

# THE CORPORATION OF THE TOWN OF TILLSONBURG

## BY-LAW NUMBER 3596

- Consolidated** - Amended January 18, 2018 (By-Law 4157)  
- Amended May 24, 2016 (By-Law 4018)  
- Amended Feb 25, 2016 (By-Law 3992)

**A BY-LAW TO PROHIBIT SMOKING IN CERTAIN PUBLIC PLACES WITHIN THE TOWN OF TILLSONBURG.**

**WHEREAS** Section 115 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a municipality may prohibit or regulate the smoking of tobacco in public places and workplaces within the municipality and Section 128(1) of said Act provides that a municipality may prohibit and regulate with respect to a matter that in the opinion of Council are or could be public nuisances;

**AND WHEREAS** it has been determined that smoking and second hand tobacco smoke is a nuisance because of its irritating and discomforting properties and is a health hazard because of its impairing, adverse effect and risk to the health of individuals residing in or visiting the Town of Tillsonburg.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF TILLSONBURG ENACTS AS FOLLOWS:**

### **1.0 DEFINITIONS AND INTERPRETATIONS**

- 1.1 Definitions and Interpretations in this by-law,
- 1.2 "Authorized Person" means any individual employed by or authorized by the Town of Tillsonburg as a municipal by-law enforcement officer to enforce this by-law, or any officer of the Ontario Provincial Police.
- 1.3 "Council" means the Town Council of the Corporation of the Town of Tillsonburg;
- 1.4 "Electronic Cigarette" means A vaporizer or inhalant-type device, whether called an electronic cigarette or any other name, that contains a power source and heating element designed to heat a substance and produce a vapour intended to be inhaled by the user of the device directly through the mouth, whether or not the vapour contains nicotine;
- 1.5 "Municipal Sidewalk" means a sidewalk intended for pedestrians located between that portion of a highway intended for the general passage of vehicles and the lateral property line, but does not include a sidewalk located within the boundary of a Town owned property.
- 1.6 "Officer" means a person appointed by Council as a Municipal By-Law Enforcement Officer, a Police Officer or other individual duly appointed to enforce this by-law;
- 1.7 "Outdoors" means any open space which is outside of a facility, building, structure, premise, including any temporary building, structure or part thereof, whether covered by a roof or not.
- 1.8 "Person" includes an individual or corporation and shall include the plural where the context requires. Wherever the word "he" or "him" is used, it shall mean and include the feminine or neuter gender wherever the context so requires;
- 1.9 "Property" means that which belongs exclusively to the Town of Tillsonburg and to which legal rights apply;

- 1.10 “Smoking Product” means tobacco or tobacco-like product whose primary purpose is to be burned or heated to produce vapours, gases or smoke, which are inhaled, and shall include but is not limited to non-tobacco herbal shisha, and other plant material or oils intended for inhalation;
- 1.11 “Smoke or Smoking” includes the carrying of a lighted cigar, cigarette, electronic cigarette, pipe, waterpipe or any other lighted smoking equipment or smoking product but does not include smoke or smoking where smoke or smoking is used in a stage production of a theatrical performance;
- 1.12 “Town” means The Corporation of the Town of Tillsonburg;
- 1.13 “Town facility” means any building, structure or premise to which the Town holds right of ownership to, including a building, structure or premise which is leased by the Town;
- 1.14 “Walkway” as referred to in this by-law, means a covered walkway that is designed specifically for the passage of pedestrians and shall not include any uncovered walkway or sidewalk within the Town of Tillsonburg;
- 1.15 “Waterpipe” means a device in which the vapours, gases or smoke of a Smoking Product passes through liquid prior to being inhaled, and shall include but is not limited to a bong or hookah.
- 1.16 “Dog Park” means the lands enclosed by fence in a Designated Dog Park Area as set out in Schedule "A" in By-Law 4146.

## **2.0 SMOKING PROHIBITED**

- 2.1 No person shall smoke on the walkway known as Library Lane whether or not a “No Smoking” sign is posted.
- 2.2 No person shall smoke outdoors within 9 meters of any Town facility entrance or exit including but not limited to the following:  
Tillsonburg Community Centre, 45 Hardy Ave., including adjoining arenas,  
Tillsonburg Senior Centre, Lake Lisgar Waterpark and Summer Place;  
Tillsonburg Museum and Annandale House, 30 Tillson Avenue;  
Tillsonburg Fire Hall, 80 Concession Street, Tillsonburg ON  
Tillsonburg OPP Detachment, 90 Concession Street,  
Tillsonburg Customer Service Centre, 10 Lisgar Avenue  
Tillsonburg Public Works Building, 20 Spruce Street.
- 2.3 No person shall smoke outdoors anywhere on Library Lane or within 9 meters of the entrance to the east or west of Library Lane
- 2.4 No person shall smoke outdoors within 9 meters of any entrance to the Tillsonburg Town Centre Mall.
- 2.5 No person shall smoke within the fenced area or within 9 metres of a Town designated dog park.

