

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

**COUNTY OF OXFORD**

**BY-LAW #2015 - 36**

**BEING A BY-LAW TO PROHIBIT SMOKING AT ANY TOWNSHIP FACILITY  
AND TO REPEAL BY-LAW #2012-15**

**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 tobacco or tobacco-like products is a health hazard because of the creation of second-hand smoke, which has adverse effects of health on the inhabitants residing in or visiting the Township of East Zorra-Tavistock;

**AND WHEREAS** the Council of The Corporation of the Township of East Zorra-Tavistock deems it necessary to repeal By-law #2012-015, as amended.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF EAST ZORRA-TAVISTOCK 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 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.

1.3 "Township" means The Corporation of the Township of East Zorra-Tavistock;

1.4 "Council" means the Township Council of the Corporation of the Township of East Zorra-Tavistock;

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 Municipal Law Enforcement Officer appointed by Township of East Zorra-Tavistock municipal Council, a Police Officer 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 “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 “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;
- 1.10 “Property” means that which belongs exclusively to the Township of East Zorra-Tavistock and to which legal rights apply;
- 1.11 “Smoke or Smoking” includes the carrying of a lighted or heated cigar, cigarette, pipe, waterpipe or any other equipment used to inhale, exhale, burn or heat any Smoking Product;
- 1.12 “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;
- 1.13 “Spectator Seating Area” means any area designated for the viewing of a sport.
- 1.14 “Sports 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, which includes but is not limited to a baseball field, soccer pitch, volleyball court, player or spectator bench, ice rink, and lawn bowling field.
- 1.15 “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,

- 1.16 “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.

## **2.0 SMOKING PROHIBITED**

- 2.1 No person shall smoke, or use a smoking product on any Township Facility, including but not limited to municipal parkland, playground equipment, sports fields and spectator seating, at all times, whether or not a “No Smoking” sign is posted.

## **3.0 EXEMPTIONS**

- 3.1 Notwithstanding Section 2, such prohibition of Smoking shall not apply to:
- (a) a municipal sidewalk;
  - (b) special events within the Township, on a Township Facility, which have received special permission from the County of Oxford.

## **4.0 SIGNAGE**

- 4.1 The Township may post and maintain in conspicuous locations at each required location a sign at least 10 centimetres (4 inches) by 10 centimetres (4 inches) in size that includes depiction of the international No Smoking symbol, which may read “No Smoking”.

## **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.
- 5.2 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 “B”, 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 “B” to this By-law. Upon such payment no further proceedings shall be taken under this By-law in respect to the said alleged offence.
- 5.3 If a voluntary payment is not made in accordance with the procedure provided in Section 5.2, the procedures of the *Provincial Offences Act*, or any successor thereof, shall apply.

**6.0 ENFORCEMENT**

- 6.1 The provisions of this by-law respecting smoking on Township facilities shall be enforced by an Officer or authorized person deemed to be an agent of the Corporation of the Township of East Zorra-Tavistock for the purpose of addressing unauthorized activity on Township 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 "A" in this by-law) to the Township Office.

**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 REPEAL**

- 9.1 By-law #2012-15, as amended, is repealed in its entirety on January 1, 2016.


**10.0 ENACTMENT**

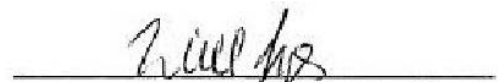
- 10.1 This by-law shall come into force and effect on January 1, 2016.

READ A FIRST AND SECOND TIME THIS 16 DAY of September, 2015.

READ A THIRD TIME AND FINALLY PASSED THIS 16 DAY of September, 2015.

seal

  
MAUREEN RALPH, DEPUTY MAYOR

  
Will Jaques, Clerk

Schedule "A"  
By-law #2015 - 36



THE CORPORATION OF THE  
TOWNSHIP OF EAST ZORRA-TAVISTOCK  
90 LOVEYS STREET, P.O. BOX 100  
HICKSON, ONTARIO N0J 1L0

Please fax to: (519) 462-2961, or email to: [ezt@ezt.ca](mailto:ezt@ezt.ca)  
Attention: Smoke-Free Enforcement

**SMOKE-FREE ONTARIO ACT WITNESS STATEMENT**

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

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

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

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

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

**Schedule "A" – Cont'd**  
**By-law #2015 – 36**

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

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
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 "B"**  
**By-law #2015 - 36**

**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 any Township Facility	Section 2.1	\$150.00

Note: The general penalty provision for the offences listed above is Section 5.0 of By-law #2015 - 36, a certified copy of which has been filed.

**Set Fines Approved November 12, 2015 by Ontario Court of Justice.**