

The Corporation of the Town of Tecumseh

By-Law Number 2014-060

Being a by-law to amend By-Law 2014-60, a by-law to prohibit Smoking and Vaping in the Town of Tecumseh

Whereas Council at its meetings on May 14, 2002 and July 8, 2014, passed By-Laws 2022-46 a by-law to regulate Smoking in Public Places in the Town of Tecumseh, 2002-47 a by-law to regulate Smoking in workplaces in the Town of Tecumseh and 2014-60, a by-law to prohibit Smoking and the Use of Smokeless Tobacco in all public parks, sports fields and outdoor recreation facilities and within nine (9) metres of a Transit top or any entrance of any building or structure under the control, supervision, ownership and/or operation of The Corporation of the Town of Tecumseh (“Town”);

And Whereas the Council has the authority to pass by-laws prohibiting or regulating the Smoking of tobacco in Public Places within the Municipality pursuant to Section 115 of the Municipal Act, S.O. 2001, c.25 (“Municipal Act”);

And Whereas the *Smoke-Free Ontario Act, 2017, S.O.c.26, as amended*, prohibits Smoking and Vaping in indoor or public spaces throughout the Province of Ontario subject to certain limited exceptions;

And Whereas it has been determined that second-hand Smoke and vapour aerosols from tobacco and Cannabis are a health hazard and public nuisance for many of the inhabitants of and visitors to the Town;

And Whereas Smoke and Vape-free policy interventions are effective mechanisms to reduce exposure to Smoke and vapour aerosols, prevent initiation of Smoking, Vaping, and other substance use, encourage cessation of Smoking and Vaping, support those who have recently quitters and contribute to the de-normalization of tobacco and Cannabis use;

And Whereas Section 426(1) of the Municipal Act provides that no person shall hinder or obstruct, or attempt to hinder or obstruct any person who is exercising a power or performing a duty under this Act or a by-law passed under this Act and that any person who contravenes subsection (1) is guilty of an offence;

And Whereas Section 434.1 of the Municipal Act, authorizes a Municipality to require persons to pay an administrative penalty if the Municipality is satisfied that the person has failed to comply with a Municipal by-law passed, subject to conditions as the municipality considers appropriate;

And Whereas Section 434.2 of the Municipal Act provides that administrative penalty imposed by a Municipality on a person constitutes a debt of the person to the Municipality and, if not paid within 15 days after the day it becomes due and payable, may be added to a tax roll and collected in the same manner as municipal taxes;

And Whereas Section 446(1) of the Municipal Act states that if a Municipality has the authority under this or any other Act or under a by-law under this or any other Act to direct or require a person to do a matter or thing, the Municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense;

And Whereas Section 446(3) of the Municipal Act states that the Municipality may recover the costs of doing a matter or thing under subsection (1) from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

And Whereas pursuant to the Municipal Act the powers of the Municipality shall be exercised by by-law.

Now Therefore the Council of The Corporation of The Town of Tecumseh enacts as follows:

Section 1 - Definitions

- 1.1 **“Council”** means the elected Council of The Corporation of the Town of Tecumseh
- 1.2 **“Municipality”** means The Corporation of the Town of Tecumseh;
- 1.3 **“Officer”** means any Officer referred to in Section 7 of this by-law;
- 1.4 **“Parking Lots”** means those areas at parks, sports fields or recreational facilities permanently designated for the parking of vehicles;
- 1.5 **“Cannabis”** shall have the same meaning as in subsection 2(1) of the *Cannabis Act, 2018, c.16*;
- 1.6 **“E-Substance”** means a substance that is manufactured or sold to be used in an Electronic Cigarette, whether or not the substance contains nicotine;
- 1.7 **“Enclosed Public Place”** means the inside of any place, building, structure, or vehicle or conveyance, or a part of any of them, that is covered by a roof and to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry;
- 1.8 **“Electronic Cigarette or e-cigarette”** 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 a user of the device directly through the mouth or nose, whether or not the vapour contains nicotine;
- 1.9 **“Enclosed Workplace”** shall mean the inside of any place, building, structure, or vehicle or conveyance, or any part thereof, that is covered by a roof, in which employees work or frequent during the course of their employment whether or not they are acting in the course of their employment at the time, but does not include a place or room used primarily as a private self-contained dwelling;

- 1.10 **“Emerging Nicotine Products”** means any other tobacco or Cannabis products not expressly referenced herein but are available on the market for public consumption;
- 1.11 **“Patio”** means an outdoor area where: the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry, or that is worked in or frequented by Employee(s) during the course of their employment, whether or not they are acting in the course of their employment at the time; and where food or drink may be served or sold or offered for consumption, or the area is part of or operated in conjunction with an area where food or drink may be served, sold or offered;
- 1.12 **“Shisha”** is a blend of herbs, with or without tobacco, that is smoked in a waterpipe;
- 1.13 **“Smoking product”** means 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 limited to tobacco, non-tobacco herbal Shisha, Cannabis or any other substance.
- 1.14 **“Vape” or “Vaping”** means inhaling or exhaling vapour from an Electronic Cigarette; or holding or otherwise having control of an activated Electronic Cigarette;
- 1.15 **“Water pipe”** means a device, whether called a Water Pipe, hookah or any other name, that burns or heats a Smoking product, with which the vapour, smoke or gases may pass through liquid prior to being inhaled, and excludes an Electronic Cigarette as defined under the *Smoke-Free Ontario Act, 2017*.
- 1.16 **“Public Place”** shall mean the parks, sports fields, and recreational facilities, or Enclosed Public Space whether or not a No Smoking Sign is posted; and/or the inside of any place, building, structure, or vehicle or conveyance, or any part thereof, that is covered by a roof and to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry. For the purposes of this by-law, every place pursuant to Section 12 (2) of the *Smoke Free Ontario Act* will be included in this definition;
- 1.17 **“Smoke” or “Smoking”** means to hold, or otherwise have control over any lighted tobacco, lighted Cannabis, or any other lighted substance that produces vapour, smoke, or gases that may be inhaled or exhaled, and includes use of a cigarette, pipe, Water Pipe, hookah, e-cigarette or any other Smoking equipment.
- 1.18 **“Transit Stop”** means the points, designated by a sign, at which the Tecumseh Transit Bus stops to allow passengers to board or disembark; and
- 1.19 **“Use of Smokeless Tobacco”** means the use of chew, plugs, snus or snuff.

