

TSUU T'INA NATION

SMOKING BYLAW 2007

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SMOKING BYLAW

Whereas the Tsuu T'ina Nation has aboriginal and treaty rights and other rights and freedoms that are recognized and affirmed by the Constitution of Canada;

And whereas Chief and Council, as the elected government of the Nation, has jurisdiction to pass laws for the good government of Tsuu T'ina members, lands and resources;

And whereas Chief and Council consider it in the best interests of the Nation to regulate smoking on Tsuu T'ina reserve lands pursuant to Section 81 of the *Indian Act* and the Tsuu T'ina Nation's inherent and Treaty rights, for the purpose of regulating the use of such lands and for the purpose of protecting and promoting the health, safety and welfare of residents on reserve;

NOW THEREFORE THE COUNCIL OF THE TSUU T'INA NATION makes the following bylaw:

1. This bylaw may be cited as the *Tsuu T'ina Nation Smoking Control Bylaw, 2007*.

Definitions

2. In this bylaw:
 - a. "Chief and Council" means the elected Chief and Council of the Tsuu T'ina Nation.
 - b. "designated smoking area" means a smoking area or smoking room designated by Chief and Council;
 - c. "minor" means a person who is under 18 years of age;
 - d. "officer" means any police officer, police constable or other person charged with the duty to preserve and maintain the public peace, and a bylaw officer or any other person appointed by Chief and Council for the purpose of enforcing the provisions of this bylaw;
 - e. "private social function" means a specific social event:
 - i. for which an entire room has been reserved, which is physically separated from areas where smoking is prohibited under this bylaw and to which members of the public do not have access as of right or by express or implied invitation;
 - ii. at which attendance is limited to people who have been specifically invited or

designated by the sponsor; and

- iii. at which seating arrangements are under the control of the sponsor of the event and not of the proprietor of the room,

but does not include:

- iv. events which are held primarily for the purpose of business or for invitees who are in attendance in the course or for the purpose of their employment; or
 - v. an event at which minors are in attendance;
- f. "proprietor" means an employer or other person who, directly or indirectly, controls, governs or directs the activities in the place;
 - g. "public place" means all or any part of a building, structure or other enclosed area to which members of the public have access as of right or by express or implied invitation, but does not include a place at which a private social function is being held;
 - h. "public vehicle" means a bus, taxi or other vehicle that is used to provide transportation services to members of the public;
 - i. "reserve" means lands reserved for the Nation from time to time;
 - j. "smoke" or "smoking" means to smoke, hold or otherwise have control over a lit tobacco product, and includes carrying a lighted cigarette, pipe or cigar or any other lighted smoking equipment;
 - k. "workplace" means all or any part of building, structure or other enclosed area in which employees perform the duties of their employment, whether or not members of the public have access to the building, structure or area as of right or by express or implied invitation, and includes reception areas, corridors, lobbies, stairwells, elevators, eating areas, washrooms, lounges, storage areas, laundry rooms, enclosed parking garages and work vehicles; and
 - l. "work vehicle" means a vehicle owned or leased by an employer and used by employees in the course of their employment.

Smoking Prohibited

3. Except as otherwise provided in this bylaw, no person shall smoke in the following places:
 - a. a public place;
 - b. a workplace;
 - c. a public vehicle.

Exclusions

4. Nothing in this bylaw affects the rights of Nation members to carry out traditional spiritual or cultural practices or ceremonies.
5. Subject to section 6, this bylaw does not apply to a building, structure or vehicle, or any part thereof, that is used as a private residence.
6. Notwithstanding section 5, that part of a private residence that is:
 - a. used to operate a home business; and
 - b. is used by employees who work in the residence, but do not live in the residence, in the course of their employmentis a workplace for purposes of this bylaw.

