

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2016-113

Being a By-law to prohibit smoking on property owned or leased by the
Town of Amherstburg.

WHEREAS Section 115 of the *Municipal Act*, 2001, S.O. 2001, c. 25 as amended ("the *Municipal Act*, 2001") authorizes the Council of a local municipality to pass a by-law prohibiting or regulating the smoking of tobacco in public places within the municipality;

AND WHEREAS Section 425 of the Act authorizes the Town of Amherstburg to pass by-laws providing that a person who contravenes a by-law of the Town of Amherstburg passed under that Act is guilty of an offence;

AND WHEREAS it is has been determined that smoking and the inhalation of second hand smoke is a health hazard for persons;

AND WHEREAS, it is appropriate to regulate smoking in Outdoor Public Places to further the goals of the Town of Amherstburg to develop a safe and healthy community and to promote healthy lifestyles and wellness for all ages and abilities;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF AMHERSTRBURG ENACTS AS FOLLOWS:

1. DEFINITIONS

In this by-law:

- a) **"Council"** means the Council of the Corporation of the Town of Amherstburg;
- b) **"Designated Smoking Area"** means an area that is designated by the Town of Amherstburg with signage and smoking disposal equipment for the purpose of smoking;
- c) **"Municipal Building"** means any enclosed building or structure owned or leased and occupied by the Town for the purpose of providing municipal services;
- d) **"Municipal Law Enforcement Officer"** means an individual appointed by the Town for the purpose of enforcing Town by-laws, Police Officers and Tobacco Enforcement Officers appointed by the Windsor Essex County Health Unit to enforce the *Smoke Free Ontario Act*, S.O. 1994, who are hereby appointed as Municipal Law Enforcement Officers of the Town for this purpose;
- e) **"Outdoor Public Place"** means but not limited to a Park, Playground Area, Outdoor Recreational Field, Outdoor Recreational Facility, and Special Events Area and includes the parking lots whether or not a "No Smoking" sign is posted;

- f) **“Outdoor Recreational Facility”** means any area located on municipal property or property leased by the Town for the purpose of providing municipal services for the playing of sports or for activities including but not limited to splash pads, tennis courts, multi-purpose courts, skateboard facilities, field houses, club houses, beaches, picnic shelters and designated picnic areas, and includes recreational trails and/or pathways owned by the municipality;
- g) **“Outdoor Recreational Field”** means any area located on municipal property or property leased by the Town for the purpose of providing municipal services for the playing of sports or for activities including but not limited to soccer fields, multi-purpose fields, baseball diamonds, players benches and warm up areas, side lines, and spectator seating areas;
- h) **“Park”** shall mean any land which the Town owns or has the use of that is designated by Council as such, and intended to be used and enjoyed by the public for pleasure and recreation, and shall include any body of water enjoyed or used in connection therewith;
- i) **“Playground Area”** means an outdoor area located on municipal property or property leased by the Town for the purpose of providing municipal services for the enjoyment and exercise of children and youth, that has recreational equipment installed;
- j) **“Public Entrance and Public Exit”** means any entrance or exit designated for use by the public to enter or exit a Municipal Building;
- k) **“Smoke” or “Smoking”** includes:
 - i. the Smoking of any tobacco product such as cigars, cigarettes, pipes, etc.;
 - ii. the Smoking of any non-tobacco product, such as but not limited to e-cigarettes, hookah/water pipes, etc.;
 - iii. the carrying of a lighted cigarette, cigar, pipe, or other tobacco product;
 - iv. the carrying of a lighted hookah/water pipe, or functioning e-cigarette, or other lighted or functioning non-tobacco Smoking product;
 - v. the use of chew, plugs, snus or snuff
- l) **“Special Event Area”** shall mean an Outdoor Public Place where a special event is being organized and operated for the enjoyment of residents and visitors as provided for in the Town’s Public Events Policy;
- m) **“Town”** means the Corporation of the Town of Amherstburg;
- n) **“Recreational Trail or Pathway”** means an area maintained by the Town and designated for the passage of pedestrians in conjunction with or adjacent to, a recreational facility and/or park;

2. INTERPRETATION

- 2.1 The provisions of this by-law apply to Smoking within the Outdoor Public Places that are owned or leased by the Town for the purpose of providing municipal services within the boundaries of the Town.

- 2.2 Nothing in this by-law shall be interpreted as reducing or eliminating compliance with the provisions of all applicable Federal or Provincial statutes and regulations related to smoking, and in particular the Smoke-Free Ontario Act.

