

THE CORPORATION OF THE TOWN OF KINGSVILLE

BY-LAW 96-2016

Being a by-law to prohibit smoking in public places within the Town of Kingsville

WHEREAS section 115 of the *Municipal Act, 2001*, S. O. 2001, c. 25, as amended, provides municipalities with the authority to pass by-laws prohibiting or regulating the smoking of tobacco in public places and authorizes a municipality to define what a public place is for the purposes of the by-law;

AND WHEREAS section 129 of the *Municipal Act*, S.O. 2001, c.25, as amended, provides municipalities with the authority to pass by-laws prohibiting or regulating activities which produce odours;

AND WHEREAS it has been determined that smoking and second-hand tobacco smoke is a health hazard and poses increased health risks for children and youth;

AND WHEREAS smoke-free policy interventions are effective mechanisms to reduce exposure to tobacco smoke, prevent initiation of smoking, encourage cessation of smoking, support recent quitters and contribute to the de-normalization of smoking;

AND WHEREAS the Town wishes to prohibit smoking in public places for the health of the public generally, and particularly for the benefit of children and youth, and to improve the environmental and social conditions of public places;

AND WHEREAS the Town previously enacted by-law 23-2015, being a by-law to prohibit the smoking of tobacco in public places;

AND WHEREAS the Town deems it expedient to repeal and replace by-law 23-2015;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF KINGSVILLE ENACTS AS FOLLOWS:

Definitions

1. In this By-law:

- a) "Council" means the elected council of The Corporation of the Town of Kingsville;
- b) "Officer" shall mean an officer referred to in provision 4.
- c) "Parking Lots" means any municipally designated parking lots and those areas at parks, sports fields or recreational facilities permanently designated for the parking of vehicles;
- d) "Public Place" means the places as described in Schedule A, and any associated Parking Lot, and the property described in Schedule B, both of which are attached hereto and form part of this By-law, whether or not a no-smoking sign is erected;
- e) "Smoking" means the carrying of a lighted cigar, cigarette, e-cigarette, pipe, or any other lighted or heated smoking equipment used to smoke or vaporize any tobacco or non-tobacco substance;
- f) "Town" means The Corporation of the Town of Kingsville.

- g) "Use of Smokeless Tobacco" means the use of chew, plugs, snus, or snuff.

Prohibition

2. No person shall engage in Smoking or the Use of Smokeless Tobacco in any Public Place.
3. No person shall engage in Smoking or the Use of Smokeless Tobacco within a nine (9) metre radius of any entrance or exit of any building or structure under the control, supervision, ownership and/or operation of the Town.

Enforcement

4. In addition to any other person responsible for by-law enforcement in the Town or appointed to act as a by-law enforcement officer for the Town; this by-law may be enforced by police officers, or any other person employed by the Windsor Essex County Health Unit who has been appointed to enforce the *Smoke Free Ontario Act*, S.O. 1994, c. 10 and such persons are hereby appointed as by-law enforcement officers of the Town for this purpose.

Obstruction

5. No person shall hinder or obstruct an Officer in the enforcement of this by-law.

Conflict

6. If any portion of this By-law is found to be in conflict with any other provision of any other by-law of the Town, the provision which establishes the higher standard or greatest restriction shall prevail.

Penalty

7. Every person who contravenes any provision of this By-law is guilty of an offence and shall, upon conviction thereof, be liable to a fine pursuant to the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended.

Severability

8. If any court finds that any provision of this By-law is ultra vires or invalid, such provision shall be deemed to be severable and shall not invalidate any other provisions of this By-law which shall remain in full force and effect.

General

9. By-law 23-2015 is hereby repealed.
10. This by-law shall come into force and take effect upon the final passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 11th DAY OF OCTOBER, 2016.

MAYOR, Nelson Santos

CLERK, Jennifer Astrologo

Schedule A

Carnegie Park

Cedar Island Park and Beach

Cedar Island Boat Ramp

Cedar Beach Park

Coghill Park

Katrish Park

Kingsville Recreation Complex (Kingsville Arena, including Repko Park)

Lakeside Park

Larry Santos Park

Lions Park

Linden Beach Dog Park

Little Essex Park

McCallum Street Park

Mettawas Beach and Park

Millbrook Park

Pine Tree Park

Prince Albert Open Space

Prince Albert Park

Remark Park

Ridgeview Park

Ruthven Park

Train Court Park

Wigle Grove Open Space

William Avenue Park

William Street Park

Union Beach

York Park

Any park or green space not specifically identified in this Schedule, but that which was acquired by the Town after the original passing of this By-law

Schedule B

Town Clock Easement Lands, being the legal description of the lands granted under the Easement Agreement, registered as Instrument Number CE720066 on June 27, 2016, being:

LT 1 PT LT 2, SOUTH SIDE OF MAIN STREET WEST, PT LOTS 1 & 2 ON THE NORTH SIDE OF PEARL STREET WEST, & PART OF DIVISION STREET SOUTH AS (CLOSED BY BYLAW 14-96 REGISTERED AS NO R1345516) REGISTERED PLAN 184-185, TOWN OF KINGSVILLE, COUNTY OF ESSEX, DESIGNATED AS PTS 1 TO 7 PL 12R-16855, S/T R.O.W. OVER PARTS 3 & 4 PL 12R16855 AS IN NO. R888200, S/T EASE OVER PARTS 2 & 4 PL 12R16855 AS IN NO. R918109; TOG/W EASEMENT OVER PTS 4, 5 & 6 PL 12R23348 AS IN CE378328, DESIGNATED AS PART 1 ON PLAN 12R-26507; KINGSVILLE.