

PROTECTION

Chapter 953 SMOKING - REGULATION - PUBLIC PLACES AND WORKPLACES

CHAPTER INDEX

Article 1 INTERPRETATION

953.1.1	Amusement arcade - defined
953.1.2	Arena - defined
953.1.3	Ashtray - defined
953.1.4	Bar - defined
953.1.5	Barbershop - defined
953.1.6	Billiard hall - defined
953.1.7	Bingo hall - defined
953.1.8	Bowling alley - defined
953.1.9	City - defined
953.1.10	Clerk - defined
953.1.11	Common area - defined
953.1.12	Council - defined
953.1.13	Dwelling unit - defined
953.1.14	Food court - defined
953.1.15	Employee - defined
953.1.16	Employer - defined
953.1.17	Officer/Inspector - defined
953.1.18	Laundromat - defined
953.1.19	Non-smoking policy - defined
953.1.20	Person - defined
953.1.21	Place of public assembly - defined
953.1.22	Private club - defined
953.1.23	Proprietor or other person in charge - defined
953.1.24	Public building - defined
953.1.25	Public facility - defined
953.1.26	Public place - defined
953.1.27	Public portion - defined
953.1.28	Public restroom - defined
953.1.29	Reception area - defined

- 953.1.30 Restaurant - defined
- 953.1.31 Retail shop - defined
- 953.1.32 School bus - defined
- 953.1.33 Service counter - defined
- 953.1.34 Service line - defined
- 953.1.35 Shopping mall - defined
- 953.1.36 Smoke or smoking - defined
- 953.1.37 Workplace - defined
- 953.1.38 Waterpipe - defined

Article 2 PUBLIC PLACES

- 953.2.1 Public places - designated

Article 3 GENERAL PROHIBITION

- 953.3.1 Smoking - prohibited
- 953.3.2 Proprietor - responsibility
- 953.3.3 Proprietor - ashtrays

Article 4 SIGNS - PUBLIC PLACES

- 953.4.1 Signs - no smoking
- 953.4.2 Signs - shopping malls - other public places
- 953.4.3 Signs - bar
- 953.4.4 Signs - description

Article 5 SMOKING - WORKPLACE

- 953.5.1 Employer - policy
- 953.5.2 New workplace - employer policy
- 953.5.3 Employer - responsibility
- 953.5.4 No-smoking - workplace
- 953.5.5 No-smoking - employer
- 953.5.6 Signs - workplace
- 953.5.7 Ashtrays
- 953.5.8 Workplace - duties

**Article 6
OFFENCES
PUBLIC PLACES - WORKPLACES**

- 953.6.1 Public places - offence
- 953.6.2 Contravention
- 953.6.3 Smoke - workplace
- 953.6.4 Employer - failure to adopt policy
- 953.6.5 Employer - permit - smoking
- 953.6.6 Hinder or Obstruct
- 953.6.7 Fine - contravention

**Article 7
WATERPIPES**

- 953.7.1 Waterpipe - public place - prohibited
- 953.7.2 Proprietor - public place - responsibility
- 953.7.3 Waterpipe - workplace - prohibited
- 953.7.4 Proprietor - workplace - responsibility

**Article 8
ENFORCEMENT**

- 953.8.1 Enforcement - officer
- 953.8.2 Right of entry - public place
- 953.8.3 Right of entry - workplace
- 953.8.4 Right of entry - workplace - permission required – dwelling
- 953.8.5 Rebuttable presumption - identification

**Article 9
EXEMPTIONS**

- 953.9.1 Workplace - private dwelling
- 953.9.2 Private club - exemption

**Article 10
CONFLICTS**

- 953.10.1 Most restrictive - prevail

Article 11 EFFECTIVE DATE

- 953.11.1 Effective date
953.11.2 Effective date - Bingo Halls
-

Article 1 INTERPRETATION

953.1.1 Amusement arcade - defined

“amusement arcade” means a place to which the public has access and which is equipped with five (5) or more machines or devices that may be used for playing games solely for the entertainment and amusement of the players.

953.1.2 Arena - defined

“arena” means any building, location or premises comprised of, but not restricted to, a rink, floor or ice surface, spectator seating areas, dressing rooms and canteen facilities, to which the public has access to view or participate in sporting or other events.

