

## **BYLAW No. 2006.1 of the Whitefish River First Nation**

### **A By-law for the Minimization of the Health Risk Caused by Second-Hand Smoke to Non-Smokers**

**Whereas**, the Chief and Council of Whitefish River First Nation recognizes the alarming rates of smoking that are affecting all stages of life in the community of Whitefish River First Nation; and

**Whereas**, the tobacco misuse among the younger population is a concern for the health of our future children/youth. In addition, we recognize that there are health concerns among the adult population and the overall impact of smoking related illnesses. Smoking continues to be one of the major preventable causes of death and illnesses among our nation.

**Whereas**, pursuant to section 81.(1)(a) of the *Indian Act*, the council of a band may pass by-laws for band purposes providing for the health of residents on a reserve; and

**Whereas**, pursuant to section 81.(1)(q) of the *Indian Act*, the council of a band may pass by-laws for band purposes with respect to any matter arising out of or ancillary to the exercise of powers under this section; and

**Whereas**, pursuant to section 81.(1)(r) of the *Indian Act*, the council of a band may pass by-laws for band purposes including the imposition on summary conviction of a fine for violation of a by-law made under this section; and

**Therefore, the Council of the Whitefish River First Nation Band hereby makes the following by-law a Smoking By-law.**

#### **SHORT TITLE**

1. This by-law may be cited as the “Whitefish River First Nation Smoking By-law;”
2. **Definitions:** In this by-law, unless the context otherwise requires:
  - (a) “**Employer**” includes any person who as the owner, proprietor, manager, superintendent or overseer or any activity, business, work, trade occupation or profession has control over or direction of, or is directly or indirectly responsible for the employment of a person therein, and where the context so requires, includes the Council;
  - (b) “**First Nation**” means the Whitefish River First Nation;
  - (c) “**Place of public assembly**” means the whole or part of an indoor area to which the public has access by right or by invitation, express or implicate whether by payment or not, but does not include a place when used exclusively by one or more individuals for a private gathering or personal purpose;
  - (d) “**private living accommodation**” means an area of a building used as a residence for private habitation by one or more individuals, but does not include any portion of such area used as a workplace;
  - (e) “**proprietor**” means the owner, or any other person in charge or in control of a place of business;
  - (f) “**workplace**” means any enclosed area of a building or structure to which an employee works and includes, washrooms, corridors, lounges, eating areas, hallways, stairways, amenity areas, lobbies, laundry rooms and parking garages utilized by an employee;
  - (g) “**smoke**” or “**smoking**” means to smoke, includes the carrying or to hold a lighted cigarette, and or a tobacco product;
  - (h) “**traditional medicines**” means sweet grass, cedar, sage and tobacco designated for use in a traditional manner for sacred ceremonial purposes, used in combination or alone;

- (i) **“enforcement officer”** means any police officer, police constable or other person in charge with the duty to preserve and maintain the public peace, and a By-Law Enforcement Officer and any person appointed by the Council for the purpose of enforcing the provisions of this by-law;
- (j) **“Place of employment”** means any enclosed area of a building or structure in which an employee works and includes any area used exclusively by employees, but does not include parts of structures or buildings otherwise provided for within this by-law;
- (k) **“Special Occasion Permit”** means a permit issued by the Liquor Control Board of Ontario for special events and subjected to policy restrictions.
- (l) **“Licensed Gaming Event”** means a lottery scheme as defined under the Criminal Code of Canada which takes place inside a building or part thereof;
- (m) **“Sign” or “Signs”** means a sign as prescribed by subsection 8;

### **PART I – PROHIBITIONS**

3. The following are designated public places for the purpose of this by-law

- Administration Building
- Health Centre
- Community Centre (Special Occasion Permits & Licensed Gaming Event)
- Elders Centre
- Day Care
- Maple Heights Triplex Buildings (entrance foyers)
- Fire Hall
- Water Treatment Plant
- Shawanosowe School
- Operations & Maintenance Buildings (old firehall & maintenance buildings)
- Any Band operated structure and/or vehicles owned by Whitefish River First Nation
- Any privately owned vehicles hired by Whitefish River First Nation for Band purposes shall adhere to this By-law

### **PART II – REGULATIONS OF SMOKING**

4.0 No person shall smoke in any designated public places in accordance with section 3.

4.1 Responsibilities of Proprietor: No proprietor of a place where smoking is prohibited by this by-law shall permit smoking in that place. No proprietor of a place where smoking is prohibited by this by-law shall permit ashtrays to be placed or to remain in that place.

