

**CORPORATION OF THE TOWNSHIP  
OF EAST ZORRA-TAVISTOCK-TAVISTOCK**

**BY-LAW #2012-15**

**BEING a By-Law To Prohibit Smoking At Certain Locations On Municipal Property**

**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 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 Township of East Zorra-Tavistock.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF EAST ZORRA-TAVISTOCK ENACTS AS FOLLOWS:**

**1 DEFINITIONS**

- 1.1 "Authorized Person" means any individual employed by or authorized by the Township of East Zorra-Tavistock as a municipal by-law enforcement officer to enforce this by-law, or any officer of the Ontario Provincial Police.
- 1.2 "Council" means the Town Council of the Corporation of the Township of East Zorra-Tavistock;
- 1.3 "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;
- 1.4 "Township facility" means any building, structure or premise to which the Township holds right of ownership to, including a building, structure or premise which is leased by the Township;
- 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 Township owned property.

- 1.6 “Officer” means a person appointed by Council as By-law Enforcement Officer, a Police Officer for the policing agency having jurisdiction in the Township of East Zorra-Tavistock 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;
- 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 “Property” means that which belongs exclusively to the Township of East Zorra-Tavistock and to which legal rights apply;
- 1.9 “Smoke or Smoking” includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment or product but does not include smoke or smoking where smoke or smoking is used in a stage production of a theatrical performance;
- 1.10 “Walkway” means that area of land designated or designed specifically for the passage of pedestrians and shall include a pathway but shall not include a sidewalk.
- 1.11 “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, facilities expressly designed for skate boarding.
- 1.12 “Spectator Seating Area” means any area designated for the viewing of a sport.
- 1.13 “Township” means the Corporation of the Township of East Zorra-Tavistock.

## **2 SMOKING PROHIBITED**

- 2.1 No person shall smoke outdoors on any Township owned sports field including but not limited to play spaces, soccer fields, baseball diamonds, tennis courts, basketball courts or skate parks whether or not a “No Smoking” sign is posted.
- 2.2 No person shall smoke outdoors on any walkway set out on or through Township owned and occupied property whether or not a “No Smoking” sign is posted.
- 2.3 No person shall smoke outdoors within 9 meters of any Township facility entrance whether or not a “No Smoking” sign is posted.

2.4 No person shall smoke outdoors within 9 meters of the following designated Township facilities, whether or not a “No Smoking” sign is posted:

- a) Playground Equipment
- b) Outdoor Play Spaces
- c) Spectator Seating Area/Outdoor Bleacher Area
- d) Baseball Diamonds and Concession Booths
- e) Soccer Fields
- f) Basketball Courts
- g) Tennis Courts
- h) Outdoor pavilions

### 3 EXEMPTIONS

3.1 Notwithstanding Section 2.2 such prohibition shall not apply to a municipal sidewalk.

### 4 SIGNAGE

4.1 The Township 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” “Maximum Fine \$5,000” “Township of East Zorra-Tavistock By-Law #2012-15”.

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 OFFENCES

5.1 Any person who contravenes any provisions of this by-law shall be guilty of an offence and upon conviction is liable to a fine as prescribed in the *Provincial Offences Act*.

- 5.2 If this By-law 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.
- 5.3 Notwithstanding any other provisions of this Part in respect to penalties for violation of the provisions of this By-law, any person may, upon presentation of an infraction notice issued by an Officer alleging commission of any of the offences under this By-law set out in Schedule "C", pay out of Court within the time limit specified on the said infraction notice the penalty set out opposite such offence as indicated in Schedule "C" to this By-law. Upon such payment no further proceedings shall be taken under this By-law in respect to the said alleged offence.
- 5.4 If a voluntary payment is not made in accordance with the procedure provided in Section 5.3, the procedures of the *Provincial Offences Act*, or any successor thereof, shall apply.

## **6 ENFORCEMENT**

- 6.1 The provisions of this by-law may be enforced by an Officer duly authorized to enforce this By-law.
- 6.2 Any person who observes another person acting contrary to this By-law may submit, to the Township, a Smoke Free Ontario Act Witness Statement, as set out in Schedule "B" to this by-law which may be used by the Township to commence charges against a person contravening this by-law.

## **7 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 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 Township 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 ENACTMENT**

9.1 Section 2.3 of this by-law shall come into effect on the day it is passed.

9.2 Sections 2.1, 2.2 and 2.4 of this by-law shall come into effect on April 1, 2013.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 21ST DAY OF MARCH, 2012.**

seal

  
\_\_\_\_\_  
DON MCKAY, MAYOR

  
\_\_\_\_\_  
BRENDA JUNKER, CLERK

Schedule "A"  
By-law #



No Smoking Within 9 Meters (29.5 feet) of  
(Described Area)

Maximum Fine \$5,000

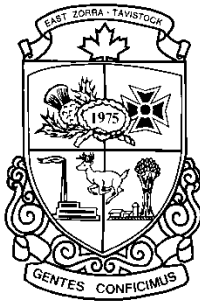
Township of East Zorra-Tavistock By-law #2012-15

**No Smoking Within 9 Meters (29.5 feet) of "described areas" may include:**

- "this entrance"
- "this Township facility"
- "this playground"
- "this sport field"
- "this pavilion"
- "ball diamond"
- "soccer field"
- "seating area"

Schedule "B"

Township of East Zorra-Tavistock



Box 100 / 90 Loveys Street  
Hickson, Ontario N0J 1L0

Email ezt@ezt.ca  
Web www.ezt.ca

Phone 519.462.2697  
Fax 519.462.2961

Please fax to: 519-462-2961  
Attention: Smoke Free Ontario Enforcement

**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: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Your Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

*Please be advised that by submitting and signing this Witness Statement, you may be called upon to present evidence in court should this matter result in charges or proceed to trial.*



## Schedule "C"

Corporation of the Township of East Zorra-Tavistock  
Part I Provincial Offences Act

<b>Item</b>	<b>Short Form Wording</b>	<b>Provision Creating or Defining Offence</b>	<b>Set Fine</b>
1.	Smoking on a Township sports field	Section 2.1	\$150.00
2.	Smoking on a Township walkway	Section 2.2	\$150.00
3.	Smoking within 9 metres of a Township facility entrance	Section 2.3	\$150.00
4.	Smoking within 9 metres of a designated Township facility	Section 2.4	\$150.00

Note: The general penalty provision for the offences cited above is Section 5.1 of By-law #2012-15, a certified copy of which has been filed.