953.1.3 Ashtray - defined

“ashtray” means a receptacle of any type used for tobacco ashes and for cigar and cigarette butts.

953.1.4 Bar - defined

“bar” means an establishment licensed under the Alcohol and Gaming Commission of Ontario where persons under 19 years of age are not permitted to enter either as employee or as patron.

953.1.5 Barber shop - defined

“barber shop” or “hairdressing establishment” means any building, location or premises where hair is styled, cut, trimmed, treated or washed.

953.1.6 Billiard hall - defined

“billiard hall” means any building or part thereof, the primary purpose of which is the playing of the game of snooker, pool or billiards.

953.1.7 Bingo hall - defined

“bingo hall” means any building, location or premises where the conduct of bingo events is licensed.

953.1.8 Bowling alley - defined

“bowling alley” means a premises at which lanes are made available to members of the public for rental to play the game of bowling.

953.1.9 City - defined

“City” means The Corporation of the City of Orillia.

953.1.10 Clerk - defined

“Clerk” means the Clerk of The Corporation of the City of Orillia.

953.1.11 Common area - defined

“common area” means any indoor area of a building that is open to the public for the purposes of access to a retail shop, establishment or office and includes corridors, passageways, unenclosed eating areas in corridors, passageways, public restrooms, unenclosed public seating areas and

unenclosed public standing areas, whether or not the eating area, seating area or standing area is leased.

953.1.12 Council - defined

"Council" means the Council of The Corporation of the City of Orillia.

953.1.13 Dwelling unit - defined

"dwelling unit" means any building or part thereof used as the home, residence, or sleeping place of a family either continuously, permanently, temporarily, or transiently.

953.1.14 Food court - defined

"food court" means an area within a shopping mall where food or drink is offered for sale or sold to the public for immediate consumption.

953.1.15 Employee - defined

"employee" includes a person who:

- (a) performs any work for or supplies any services to an employer, or
- (b) receives any instructions or training in the activity, business, work, trade, occupation or profession of the employer or his agent.

953.1.16 Employer - defined

"employer" includes any person who as the owner, proprietor, manager, superintendent or overseer of any activity, business, premises, work, trade, occupation or profession, has control over or direction of, or is directly or indirectly responsible for the employment of a person therein.

953.1.17 Officer/Inspector - defined

"officer/inspector" means a person appointed by Council to enforce the Municipality's by-laws.

953.1.18 Laundromat - defined

"laundromat" means any facility, premises or area within a building to which the public has access established for the purposes of laundering, washing or drying on a self-service basis.

953.1.19 Non-smoking policy - defined

"non-smoking policy" means a written policy that prohibits smoking in the workplace in accordance with this Chapter.

953.1.20 Person - defined

"person" includes a corporation.

953.1.21 Place of public assembly - defined

"place of public assembly" means the whole or part of an indoor area to which the public has access by right or by invitation, express or implied, whether by payment of money or not, but does not include a place when used exclusively by one or more individuals for a private gathering or personal purpose.

953.1.22 Private club - defined

"private club" means the whole or part of an indoor area to which the general public is not invited or permitted access.

For greater clarification and for the purpose of enforcement of this Chapter, a facility is considered to be a private club when the following criteria are met:

- (a) The club must have a fixed membership;
- (b) The club requires each member to pay an annual or periodic membership fee;

- (c) The club must have an executive/leadership that is elected by all the members on an annual or periodic basis;
- (d) The club must have a constitution or by-laws that provide the governing rules for the membership, executive, fees, etc.;
- (e) The club must be not-for-profit;
- (f) The club has profits and losses borne by its members;
- (g) The club has publicity and advertisements directed exclusively to members for their information and guidance and does not solicit business from the general public; and
- (h) The club does not permit non-members to enter the premises to consume food or alcohol unless accompanied by a member.

953.1.23 Proprietor or other person in charge - defined

"proprietor or other person in charge" means the person who controls, governs or directs the activity carried on within the premises designated as prohibited areas under this Chapter and includes the person who is actually in charge thereof at any particular time.

953.1.24 Public building - defined

"public building" means any enclosed building or group of buildings to which the public has access.

953.1.25 Public facility - defined

"public facility" means any hall, room, or banquet area that is publicly owned and is rented for an event or function.

953.1.26 Public place - defined

"public place" means the whole or part of an indoor area to which the general public is invited or permitted access, or outdoor area specifically described in Section 953.2.1 and includes a school bus, public transportation, taxi or limousine.