Section 2 - Prohibition

- 2.1 No person shall engage in Smoking, Vaping, use of Cannabis, Use of Smokeless Tobacco, or Use of Smoking Products or Emerging Nicotine Products in an Enclosed Public Space, Enclosed Workplace, Public Place, or Patio.
- 2.2 No person shall engage in Smoking, Vaping, use of Cannabis, Use of Smokeless Tobacco, Smoking Products, or use of Emerging Nicotine Products within (20) metre radius of any entrance of any building or structure under the control, ownership, or operation of the Municipality or any Enclosed Workplace.
- 2.3 No person shall engage in Smoking, Vaping, use of Cannabis, Use of Smokeless Tobacco, Smoking Products, or use of emerging nicotine products within (9) metre radius of a Transit Stop.
- 2.4 No person shall litter Smoking Products, Emerging Nicotine Products including any packaging, equipment used for Smoking, Vaping or Cannabis in an Enclosed Public Space, Enclosed Workplace, Public Place, Patio or Transit Stop.

Section 3 - Obstruction

- 3.1 No person shall hinder or obstruct an Officer in the enforcement of this by-law

Section 4 - Penalty

- 4.1 Every person who contravenes any provision of this by-law is guilty of an offence
- 4.2 Every Person who is convicted of an offence under this by-law is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, *Chapter P.33*.
- 4.3 Every person who contravenes any of the provisions of this by-law is guilty of an offence, and upon conviction shall pay:
 - 4.3.1 a minimum fine of \$250 and a maximum fine of \$400 for a first offence;
 - 4.3.2 a minimum fine of \$500 and a maximum fine of \$1000 for each subsequent offence.”
- 4.4 Where a person has been convicted of an offence under this by-law,
 - 4.4.1 the Ontario Court of Justice or
 - 4.4.2 any court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted directed towards the continuation or repetition of the offence.

Section 5 - Exemptions

Traditional Tobacco Use

- 5.1 This By-Law does not apply to traditional and/or sacred tobacco that is used and kept sacred by Indigenous Communities for ceremonial purposes.

Section 6 - Administrative Penalties

- 6.1 As an alternative to the laying a charge under the *Provincial Offences Act* for any breach of any provision of this By-law, an Officer, may issue an Administrative Penalty to the Person who has contravened this By-law provided the authority for the Municipality to issue Administrative penalties has been granted by municipal by-law.
- 6.2 A By-Law Enforcement Officer has the discretion to either proceed by way of an Administrative Penalty or a charge laid under the *Provincial Offences Act*. If an Administrative Penalty is issued to a Person for a contravention of this By-law, no charge shall be laid against that same Person for the same contravention.
- 6.3 The amount of the Administrative Penalty for a contravention of a provision of this By-law is fixed as set out in an Administrative Penalty By-law of the Municipality, as amended from time to time, or any successor by-law.
- 6.4 A Person who is issued an Administrative Penalty shall be subject to the procedures as provided for in an Administrative Penalty By-law of the Municipality, as amended from time to time, or any successor by-law.
- 6.5 An Administrative Penalty imposed on a Person pursuant to this By-law this is not paid within fifteen (15) days after the day it becomes due and payable, constitutes a debt of the Person to the Municipality and may be added to a municipal tax roll and collected in the same manner as municipal taxes.

Section 7 – Collection of Unpaid Fines

- 7.1 Where a fine is in default, the Municipality may proceed with civil enforcement against the Person upon whom the fine has been imposed, pursuant to the *Provincial Offences Act*.
- 7.2 The Municipality may make a request to the treasurer of a local Municipality to add any part of a fine that is in default to the tax roll for any property in the local Municipality for which all the Owners are responsible for paying the fine and collect it in the same manner as municipal taxes.”

Section 8 - Enforcement

- 8.1 This by-law may be enforced by any Municipal By-law Officer, Police Officer, Provincial Offence Officer designated under the *Smoke-Free Ontario Act* from the Windsor-Essex County Health Unit or any other person appointed by Council to enforce the By-laws of the Municipality.

Section 9 - Conflicts

9.1 If a provision of this by-law conflicts with an Act or Regulation, the provision that is most restrictive of the Smoking of Tobacco shall prevail.

Section 10 - Severability

10.1 If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, then the remainder of this by-law shall be valid and shall remain in force.

Section 11 - Effective Date

11.1 This by-law shall come into force and take effect on January 1, 2015.

Section 12 - Short Title

12.1 This by-law may be cited as the Smoking and Vaping By-Law.

Read a first, second, third time and finally passed this 12th day of May, 2026.



2026-05-28

Gary McNamara, Mayor



2026-05-27

Robert Auger, Clerk