, which official and place of payment shall be designated on the notice, provided that said payment is made within a period of fourteen (14) days following the day on which the alleged violation was committed and where the said notice so provides for payment in this manner, and such payment shall be in full satisfaction, releasing and discharging all penalties and imprisonments incurred by the person for said violation.

Effective Date

13. This Bylaw will come into effect on February 1, 2003.