

The Corporation of the Town of Essex

By-Law Number 1228

Being a by-law to prohibit smoking on any property owned or leased by the Town of Essex

Whereas Section 115 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides municipalities the authority to pass by-laws prohibiting or regulating the smoking of tobacco in public places;

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

Now therefore be it resolved that the Council of The Corporation of the Town of Essex enacts as follows:

1. **Definitions**

In this by-law:

"Council" means the Council for the Corporation of the Town of Essex;

"Designated Smoking Area" means a space located on municipally owned or leased property which has been designated by the Town of Essex with signage and smoking disposal equipment to permit smoking away from areas where persons, particularly youth, congregate or travel;

"Municipality" means the Corporation of the Town of Essex;

"Officer" means a Provincial Offences Officer designated under the Smoke-Free Ontario Act from the Windsor Essex County Health Unit, a By-Law Enforcement Officer, Police Officer, or any other person appointed by Council to enforce the By-Laws of the Municipality;

"Smoke or Smoking" means the carrying of a lighted cigar, cigarette, pipe or any other lighted or heated smoking equipment used to smoke or vaporize any tobacco or non-tobacco substance;

"Temporary Designated Smoking Area" means a space located on municipally owned or leased property which has been temporarily designated by the Town of Essex with signage and smoking disposal equipment to permit smoking during a special event, fair, community gathering, etc.

2. **Prohibition**

No person shall smoke, engage in smoking or carry any other lighted smoking equipment or product on any property owned or leased by the Town of Essex, excluding:

- a) municipal roads;
- b) municipal roadside sidewalks; and
- c) areas designated for smoking by the Town of Essex, including Temporary Designated Smoking Areas.

3. **Obstruction**

No person shall hinder or obstruct an Officer in the enforcement of this By-Law.

4. **Offence and Penalty**

Any person who contravenes any of the provisions of this By-Law is guilty of an offence, and upon conviction, shall be liable to a fine pursuant to Part 1 of the Provincial Offences Act and Schedule "A" of this By-Law.

5. **Enforcement**

This By-Law shall be enforced by Provincial Offences Officer designated under the Smoke-Free Ontario Act from the Windsor Essex County Health Unit, By-Law Enforcement Officer, Police Officer, or any other person appointed by Council to enforce the By-Laws of the Municipality;

6. **Conflicts**

If a provision of this By-Law conflicts with an Act or a Regulation, the provision that is most restrictive of smoking shall prevail.

7. **Severability**

If a court of competent jurisdiction should declare any section or part of a section of this By-Law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law and it is hereby declared that the remainder of the By-Law shall be valid and shall remain in force.

8. **Effective Date**

This By-Law shall come into force and take effect on April 1, 2015.

9. The headings in this By-Law are for convenience only and do not form part of this By-Law.

10. By-Law Number 1329 is hereby repealed.

Read a first and a second time on October 6, 2014.

Mayor

Clerk

Read a third time and finally passed on _____.

Mayor

Clerk

Schedule "A" to By-Law Number 1228

A By-Law to to prohibit smoking or the carrying of any other lighted smoking equipment or product on any property owned or leased by the Town of Essex.

Set Fine Schedule – Part 1 Provincial Offences Act

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1.	Smoke, engage in smoking or carry any other lighted smoking equipment or product on any property owned or leased by the Town of Essex	Section 2	\$300.00

Note: The general penalty provision for the offences listed above is section 4. of By-Law Number 1228, a certified copy of which has been filed.