

# CORPORATION OF THE COUNTY OF MIDDLESEX

## BY-LAW #5682

A By-Law to Regulate Smoking In Public Places and Workplaces in the County of Middlesex

WHEREAS Subsection 115(1) of the Municipal Act, S.O. 2001, as amended, 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 public places or workplaces or classes or parts of such places as places in which smoking tobacco or holding lighted tobacco is prohibited;

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 serious health hazard because of its adverse effects and risk to the health of all of the inhabitants and workers in Middlesex County;

AND WHEREAS it is desirable for the health, safety, and welfare of the inhabitants and workers of the County of Middlesex to provide for the prohibiting and abating of smoking and second-hand smoke in accordance with the provisions of this By-Law;

NOW THEREFORE THE COUNCIL OF THE COUNTY OF Middlesex ENACTS AS FOLLOWS:

### PART I

#### 1. DEFINITIONS

- 1.0 In this by-law,
- 1.1 "County" means the County of Middlesex
- 1.2 "employee" means a person who performs any work for or supplies any service to an Employer, proprietor, or other person in charge and includes a volunteer and a person who is self-employed and employment has a corresponding meaning;
- 1.3 "employer" means any person who, as the owner, proprietor, manager, contractor, 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 an employee;
- 1.4 "person" includes a corporation;
- 1.5 "proprietor, or other person in charge" means the person who controls, governs or directs the activity carried on within the premises as designated as prohibited areas under this by-law and includes the person who is actually in charge thereof at any particular time;
- 1.6 "public place" means the whole or part of an indoor area, to which the public has access as of right or by invitation, expressed or implied, whether or not a fee is charged for entry and includes public transit vehicles"
- 1.7 "public transit vehicle" means any vehicle used for transporting the public and includes a school bus and a passenger vehicle used for hire;

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- 1.8 "bingo hall" means any building, location or premises where the conduct of bingo events is licensed;
- 1.9 "smoke" or "smoking" includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment, including smoke or smoking where smoke or smoking is used in a stage production of a theatrical performance.
- 1.10 "workplace" means any indoor area or part thereof in which one or more employees work, including any other indoor area utilized by employees and includes a public transit vehicle and any other conveyance in which an employee works and which is provided by an employer.

PART II

2. WORKPLACES

- 2.1 Except as provided in section 2.2 no person shall smoke in any workplace within Middlesex County whether or not a "No Smoking sign" is posted.
- 2.2 Section 2.1 does not apply to any part of a workplace that is used as a private residence.
- 2.3 Every employer shall:
- (i) ensure compliance with this by-law;
  - (ii) give notice to each employee in the workplace that smoking is prohibited in the workplace.
  - (iii) post No Smoking signs in accordance with Part IV of this by-law in conspicuous locations at every entrance and washrooms in the workplace indicating that smoking is prohibited in the workplace;
  - (iv) ensure that no ashtrays or like paraphernalia are placed or permitted to remain in any workplace where smoking is prohibited under this bylaw.

PART III

3. PUBLIC PLACES

- 3.1 No person shall smoke in any public place within Middlesex County whether or not a No Smoking sign is posted.
- 3.2 Every proprietor of a public place shall:
- i) ensure compliance with this bylaw;
  - ii) give notice to each person in the public place that smoking is prohibited in the public place;
  - iii) post No Smoking signs in accordance with Part IV of this bylaw in conspicuous locations at every entrance and washrooms in the public place indicating that smoking is prohibited in the public place.
  - iv) ensure that no ashtrays or like paraphernalia are placed or permitted to remain in any public place.



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PART IV

4. SIGNAGE REQUIRED

- 4.1 Every employer and / every proprietor shall post and maintain in conspicuous locations at each entrance to the facility and in the washrooms, a sign at least 14 centimetres (5.5 inches) by 14 centimetres (5.5 inches) in size that includes depiction of the international No Smoking symbol at least 7.5 centimetres (3 inches), and lettering at least 0.8 centimetres (5/16 inch) high and at least 0.2 centimetres (1/16 inch) wide at the narrowest point, with the rest of the letter sized proportionately, which reads "County of Middlesex; Bylaw (#); Maximum Fine (\$)"
- 4.2 Where a No Smoking sign is required to be placed or posted under this by-law, the sign shall have the proportions, characteristics and minimum measurements as set out in Section 4.1 as depicted in "Schedule A" and consists of two (2) contrasting colours, or if the lettering and graphic symbol is to be applied directly to surface or to be mounted on a clear panel, the lettering and graphic symbol shall contrast with the background.