## **3.0 EXEMPTIONS**

- 3.1 Notwithstanding Section 2.1 and 2.3, such prohibition shall not apply to municipal sidewalks.

## **4.0 SIGNAGE REQUIRED**

- 4.1 The Town may post and maintain in conspicuous locations at each required location 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) high, 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 “No Smoking Within 9 Meters (29.5 feet) of Described Area” “The Corporation of the Town of Tillsonburg By-Law No. 3596”.
- 4.2 Where a sign is posted the sign shall have the proportions, characteristics and minimum measurements set out in Section 4.1, and shall be as depicted in “Schedule A” and shall consist of two (2) contrasting colours, or if the lettering and graphic symbol are to be applied directly to the surface or to be mounted on a clear panel, the lettering and graphic symbol shall contrast with the background.
- 4.3 Despite the fact that the symbol referred to in Schedule “A” is a cigarette, it may include a lighted cigar, cigarette, pipe or any other lighted smoking instrument.
- 4.4 Deviations from the colour or content of the sign prescribed by this Section that do not affect the substance or that are not calculated to mislead do not vitiate the sign.

## **5.0 OFFENCES**

- 5.1 Any person who contravenes any provisions described above shall be guilty of an offence and upon conviction shall be subject to a fine as prescribed in the *Provincial Offences Act, R.S.O. 1990*, as amended.

## **6.0 ENFORCEMENT**

- 6.1 The provisions of this by-law respecting smoking outdoors on Town owned property shall be enforced by an Officer or authorized person deemed to be an agent of the Corporation of the Town of Tillsonburg for the purpose of addressing unauthorized activity on Town property.
- 6.2 Any person who observes another person acting in contrary to this by-law may submit a Smoke Free Ontario Act Witness Statement (which is outlined in Schedule “B” in this by-law) to the attention of the Town of Tillsonburg By-Law Enforcement Officer.

## **7.0 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.

## **8.0 SEVERABILITY**

- 8.1 If any section of this by-law or part thereof is found in any court of law to be illegal or beyond the power of the Municipality to enact, such section or part 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.

## **9.0 ENACTMENT**

- 9.1 This by-law shall come into effect on the day it is passed.

**READ A FIRST AND SECOND TIME THIS 26<sup>th</sup> day of APRIL, 2012.**

**READ A THIRD TIME AND FINALLY PASSED THIS 14<sup>th</sup> day of MAY, 2012.**

**SIGNATURE** \_\_\_\_\_  
MAYOR – Stephen Molnar

**SIGNATURE** \_\_\_\_\_  
TOWN CLERK – Donna Wilson

Schedule "A"  
By-law No. 3596



No Smoking Within 9 Meters of  
*(Described Area)*  
The Corporation of the Town of Tillsonburg  
BY-LAW NO. 3596

**"No Smoking Within 9 Meters of" (described areas include):**

- "this entrance"

Entrance of the following buildings:

Tillsonburg Community Centre and adjoining arenas, Tillsonburg Senior Centre, Lake Lisgar Waterpark, Summer Place, Tillsonburg Library, Tillsonburg Fire Hall, Tillsonburg Customer Service Centre, Public Works Office

**Schedule "B"**  
**By-law No. 3596**

**TOWN OF TILLSONBURG**  
**200 Broadway, 2<sup>nd</sup> Floor**  
**Tillsonburg, ON N4G 5A7**

Please fax to: 519-485-2520  
Attention: By-Law Enforcement Officer

**SMOKE FREE ONTARIO ACT**  
**WITNESS STATEMENT**

Date and Time of Occurrence \_\_\_\_\_

Name of Person you  
observed smoking in a designated no smoking area \_\_\_\_\_

Do you know the person personally? Yes  No

If yes, how? \_\_\_\_\_

If no, how did you identify the person? \_\_\_\_\_

\_\_\_\_\_

When you witnessed the offence, where were you standing? \_\_\_\_\_

How far away from the person were you? \_\_\_\_\_

Could you tell the colour of the cigarette filter? Yes  No

What colour was the filter? \_\_\_\_\_

Could you see the smoke from the cigarette? Yes  No

If winter, what was the approximate air temperature? \_\_\_\_\_

Are you certain that what you saw was smoke and not expelled breath? Yes  No

Could you smell the smoke? Yes  No

Did it smell like tobacco smoke? Yes  No

Would you recognize the smell of smoke for another product? Yes  No

How? \_\_\_\_\_

\_\_\_\_\_

Please give any other pertinent information: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature