

SMOKING BYLAW

BYLAW NO. 8

of the Stoney Nakoda Nations

WHEREAS the Stoney Nakoda Nations have aboriginal and treaty rights and other rights and freedoms that are recognized and affirmed by the Constitution of Canada;

AND WHEREAS Chiefs and Council, as the elected government of the Nations, has jurisdiction to pass laws for the good government of Stoney Nakoda members, lands and resources;

AND WHEREAS Chiefs and Council consider it in the best interest of the Nations to regulate smoking on the Stoney Indian Reserves pursuant to Section 81(1)(a), (q) and (r) of the *Indian Act*, R.S.C. 1985, c.1-5 and the Stoney Nakoda Nations' inherent and Treaty rights, for the purpose of regulating the use of such lands and for the purpose of protecting and promoting health, safety and welfare of the residents of and visitors to the Stoney Indian Reserves;

NOW THEREFORE the Chiefs and Council of the Stoney Nakoda Nations hereby makes the following bylaw:

Short Title

1. This bylaw may be cited as the "*Stoney Nakoda Smoking By-Law*".

Interpretation

2. In this bylaw,

"*Council*" means the elected Chiefs and Council of the Stoney Nakoda Nations;

"*designated smoking area*" means a smoking area or smoking room designated by Council;

"*minor*" means a person who is under 18 years of age;

"*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 the Council for the purpose of enforcing the provisions of this bylaw;

“private social function” means a specific social event:

- (i) for which an entire room or hall 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; and
- (ii) at which attendance is limited to people who have been specifically invited or designated by the sponsor of the event; and
- (iii) at which the 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 purposes 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;

“proprietor” means an employer or other person who, directly or indirectly, controls, governs or directs the activities in the place;

“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;

“public vehicle” means a bus, taxi or other vehicle that is used to provide transportation services to members of the public;

“Reserve” means the reserve(s) of the Stoney Nakoda and includes Reserve No. 142, 143, 144, 142B, 144A and 216 and any other lands reserved for the Stoney Nakada Nations from time to time;

“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;

“workplace” means all or any part of a 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

“*work vehicle*” means a vehicle owned or leased by an employer and used by employees in the course of their employment.

Smoking Prohibition

3. Except as otherwise provided in this bylaw, no person shall smoke in the following places:
 - (a) public place;
 - (b) a workplace;
 - (c) a public vehicle.
4. The proprietor of a place where smoking is prohibited under this bylaw must not permit a person to smoke in that place.

Exclusions

5. Nothing in this bylaw affects the rights of Stoney Nakoda members to carry out traditional, spiritual or cultural practices or ceremonies any where on the Reserve.
6. This bylaw does not apply to a building, structure or vehicle, or any part thereof, that is used as a private residence.

Exceptions

7. 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 such form as may be specified by Council; and
 - (b) shall be accompanied by such application fee as may be specified by Council.
9. 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 Council; or

- (c) issue a permit in such form and containing such conditions as may be determined by 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 and may 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 public place or workplace must not permit persons under the age of 18 years to enter or be in a designated smoking area.
 12. Council, in its sole discretion, may revoke a permit granted under section 9(c) of this bylaw on 90 days' written notice to the proprietor of the public place or workplace to which the permit applies.

Penalties

13. Any person who contravenes any provision of this bylaw commits an offence and is liable on summary conviction to a fine of not more than one thousand dollars (\$1,000.00) or to imprisonment for a term not exceeding thirty (30) days, or to both a fine and imprisonment.


Bylaw Review

14. Council, in its sole discretion, may review this bylaw every five years or as Council deems necessary.

READ a first time this 28th day of January, A.D. 2008.

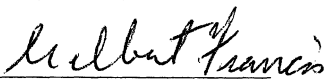
READ a second time this 28th day of January, A.D. 2008.

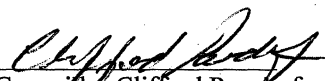
READ a third time and done and passed at a duly convened meeting of the Chiefs and Council of the Stoney Nakoda Nations this 28th day of January, A.D. 2008.


Chief Darcy Dixon


Chief Bruce Labelle


Chief Clifford Poucette


Councillor Gilbert Francis

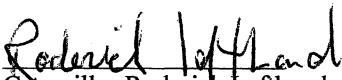

Councillor Clifford Powderface

Councillor Tater House

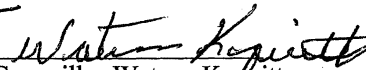

Councillor David Bearspaw Jr.


Councillor Henry Holloway


Councillor Hank Snow


Councillor Roderick Lefthand


Councillor Homer Holloway


Councillor Watson Kaquitts

Councillor Gordon Wildman

Councillor Charles Mark

Councillor Charlie Abraham