

**BUFFALO POINT FIRST NATION
BY-LAW NUMBER 2006-1**

**BEING A BY-LAW OF BUFFALO POINT FIRST NATION
TO REGULATE SMOKING IN PUBLIC PLACES**

PREAMBLE:

Being a By-Law of the Buffalo Point First Nation to regulate smoking on the Buffalo Point First Nation Indian Reserve No. 36.

Whereas Paragraph 81(1)(a) of the *Indian Act* RSC 1985 Chapter 1-5 authorizes the Buffalo Point First Nation to enact by-laws to provide for the health of residents on the reserve and to prevent the spreading of contagious and infectious diseases;

And where as the Council of the Buffalo Point First Nation has determined that tobacco Smoke is a health hazard, is a nuisance to or detriment to persons, and that is necessary to regulate the health hazard and safety, health and wellbeing of both residents and visitors;

Now therefore the Council of the Buffalo Point First Nation duly assembled enacts this By-Law as follows:

1. **TITLE:**

This By-Law shall be known as the "Smoking By-Law".

DEFINITIONS:

2. **IN THIS BY-LAW:**

"Enclosed Public Place" means a place that is normally open to members of the public and located in an enclosed area, including but without restricting the generality of the foregoing,

- a) Any part of
 - i) An office building; or
 - ii) A retail store or other commercial establishment, that is normally open to members of the public.
- b) Any part of a health care facility that is normally open to patients or members of the public.
- c) Any part of a day care centre or nursery school that is normally open to the children or members of the public.

- d) Any part of an educational institution or educational facility that is Normally open to students or members of the public.
 - e) Any part of a restaurant, whether or not the restaurant is a licensed premises or a portion of licensed premises, that is normally open to members of the public.
 - f) In the case of licensed premises that are not and do not contain a Restaurant, any part of the licensed premises that is normally open to members of the public.
 - g) In the case of licensed premises containing a restaurant, any part of the licensed premises other than the restaurant portion that is normally open to members of the public; and
-
- h) Any motor vehicle used for the commercial transportation of passengers.

“Health Care Facility” means a place where a person may receive a medical examination, treatment or case, and includes a hospital, clinic and practitioner’s office.

“Licensed Premises” means a licensed premises as defined in the Liquor Control Act.

“Proprietor” means the owner or operator of an enclosed public place, and includes a person who carries on or manages the activities carried on in an enclosed public place.

“Smoking” means an act of inhaling or exhaling the smoke from a cigarette, cigar or pipe, and including having control of a lighted cigarette, cigar, pipe or other equipment used for smoking tobacco.

“Smoking Area” means an area marked and identifiable by a sign indicating that smoking is permitted in that area.

3. **NO SMOKING IN PUBLIC PLACES:**

Subject to Section 4, no person shall smoke in an enclosed public place.

4. **DESIGNATED SMOKING AREAS:**

- 1) Subject to Section 3 and 5, a proprietor may designate a smoking area within an enclosed public place.
- 2) The size of any smoking area designated under Subsection (1) for a restaurant whether or not the restaurant is a licensed premises shall not exceed 50% of the total seating area.

SUBSECTION 4(1) DOES NOT APPLY TO ANY:

- a) Day Care Centre or Nursery School
- b) Elementary School or Secondary School
- c) Instructional Facility other than a Post-Secondary Educational
- d) Retail Store or Shopping Mall
- e) Banking Institution
- f) Administration/Government Bldg

5. **DUTIES OF PROPRIETOR:**

A Proprietor of an enclosed public place shall post signs to indicate where smoking is prohibited or permitted in the enclosed public place. A Proprietor of an enclosed public space shall ensure that sufficient ashtrays or similar receptacles are placed in any designated area in which smoking is permitted pursuant to this By-law.

6. **CIGARETTE SALES TO MINORS:**

No retailer shall knowingly sell or give any cigarettes, cigars or tobacco, or any cigarette or tobacco products, to a person who is under the age of 18 years.

7. **ELEVATING DEVICES, STAIRWAYS AND STAIRWELLS:**

No person shall smoke in an elevator or on an escalator in any building or part thereof, nor shall any person smoke while on a stairway or in a stairwell within any building or part thereof.

