

**THE CORPORATION OF THE MUNICIPALITY OF HURON SHORES**

**BY-LAW # 04-06**

BEING A BY-LAW TO REGULATE SMOKING IN PUBLIC PLACES AND WORKPLACES WITHIN THE MUNICIPALITY OF HURON SHORES

**WHEREAS** Section 115 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended, authorizes the Council of a local municipality to pass a by-law to prohibit or regulate the smoking of tobacco in public places and workplaces within the municipality and designating public places or workplaces or classes or parts of such places as places in which smoking tobacco or holding lighted tobacco is prohibited;

**AND WHEREAS** it has been determined that second hand smoke is a serious health hazard because of its adverse effects and risk to the health of all of the inhabitants and workers in the Corporation of the Municipality of Huron Shores;

**AND WHEREAS** it is desirable for the purpose of promoting and protecting the health, safety and welfare of the inhabitants and workers of The Corporation of the Municipality of Huron Shores to ensure that all public places and workplaces will be free from second hand smoke;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF HURON SHORES ENACTS AS FOLLOWS:**

**PART I**

1. DEFINITIONS

1.0 In this by-law,

1.1 **“employee”** means a person who performs any work for or supplies any service to an employer, or a person who receives any instruction or training in the activity, business, work, trade, occupation or profession of an employer and includes a volunteer and a person who is self-employed and “employment” has a corresponding meaning;

1.2 **“employer”** means any person who, as the owner, proprietor, manager, contractor, superintendent, supervisor 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 of an employee;

1.3 **“entranceway”** means the area within a 4 metre radius surrounding any public entrance to a public building or workplace, but does not include a street, road or highway;

1.4 **“inspector”** means any police officer of the Ontario Provincial Police, or employee or class of employee of the Algoma Health Unit authorized by the Medical Officer of Health to carry out an inspection under and to enforce the provisions of this By-law, or a person or class of person appointed by Council of the Municipality as a by-law enforcement officer to enforce this by-law;

1.5 **“Municipality”** means The Corporation of the Municipality of Huron Shores;

1.6 **“person”** includes a corporation;

1.7 **“proprietor”** means the person who ultimately controls, governs or directs the activity carried on within a public place and includes the person actually in charge of the premises at any particular time;

- 1.8 **“public place”** means any building, structure, vessel, vehicle or conveyance entranceway, or part thereof, whether covered by a roof or not, to which the public has access as of right or by invitation, expressed or implied, whether or not a fee is charged for entry but does not include a street, road or highway;
- 1.9 **“smoke”** or **“smoking”** includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment;
- 1.10 **“workplace”** means a building, structure, vessel, vehicle or conveyance, entranceway, or part thereof in which one or more employees work, including any other area utilized by employees, but does not include a street, road or highway.

## **PART II**

### **2. WORKPLACES**

- 2.1 No person shall smoke in any workplace or entranceway to any workplace within the Municipality, whether or not a No Smoking sign is posted.
- 2.2 Every employer shall:
- (i) ensure compliance with this by-law;
  - (ii) give notice to each employee in the workplace that smoking is prohibited in the workplace;
  - (iii) post No Smoking signs in accordance with Part IV of this by-law in conspicuous locations at every entrance and in every washroom in the workplace indicating that smoking is prohibited in the workplace; and
  - (iv) ensure that no ashtrays or like paraphernalia are placed or permitted to remain in any part of the workplace where smoking is prohibited under this by-law.
- 2.3 Sections 2.1 and 2.2 do not apply to:
- (i) a part of a workplace that is used as a private residence;
  - (ii) a room in a hotel, motel or other place where rooms are rented for sleeping accommodation, provided the room is used for sleeping accommodation only and the room is designated and specifically set aside as a room in which smoking is permitted;
  - (iii) a workplace located in a dwelling where the only employees of that workplace are persons who live in the dwelling.

## **PART III**

### **3. PUBLIC PLACES**

- 3.1 No person shall smoke in any public place or entranceway to any public place within the Municipality, whether or not a No Smoking sign is posted.
- 3.2 Every proprietor of a public place shall:
- (i) ensure compliance with this by-law;
  - (ii) give notice to each person in the public place that smoking is prohibited in the public place;
  - (iii) post No Smoking signs in accordance with Part IV of this by-law in conspicuous locations at every entrance and in every washroom in the public place indicating that smoking is prohibited in the public place;
  - (iv) ensure that no ashtrays or like paraphernalia are placed or permitted to remain in any public place.
- 3.3 Sections 3.1 and 3.2 do not apply to a room in a hotel, motel or other place where rooms are rented for sleeping accommodation, provided the room is used for sleeping accommodation only and the room is designated and specifically set aside as a room in which smoking is permitted.

