

**B Y - L A W N U M B E R 113-2006**

**A BY-LAW TO PROHIBIT SMOKING IN THE  
CITY OF WINDSOR**

Passed the 12th day of June, 2006.

**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 health hazard and a discomfort for the inhabitants of the City of Windsor;

**AND WHEREAS** smoking is a serious fire hazard;

**AND WHEREAS** it is desirable for the health, safety and welfare of the inhabitants of the City of Windsor to prohibit or regulate smoking in the City of Windsor;

**AND WHEREAS** Section 115 of the Municipal Act, 2001, .S.O. 2001 c.25, 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;

**THEREFORE** the Council of the Corporation of the City of Windsor enacts as follows:

1. **Definitions**

In this by-law,

- (a) "arena" means a building or structure or portion thereof in which sport, activity or, performance is or may be presented, played or carried on for public viewing;
- (b) "building or structure" has its ordinary meaning and includes any enclosed area, whether permanent or not, including a tent, lean to or trailer;
- (b.1) "bus shelter" means a fully enclosed or partially enclosed waiting area which is intended for use by passengers waiting to use the Transit Windsor passenger transportation system; (added B/L 175-2016, Nov. 21/16)
- (c) "City" means the City of Windsor;
- (c.1) "community garden" means lands in respect of which a community garden license or permit has been issued by the City; (added B/L 175-2016, Nov. 21/16)
- (c.2) "conservation area" means Spring Garden Natural Area, Oakwood Natural Area, South Cameron Woodlot, Peche Island and Little River Corridor; (added B/L 175-2016, Nov. 21/16)
- (d) "convention centre" means a place of public assembly with space available for lease for convention and private and public functions;
- (d.1) "designated smoking area" means an area where smoking is permitted on land owned by the City listed in Schedule "A" to this by-law; (added B/L 175-2016, Nov. 21/16)
- (e) "health care facility" means any building wherein any medical, dental, psychological or chiropractic services or advice regarding any illness, disease or injury physical or mental, is or may be provided and without limiting the generality of the foregoing includes a pharmacy, a community health centre, the offices of a doctor, dentist, chiropractor, optometrist, psychologist or any other health care practitioner, sanatorium. The area so defined includes the administrative offices, food services and eating area(s) thereof;

- (f) "municipal building" means any building or structure owned, leased, controlled or used by the City for municipal purposes;
- (g) "O. Reg. 48/06" means Ontario Regulation 48/06 as amended from time to time and any successor thereto, made under the provisions of the Smoke Free Ontario Act, 1994, S.O. 1994 c.10 as amended from time to time and any successor thereto;
- (g.1) "park" means land owned by the City that is designed or used for public recreation including, but not limited to, parklands, parkettes, trails, community gardens, playgrounds, sports fields, playing fields, beaches including any adjacent bodies of water, and includes any lane, walkway or public parking area leading thereto and any spectator or player seating areas; **(added B/L 175-2016, Nov. 21/16)**
- (h) "place of public assembly" means any building or structure whether privately or publicly owned to which the public has or may have access by right of invitation, express or implied and whether or not a fee for entry is charged.
- (i) "public hall" means a place of public assembly licensed as a public hall under City Licensing By-law 395-2004;
- (i.1) "recreation centre" means a building or enclosed area owned and operated by the City that is used for public recreation, entertainment or cultural purposes; **(added B/L 175-2016, Nov. 21/16)**
- (j) "smoke" or "smoking" has its ordinary meaning and includes the carrying of a lighted or heated cigar, cigarette, pipe, water pipe, hookah, e-cigarette, or any other lighted or heated equipment used to smoke or vaporize any tobacco or non-tobacco product; **(deleted & substituted B/L 175-2016, Nov. 21/16)**
- (j.1) "temporary designated smoking area" means an area where smoking is temporarily permitted on land owned by the City listed in Schedule "B" to this by-law or temporarily permitted under the terms of an agreement entered into with the City or temporarily permitted pursuant to a permit issued by the City; **(added B/L 175-2016, Nov. 21/16)**
- (k) "taxi" means a motor vehicle used for the conveyance of passengers for hire, licensed under Public Vehicles Licensing By-law 396-2004, as amended from time to time and any successor thereto;

### **Prohibited and Restricted Smoking Areas in Public Places**

- 2. No person shall smoke in,
  - (a) a health care facility;
  - (b) a place of public assembly, convention centre, public hall;
  - (c) a taxi;
  - (d) a municipal building;
  - (e) an arena, community centre or recreation centre including any lane, walkway or public parking area leading thereto; **(deleted & substituted B/L 175-2016, Nov. 21/16)**