3. PROHIBITIONS

- 3.1 No person shall:
- 3.1.1. Smoke within the boundaries of an Outdoor Public Place;
 - 3.1.2 Smoke within 9 metres of a Public Entrance or Public Exit of a Municipal Building;
 - 3.1.3 Smoke on a Recreational Trail or Pathway;
 - 3.1.4 Smoke within a Special Event Area except where there is a Designated Smoking Area.
- 3.2 Section 3 of this by-law shall apply whether or not a "No Smoking" sign is posted.

4. ENFORCEMENT

- 4.1 The Municipal Law Enforcement Officer of the Town shall enforce the provisions of this by-law.
- 4.2 No person shall obstruct, hinder or otherwise interfere with a Municipal Law Enforcement Officer in the lawful carrying out of their duties and responsibilities under the provisions of this by-law.
- 4.3 Any person who fails to comply with this by-law may be Ordered to leave the Outdoor Public Place to prevent further contravention of the by-law.

5. PENALTY

- 5.1 Every person who contravenes any section of this by-law is, upon conviction, guilty of an offence and shall be liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, c.P. 33, as amended, and be subjected to any other penalties permitted by law for each offence.


6. SEVERABILITY

- 6.1 Should any paragraph, clause or provision of the By-law be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of the By-law as a whole or any part of thereof, other than the part which was declared to be invalid.
- 6.2 When any requirement of this by-law is at variance with any other by-law in effect in the Town or with any applicable provincial or federal statute or regulation, the more restrictive requirement shall apply unless otherwise stated in such legislation.

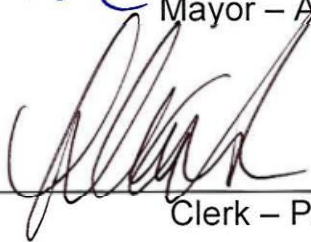
7. **SHORT TITLE**

This By-law may be cited as the "Smoke-free Outdoor Spaces By-law".

Read a first, second and third time and finally passed this 12th day of December 2016.



Mayor – Aldo DiCarlo



Clerk – Paula Parker

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
WEST REGION

80 DUNDAS STREET, 10th FLOOR, UNIT L
LONDON, ONTARIO N6A 6A8



CABINET DU JUGE PRINCIPAL RÉGIONAL
COUR DE JUSTICE DE L'ONTARIO
RÉGION DE L'OUEST

80, RUE DUNDAS, 10^e ÉTAGE, UNITÉ L
LONDON (ONTARIO) N6A 6A8

TELEPHONE/TÉLÉPHONE (519) 660-2292
FAX/TÉLÉCOPIEUR (519) 660-3138

February 14, 2017

Nicole Rubli
Town of Amherstburg
271 Sandwich St. South
Amherstburg, ON N9V 2A5

Dear Ms. Rubli:

**Re: Set Fines - Provincial Offences Act - Part I
By-law Number 2016-113, of the Town of Amherstburg**

Enclosed herewith is an original Order, and an original schedule of set fines for the above referenced By-Law, the By-law indicated in the schedule.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

I have forwarded the copy of the Order and the schedules of set fines to the Provincial Offences Court in Windsor together with a copy of the By-law.

Yours truly,

A handwritten signature in blue ink, appearing to read "S. Fuerth".

Stephen J. Fuerth
Regional Senior Justice
West Region

encl.
/cb

PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 2016-113 of the Town of Amherstburg, attached hereto are the set fines for those offences. This Order is to take effect February 14, 2017.

Dated at London this 14th day of February, 2017.



Stephen J. Fuerth
Regional Senior Justice
West Region

The Corporation of the Town of Amherstburg
By-law No. 2016-113: Smoke-free Outdoor Spaces By-law
Part I Provincial Offences Act
Set Fine Schedule

Item	COLUMN 1 Short Form Wording	Column 2 Provision creating or defining offence	Column 3 Set fines
1.	Smoke within the boundaries of an Outdoor Public Place	3.1.1	300.00
2.	Smoke within 9 metres of a Public Entrance or Public Exit of a Municipal Building	3.1.2	300.00
3.	Smoke on a Recreational Trail or Pathway	3.1.3	300.00
4.	Smoke outside of a Designated Smoking Area	3.1.4	300.00
5.	Obstruct/hinder/interfere with a Municipal Law Enforcement Officer	4.2	300.00

NOTE: A Penalty provision for the offences indicated above is Section 5 of By-law 2016-113, a certified copy of which has been filed and Section 61 of the Provincial Offences Act, R.S.O. 1990, c. P. 33.