PART V

5. OFFENCES AND ENFORCEMENT

- 5.1 Any person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine of not more than five Thousand (\$5,000.00) as provided for in the Provincial Offences Act, R.S.O. 1990, chapter 33, or any successor thereof.
- 5.2 This By-law shall be enforced by an enforcement officer, either:
- (1) a person appointed by the Middlesex-London Board of Health to enforce this by-law;
  - (2) a person appointed by the Corporation of the County of Middlesex as a municipal tobacco by-law enforcement officer to enforce this by-law; or,
  - (3) a police officer of the Ontario Provincial Police force or the Strathroy-Caradoc Police Board.

PART VI

6. EXEMPTIONS

- 6.1 Bingo halls are subject to a delayed implementation of the provisions of this by-law until August 1<sup>st</sup>, 2004.

PART VII

7. CONFLICTS

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

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PART VIII

8. SEVERABILITY

- 8.1 If any section or sections of the By-Law or parts thereof, are found in any court of law to be illegal or beyond the power of County Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of the By-Law shall be deemed to be separate and independent thereof and to be enacted as such.

PART IX

9. SCHEDULES


- 9.1 Schedule "A" – Fine Structure, attached hereto and forms part of this By-Law.


PART X

10. EFFECTIVE DATE

- 10.1 This by-law shall come into effect on August 1, 2003.

PASSED IN COUNCIL this 13<sup>th</sup> day of May, 2003.

  
Warden

  
Clerk



**County of Middlesex**  
**By-Law #5682**  
**Maximum Fine \$5,000**

SCALE = 1:1

COUNTY OF MIDDLESEX  
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MIDDLESEX COUNTY SMOKING BY-LAW  
SCHEDULE "A" – FINE STRUCTURE

ITEM	SHORT FORM WORDING	PROVISION CREATING OR DEFINING OFFENCE	SET FINE (INCLUDES COST)
1.	Smoke in a Workplace	Section 2.1	\$205.00
2.	Fail to give notice that smoking is prohibited in a Workplace	Section 2.3 (ii)	\$205.00
3.	Fail to post No Smoking signs in a Workplace	Section 2.3 (iii)	\$205.00
4.	Fail to ensure no ashtrays and like paraphernalia in a Workplace	Section 2.3 (iv)	\$205.00
5.	Smoke in a Public Place	Section 3.1	\$205.00
6.	Fail to give notice that smoking is prohibited in a Public Place	Section 3.2 (ii)	\$205.00
7.	Fail to post No Smoking signs in a Public Place	Section 3.2 (iii)	\$205.00
8.	Fail to ensure no ashtrays and like paraphernalia in a public place	Section 3.3 (iv)	\$205.00
9.	Fail to post No Smoking signs where required	Section 4.1	\$205.00
10.	Fail to post required No Smoking signs	Section 4.2	\$205.00

The penalty provision for the offences indicated above is Section V of the By-Law.  
Certified copies of which have been filed.



# SUMMARY OF THE COUNTY OF MIDDLESEX BY-LAW 5682



The County of Middlesex By-law 5682, prohibits smoking in public places and workplaces in order to protect the community from the health hazards of second-hand smoke.

## *PUBLIC PLACE*

"public places" means the whole or part of an indoor areas, to which the public has access as of right or by invitation, expressed or implied, whether or not a fee is charged for entry and includes public transit vehicles.

## *PROPRIETOR*

"proprietor, or other person in charge" means the person who controls, governs or directs the activity carried on within the premises as designated as prohibited areas under this by-law and includes the person who is actually in charge thereof at any particular time.

## *RESPONSIBILITY OF PROPRIETOR*

Every proprietor of a public place shall:

- i) ensure compliance with this by-law;
- ii) give notice to each person in the public place that smoking is prohibited in the public place;
- iii) post No Smoking signs in accordance with Part IV of this by-law in conspicuous locations at every entrance and washrooms in the public place indicating that smoking is prohibited in the public place;
- iv) ensure that no ashtrays or like paraphernalia are placed or permitted to remain in any public place.

## *WORKPLACE*

"workplace" means any indoor area or part thereof in which one or more employees work, including any other indoor area utilized by employees and includes a public transit vehicle and any other conveyance in which an employee works and which is provided by an employer.

"employer" means any person who, as the owner, proprietor, manager, contractor, 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 an employee.