953.1.27 Public portion - defined

"public portion" means the area of any building to which the public has access.

953.1.28 Public restroom - defined

"public restroom" means any restroom or washroom to which the public has access.

953.1.29 Reception area - defined

"reception area" means the public space used by an office or establishment for the receiving or greeting of customers, clients or other persons dealing with such office or establishment.

953.1.30 Restaurant - defined

"restaurant" means an establishment engaged in the sale and service of food or drink or both food and drink to the public for consumption on the premises but does not include a bar.

953.1.31 Retail shop - defined

"retail shop" means any building or part of a building, booth, stall or place where goods are exposed for sale or offered for sale by retail.

953.1.32 School bus - defined

"school bus" means a public vehicle licensed for the purpose of transporting children to and from school or to or from any activity, event or function associated therewith.

953.1.33 Service counter - defined

"service counter" means an indoor counter where a person receives a service including, but not limited to, the exchange of money, sales, provision of information, transactions, advice or the transfer of money or goods.

953.1.34 Service line - defined

"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 sales, transactions, provision of information or advice and transfers of money or goods.

953.1.35 Shopping mall - defined

"shopping mall" means any enclosed building or group of buildings containing one or more retail shops.

953.1.36 Smoke or smoking - defined

"smoke" or "smoking" includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment or product.

953.1.37 Workplace - defined

"workplace" means any enclosed area of a building or structure in which an employee works and includes washrooms, corridors, lounges, eating areas, reception areas, elevators, escalators, foyers, hallways, stairways, amenity, areas, lobbies, laundry rooms, work vehicles and parking garages utilized by an employee.

953.1.38 Waterpipe - defined

"waterpipe" means any lighted or heated smoking equipment used to smoke tobacco or non-tobacco substances or any combination thereof in a form that may be smoked or inhaled.

Article 2 PUBLIC PLACES

953.2.1 Public places - designated

The following are designated public places for the purposes of this Chapter:

- (a) the common area of a public building;
- (b) the indoor service line or service counter in any premise to which the public has access;
- (c) a place of public assembly;
- (d) a public restroom;
- (e) a food court;
- (f) a public facility;
- (g) a reception area;
- (h) the public portion of an amusement arcade;
- (i) a municipally owned building;
- (j) a bingo hall;

- (k) a bowling alley;
- (l) a billiard hall;
- (m) the public portion of any restaurant;
- (n) the public portion of any bar;
- (o) an arena;
- (p) the public portion of any retail shop;
- (q) the common area of a shopping mall;
- (r) the public portion of any laundromat;
- (s) the public portion of any barber shop or hairdressing establishment;
- (t) a taxi cab;
- (u) a limousine;
- (v) Repealed By-law 2008-183.

Article 3 GENERAL PROHIBITION

953.3.1 Smoking - prohibited

No person shall smoke in any public place, including but not limited to, those designated under Section 953.2.1 of this Chapter.

953.3.2 Proprietor - responsibility

No proprietor or other person in charge of a public place as set out in this Chapter shall permit smoking where smoking is prohibited under this Chapter.

953.3.3 Proprietor - ashtrays

The proprietor or other person in charge of a public place regulated under this Chapter shall ensure that no ashtrays are placed or allowed to remain in any public place where smoking is prohibited under this Chapter.

Article 4 SIGNS - PUBLIC PLACES

953.4.1 Signs - no smoking

The proprietor or other person in charge of any public place designated or regulated under this Chapter shall ensure that a sufficient number of signs as prescribed by Section 953.4.4 are conspicuously posted so as to clearly identify that smoking is prohibited.

953.4.2 Signs - shopping malls - other public places

Despite Section 953.4.1, in every shopping mall or other public building referred to in Section 953.2.1, the proprietor or other person in charge of the shopping mall or other public building shall ensure that:

- (a) signs are posted in accordance with Section 953.4.4 in every common area of the shopping mall or other public building;
- (b) signs are posted at every entrance to the shopping mall or other public building, which are visible and in sufficient numbers, clearly indicating in English and/or in French that smoking is prohibited in the common areas of the shopping malls or other public building, and
- (c) signs referred to in clauses a) and b) are in accordance with Section 953.4.4.

