

The Corporation of the Municipality of Leamington

By-law 333-13

Being a by-law to control nuisance dust

Whereas Section 129 of the Municipal Act, 2001, S.O. 2001, c.25 provides that the councils of local municipalities may pass a by-law for regulating dust.

Now therefore, the Council of The Corporation of the Municipality of Leamington hereby enacts as follows:

1. Interpretation

In this by-law,

- (a) “Council” means the Council of The Corporation of the Municipality of Leamington;
- (b) “dust” means any airborne particulate matter;
- (c) “Municipality” means the land within the geographic limit of the Municipality of Leamington;
- (d) “nuisance caused by dust” means any dust that is of such persistence or volume that it has a detrimental impact on the use and enjoyment of property;
- (e) “person” means an individual, business, firm, corporation, association, partnership, or any combination thereof.

2. Scope

This by-law shall apply to the entire Municipality.

3. General Prohibitions

No person shall create or permit a nuisance caused by dust.

4. Exemptions

Section 3 (1) of the By-law does not apply to a nuisance created by the following activities:

- (a) Emergency measures undertaken for the immediate health, safety, or welfare of inhabitants or for the preservation or restoration of property; unless such dust is clearly more of a nuisance than is reasonably necessary for the accomplishment of such activity;
- (b) Any normal farm practice as determined pursuant to the Farming and Food Production Act, 1998 S.O. Chap. 1, or
- (c) An activity carried on by the municipality or any other level of government.

5. Grant of Exemption by Council

(1) Application to Council

Notwithstanding anything contained in this By-law, any person may make an application to Council to be granted an exemption from any of the provisions of this By-law with respect to any source of dust for which the person might be prosecuted and Council, by resolution, may grant or refuse to grant the exemption applied for and any exemption granted shall specify the time period during which the exemption is effective and may contain such terms and conditions as Council deems appropriate.

(2) Decision

In deciding whether to grant the exemption, Council shall give the applicant and any person opposed to the application an opportunity to be heard and may consider such other matters as Council deems appropriate.

(3) Breach

A breach of any of the terms or conditions of any exemption granted by Council shall render the exemption null and void.

6. Severability

If a court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the By-law and is hereby declared that the remainder of the By-law shall be valid and shall remain in force.

7. Penalty

Every person who contravenes any of the provisions of this By-law is guilty of an offence and upon conviction is subject to a fine pursuant to the Provincial Offences Act, R.S.O. c. P.33, as amended.

8. Continuing Offence

Each calendar day a violation of Section 3 continues is deemed to a separate offence.

9. Short Title

This By-law may be referred to as the dust control by-law.

10. Effect

This By-law will take effect and come into force upon its enactment.

Read a first, second and third time and finally enacted this 28th day of October, 2013.

Signature on file

John Paterson, Mayor

Signature on file

Brian R. Sweet, Clerk

ONTARIO COURT OF JUSTICE

PROVINCIAL OFFENCES ACT

PART I

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 333-13, of the Municipality of Leamington, attached hereto are the set fines for those offences. This Order is to take effect November 21, 2013.

Dated at London this 21st day of November 2013.

A handwritten signature in black ink, appearing to read 'Wayne G. Rabley', with a long, sweeping flourish extending to the right.

Wayne G. Rabley
Acting Regional Senior Justice
West Region

Set Fine Schedule

Schedule "B" to Report CL/32/13

The Corporation of the Municipality of Leamington

Part 1 Provincial Offences Act

By-law 333-13 A by-law to Control nuisance dust

Item	Column 1 Short Form Wording	Column 2 Offense Creating Provision	Column 3 Set Fine
1	Creating or permitting a nuisance caused by dust	Section 3	\$150.00

Penalty Provision for the offences indicated above is Section 7 of By-law 333-13 a certified copy of which has been filed.