

County of Essex Policy and Procedures Manual

Non-Smoking and Non-Vaping Policy

Policy Number:	2025-22
Policy Type:	Corporate Policy
Approval Authority:	Essex County Council
Office of Responsibility:	Legislative and Legal Services
Issuance Date:	2025-04-16 (Pending Council Approval)
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Scheduled Review Date:	2029-04-16
Replaces Policy:	2003-002

1.0 Introduction

- 1.1 The Corporation of the County of Essex (the "**County**") wishes to provide a healthy and safe environment for its employees, members of Council, and members of the public, and comply with its legal obligations in accordance with, among other things, the *Smoke-Free Ontario Act, 2017*, S.O. 2017, c. 26, Sched. 3 (the "**Smoke-Free Act**"). The County recognizes the overwhelming evidence which demonstrates that smoking and being exposed to second-hand smoke results in smokers and non-smokers alike being exposed to numerous carcinogens, and that avoiding smoking and exposure to second-hand will assist in preventing many major diseases.

2.0 Scope

- 2.1 This Policy pertains to all employees of the County, members of Council, and members of the public when accessing County Property (as defined below) under the complete or joint control, supervision, and/or ownership of the County, including those located outside of the geographic boundaries of the County.
- 2.2 Notwithstanding the generality of the foregoing, the application of this Policy shall be suspended with respect to any exemptions

provided for in the *Smoke-Free Act*, as amended, and/or the Regulations thereto, and as provided for in Section 5.4 below.

3.0 Definitions and Interpretation

- 3.1 To provide context for this Policy, in addition to any other term defined in this Policy, a list of commonly used terms is provided herein and shall be used in conjunction of the interpretation of this Policy, but with any discrepancy between a defined term in this Policy and in the *Smoke-Free Act* being resolved in favour of the definition contained in the *Smoke-Free Act*, as amended.
- 3.1.1 **"Cannabis"** has the same meaning as provided for in Section 2(1) of the *Cannabis Act*, S.C. 2018, c. 16.
- 3.1.2 **"County"** means the Corporation of the County of Essex as a legal entity and means the geographic region of the County of Essex, and which definition may be used interchangeably.
- 3.1.3 **"County Administration Building"** means the County's building located at municipal address 360 Fairview Avenue West, Essex Ontario.
- 3.1.4 **"County Property"** means (but is not necessarily limited to) the lands of the County, buildings of the County, facilities rented by the County, County sanctioned events, any other premises under the control of the County, and motor vehicles and equipment of the County.
- 3.1.5 **"Designated Smoking Area"** means an area that may be designated by the County for Smoking or Vaping on County Property, and which area, if designated by the County shall:
- (a) not share any common walls with a building or structure that is a Workplace or Enclosed Public Place;
 - (b) not have any heating or air conditioning system or unit intended to regulate the temperature in the Designated Smoking Area;
 - (c) has a circulation of fresh air throughout the Designated Smoking Area;

- (d) if contained in a structure or hut, has at least one side that is not a wall of solid construction; and
- (e) is not located within a nine (9) metre radius of any entrance to a Workplace or Enclosed Public Place.

3.1.6 **"Electronic Cigarette"** and **"Vaporizer"** 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.

3.1.7 **"Enclosed Public Space"** means either:

- (a) the inside of any place, building, or structure, or vehicle, or conveyance, or any part thereof:
 - (i) that is covered by a roof; and
 - (ii) to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry, or
- (b) a place prescribed by the Regulations to the *Smoke-Free Act*, or otherwise prescribed.

3.1.8 **"Enclosed Space"** means the inside of any place, building, or structure, or vehicle, or conveyance, or any part thereof that is covered by a roof.

3.1.9 **"Enclosed Workplace"** means either:

- (a) the inside of any place, building, or structure, or vehicle, or conveyance, or any part thereof:
 - (i) that is covered by a roof;
 - (ii) that employees work in or frequent during the course of their employment, whether or not they are acting in the course of their employment at the time; and

- (iii) that is not primarily a private dwelling, or
 - (b) a place prescribed by the Regulations to the *Smoke-Free Act*, or otherwise prescribed.
- 3.1.10 **"Entrance"** means the area within a 9 metre radius surrounding any entrance to an Enclosed Public Space, Enclosed Space, and or Enclosed Workplace, and/or entrance to any building or vehicle owned by or under the control of the County.
- 3.1.11 **"EMS"** means Essex-Windsor Emergency Medical Service.
- 3.1.12 **"e-Substance"** means a substance that is manufactured or sold to be used in an electronic cigarette.
- 3.1.13 **"Municipal Act"** means the *Municipal Act, 2001*, S.O. 2001, c.25, as amended.
- 3.1.14 **"Non-Smoking By-law"** means the County's By-law Number 27-2003, Being a By-law to Regulate Smoking in Workplaces in the County of Essex.
- 3.1.15 **"Smoke"** and **"Smoking"** includes the following:
 - (a) the inhaling and/or exhaling of any substance whose primary purpose is to be burned or heated to produce vapours, gases, or smoke, which may be inhaled, and shall include, but is not necessarily limited to tobacco, cannabis, e-substances, non-tobacco herbal shisha, and other plant and/or animal materials and/or oils intended for inhalation; and
 - (b) carrying or holding of a lighted Tobacco Product, a lighted Cannabis product, an activated Electronic Cigarette, or a lighted or heated water pipe.
- 3.1.16 **"Smoke-Free Act"** means the *Smoke-Free Ontario Act, 2017*, S.O. 2017, c. 26, Sched. 3, as amended.
- 3.1.17 **"Sun Parlor Home"** means the building of the Sun Parlor Long Term Care Home located at municipal address 175 Talbot Street East, Leamington, Ontario.