953.4.3 Signs - bar

Despite Section 953.4.1, in every bar, the proprietor or other person in charge of a bar shall ensure that a sign or signs is posted at every entrance to the bar that clearly identifies in English and/or French that the bar is smoke-free.

953.4.4 Signs - description

- (a) The signs referred to in this Chapter shall consist of graphic symbols that comply with the provisions of this Section.
- (b) The following graphic symbol shall be used to indicate the areas where smoking is prohibited pursuant to this Chapter: on a white background with the circle and the interdictory stroke in red.



- (c) The graphic symbol referred to in Section 953.4.4, shall include the text "City of Orillia By-law" in letters and figures at least five (5%) percent of the diameter of the circle in the symbol.
- (d) With respect to size of the graphic symbol, the diameter of the circle in the symbol referred to in this section shall be not less than ten (10 cm) centimetres.
- (e) Despite the fact that the symbol referred to in Section 953.4.4 is a cigarette, it shall include a lighted cigar, cigarette, pipe or any other lighted smoking equipment or product.
- (f) Deviations from the colour or content of the signs prescribed by this Section that do not affect the substance or that are not calculated to mislead do not vitiate the signs.

**Article 5
SMOKING - WORKPLACE****953.5.1 Employer - policy**

Every employer shall, on June 1st, 2002, adopt and implement a non-smoking policy that prohibits smoking in respect of each workplace in the City of Orillia under the control, supervision or ownership of the employer.

953.5.2 New workplace - employer policy

Where, after June 1st, 2002, a workplace is created or comes into existence, the employer of such workplace shall within seven (7) days after such workplace is created or comes into existence, adopt and implement a non-smoking policy that prohibits smoking in respect of each such workplace under the control, supervision or ownership of the employer.

953.5.3 Employer - responsibility

Every employer required by the Chapter to adopt and implement a non-smoking policy shall:

- (a) thereafter maintain the non-smoking policy in the workplace for which it was adopted;
- (b) provide a copy of the non-smoking policy to each employee in the workplace within seven (7) days after the day upon which the non-smoking policy in respect of that workplace was adopted;
- (c) post and keep continuously displayed a copy of the non-smoking policy in a prominent place accessible to all employees in the workplace;
- (d) erect signs in accordance with Section 953.5.6 at every entrance to the workplace indicating that smoking is prohibited in the workplace.

953.5.4 No-smoking - workplace

When the non-smoking policy has been adopted for a workplace, no person shall smoke in the workplace.

953.5.5 No-smoking - employer

When the non-smoking policy has been adopted for a workplace, no employer shall permit smoking in the workplace.

953.5.6 Signs - workplace

The signs referred to in this Chapter shall consist of graphic symbols that comply with the provisions of this Section:

- (a) The following graphic symbol shall be used to indicate that smoking is prohibited in the workplace: on a white background with the circle and the interdictory stroke in red.



- (b) The graphic symbol referred to in Section 953.5.6 shall include the text "City of Orillia By-law" in letters and figures at least five (5%) percent of the diameter of the circle in the symbol.
- (c) With respect to size of the graphic symbol, the diameter of the circle in the symbol referred to in this section shall be not less than ten (10 cm) centimeters.
- (d) Despite the fact that the symbol referred to in Section 953.5.6 is a cigarette, it shall include a lighter, cigar, cigarette, pipe or any other lighted smoking equipment or product.
- (e) Deviations from the colour or content of the signs prescribed by this section that do not affect the substance or that are not calculated to mislead do not vitiate the signs.

953.5.7 Ashtrays

The proprietor or other person in charge of a workplace regulated under this Chapter shall ensure that no ashtrays are placed or allowed to remain in any workplace where smoking is prohibited pursuant to this Chapter.

953.5.8 Workplace - duties

No employer or other person in charge of a workplace shall permit smoking where smoking is prohibited under this Chapter.

**Article 6
OFFENCES
PUBLIC PLACES - WORKPLACES**

953.6.1 Public places - offence

Any person who smokes in a public place as set out in this Chapter is guilty of an offence.

953.6.2 Contravention

Any person who contravenes any of the provisions of this Chapter is guilty of an offence.

953.6.3 Smoke - workplace

Any person who smokes in a workplace in contravention of this Chapter is guilty of an offence.

953.6.4 Employer - failure to adopt policy

Any employer who fails to adopt and implement a non-smoking policy is guilty of an offence.