- (f) the entranceway and any point within a nine meter radius of the outside area of an entranceway of any municipal building;
  - (g) a park; (added B/L 175-2016, Nov. 21/16)
  - (h) a bus shelter; (added B/L 175-2016, Nov. 21/16)
  - (i) a conservation area; (added B/L 175-2016, Nov. 21/16)
  - (j) Lakeview Park Marina except when aboard a personal watercraft or on an associated boat ramp; (added B/L 175-2016, Nov. 21/16)
  - (k) Any place prescribed by the *Smoke-Free Ontario Act*, S.O. 1994, c. 10, as amended, its regulations and any successor legislation or regulations. (added B/L 175-2016, Nov. 21/16)
- 2.1 Notwithstanding subsections 2(e) and 2(g), smoking shall be permitted in a designated smoking area, a temporary designated smoking area, an area where smoking is permitted under the terms of an agreement entered into with the City or an area where smoking is permitted pursuant to a permit issued by the City. (added B/L 175-2016, Nov. 21/16)
3. The proprietor or the driver of any taxi cab shall post the sign prescribed by O. Reg 48/06 in a prominent and visible location in the taxi cab.

#### **Other Laws and Policies**

4. In the event that this By-law conflicts with another law or with a policy, or more than one provision of this By-law conflict, the law or policy or provision which is more restrictive of smoking prevails.

#### **Penalty**

5. Any person who contravenes any of the provisions of this by-law is guilty of an offence and on conviction and unless otherwise provided, is liable to a fine of not more than Five Thousand Dollars (\$5,000.00), exclusive of costs, and every such penalty shall be recoverable under the Provincial Offences Act, R.S.O. 1990, as amended from time to time.

#### **Enforcement**

6. This by-law may be enforced by any municipal by-law enforcement officer, police officer, provincial offences officer, tobacco enforcement officer of the Windsor-Essex County Health Unit or any other person designated by Council to enforce the by-laws of the City. (deleted & substituted B/L 175-2016, Nov. 21/16)

#### **Severability**

7. Where a Court of competent jurisdiction declares any sections or part of a section of this By-law invalid, the remainder of the By-law shall continue in force unless the Court adjudges otherwise.
8. By-law 11803 and all amendments thereto are repealed on May 31, 2006.

9. This By-law shall come into force and take effect on May 31, 2006.

EDDIE FRANCIS, MAYOR

CLERK

First Reading - June 12, 2006  
Second Reading - June 12, 2006  
Third Reading - June 12, 2006

(added By-law 175-2016, Nov. 21/16)

SCHEDULE "A"

**DESIGNATED SMOKING AREAS**  
**information in parentheses is**  
**provided for reference only and**  
**includes any successor name**

8787 McHugh Street (WFCU Centre & Pool) - in the designated smoking area identified as such by posted signage.

(added By-law 175-2016, Nov. 21/16)

## SCHEDULE "B"

**TEMPORARY DESIGNATED SMOKING AREAS**  
**information in parentheses is**  
**provided for reference only and**  
**includes any successor name**

4270 Alice Street (Constable John Atkinson Memorial Community Centre) - in the temporary designated smoking area identified as such by posted signage.

1168 Drouillard Road (Gino & Liz Marcus Community & Customer Care Centre) - in the temporary designated smoking area identified as such by posted signage.

3205 Forest Glade Drive (Forest Glade Arena) – in the temporary designated smoking area identified as such by posted signage.

3215 Forest Glade Drive (Forest Glade Community & Customer Care Centre) – in the temporary designated smoking area identified as such by posted signage.

4200 Malden Road (Malden Park Visitors Centre) - in the temporary designated smoking area identified as such by posted signage.

5200 Matchette Road (Ojibway Nature Centre) - in the temporary designated smoking area identified as such by posted signage.

8787 McHugh Street (WFCU Centre & Pool) - in the temporary designated smoking area identified as such by posted signage.

1889 Niagara Street (Willistead Manor Complex) - in the temporary designated smoking area identified as such by posted signage.

401 Pitt Street West (Windsor International Aquatic & Training Centre/Adventure Bay Family Water Park) - in the temporary designated smoking area identified as such by posted signage.

1125 Prince Road (Mic Mac Sports Complex) - in the temporary designated smoking area identified as such by posted signage.

2555 Pulford Street (South Windsor Recreation & Customer Care Centre) - in the temporary designated smoking area identified as such by posted signage.

342 Riverside Drive East (Festival Plaza) - in the temporary designated smoking area identified as such by posted signage.

401 Riverside Drive West (Museum Windsor – Chimczuk Museum) - in the temporary designated smoking area identified as such by posted signage.

3277 Sandwich Street (Mackenzie Hall) - in the temporary designated smoking area identified as such by posted signage.

1551 Wyandotte Street West (Adie Knox Herman Recreation & Customer Care Complex) - in the temporary designated smoking area identified as such by posted signage.

1075 Ypres Boulevard (Optimist Community & Customer Care Centre) - in the temporary designated smoking area identified as such by posted signage.