## *RESPONSIBILITY OF EMPLOYER*

Every employer shall:

- i) ensure compliance with this by-law;
- ii) give notice to each employee in the workplace that smoking is prohibited in the workplace;
- iii) post No Smoking signs in accordance with Part IV of this by-law in conspicuous locations at every entrance and washrooms in the workplace indicating that smoking is prohibited in the workplace;
- iv) ensure that no ashtrays or like paraphernalia are placed or permitted to remain in any workplace where smoking is prohibited under this by-law.

## *ENFORCEMENT*

This by-law shall be enforced by an enforcement officer, either:

- i) a person appointed by the Middlesex-London Board of Health to enforce this by-law;
- ii) a person appointed by the Corporation of the County of Middlesex as a municipal tobacco by-law enforcement officer to enforce this by-law; or,
- iii) a police officer of the Ontario Provincial Police force or the Strathroy-Caradoc Police Board.

## *PENALTIES*

Any person who is convicted of an offence under the by-law is subject to a fine of up to \$5,000.00.

## *COMMENCEMENT*

This by-law shall come into effect on August 1, 2003.

## *EXEMPTIONS*

Bingo Halls are exempt for one year only and must comply with the by-law on August 1, 2004.

This summary is intended for ease of reference and the County of Middlesex By-law #5682, should be consulted for further information. This by-law can be obtained from the County of Middlesex Clerk's Department by calling (519) 434-7321.



## QUESTIONS AND ANSWERS

### The County of Middlesex By-law #5682

Below is a list of some commonly asked questions concerning The County of Middlesex By-law. We hope this information will be helpful to you, your staff and your patrons.

**Q When will the by-law take effect?**

A The by-law take effect on August 1, 2003. At this time, business owners and employers must become compliant with the provisions of the by-law.

**Q Which section of the smoke-free by-law affect my business?**

A The public places section, Part III prohibits smoking in any indoor area to which the public has access. A public place includes such places as restaurants, bars, billiard halls, bowling alleys. There is no allowance for designated smoking rooms.

The workplace section, Part II, prohibits smoking in any enclosed, indoor area in which an employee works. This includes all common areas such as washrooms and lobbies. There is no allowance for designated smoking rooms.

**Q Can I still use the no-smoking signs I have posted now?**

A Yes, all acceptable no-smoking signs from previous legislation are valid and legal. However, there may be a requirement in the new by-law for additional signage. Please check the regulation carefully and add whatever signage may be required.

**Q Who will enforce the by-law?**

A Experienced well trained Middlesex-London Health Unit Tobacco Enforcement Officers will enforce the by-law through ongoing, regular inspections and in response to complaints from the general public.

**Q Are business owners and/or employers and their staff expected to support the enforcement of these by-laws and what happens if they do not?**

A Business owners and/or employers and their staff do have a role in supporting the implementation of the new by-law. As of August 1, 2003 you are required to:

- Ensure compliance with this by-law;
- Give notice to each employee in the workplace that smoking is prohibited in the workplace;
- Post No Smoking signs in accordance with Part IV of this by-law in conspicuous locations at every entrance to the facility and washrooms indicating that smoking is prohibited;

- Ensure that no ashtrays or like paraphernalia are placed or permitted to remain in any public place and/or workplace where smoking is prohibited under this by-law.

**Q How can my establishment deal with patrons who refuse to comply with the by-law?**

- A In the case of the public place, despite an owner's best efforts, some patrons may continue to smoke or refuse to go outside. The following are some techniques you may wish to use to encourage compliance with the by-law;
- Show concern while speaking directly to the patron. Respect personal space;
  - Explain that the by-law prohibits smoking inside;
  - Politely and calmly request the person extinguish the cigarette or go outside to smoke;
  - Ask the disruptive patron to leave if the situation starts to get threatening.

It is the experience of other cities with similar by-laws that the patron will most often leave before any by-law or police intervention is needed.

**Q What else do I have to do to comply with the by-law?**

- A Employers and proprietors must ensure that all staff are aware of the by-law requirements and are prepared to approach and advise clients and patrons who violate the by-law.

The by-law also requires that Tobacco Enforcement Officers cannot be hindered or obstructed when inspecting premises for compliance to these by-laws.

**Q What fines will there be for employers and business owners that do not comply?**

- A Any person who is convicted of an offence under the by-law is subject to a fine of up to \$5,000.00.

**Q Is smoking permitted on outdoor patios?**

- A Yes.

**Q Who do I call if I have more questions?**

- A Please feel free to contact Middlesex-London Health Unit at 663-5317 extension 2300. Your call will be forwarded to the appropriate staff.