953.6.5 Employer - permit - smoking

Any employer who permits smoking in a workplace in contravention of this Chapter is guilty of an offence.

953.6.6 Hinder or Obstruct

No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this Chapter, or any person lawfully acting in aid of such an Officer. Without limiting the generality of the meaning of "hinder" or "obstruct", a person shall be deemed to have obstructed or hindered an Officer in the execution of their duties if he or she:

- (a) provides false information to an Officer; or
- (b) is alleged on reasonable and probable grounds to have contravened any of the provisions of this Chapter, and fails to identify themselves to an Officer upon request.

953.6.7 Fine - contravention

Every person who contravenes any of the provisions of this Chapter is guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the *Provincial Offences Act*.

**Article 7
WATERPIPES**

953.7.1 Waterpipe - public place - prohibited

No person shall use a waterpipe in any public place including but not limited to, those designated under Section 953.2.1 of this Chapter.

953.7.2 Proprietor - public place - responsibility

No proprietor or other person in charge of a public place shall permit the use of a waterpipe in any public place including but not limited to, those designated under Section 953.2.1 of this Chapter.

953.7.3 Waterpipe - workplace - prohibited

No person shall use a waterpipe in any workplace.

953.7.4 Proprietor - workplace - responsibility

No employer or other person in charge of a workplace shall permit the use of a waterpipe in a workplace.

**Article 8
ENFORCEMENT****953.8.1 Enforcement - officer**

The provisions of this Chapter respecting the designation of non-smoking areas, the posting of signs and the duties imposed on the proprietor, employer or other person in charge of a public place or workplace shall be enforced by Officers/Inspectors.

953.8.2 Right of entry - public place

An Officer/Inspector may, at any reasonable time, enter any designated public place for the purposes of determining compliance with this Chapter.

953.8.3 Right of entry - workplace

For the enforcement of this Chapter, an Officer/Inspector, upon producing proper identification, may, at all reasonable hours, enter any workplace or any building or structure in which a workplace is situate and may make examinations, investigations and inquiries.

953.8.4 Right of entry - workplace - permission required - dwelling

No Officer/Inspector may enter a workplace that is also a dwelling without the consent of the occupant or without first obtaining and producing a warrant.

953.8.5 Rebuttable presumption - identification

In a prosecution for a contravention of this Chapter, evidence of identification shall be presumed to be correct and accurate, unless rebutted by evidence to the contrary.

**Article 9
EXEMPTIONS****953.9.1 Workplace - private dwelling**

This Chapter shall not apply to any part of a workplace that is used as a private dwelling unit.

953.9.2 Private club - exemption

This Chapter shall not apply to any part of a Private Club as defined in this Chapter.

**Article 10
CONFLICTS****953.10.1 Most restrictive - prevail**

If a provisions of this Chapter conflicts with an Act or a regulation or another Chapter, the provision that is the most restrictive of smoking shall prevail.

Article 11
EFFECTIVE DATE

953.11.1 Effective date

The provisions of this Chapter with the exception of Section 953.1.7 shall come into effect June 1, 2002.

953.11.2 Effective date - bingo halls

The provisions of this Chapter with respect to Section 953.1.7, Bingo Halls, shall come into effect January 1st, 2005.