**Living Accommodations Exempt:** The provisions of this part do not apply to an area of a building used exclusively as a private living accommodation.

### **PART III – EXCEPTIONS AND EXEMPTIONS**

5. Workplace Exceptions: Subject to the provisions of this section, the proprietor of a place where smoking is otherwise prohibited by this by-law may permit smoking in an area of that place being used as a workplace, but only will be for workers in a designated smoking area. If smoking is permitted pursuant to this section, the proprietor shall ensure that:

- (a) all designated smoking areas prevent smoke, by ventilation or physical barriers, from entering any place where smoking is prohibited;
- (b) the combined area of all designated smoking areas does not exceed 50% of the total floor area of the workplace;
- (c) designated smoking areas do not include any common areas of the workplace including, but not limited to, waiting rooms, meeting rooms, eating areas, cloak rooms, hallways, washrooms and other such areas;
- (d) designated smoking areas do not include any area which a worker must use for work purposes;
- (e) signage is clearly and prominently posted at each entrance to a designated smoking area indicating that smoking is permitted inside; and

- (f) no person under 19 years of age is allowed to enter, or remain in, a designated smoking area.

**Workplace Exemption:** This by-law shall not apply to, (a) apart of a workplace that is used as private residence; or (b) a workplace located in a dwelling where the only employees of that workplace are persons who live in the dwelling.

**Traditional Medicines Exemption:** This by-law shall not apply to the use of traditional medicines in a public building when it is being used for the express purpose conducting a cultural ceremony (pipe ceremony, smudging, etc.)

#### **PART IV – OUTDOOR SMOKING AREAS**

- 6. If an area outside a public building or workplace is to be designated as an outdoor smoking area, the following criteria must be adhered to;
  - (a) patrons entering an establishment must have an entrance separate from the outdoor smoking area, so as not to necessitate their having to travel through the outdoor smoking area or smoke contaminated air to gain access to the premises; and
  - (b) entry to the outdoor smoking area must be from within the establishment; and
  - (c) doorways leading from the outdoor smoking area back into the establishment must be clearly marked with a no smoking sign to advise that the interior of the establishment is smoke free; and
  - (d) must be at least 9 metres away from the buildings.

#### **PENALTIES:**

- 7. (a) Any person who contravenes any of the provisions of this by-law commits an offence and is liable on summary conviction to a fine of not more than \$250.00 (or imprisonment for a term of seven days, or to both a fine and imprisonment).
- (b) Any proprietor who fails or neglects to perform the duties imposed on him by any of the provisions of this by-law commits an offence and is liable on summary conviction to a fine of not more than \$250.00 or to imprisonment of 7 days, or to both fine and imprisonment.

#### **SIGNAGE:**

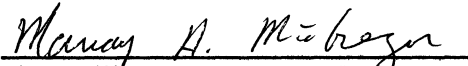
- 8. Where, under any sections of this by-law, a sign is to be in accordance with this subsection, such sign shall;
  - (a) Carry the text, “NO SMOKING”, in capital letters;
  - (b) Consist of two (2) contrasting colors, or if lettering is to be applied directly to a surface or to be mounted on a clear panel, the lettering shall contrast to the background color;
  - (c) Have letter heights that render the sign clearly visible and readable, based on the maximum viewing distance (in direct line of sight) in the area where smoking is prohibited.
  - (d) Any such symbol shall be on a white background with the circle and the interdictory stroke in red, with a cigarette, letters and figures in black, and provided that the diameter of the circle is at least fifteen (15) cm.
  - (e) Signage indicating that you must be 9 meters away from the buildings.

**This By-Law is hereby made** at a duly convened meeting of the Chief and Council of the Whitefish River First Nation dated this 26<sup>th</sup> day of June 2006.


**That the by-law entitled WHITEFISH RIVER FIRST NATION SMOKING BY-LAW be made as By-law No. 2006.1 of the Whitefish River First Nation Band.**

**VOTING IN FAVOUR OF THE BY-LAW NO. 2006.1 ARE THE FOLLOWING MEMBERS OF BAND COUNCIL:**

  
Chief Franklin Paibomsai


  
Councillor – Murray McGregor Sr.

  
Councillor – John Recollet

  
Councillor – Rodney Nahwegahbow

  
Councillor – Gerald McGregor

  
Councillor – George Francis

  
Councillor – Victor Pitawanakwat