

# Smoke Free Workplaces By-law

PH-11 – Consolidated April 22, 2003

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**OFFICE CONSOLIDATION  
INCLUDING AMENDMENT PH-11-03001 (Apr. 22/03)**

Bill No. 99  
2003

By-law No. PH-11

A By-law to regulate smoking in workplaces in the City of London.

WHEREAS it has been determined that second hand tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars and pipes) is a health hazard for inhabitants of the City of London; and

WHEREAS it is desirable for the health, safety, and welfare of the inhabitants of the City of London to provide for a smoke-free environment in workplaces; and

WHEREAS the Municipal Council of The Corporation of the City of London has the authority to pass bylaws prohibiting and regulating the smoking of tobacco and the carrying of lighted tobacco products in workplaces within the City pursuant to Section 115 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

**SMOKE FREE WORKPLACES BY-LAW**

**Definitions**

1. In this by-law:

**"City"** means The Corporation of the City of London or the municipality of the City of London, as the context requires;

**"Council"** means the Municipal Council of the City of London;

**"employee"** includes a person who,

- (a) performs any work for or supplies any services to an employer, or
- (b) receives any instructions or training in the activity, business, work, trade, occupation or profession of the employer;

**"employer"** includes any person who as the owner, proprietor, manager, 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 under monetary compensation of a person therein;

**"enforcement officer"** means any person appointed by the Middlesex-London Health Unit to enforce this by-law or any person appointed by Council as a municipal tobacco by-law enforcement officer to enforce this by-law or any police officer of the London Police Force;

**"smoking"** includes carrying a lighted cigar, cigarette, pipe or any other lighted smoking instrument and "smoke" has a corresponding meaning; and

**"workplace"** means any enclosed area of a building or structure in which an employee works and includes but is not limited to washrooms, corridors, lounges, eating areas, reception areas, elevators, escalators, foyers, hallways, stairways, amenity areas, lobbies, laundry rooms and parking garages utilized by an employee, as well as any employer-owned or operated vehicles.

### **Smoking Prohibited**

2. No person shall smoke in the workplace.

### **Smoking Not To Be Permitted**

3. No employer shall permit smoking in the workplace.
4. Every employer of a workplace, other than a public transportation vehicle or taxicab, shall ensure that smoking is not permitted in the workplace.

### **Sign Requirements**

5. (1) The signs referred to in this by-law shall consist of graphic symbols that comply with the provisions of this section.
- (2) The following graphic symbol shall be used to indicate that smoking is prohibited in the workplace:

a black cigarette on a white background with the circle and the interdictory stroke in red.

- (3) The graphic symbol referred to in subsection (2) shall include the text "City of London By-law" in letters and figures at least five (5%) percent of the diameter of the circle in the symbol.
- (4) With respect to size of the graphic symbol, the diameter of the circle in the symbol referred to in this section shall be not less than ten (10 cm) centimetres.
- (5) Despite the fact that the symbol referred to in subsection (2) and subsection (3) is a cigarette, it shall include a lighted cigar, cigarette, pipe or any other lighted smoking instrument.
- (6) Deviations from the colour or content of the signs prescribed by this section that do not affect the substance or that are not calculated to mislead do not vitiate the signs.
- (7) The employer of a workplace shall ensure that a sufficient number of signs as prescribed by this section are conspicuously posted at each entrance and throughout the workplace so as to clearly identify that smoking is prohibited.

### **Inspection of Workplace**

6. (1) For the enforcement of this by-law, an enforcement officer, upon producing proper identification, may, at all reasonable hours, enter any workplace or any building or structure in which a workplace is situate and may make examinations, investigations and inquiries.
- (2) No enforcement officer may enter a workplace that is also a dwelling without the consent of the occupant or without first obtaining and producing a warrant.

### **Offences**

7. (1) Every person who smokes in the workplace in contravention of section 2 is guilty of an offence.
- (2) Every employer who permits smoking in the workplace in contravention of section 3 is guilty of an offence.
- (3) Every person who contravenes any provision of this by-law is guilty of an offence.

**Neglect of Duty**

8. Any employer who refuses, fails or neglects to perform any of the duties imposed upon him, her or it under any of the provisions of this by-law is guilty of an offence.

**Obstruction**

9. Any person who hinders or obstructs, or attempts to hinder or obstruct, an enforcement officer lawfully carrying out the enforcement of this by-law is guilty of an offence.

**Penalty**

10. Every person who is convicted of an offence under any provision of this By-law shall be liable to a penalty as set out in section 61 of the *Provincial Offences Act*, R.S.O. 1990, C. P. 33, or any successor thereof.

**Exemptions**

11. This by-law shall not apply to any part of a workplace that is used as a private residence.

**Conflict**

12. If a provision in this by-law conflicts with the *Smoking in the Workplace Act*, or any other Act or a regulation, the provision that is the most restrictive of smoking prevails.

**Severability**

13. If any section or sections of this by-law or parts thereof are found in any court of law to be illegal or beyond the power of Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this by-law shall be deemed to be separate and independent there from and to be enacted as such.

**Commencement**

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

Passed in Open Council on February 17, 2003.

Anne Marie DeCicco  
Mayor

Linda M. Rowe  
Manager of Legislative Services

First Reading – February 17, 2003  
Second Reading – February 17, 2003  
Third Reading - February 17, 2003