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- 3.1.18 **"Tobacco Product"** means any product that contains tobacco, and includes the package in which tobacco is sold.
- 3.1.19 **"Vapour Product"** means an Electronic Cigarette, an e-Substance, or any component of an Electronic Cigarette and includes the package in which the Electronic Cigarette or e-Substance is sold, and may be a Tobacco Product base, a Cannabis base, or any other base.
- 3.1.20 **"Vapourizing", "Vape", and "Vaping"** means the act of heating and converting Cannabis, and e-Substance, a Tobacco Product, or any other substance through a Vaporizer or an Electronic Cigarette, for the purpose of simulating the inhalation of smoke.
- 3.1.21 **"Workplace"** means either:
- (a) any place, building, or structure, or vehicle, or conveyance, or any part thereof:
 - (i) that employees work in or frequent during the course of their employment, whether or not they are acting in the course of their employment at the time; and
 - (ii) that is not primarily a private dwelling, or
 - (b) a place prescribed by the Regulations to the *Smoke-Free Act*, or otherwise prescribed.
- 3.2 This Policy is made further to and in accordance with the County's Non-Smoking By-law, which was passed in accordance with Section 115 of the *Municipal Act*.
- 3.3 In accordance with Section 115(10) of the *Municipal Act*, if there is a conflict between this Policy and/or the Non-Smoking By-law with any Act or regulation, the provision that is most restrictive of the use of e-Cigarettes, Vapour Products and/or smoking of Tobacco Products and/or Cannabis prevails.

4.0 Purpose

- 4.1 The purpose of this Policy is to protect employees, members of Council, and members of the public from exposure to second-hand

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smoke when on County Property, and to ensure a safe, healthy, comfortable, and welcoming environment for everyone attending County Property.

- 4.2 The further purpose of the Policy is to ensure the County's compliance with the *Smoke-Free Act*, which came into force on July 1, 2018, prohibiting smoking and vaping in enclosed workplaces and public places throughout Ontario in order to protect the public from the hazards of second-hand smoke.

5.0 Policy

- 5.1 All forms of Smoking are prohibited in and on all properties occupied EMS bases.
- 5.2 All forms of Smoking are prohibited in any vehicle or equipment leased, owned, or under the control of the County.
- 5.3 Smoking is only permitted at the County's Administration Building, the Sun Parlor Home, and any other property owned by the County, where there is a Designated Smoking Area. The County is under no obligation to have a Designated Smoking Area, and may revoke the designation of an area as a Designated Smoking Area at any time.
- 5.4 Notwithstanding the provisions above, this Policy does not prohibit Smoking if there is an exemption provided for in the *Smoke-Free Act*, other applicable legislation and any related regulations, and/or if Tobacco is being Smoked and/or burned by a member of a First Nation, a member of the Metis community, and/or a member of the Inuit as part of a traditional ceremony.
- 5.5 Should this Policy be violated by an employee of the County, they may face disciplinary action up to and including termination of their employment.
- 5.6 Should this Policy be violated by a member of County Council, the procedures provided for in the Code of Conduct for Council Members and Members of Local Boards, being Policy 2023-005 shall apply.
- 5.7 Should this Policy be violated by a member of the public they may be subjected to the procedures provided for in the County's Public Conduct Policy, being Policy Number 2023-003.

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- 5.8 Notwithstanding Section 5.5, 5.6, and 5.7 above, any employee, member of County Council, and/or member of the public in violation of this Policy may also be subject to the penalties provided for in the Non-Smoking By-law and/or any applicable penalties provided for in the *Smoke-Free Act* and the Regulations thereto.

6.0 Responsibility

- 6.1 The CAO is responsible for ensuring that this Policy is reviewed and updated as and when required.
- 6.2 Department Heads, managers, and supervisors are responsible for ensuring that persons under their direction and/or supervision are made aware of and comply with this Policy. Department Heads, managers, and supervisors are further responsible for investigating any breach of this Policy by those persons under their direction and/or supervision, and taking such corrective and/or disciplinary action as may be required.
- 6.3 All employees and members of Council are responsible for ensuring their own adherence to and compliance with this Policy, and employees are further responsible for reporting any violations of this Policy to their immediate supervisor.

7.0 Related Documents/Legislation

The following documents and legislation are associated with this Policy:

- *Smoke-Free Ontario Act, 2017, S.O. 2017, c. 26, Sched. 3, and the Regulations thereto;*
- By-law 26-2003, Being a By-law to Regulate Smoking in Public Places in the County of Essex; and
- By-law 27-2003, Being a By-law to Regulate Smoking in Workplaces in the County of Essex.

8.0 Summary of Amendments

Date	Amendments
2025-04-16	For Council Consideration on 2025-04-16
2025-04-16	Replaces Policy 03-002

Appendices

- None