## **PART IV**

### **4. SIGNAGE REQUIRED**

- 4.1 Every employer and every proprietor shall post and maintain in conspicuous locations at each entrance to the facility and in every washroom, a sign at least 14 centimetres (5.5 inches) by 14 centimetres (5.5 inches) in size that includes:
- (i) depiction of the international No Smoking symbol at least 7.5 centimetres (3 inches);
  - (ii) lettering at least 0.8 centimetres (5/16 inch) high and at least 0.2 centimetres (1/16 inch) wide at the narrowest point; and
  - (iii) with the rest of the letter sized proportionately, which reads “Municipality of Huron Shores; By-law No. 04-06; Maximum Fine (\$5,000)”.
- 4.2 Where a No Smoking sign is required to be placed or posted under this by-law, the sign shall have the proportions, characteristics and minimum measurements as set out in Section 4.1 as depicted in Schedule “A” and consists of two (2) contrasting colours, or if the lettering and graphic symbol is to be applied directly to surface or to be mounted on a clear panel, the lettering and graphic symbol shall contrast with the background.

## **PART V**

### **5. INSPECTIONS**

- 5.1 An inspector may, at any reasonable time, enter any public place or workplace for the purposes of determining compliance with this by-law and make examinations, investigations and inquiries.

## **PART VI**

### **6. OFFENCES AND ENFORCEMENT**

- 6.1 Any person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine of not more than Five Thousand Dollars (\$5,000.00) as provided for in the *Provincial Offences Act*, R.S.O. 1990, chapter 33, or any successor thereof.

## **PART VII**

### **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.

## **PART VIII**

### **8. SEVERABILITY**

- 8.1 If any section or sections of the by-law or parts thereof, are found in any court of law to be illegal or beyond the power of the Municipality to enact, such section or sections or parts 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 have been enacted as such.

**PART IX**

9. REPEAL

9.1 This by-law repeals all other by-laws passed for this purpose.

**PART X**

10. EFFECTIVE DATE

10.1 This by-law shall come into effect at 12:00 a.m., May 31, 2004.

Read a first, second and third time and passed in open Council this 11<sup>th</sup> day of February, 2004.

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REEVE - E.W. Linley

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CLERK - Deborah Tonelli

**Schedule "A" to By-Law No. 04-06 of  
The Corporation of the Municipality of Huron Shores**

*To be posted at all entranceways:*

***To be posted at all other required locations:***

**SET FINE SCHEDULE****THE CORPORATION OF THE MUNICIPALITY OF HURON SHORES****PART I – PROVINCIAL OFFENCES ACT****BY-LAW #04-06****NAME OF BY-LAW: Regulate Smoking in Public Places and Workplaces**

| <b>ITEM</b> | <b>COLUMN I<br/>Short Form Wording</b>                           | <b>COLUMN II<br/>Offence Creating Provision<br/>or Defining Offence</b> | <b>COLUMN III<br/>Set Fine<br/>(including costs)</b> |
|-------------|--|---|--|
| 1           | Smoking in a workplace   | Section 2.1   | \$205.00   |
| 2           | Employer failed to ensure compliance with by-law                 | Section 2.2 (i)   | \$205.00   |
| 3           | Employer failed to give notice that smoking prohibited           | Section 2.2 (ii)  | \$205.00   |
| 4           | Employer failed to post required no smoking signs                | Section 2.2 (iii)   | \$205.00   |
| 5           | Employer permitted ashtrays or like paraphernalia in a workplace | Section 2.2 (iv)  | \$205.00   |

Note: The general penalty provision for the offences listed above is section 61 of the Provincial Offences Act, R.S.O. 1990, c. P.33.

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|-------------|---|---|--|
| 6           | Smoking in a public place   | Section 3.1   | \$205.00   |
| 7           | Proprietor failed to ensure compliance with by-law                    | Section 3.3 (i)   | \$205.00   |
| 8           | Proprietor failed to give notice that smoking prohibited              | Section 3.3 (ii)  | \$205.00   |
| 9           | Proprietor failed to post required no smoking signs                   | Section 3.3 (iii)   | \$205.00   |
| 10          | Proprietor permitted ashtrays or like paraphernalia in a public place | Section 3.3 (iv)  | \$205.00   |

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| 11          | Hindered or Obstructed an Inspector carrying out enforcement of by-law | Section 5.2   | \$205.00   |

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| 1           | Smoking in a workplace   | Section 2.1   | \$   |
| 2           | Employer failed to ensure compliance with by-law                 | Section 2.2 (i)   | \$   |
| 3           | Employer failed to give notice that smoking prohibited           | Section 2.2 (ii)  | \$   |
| 4           | Employer failed to post required no smoking signs                | Section 2.2 (iii)   | \$   |
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|-------------|--|---|--|
| 11          | Hindered or Obstructed an Inspector carrying out enforcement of by-law | Section 5.2   | \$   |

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