8. **FIRST NATION:**

No person shall smoke in any area of a First Nation Office located on the Buffalo Point First Nation Indian Reserve other than an area specifically designated as a smoking area.

9. **WAITING AREAS:**

No person shall smoke in any portion of a waiting area which has been designated as a smoking area by the proprietor. Such a waiting area must be of sufficient size and configuration that an effective separation of smoking and non-smoking areas can be achieved. Such smoking areas must be appropriately signed and must not exceed 50% of the waiting area floor space.

10. **FOOD SERVICE ESTABLISHMENTS:**

Every proprietor of a food service establishment shall ensure that no smoking whatsoever is allowed in any area where food is prepared.

11. **VOLUNTARY DESIGNATION:**

Any proprietor or managing body of a business or institution not covered by the mandatory provisions of this by-law may nevertheless designate any part or all such premises as a "NO SMOKING" area and, if such an area is appropriately signed, will enjoy the force and authority of this by-law.

12. **POSTING SIGNS:**

Every Proprietor or managing body of a business or institution to which the By-law applies shall post signs at the entrances to the facility carrying the Text "SMOKING PERMITTED IN DESIGNATED AREAS ONLY" or similar clear wording, and shall post such designated areas with a sufficient number of signs as prescribed hereinafter which signs shall be clearly discernible by persons within the place or area to which the sign relates.

13. **SIGNS TO BE IN ACCORDANCE WITH SECTION 13 SHALL CARRY THE TEXT AS FOLLOWS:**

- a) For areas where smoking is permitted: “SMOKING PERMITTED IN THIS AREA” or similar clearly understandable language.
- b) For areas where smoking is not permitted: “NO SMOKING” or “NO SMOKING AREA”, or similar clearly understandable language.

The signs referred to in this section shall consist of two contrasting colours.

14. Notwithstanding Sections 13 and 14 a graphic symbol, copies of which are Attached hereto and marked as Schedule “A” may be used either alone or In conjunction with signs in accordance with Sections 13 and 14 to indicate “SMOKING” and/or “NON-SMOKING” areas. The use of any other “SMOKING” or “NO-SMOKING” graphic symbol is allowed so long as such symbol is clearly understandable.

15. **ENFORCEMENT:**

Upon receipt of a complaint pursuant to the provisions of this by-law, the Council of the Buffalo Point First Nation or it’s appointed representative shall investigate such complaint and enforce the applicable provisions of the by-law.

16. **OFFENCE AND PENALTY:**

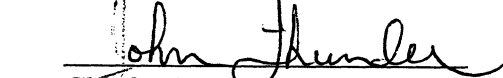
- 1) Every person who contravenes a provision of Section 7 of this by-law is guilty of an offense and liable on summary conviction to a fine of not more that \$1,000.00 for each offense.
- 2) Every person who contravenes a provision of this by-law other than Section 7 is guilty of an offense and liable on summary conviction to a fine or not more than \$100.00 for the first offense and not more than \$500.00 for each subsequent offense.

17. **SEVERABILITY:**


A decision of a court that one or more provisions of this by-law are invalid In whole or in part does not affect the validity, effectiveness, or Enforceability of the other provisions or parts of the provisions of this by-law.

THIS BY-LAW IS HEREBY APPROVED AND ADOPTED AT A DULY CONVENEED MEETING OF THE COUNCIL OF BUFFALO POINT FIRST NATION THIS 26th DAY OF September, 2006.

Voting in favor of the By-Law are the following members of the Council:



Chief John Thunder



Councilor Jim Thunder

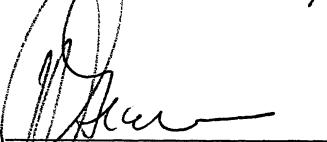
being a majority of those members of Council of the Buffalo Point First Nation present at the aforesaid meeting of the Council.

The quorum of the Council is 2 members.


The number of members of the Council present at the meeting: 2

I, Chief John Thunder, Chief/Councilor of the Buffalo Point First Nation, do Hereby certify that a true copy of the foregoing By-Law was **mailed** to the Minister of Indian Affairs and Northern Development at the Manitoba Region office of the department pursuant to subsection 82(1) of the *Indian Act*,

This 27th day of September, 2006.



Witness



Chief John Thunder