Exceptions

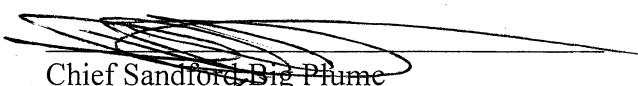
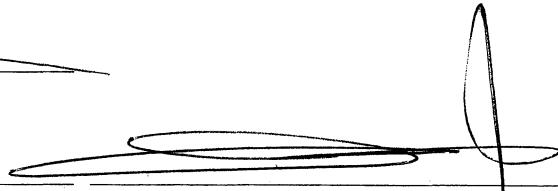

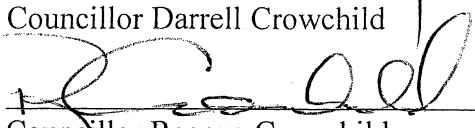
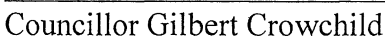

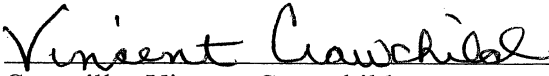
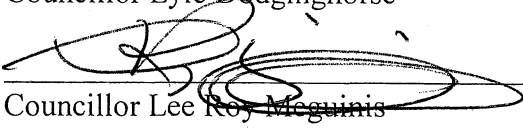


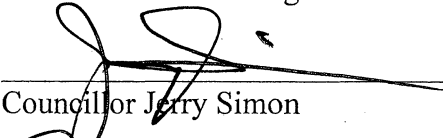
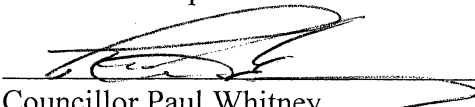
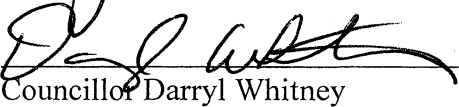
7. Chief and Council may, on application by a proprietor of a public place or workplace, issue a permit to allow smoking in a designated smoking area, which area may be all or any part of that public place or workplace.
8. An application pursuant to section 7:
 - a. shall be in such form as may be specified by Chief and Council; and
 - b. shall be accompanied by such application fee as may be specified by Chief and Council.
9. Chief and Council may, at its sole discretion:
 - a. refuse to grant a permit;

- b. require the applicant to provide further information in or in support of the application as may be deemed necessary by Chief and Council; or
 - c. issue a permit in such form and containing such conditions as may be determined by Chief and Council, including conditions as to the physical separation of the designated smoking area from areas where smoking is prohibited under this bylaw and the maintenance of ventilation systems.
10. A person shall be entitled to smoke in a designated smoking area, and the proprietor shall be entitled to permit smoking in a designated smoking area, provided that the proprietor of that public place or workplace:
- a. ensures that signs are posted and conspicuously displayed indicating that minors are not permitted to enter or be in the place where smoking is permitted; and
 - b. complies with any other conditions in the permit.
11. The proprietor of a place where smoking is prohibited under this bylaw must not permit a person to smoke in that place.
12. The proprietor of a public place or workplace must not permit persons under the age of 18 years to enter or be in a designated smoking area.
13. Chief and Council in its sole discretion may revoke a permit granted pursuant to section 8 on 90 days' written notice to the proprietor of the public place or workplace to which the permit applies.

Penalties

14. Any person who contravenes any provision of this bylaw commits an offence, and is liable on summary conviction to a fine not exceeding \$1,000 and in default of payment of any fine imposed, to a period in imprisonment not exceeding thirty (30) days.

Voting in favour of the bylaw are the following members of the Council:

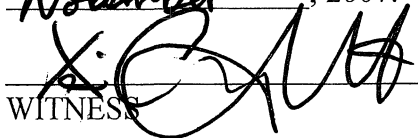
 Chief Sandford Big Plume	 Councillor Darrell Crowchild
 Councillor Alvin Big Crow	 Councillor Regena Crowchild
 Councillor Gilbert Crowchild	 Councillor Lyle Dodginghorse
 Councillor Vincent Crowchild	 Councillor Lee Roy Meguinis
 Councillor Trevas Meguinis	 Councillor Stephen Runner
 Councillor Jerry Simon	 Councillor Paul Whitney
 Councillor Darryl Whitney	

being the majority of those members of the Council of the Tsuu T'ina Nation present at the aforesaid meeting of the Council.

The quorum of the Council is seven (7) members.

Number of members of the Council present at the meeting: 10

I, Chief Sandford Big Plume of the Tsuu T'ina Nation, do hereby certify that a true copy of the foregoing bylaw was mailed to the Minister of Indian Affairs and Northern Development at the Regional office pursuant to subsection 82(1) of the *Indian Act*, this 13 day of November, 2007.


WITNESS


CHIEF SANDFORD BIG PLUME