

**PROTOCOL FOR ENFORCEMENT OF SMOKE-FREE BY-LAWS
IN HASTINGS COUNTY
April 2003**

INTRODUCTION

The by-law development process at the Hastings & Prince Edward Counties Health Unit started in January 2001. The first phase of the project started when the Health Unit received funding from the Ontario Tobacco Strategy to conduct a public opinion survey and a media campaign targeting parents and caregivers of children 0-6 years highlighting the dangers of second-hand smoke. A separate report describing the social marketing campaign and community mobilization strategy leading to municipal councils voting on a smoke-free by-laws is available.

IMPLEMENTATION OF HASTINGS COUNTY SMOKE-FREE BY- LAWS

In collaboration with the Chief Administrative Officer, Hastings County, the Health Unit has developed an Implementation Plan outlining the communication and education campaign leading up to the enforcement of the by- law. This Implementation Plan describes a phase in approach to implementation to allow the affected premises time to adjust to becoming 100% smoke-free on January 1, 2004. See attached Implementation Plan.

HIGHLIGHTS OF THE PROPOSED HASTINGS COUNTY SMOKE-FREE BY- LAWS

Effective January 1, 2004:

Smoking will be prohibited in all public places and workplaces with the following exemptions:

- A workplace that is a private home.
- Outdoor patios
- Smoking *in* theatre productions (the play)
- Existing designated smoking rooms in hospitals, nursing homes and homes for the aged that are allowed under the Tobacco Control Act
- Hotel and motel rooms designated and rented only for sleeping

COMPLIANCE

- Proprietors must post no smoking signs at each entrance to their establishment; within each public washroom and conspicuously throughout the establishment, remove ashtrays, and ensure compliance with the by-law within their establishment.

BY-LAW ENFORCEMENT OFFICER

In the Spring, 2002, the Board of Health approved funding to create a position for one full time By-law Enforcement Officer. The By- Law Enforcement Officer will be appointed by Hastings County Council to act as a municipal by-law enforcement officer for the purpose of the Smoke-free By-law.

COMMUNICATION STRATEGY

The health promotion staff of the Healthy Lifestyles Department will design a twofold communication strategy -- one prior to the effective date of the smoke-free by-law and one after the effective date of the smoke-free by-law. Components of the communication strategy will include an education campaign and a media campaign.

MEDIA CAMPAIGN

The focus of the first media campaign will be to raise awareness of the dangers of second hand smoke. This campaign, made possible through special funding, started March 1, 2003 and will continue until March 1, 2004.

The focus of the second media campaign will be to ensure widespread awareness of and support for the smoke-free by-law once enacted and to ensure that proprietors know their responsibilities under the by-law and it will include the promotion of the Tobacco Talk Line (TTL) for inquiries and complaints. This campaign will be conducted in the Fall of 2003. As part of the communication campaign, Health Unit staff will make presentations at the public meetings in May and will provide ongoing consultation to Hastings County Council. Heart Health Hastings Prince Edward will also assist in coordinating speakers from a variety of health agencies such as the Lung Association, the Canadian Cancer Society at the public meetings.

EDUCATION CAMPAIGN

In order to assist smokers wanting to quit before the 100% smoke-free by-law comes into effect, the health promotion staff will promote the provincial Quit & Win contest in January 2004; they will implement smoking cessation classes in North & Central Hastings (should numbers warrant) in the Fall (2003) and they will promote self help smoking cessation programs. Another component of the campaign will include the development of education kits for all the proprietors of affected establishments. Hastings County is developing a cost for the printing of the municipal by-law no smoking signs. The Health Unit will supplement these by providing no smoking signs available from the Ministry of Health and Long Term Care for the enforcement of the Tobacco Control Act. Starting in the Fall of 2003, site visits to all public places affected by the by-law will be conducted by the By-Law Enforcement Officer. Using the kits, the By-law Enforcement Officer will educate the owners, assist them reach compliance, distribute the no smoking signs and respond to their inquiries. It is proposed that workplace kits be distributed to all fourteen municipal offices where workplaces will be encouraged to pick them up. Any questions from workplaces can be referred to the Tobacco Talk Line.

Reports & presentations will be made to the Board of Health and to Hastings County Council on a regular basis once the enforcement phase begins. During National Non Smoking Week, (third week in January 2004), a special event will be implemented by the health promotion staff to congratulate Hastings County Council on becoming smoke-free.

FUNDING

Funding for the implementation of the media campaign -- the printing of the education kits has been sought through a variety of sources. Heart Health Hastings Prince Edward has also set aside funds for these activities.

