

Protection

Chapter 0835 Smoke Free Workplaces and Public Places

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WHEREAS section 115 of the *Municipal Act, 2001*, c. 25, authorizes a municipality to prohibit or regulate the smoking of tobacco in public places and workplaces within the municipality;

AND WHEREAS it has been determined that second-hand smoke is a serious health hazard because of its adverse effects and risk to the health of inhabitants and workers in The Corporation of the City of Woodstock;

AND WHEREAS it is desirable for the purpose of promoting and protecting the health, safety and welfare of inhabitants and workers in The Corporation of the City of Woodstock to ensure that all public places and workplaces will be free from second hand smoke.

Article 1 - Short Title

835.1.1 Citation

The short title of this Chapter is "Smoke Free Workplaces and Public Places."

Article 2 - Interpretation

835.2.1 Bar Patio or Restaurant - defined

"bar patio or restaurant" means any bar patio or restaurant within the City of Woodstock where the public can access to eat food or drink beverages, for a fee or at no cost and where food or drinks are served, sold or offered by employees and where the bar patio or restaurant is not a private home. By-law 8962-15, March 5, 2015.

835.2.2 Employee - defined

"employee" means a person who, being paid or unpaid, performs any work for or supplies any service to an employer, or a person who receives any instruction or training in the activity, business, work, trade, occupation or profession of an employer and includes a volunteer and a person who is self-employed and "employment" has a corresponding meaning.

835.2.3 Employer - defined

"employer" means any person who, as the owner, proprietor, manager, contractor, superintendent, supervisor 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.

835.2.4 Municipality - defined

"municipality" means The Corporation of the City of Woodstock.

835.2.5 Municipal building - defined

"municipal building" means any building that is owned by The Corporation of the City of Woodstock or any building of which any portion is rented to The Corporation of the City of Woodstock.

835.2.6 Officer - defined

"officer" means a Municipal Law Enforcement Officer appointed by City of Woodstock municipal Council for the enforcement of this Chapter, a Police Officer for the policing agency having jurisdiction in the City of Woodstock for the enforcement of municipal by-laws, and any Public Health Inspector employed by the County of Oxford who is also duly appointed by the Minister of Health for the enforcement of the *Smoke Free Ontario Act* and regulations thereto.

835.2.7 Person - defined

“person” includes an individual, firm, business, corporation or partnership.

835.2.8 Playground equipment - defined

“playground equipment” means any kind of structure or apparatus which is customarily found in a park-like setting and which a person may engage in play-like activities such as climbing, swinging, hanging, crawling, jumping, stepping, whether over, across, under, through or upon for enjoyment, exercise and/or as part of relating to others of any age.

Without restricting the generality thereof, playground equipment includes swings, slides, climbing apparatus, and municipally-owned swimming pools and outdoor water parks. Playground equipment does not include facilities for walking and biking trails, park fences, trees, a picnic table, bridge, gazebo or pergola.

835.2.9 Proprietor - defined

“proprietor” means a person who controls, governs or directs the activity carried on within a public place and includes a person actually in charge of the premises at any particular time.

835.2.10 Public place - defined

“public place” means any building, structure, vessel, vehicle or conveyance, or part thereof, whether covered by a roof or not, where the public has access as of right or by invitation, expressed or implied, whether or not a fee is charged for entry, but does not include a street, road or highway.

835.2.11 Recreational field - defined

“recreational field” means any field and/or land of natural and/or man made composition that is used for athletic purposes to conduct organized or unorganized sporting activities in a municipal park which includes but is not limited to a baseball field, soccer pitch, player or spectator bench and lawn bowling field. A golf course shall not be included as a recreational field.

835.2.12 Smoke or smoking - defined

“smoke” or “smoking” includes the carrying of lighted tobacco, cigar, cigarette, pipe or any other lighted smoking equipment.

835.2.13 Special community event - defined

“special community event” means any temporary event that is recognized by the City of Woodstock where there is a congregation of youth or children. These events may include but not be limited to a parade, outdoor concerts, sports tournament, Canada Day celebration, Sidewalk Sales Days or Cowapalooza.

835.2.14 Workplace - defined

“workplace” means a building, structure, vessel, vehicle or conveyance or part thereof, to which the public may or may not have access, either express or implied, in which one or more employees work, including any other area in the building, structure, vessel, vehicle or conveyance utilized by employees.

