

Township of Lucan Biddulph

BY-LAW NO. 48-2015

Being a by-law to regulate and prohibit smoking at all municipally owned/operated public places.

WHEREAS the *Municipal Act, 2001*, S.O. 2001, S. 115, as amended (the "Act"), 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 such places or parts thereof as places where smoking tobacco or holding lighted tobacco is prohibited;

AND WHEREAS subsection 10(1) of the *Municipal Act* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act* provides that a municipality may pass bylaws respecting: in paragraph 4, public assets of the municipality acquired for the purpose of exercising its authority; in paragraph 5, economic, social and environmental well-being of the municipality; in paragraph 6, health, safety and well-being of persons; in paragraph 7, services and things that the municipality is authorized to provide under subsection (1); and in paragraph 8, protection of persons and property;

AND WHEREAS the *Smoke Free Ontario Act* came into effect on May 31, 2006;

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 public nuisance because of its irritating and discomforting properties and is a serious health hazard because of its adverse effects and risk to the health of all the inhabitants and workers in the Township of Lucan Biddulph.

AND WHEREAS it has been determined that restrictions on smoking in public spaces can have a protective effect on smoking uptake among children, youth and young adults, and supports those who are currently addicted to tobacco trying to quit;

AND WHEREAS it is desirable for health, safety and welfare of the inhabitants and workers of the Township of Lucan Biddulph to provide for the prohibiting and abating of smoking second hand smoke at municipally owned or operated property in accordance with the provisions of this by-law

BE IT THEREFORE ENACTED by the Municipal Council of The Corporation of the Township of Lucan Biddulph as follows:

1. DEFINITIONS

In this By-law:

Enforcement Officer means a municipal by-law enforcement officer, a Tobacco Enforcement Officer as appointed by the Middlesex-London Board of Health, , a member of any police service including the Ontario Provincial Police, or any person appointed by Municipal Council to enforce this by-law.

lane means any public access land that is owned by the Township or any public access lane of which any portion is rented to the Township.

Municipal Building means any building that is owned by the Township or any building of which any portion is rented or leased by the Township.

Parking Lot means any public parking area that is owned by the Township or any public parking area of which any portion is rented or leased to or by the Township.

Public Place means the whole or part of a municipally owned/operated indoor and outdoor area, building, structure, vessel, vehicle or conveyance, or part thereof, whether covered by a permanent roof or not, to which the public has access by right or by invitation, expressed or implied, whether or not a fee is charged for entry, and includes,

but is not limited to, public transit vehicles, bus stops and common areas of a building.

Public Transit Vehicle means a vehicle used for transporting the public and includes a school bus and a passenger vehicle used for hire.

Recreational Sports Field means any field, made of natural or man-made materials located on Township property, that is used for recreational or athletic purposes by any person or persons to conduct organized or unorganized sporting activities and includes, but is not limited to, a municipal park, a baseball field, a soccer pitch, a skate park, a player or spectator bench, a sports pad or playing surface and a tennis court.

Smoke or Smoking includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment, whether or not the product contains tobacco, including but not limited to cigarettes, cigarillos, cigars, e-cigarettes, vaporizers and hookah pipes.

Township means the Township of Lucan Biddulph.

Trails and Paths include designated spaces for multi-use walking, running and biking trails connecting roads and parks throughout the Township.

Workplace means a building, structure, vessel, vehicle or conveyance or part thereof, to which the public may or may not have access either expressed or implied, in which one or more employees work, whether or not they are paid for their employment, including any other area in the building, structure, vessel, vehicle or conveyance utilized by employees.

2. PUBLIC PLACES

2.1 No person shall smoke in any lane, municipal building, parking lot, public place, public transit vehicle, recreational sports field, trail, path or workplace within the Township whether or not "No Smoking" signs are posted.

2.2 Every person, employer or community organization using property of the Township shall, within the area of his/her/its responsibility:

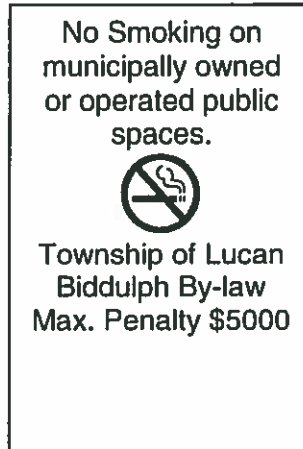
- a) ensure compliance with this by-law;
- b) inform each employee of the employer or each person working with any community organization that smoking is prohibited on Township property;
- c) ensure that no ashtray or like paraphernalia is placed or permitted to remain in any part of the Township property within the area of his/her/its responsibility.

Exceptions

1. This by-law does not apply to the smoking of tobacco on a highway or roadway.
2. This by-law does not prohibit an Aboriginal person from smoking tobacco or holding lighted tobacco, if the activity is carried out for traditional Aboriginal cultural or spiritual purposes.
3. This bylaw does not prohibit a non-aboriginal person from smoking tobacco or holding lighted tobacco, if the activity is carried out with an Aboriginal person and for traditional Aboriginal cultural or spiritual purposes.

