

CORPORATION OF THE COUNTY OF LAMBTON
BY-LAW NO. 10 OF 2004

**"A By-Law to Regulate Smoking in Public Places
and Workplaces in the County of Lambton"**

WHEREAS Subsection 115(1) of the Municipal Act, S.O. 2001, as amended, authorizes the Council of a municipality to pass a by-law regulating the smoking of tobacco in public places and workplaces within the municipality and designating public places or workplaces or classes or parts of such places as places in which smoking tobacco or holding lighted tobacco is prohibited;

AND WHEREAS it has been determined that environmental tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars or pipes), also known as second-hand smoke, is a serious health hazard because of its adverse effects and risk to the health of all of the inhabitants and workers in Lambton County;

AND WHEREAS it is desirable for the health, safety, and welfare of the inhabitants and workers of the County of Lambton to provide for the prohibiting and abating of smoking and second-hand smoke in accordance with the provisions of this By-Law;

NOW THEREFORE the Council of The Corporation of the County of Lambton enacts as follows:

1. DEFINITIONS

1.0 In this by-law:

1.1 "County" means the County of Lambton;

1.2 "employee" means a person who performs any work for or supplies any service to an employer, proprietor, or other person in charge and includes a volunteer and a person who is self-employed and employment has a corresponding meaning;

1.3 "employer" means any person who, as the owner, proprietor, manager, contractor, superintendent or overseer of any activity, business, work, trade, occupation, or profession, has control over or direction of, or is directly or indirectly responsible for the employment of an employee;

1.4 "person" includes a corporation;

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

- 1.6 “public place” means the whole or part of an indoor area, to which the public has access as of right or by invitation, expressed or implied, whether or not a fee is charged for entry and includes public transit vehicles;
- 1.7 “public transit vehicle” means any vehicle used for transporting the public and includes a school bus and a passenger vehicle used for hire;
- 1.8 “smoke” or “smoking” includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment, including smoke or smoking where smoke or smoking is used in a stage production of a theatrical performance;
- 1.9 “workplace” means any indoor area or part thereof in which one or more employees work, including any other indoor area utilized by employees and includes a public transit vehicle and any other conveyance in which an employee works and which is provided by an employer.

2. WORKPLACES

- 2.1 Except as provided in section 2.2 no person shall smoke in any workplace within Lambton County whether or not a “No Smoking sign” is posted.
- 2.2 Section 2.1 does not apply to any part of a workplace that is used as a private residence.
- 2.3 The prohibition set out in subsection 2.1 does not apply to patients in a psychiatric facility as defined in the Mental Health Act.
- 2.4 The prohibition set out in subsection 2.1 does not apply to residents in a nursing home, home for the aged, home for special care or a charitable home for the aged.
- 2.5 Every employer shall:
 - (i) ensure compliance with this by-law;
 - (ii) give notice to each employee in the workplace that smoking is prohibited in the workplace;
 - (iii) post No Smoking signs in accordance with paragraph 4 of this by-law in conspicuous locations at every entrance and washrooms in the workplace indicating that smoking is prohibited in the workplace;
 - (iv) ensure that no ashtrays or like paraphernalia are placed or permitted to remain in any workplace where smoking is prohibited under this by-law.

3. PUBLIC PLACES

3.1 No person shall smoke in any public place within Lambton County whether or not a No Smoking sign is posted.

3.2 Every proprietor of a public place shall:

- (i) ensure compliance with this by-law;
- (ii) give notice to each person in the public place that smoking is prohibited in the public place;
- (iii) post No Smoking signs in accordance with paragraph 4 of this by-law in conspicuous locations at every entrance and washrooms in the public place indicating that smoking is prohibited in the public place;
- (iv) ensure that no ashtrays or like paraphernalia are placed or permitted to remain in any public place.

4. SIGNAGE REQUIRED

4.1 Every employer and every proprietor shall post and maintain in conspicuous locations at each entrance to the facility and in the washrooms, a sign at least 14 centimetres (5.5 inches) by 14 centimetres (5.5 inches) in size that includes depiction of the international No Smoking symbol at least 7.5 centimetres (3 inches), and lettering at least 0.8 centimetres (5/16 inch) high and at least 0.2 centimetres (1/16 inch) wide at the narrowest point, with the rest of the letter sized proportionately, which reads "County of Lambton; By-Law (#); Maximum Fine (\$)".

4.2 Where a No Smoking sign is required to be placed or posted under this by-law, the sign shall have the proportions, characteristics and minimum measurements as set out in paragraph 4.1 and consist of two (2) contrasting colours, or if the lettering and graphic symbol is to be applied directly to surface or to be mounted on a clear panel, the lettering and graphic symbol shall contrast with the background.

5. OFFENCES AND ENFORCEMENT

5.1 Any person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine of not more than Five Thousand (\$5,000.00) Dollars as provided for in the Provincial Offences Act, R.S.O. 1990, chapter 33, or any successor thereof.

5.2 This by-law shall be enforced by an enforcement officer, either:

(1) a person appointed by the County of Lambton Community Health Services Department to enforce this by-law; or

(2) a person appointed by The Corporation of the County of Lambton as a municipal tobacco by-law enforcement officer to enforce this by-law;

6. CONFLICTS

6.1 If a provision of this by-law conflicts with an Act or Regulation or another by-law, the provision that is the most restrictive of smoking shall prevail.

7. SEVERABILITY

7.1 If any section or sections of the by-law or parts thereof, are found in any court of law to be illegal or beyond the power of County Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of the by-law shall be deemed to be separate and independent thereof and to be enacted as such.

8. EFFECTIVE DATE

8.1 This by-law shall come into effect on September 4, 2004.

BY-LAW read a first and second time this 4th day of February, 2004.

FINALLY PASSED this 7th day of April, 2004.

Todd Case, Warden

Linda Ross, Clerk