Article 3 - Workplaces

835.3.1 Smoking - prohibited

No person shall smoke or hold lighted tobacco in any workplace within the City of Woodstock whether or not a No Smoking sign is posted. (See Set Fine)

835.3.2 Employer - responsibility

Every employer shall, within the area of his/her responsibility:

- a) ensure compliance with this Chapter;
- b) prohibit smoking in the workplace;
- c) inform each employee in the workplace that smoking is prohibited in the workplace;
- d) ensure that no ashtray or like paraphernalia is placed or permitted to remain in any part of the workplace; and (See Set Fine)
- e) prohibit smoking in any place described in Schedule ‘B’ and Schedule ‘C’ of this Chapter.

835.3.3 Exemption - private residence as part of workplace

Sections 835.3.1 and 835.3.2 do not apply to any part of a workplace that is used as a private residence, whether temporarily or permanently.

Article 4 - Public Places

835.4.1 Smoking - prohibited

No person shall smoke or hold lighted tobacco in any public place within the City of Woodstock, whether or not a No Smoking sign is posted. (See Set Fine)

835.4.2 Proprietor - responsibility

Every proprietor of a public place shall, within the area of his/her responsibility:

- a) ensure compliance with this Chapter;
- b) prohibit smoking in the public place;
- c) ensure that no ashtray or like paraphernalia is placed or permitted to remain in any part of the public place; and (See Set

Fine)

- d) prohibit smoking in any place described in Schedule 'B' and Schedule 'C' of this Chapter.

835.4.3 Prohibited - public playground - distance

No person shall smoke or hold lighted tobacco within a twenty metre (65.61 feet) radius of any playground equipment located within a municipal public park. By-law 8978-15, June 18, 2015. (See Set Fine)

835.4.4 Prohibited - recreational field - distance

No person shall smoke or hold lighted tobacco within a twenty metre (65.61 feet) radius of any recreational field located within a municipal public park. By-law 8962-15, March 5, 2015. (See Set Fine)

835.4.5 Prohibited - municipal facility - distance

No person shall smoke or hold lighted tobacco within a nine metre (29.53 feet) radius of any entrance of any municipal building. (See Set Fine)

835.4.6 Prohibited - bar patio or restaurant

No person shall smoke or hold lighted tobacco in any bar patio or restaurant. By-law 8962-15, March 5, 2015. (See Set Fine)

835.4.7 Prohibited - bus stop - distance

No person shall smoke or hold lighted tobacco within a four metre (13.12 feet) radius of any City of Woodstock municipal bus stop. (See Set Fine)

835.4.8 Prohibited - other - outdoor property - Schedule 'B'

No person shall smoke or hold lighted tobacco within a prescribed place within Schedule 'B' of this Chapter. (See Set Fine)

835.4.9 Prohibited - special community events - Schedule 'C'

No person shall smoke or hold lighted tobacco within a prescribed place within Schedule 'C' of this Chapter.

835.4.10 Exemption - distances

The prohibited distances described in this Chapter shall not extend into private property or encroach into an area fronting a neighbouring property where consent of the owner has not been previously granted.

Article 5 - Signage

835.5.1 Signage - required

Every employer and proprietor described in Article 3 and Article 4 shall ensure that the required signs are posted in accordance with Schedule 'A' of this Chapter. (See Set Fine)

Article 6 - Inspections

835.6.1 Inspection

An officer may, at any reasonable time, enter any public place or workplace for the purpose of determining compliance with this Chapter.

835.6.2 Time of entry

The power to enter and inspect a place without a warrant may be exercised only during the place's regular business hours or, if it does not have regular business hours, during daylight hours.

835.6.3 Dwellings

The power to enter and inspect a place without a warrant shall not be exercised to enter and inspect a part of the place that is used as a dwelling unless reasonable notice has been given by the officer and consent to enter has been given by the occupier of the dwelling.

835.6.4 Use of force

An officer is not entitled to use force to enter and inspect a place.

835.6.5 Identification

An officer conducting an inspection shall produce, on request, proper identification.

835.6.6 Obstruction

No person shall hinder, obstruct or interfere with an officer conducting an inspection, refuse to answer questions on matters relevant to the inspection or provide the officer with information, on matters relevant to the inspection that the person knows to be false or misleading. (See Set Fine)

Article 7 - Enforcement

835.7.1 Fine - for contravention

Every person who contravenes any of the provisions of this Chapter is guilty of an offence and upon conviction is liable to a fine as prescribed in the *Provincial Offences Act*.

835.7.2 Conviction - order prohibiting continuation

If this Chapter is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

Article 8 - General Provisions

835.8.1 Conflict with other legislation

If there is conflict between this Chapter, a provision of another City of Woodstock municipal by-law, an Act or regulation of an Act that deals with smoking, the provision that is more restrictive of smoking prevails.

