

THE CORPORATION OF THE MUNICIPALITY OF HURON SHORES

BY-LAW # 14-26

BEING A BY-LAW TO PROHIBIT THE USE OF WATERPIPES IN ENCLOSED PUBLIC PLACES AND IN ENCLOSED WORKPLACES WITHIN THE MUNICIPALITY OF HURON SHORES

WHEREAS Section 10 of the *Municipal Act, 2001*, S.O. 2001, authorizes the Council of a local single-tier municipality to pass by-laws respecting matters within the spheres of jurisdiction set out therein including, *inter alia*, health, safety and well-being of persons;

AND WHEREAS, it has been determined that the use of waterpipes to smoke tobacco or herbal products is a health hazard because of the creation of secondhand smoke, which has adverse effects on the health of the inhabitants of The Corporation of the Municipality of Huron Shores and also causes a public nuisance because of its irritating and discomforting properties;

AND WHEREAS it is desirable for the health, safety and well-being of the inhabitants and workers of The Corporation of the Municipality of Huron Shores to prohibit the use of waterpipes in enclosed public places and enclosed workplaces in the Municipality of Huron Shores to protect persons from conditions hazardous to health pursuant to the provisions of this By-law;

AND WHEREAS, by Resolution #14-09-19, it is deemed expedient that the Council of The Corporation of the Municipality of Huron Shores prohibit the use of waterpipes in enclosed public places and in enclosed workplaces;

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

1. DEFINITIONS

1.1. That for the purposes of this by-law, the following definitions apply:

1.1.1. **"Employee"** means a person who performs any work for, or supplies any services 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.

1.1.2. **"Employer"** means any person who, as the owner, operator, proprietor, manager, contractor, superintendent, supervisor, overseer, receiver or trustee of any activity, business, work, trade, occupation, profession, project or undertaking who has control over, or direction of, or is directly or indirectly responsible for, the employment of a person.

1.1.3. **"Enclosed Public Place"** means the inside of any place, building or structure or vehicle or conveyance or a part of any of them,

- (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.

1.1.4. **"Enclosed Workplace"** means the inside of any place, building or structure or vehicle or conveyance or a part of any of them,

- (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.

1.1.5. **"Municipality"** means The Corporation of the Municipality of Huron Shores.

1.1.6. **"Waterpipe"** means any lighted or heated smoking equipment used to smoke tobacco or non-tobacco substances or any combination thereof in a form that may be inhaled.

2. PROHIBITIONS

2.1. No person shall use a waterpipe in any enclosed public place.

2.2. No person shall use a waterpipe in any enclosed workplace.

2.3. No employer or employee shall permit the use of a waterpipe in an enclosed public place.

2.4. No employer or employee shall provide or supply to any person a waterpipe for use in an enclosed public place.

3. ENFORCEMENT

3.3. This By-law may be enforced by any police officer of the Ontario Provincial Police, or employee or class of employee of Algoma Public Health 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.

4. EXCEPTIONS

4.1. This By-law does not apply to any portion of a public road allowance.

5. OFFENCES

5.1. Any person who contravenes any provision of this by-law is guilty of an offence and is liable to the penalty imposed by applicable law, which is recoverable pursuant to the *Provincial Offences Act, R.S.O. 1990*.

6. VALIDITY

6.1. In the event any provision, or portion thereof, of this by-law (including all schedules) is found by a court of competent jurisdiction, to be *ultra vires*, such provision or part thereof shall be deemed to be severed and the remaining portion of such provisions and all other provisions of this by-law (including all schedules) shall remain in full force and effect.

7. SHORT TITLE

7.1. This By-law may be cited as the "Waterpipe By-law".

8. EFFECTIVE DATE

8.1 This By-law shall come into force and effect upon the day of passing thereof.

Read a first, second and third time and passed in open Council this 23rd day of April, 2014.

MAYOR – L.C. (Gil) Reeves

CLERK - Deborah Tonelli