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**THE CORPORATION OF THE TOWN OF TECUMSEH**

**By-law Number 2002-47**

**Being a by-law to regulate smoking  
in work places in the Town of  
Tecumseh.**

**WHEREAS** Section 213 of the Municipal Act, R.S.O. 1990, Chap. M45, as amended, enables councils of local municipalities to pass by-laws to regulate or prohibit the smoking of tobacco in workplaces in the municipality;

**AND WHEREAS** pursuant to Section 102 of the Municipal Act, R.S.O. 1990, c. M.45, as amended, every Council may pass such by-laws and make such regulations for the health, safety, morality and welfare of the inhabitants of the municipality;

**AND WHEREAS** it has been determined that second hand smoke is a nuisance because of its irritating and discomforting properties and is a health hazard because of its impairment adverse effect and risk to the health of the inhabitants and employees of the Town of Tecumseh;

**AND WHEREAS** it is desirable for the health, safety, and welfare of the workers of the Town of Tecumseh to provide for the prohibiting and abating of smoking and second hand smoke;

**NOW THEREFORE** the Council of the Corporation of the Town of Tecumseh enacts as follows:

**Definitions**

1. In this by-law:

(a) "Council" means the Town Council of the Town of Tecumseh;

(b) "employee" includes a person who,

(i) performs any work for or supplies any services to an employer, or

(ii) receives any instructions or training in the activity, business, work, trade, occupation or profession of the employer;

(c) "employer" includes any person who as the owner, proprietor, manager, 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 a person therein;

(d) "inspector" means any person appointed by Council as a municipal by-law enforcement officer, any person appointed by the Minister of Health as a Provincial Offences Officer under the Tobacco Control Act, or any police officer of the Ontario Provincial Police;

(e) "non-smoking policy" means a written policy that prohibits smoking in the workplace in accordance with this by-law;

(f) "smoking" includes carrying a lighted cigar, cigarette, pipe or any other lighted smoking instrument and "smoke" has a corresponding meaning; and

(g) "Town" and "Town of Tecumseh" means the Corporation of the Town of Tecumseh;

(h) "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 and parking garages utilized by an employee.

### Responsibilities of the Employer Respecting Adoption of a Non-smoking Policy

2. (a) Every employer shall, on September 1, 2002, adopt and implement a non-smoking policy that prohibits smoking in respect of each workplace in the Town under the control, supervision or ownership of the employer.

(b) Where, after September 1, 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.

3. Every employer required by the by-law 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; and

(d) erect signs in accordance with Section 6 at every entrance to the workplace indicating that smoking is prohibited in the workplace.

### **General Regulations**

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

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

### **Sign Requirements**

6. (a) The signs referred to in this by-law shall consist of graphic symbols that comply with the provisions of this section.

(b) 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.

(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) centimetres.

(d) Despite the fact that the symbol referred to in subsection (a) and subsection (b) is a cigarette, it shall include a lighted cigar, cigarette, pipe or any other lighted smoking instrument.

(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.

### **Inspection of Workplace**

7. (1) For the enforcement of this by-law, an 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.

(2) No inspector may enter a workplace that is also a dwelling without the consent of the occupant or without first obtaining and producing a warrant.

### **Offences**

8. (1) Any person who smokes in a workplace in contravention of Section 4 is guilty of an offence.

(2) Any employer who permits smoking in the workplace in contravention of Section 5 is guilty of an offence.

9. Any employer who refuses, fails or neglects to perform any of the duties imposed upon him, her or it under any of the provisions of this by-law is guilty of an offence.

10. Any person who hinders or obstructs an inspector lawfully carrying out the enforcement of this by-law is guilty of an offence.

### **Fines**

11. Every person who is convicted of an offence 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, Chap. P.33.

### **Exemptions**

12. This by-law shall not apply to:

(a) any part of a workplace that is used as a private residence;

(b) those portions of workplaces specified in By-law Number 2002-46 entitled "a by-law to regulate smoking in public places in the Town of Tecumseh", as amended, or any by-law enacted in substitution therefor.

**Conflicts**

13. If a provision in this by-law conflicts with the Smoking in the Workplace Act, R.S.O. 1990, Chap. S. 13 or any other Act or a regulation, the provision that is the most restrictive of smoking prevails.

**Effective Date**

14. This by-law shall come into effect on September 1, 2002.

**Short Title**

15. This by-law may be cited as the "Smoking in Workplaces By-law".