3. SIGNAGE DETAILS

3.1 A graphic symbol similar to that shown below shall be used to indicate "No Smoking" areas prescribed within this by-law. Required signage to communicate the prohibitions outlined in this by-law shall include the universal "no smoking" symbol and shall include the text "No Smoking Township of Lucan Biddulph By-law Max Penalty \$5,000".



3.1.1 The sign shall be as follows:

- a) The sign shall include the universal no-smoking symbol.
- b) The text and figures shall be in black.

3.2 No person shall remove, except with the consent of the Township, deface, damage or otherwise vandalize any sign that contains the universal no smoking symbol displayed at any location or premises regulated under this by-law and any person contravening this section shall be subject to the penalty provided in section 5 of this by-law.

4. INSPECTIONS AND ENFORCEMENT

4.1 Any Enforcement Officer, upon producing proper identification, may without a warrant, enter and inspect places referred to in this by-law at any time of the day or night, enter any municipally owned/operated public place for the purpose of determining compliance with this by-law and may make examination, investigations and inquiries.

4.2 This by-law shall be enforced by an Enforcement Officer.

4.3 No person shall hinder or obstruct or attempt to hinder or obstruct any person who is exercising a power or performing a duty under this by-law.

- a) Where any person contravenes this by-law, such person is subject to the provisions of the Trespass to Property Act.
- b) An Enforcement Officer, any Director or Manager of the Municipality, Fire Services or their written designates may order a person believed to be in contravention of this by-law to:
 - i) cease the activity that is in contravention of the by-law; and/or
 - ii) leave the premises

5. OFFENCE AND PENALTIES

5.1 Smoking in a prescribed place (e.g. smoking within 20 metres of a playground or sports field) is a Section 9(2) offence under the Smoke Free Ontario Act and anyone who contravenes this section will be liable to a fine amount of \$250.00

5.2 Every director or officer of a corporation, which owns, rents or otherwise occupies a workplace or public transit vehicle who knowingly permits a contravention of this by-law within the workplace or public transit vehicle is guilty of an offence and, upon conviction, is liable to a fine not exceeding five thousand dollars (\$5,000), exclusive of costs.

5.3 The court in which a 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 remedy and to any penalty imposed on the person convicted.

5.4 If any part of a fine for a contravention of this by-law remains unpaid after the fine becomes due and payable under section 66 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended, including any extension of time for payment ordered under that section, the Treasurer for the Township or his agent may give the person against whom the fine was imposed a written notice specifying the amount for the fine payable and the final date on which it is payable, which shall not be less than twenty-one (21) days after the date of the notice, by delivering notice or causing it to be delivered to that person's residence or place of business.

5.6 If the fine referred to in Section 5.1 and 5.2 of this by-law remains unpaid after the final date specified in the notice any unpaid part of the fine, pursuant to Section 441.1 of the *Municipal i S.O. 2001, c.25*, as amended, shall be added to the tax roll for any property in the Township for which all of the owners are responsible for paying the fine and the unpaid part of the fine shall be collected in the same manner as municipal taxes.

6. SEVERABILITY

6.1 Should any section or subsection of this by-law or parts thereof be found by law to be illegal or beyond the power of the Council to enact, such section or subsection or parts thereof shall be deemed to be severable so that the remainder of this by-law is separate and therefore enacted as such.

7. CONFLICTS

7.1 If a provision of this by-law conflict with an Act or Regulation or another by-law, the provision that is most restrictive of smoking and most protective of health shall prevail.

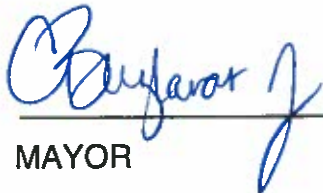
8. SHORT TITLE

8.1 This by-law shall be cited as the "Smoke Free Municipal Public Spaces" by-law.

9. EFFECTIVE DATE

9.1 This by-law comes into force and takes into effect on July 13th, 2015.

READ A FIRST, SECOND AND THIRD TIME THIS 13th DAY OF JULY, 2015.


MAYOR


CLERK

TOWNSHIP OF LUCAN BIDDULPH
BY-LAW NUMBER 48-2015
Smoke Free Municipal Outdoor Spaces By-law

SCHEDULE "A"

PART I PROVINCIAL OFFENCES ACT
SET FINES

ITEM	COLUMN 1 SHORT FORM WORDING	COLUMN 2 PROVISION CREATING OR DEFINING OFFENCE	COLUMN 3 SET FINE
1.	Offense for smoking in a prescribed place (e.g. smoking within 20 metres of a playground or sports field)	Section 5.1	\$250.00