835.8.2 Severability

If any Section of this Chapter 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 Chapter shall be deemed to be separate and independent thereof and to be enacted as such.

Article 9 - Repeal - Enactment

835.9.1 By-law - previous

By-law 7912-03, as amended (City of Woodstock Municipal Code, Chapter 835) is hereby repealed.

835.9.2 Effective date

This Chapter shall come into effect on September 1, 2008. By-law 8461-08, June 5, 2008.

Schedule

Schedule 'A' - No Smoking - Symbol

1) Signs - posting

Every employer and proprietor shall place the signs prescribed in subsection 3 of this schedule so they are clearly visible at every entrance and exit to the building, on every washroom entrance door and in all other reasonable locations which are frequented by employees and the public.

2) Signs posting - exterior locations

Every employer and proprietor who is responsible for an exterior prohibited smoking area shall place the required signs in subsection 3 of this schedule in conspicuous locations.

3) Signs - size required

Each sign posted in the workplace or public place in accordance to the provisions of this Chapter shall:

1. be a minimum of 10 centimetres (3.94 inches) in height and a minimum of 10 centimetres (3.94 inches) in width,
2. have a white background and have a graphic of the international no smoking symbol, and
- 3.(a) shall bear 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 "The Corporation of the City of Woodstock, Maximum Fine \$5000," or
- 3.(b) shall have the Trillium and Smoke-Free Ontario logos shown on the representation of the sign accessible through the website of the Ministry of Health Promotion at www.mhp.gov.on.ca/english/health/smoke_free/sign_intl.

4) Signs - exemption

Where a sign alters from the prescribed requirements and is strictly for esthetic purposes, the employer or proprietor may request an exemption in writing to the City of Woodstock Engineer for approval. By-law 8461-08, June 5, 2008; Schedule 'A.'

Schedule 'B' - Other Outdoor Property

The following are prescribed outdoor place pursuant to Section 835.4.8 of this Chapter.

1) Woodstock Hospital - all surrounding areas

All areas including buildings, structures and open spaces located on Woodstock General Hospital Trust properties, known as:

- a) Woodstock Hospital, 310 Julianna Drive, in the City of Woodstock
- b) Woodstock Hospital Professional Center, 333 Athlone Avenue, in the City of Woodstock.

2) Kaylan Properties Limited - Tim Hortons Plaza

All areas including buildings, structures and open spaces on the following properties:

- a) 20 Huron Street
- b) 709 Dundas Street
- c) 26 Huron Street, in the City of Woodstock.

3) Porta Holdings Limited - Goff Towers apartments

The area within a nine metre radius of the entrances and exits on the following properties:

- a) 855 James Street
- b) 857 James Street
- c) 859 James Street, in the City of Woodstock.

4) LASU Investments Inc. - Loughheed's Fine Jewellery

The area within a nine metre radius of the entrances and exits on the property known as:

- a) 501 Dundas Street, in the City of Woodstock, not to extend onto the public sidewalks.

5) LASU Investments Inc. - The Belly Comfort Cafe

The area within a nine metre radius of the entrances and exits on the property known as:

- a) 497 Dundas Street, in the City of Woodstock, not to extend onto the public sidewalks.

6) Huron Park Baptist Church

All areas including buildings, structures, and open spaces on the property known as:

- (a) 199 Berwick Street, in the City of Woodstock.

7) The area within a nine metre (29.5 feet) radius of the entrances and

exits to buildings and structures on the following County of Oxford properties:

- a) 21 Reeve Street
 - b) 21 Market Street
 - c) 415 Hunter Street
 - d) 419 Hunter Street
 - e) 75 Graham Street
 - f) 93 Graham Street
 - g) 410 Buller Street
 - h) 208 Bysham Street
 - i) 377 Mill Street
 - j) 221 Victoria Street South
 - k) 364 Athlone Avenue
 - l) 1235 Nellis Street
 - m) 1809 Dundas Street
 - n) 195 Admiral Street
 - o) 441 Beards Lane
 - p) 715066 Oxford Road 4, in the City of Woodstock.
- 8) All areas including buildings, structures and open spaces located at YMCA, 808 Dundas Street in the City of Woodstock.

By-law 8461-08, June 5, 2008; Schedule 'B'; By-law 8500-08, November 6, 2008; By-law 8509-08, December 11, 2008. By-law 8522-09, April 2, 2009; By-law 8733-12, January 19, 2012; By-law 8782-12, June 7, 2012.

Schedule 'C' - Special Community Events

The following are prescribed places pursuant to Section 835.4.9 of this Chapter.

By-law 8461-08, June 5, 2008; Schedule 'C.'