MEDIA RELATIONS STRATEGY

To ensure that consistent, easily accessible information is communicated in a timely fashion to affected proprietors, the media and the general public, it is important that a communication relations strategy be developed. The Director, Healthy Lifestyles and the Media Relations Consultant will be responsible for responding to media inquiries about the by-laws. As a result, the media will be able to quickly identify the appropriate contact to respond to their inquiry. At the same time, the Health Unit will be able to centralize and coordinate its response to any questions from the media.

TOBACCO TALK LINE (TTL)

The TTL was launched at the Health Unit in 1995. This information line can be accessed by anyone to make inquiries about any tobacco issue such as: smoking cessation self help programs for a variety of target population, information on second hand smoke; the Tobacco Control Act and municipal smoke-free by-laws. People from all areas of Hastings & Prince Edward Counties can access the line at any time and leave a message. Collect calls are accepted during normal business hours. Staff check the TTL daily and return calls or send appropriate information. Since January 2003, the TTL has been promoted as the number to call to make inquiries or file a complaint about municipal smoke-free by-laws. All inquiries and complaints related to the smoke-free by-laws will be followed up by the By-law Enforcement Officer.

ENFORCEMENT PROTOCOL

The By-law Enforcement Officer works day shifts, (8:30-4:30pm), evening shifts (1:00-9:00pm), night shifts (4:00pm-12:00am and 6:00pm-2:00am) on a rotational basis that includes both weekends and week days.

A data base will need to be developed to identify all the public places and workplaces in Hastings County. The Health Unit will develop this data base with the assistance of the Inspection department; the Chambers of Commerce and through the Alcohol and Gaming Commission.

Once all the public places and as many workplaces as possible have been visited and the owners have been educated about their obligations under the by-law, the By-law Enforcement Officer will continue to conduct routine inspections to ensure compliance with the by-law. Priority will be given to establishments identified during the education phase as needing more visits. Random site visits may be conducted to workplaces, as time permits. Prior to the beginning of the enforcement phase, set fines will be determined by Hastings County Council. Contact will be made with all Police Services in Hastings County, prior to the enforcement phase to ensure their cooperation, support and participation in the enforcement strategy, particularly when the safety of the staff is a concern and to clarify the role of the Police Services in the enforcement of the by-law.

The enforcement phase will begin January 1, 2004, with the By-law Enforcement Officer issuing verbal warnings to any establishment which is non compliant. Beginning February 1, 2004, establishments will be inspected to ensure compliance with all aspects of the by-law requirements. These include:

- posting no smoking signs at every entrance to the establishment
- posting no smoking signs in public washrooms
- posting sufficient numbers of no smoking signs in a conspicuous location
- removing all ashtrays
- no smoking signs comply with the provision of the by-law
- ensure patrons are not smoking
- not hindering or obstructing a person lawfully carrying out the enforcement of the by-law

Violations with any of the above requirements will result in a Compliance Notice of Violation to the owner of the non compliant establishment. This will be followed by a re-inspection within 10 days of the first inspection to determine compliance.

Further non compliance will result in a second Compliance Notice of Violation, followed by a third re-

inspection to ensure compliance. Three repeat observations of non compliance by the By-law Enforcement Officer which have resulted in one verbal warning and two written warnings will result in a charge being laid. Chronic non compliance observed by the By-law Enforcement Officer will result in a Part 111 summons being issued. This will require attendance at court by the violator, the By-law Enforcement Officer and legal counsel.

Surveillance, when deemed necessary, will be carried out by the By-law Enforcement Officer. Surveillance will be followed up with inspections, Compliance Notice of Violation and enforcement, followed by legal action.

Public Health Inspectors (PHI) working in the Food Safety Program and the TCA Program will monitor compliance with the by-laws when conducting routine inspections. Using the TCA/by-law complaint/enquiry form they will report infractions to the By-law Enforcement Officer for investigation and follow up.

During the initial enforcement phase, monthly reports and/or presentations will be made to Hastings County Council and the Board of Health. Following the first six months of enforcement reports will be made quarterly.

PROSECUTIONS

Hastings County has agreed that their POA Prosecutor will prosecute cases related to the smoke-free by-laws.

LEGAL COUNSEL

Hastings County, working with the Health Unit, will, on an as-needed basis, review issues related to the by-law and its enforcement with its legal counsel.

VII. CONCLUSION

These protocols will be reviewed and revised in June 2004 after the By-law has been enforced for a period of six months.

4/17/03