We look forward to working with you to ensure the smooth implementation of the by-law.



## 7 Steps to Successfully Implementing County of Middlesex By-laws#5682

1. Post "No Smoking" signs at all entrances and in all washrooms by August 1<sup>st</sup>, 2003 as required by the by-law.
2. You may wish to have information available on the hazards of second-hand smoke for your customers and employees.
3. Make sure all employees are aware of the by-law.
4. Remove all ashtrays and cigarette receptacles by August 1, 2003 as required by the by-law.
5. Meet customers positively as they enter your establishment to set the tone in your smoke-free environment.
6. Focus on smoking not on the smoker. Designate and prepare specific outdoor smoking sites. Provide outdoor containers for discarded cigarettes.
7. Refer questions to Middlesex-London Health Unit at 663-5317 Extension 2300.

Your support for the by-law will ensure that the public and employees have a positive smoke-free experience in your establishment. Everyone has a role to play in creating a smooth transition.



# SECOND-HAND SMOKE IN PUBLIC PLACES

## A Message for Food and Beverage Workers

Scientific studies have proven that second-hand smoke is harmful to non-smokers and smokers alike, especially when they are exposed to high levels of smoke. As a result, food and beverage workers are the least protected from second-hand tobacco smoke of any employee group. Food and beverage workers have a 50% higher chance of developing lung cancer due to their exposure to second-hand smoke. With the County of Middlesex By-law 5682 your health risks will be significantly decreased.

### Did you know?

- Bar and hospitality employees have higher rates of lung cancer than almost all other occupations, including fire fighters and miners.
- The smoke from the burning, non-filtered end of the cigarette has higher concentrations of hazardous substances than the mainstream smoke inhaled by the smoker. Of course, smokers are exposed to both.
- If it is busy in your establishment and you're working hard, you'll inhale even more second-hand smoke than usual because of your higher breathing rate.
- Many people, especially smokers, don't believe that second-hand smoke is actually dangerous, but the Ontario Occupational Health and Safety Act list 15 substances that have no safe levels of exposure – 6 of which are found in tobacco smoke.
- Health Canada states that there are "no safe levels" of exposure to second-hand smoke.

### How can a Smoke-Free By-law Help Your Health?

Implementation of 100% smoke-free by-law in other municipalities has shown remarkable improvement in respiratory health and showed improved lung function.

For those who smoke in the hospitality industry, you could benefit from the smoke-free by-law by either cutting down on the number of cigarettes you smoke or using this as an opportunity to try quitting. Remember, smoking is a powerful addiction and it often takes several attempts before you succeed in quitting permanently. Try not to get discouraged. Working in a smoke-free environment will remove some of the temptation to smoke and make your efforts that much easier.

For further information call the Middlesex-London Health Unit at 663-5317 Extension 2300.





# FACTS ABOUT SECOND-HAND SMOKE

## Did you know?

- Second-hand smoke is the smoke that comes from the tip of a burning cigarette, cigar and pipe or when a smoker exhales.
- Second-hand smoke contains over 4000 chemicals including:
  - Carbon monoxide – *the deadly gas that comes out of your car's tail pipe.*
  - Formaldehyde – *a chemical used to preserve dead animals.*
  - Arsenic – *a chemical used to kill bugs and weeds.*
  - Ammonia – *a chemical used to clean dirty floors and toilets.*
  - Cyanide – *a deadly gas used in warfare.*
  - 50 chemicals that are known to cause cancer.
- Doctors say that second-hand smoke kills as many as 3000 Canadians each year.
- Non-smoking hospitality workers are 50% more likely to develop lung cancer than other non-smokers.
- Asthma is the leading cause of hospitalization in Ontario's children and is made worse by second-hand smoke.

## How does second-hand smoke affect your health and others?

Exposure to second-hand smoke puts everyone at risk, particularly children who breathe more rapidly than adults. When exposed to second-hand smoke people:

- May experience headaches; and eye, nose and throat irritation.
- Are at greater risk of chronic respiratory illnesses, including asthma, pneumonia and bronchitis.
- Are more likely to have low birth weight babies.

## What can you do about second-hand smoke?

- Show your support for smoke-free public places and workplaces.
- Be compliant with the Smoke-Free Public Places and Workplaces By-laws.
- Do not allow yourself or others to smoke around pregnant women, infants and children.
- Make your home and car smoke-free.
- Make every effort to avoid locations where smoking is permitted.