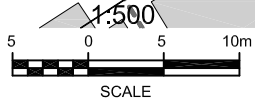
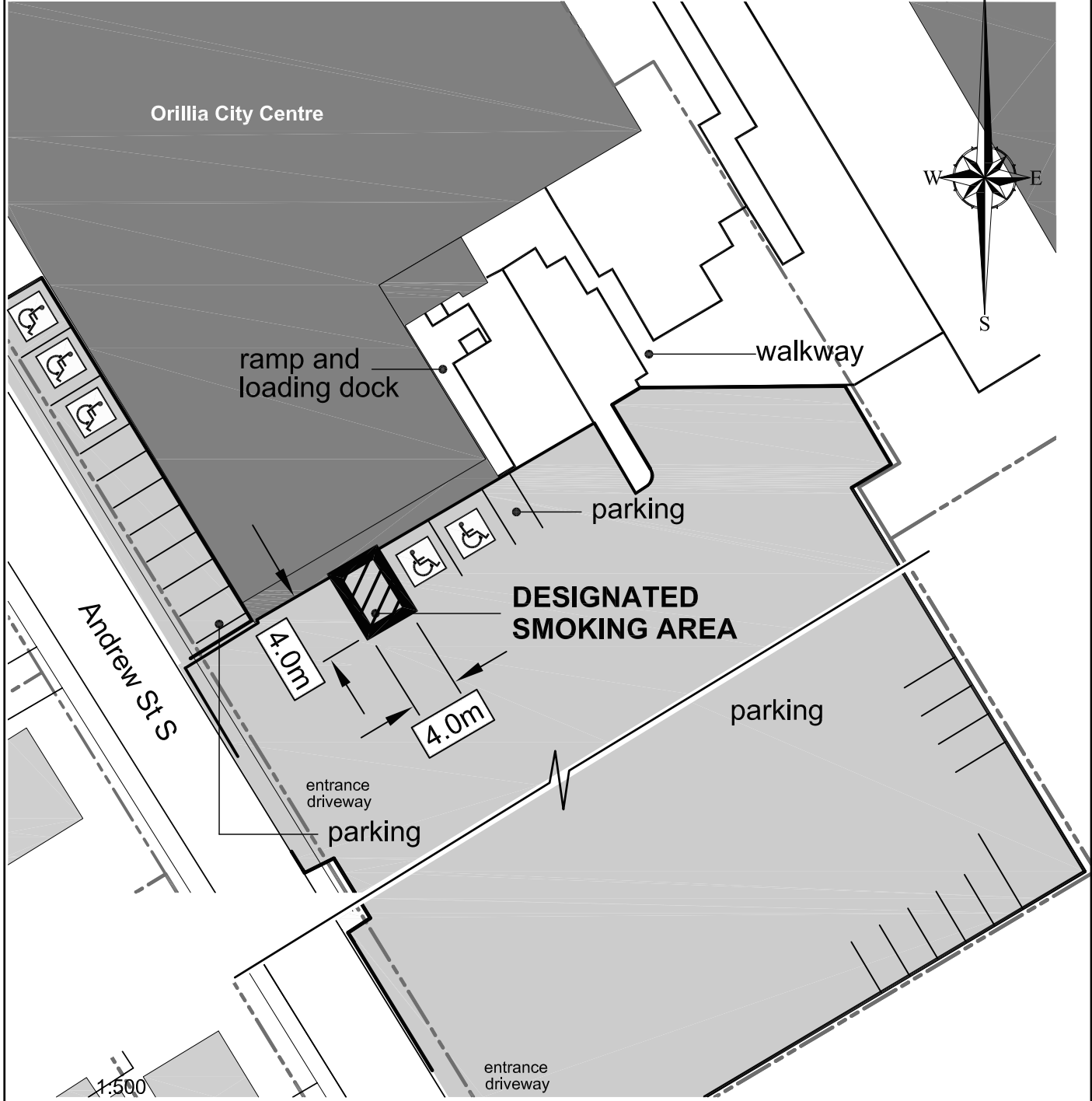
Adopting By-law: By-law 1987-35, 23 March 1987.

By-law Amendments: By-law 1993-56, 10 May 1993; By-law 1994-24, 10 January 1994;

Repealed and Replaced: By-law 2001-185, 17 December 2001.

By-law Amendments: By-law 2005-163, 28 November 2005; By-law 2006-24, 13 February 2006; By-law 2008-117, 30 June 2008; By-law 2008-183, 3 November 2008, By-law 2010-14, 1 February 2010; By-law 2013-85, 10 June 2013; By-law 2015-8, 9 February 2015; By-law 2017-14; 13 February 2017; By-law 2019-28, 1 April 2019.

SCHEDULE "A"



DESIGN BY: SC
DRAWN BY: WH
CHECKED BY: SC
APPROVED BY:
DATE: JAN. 19, 2009
PLOTTED: JAN. 19, 2009



THE CORPORATION OF THE
CITY of ORILLIA

PUBLIC WORKS DEPARTMENT

TITLE
Orillia City Centre

FILE:	
SHEET:	PLAN No:
ACAD FILE:	skSCpk01.DWG

H:\CONTRACTS\Drawings - MISCELLANEOUS\dept_PROP-SERV\CITYHALL\Parking lot\skSCpk01.DWG
Jan 28, 2010 - 1:24pm