



**MISTAWASIS FIRST NATION
BY-LAW NO. 2006-07
SMOKING REGULATIONS BY-LAW**

WHEREAS the Council of the Mistawasis First Nation is authorized by Section 81 (1) (a) of the Indian Act, R.S.C. 1985, c.1-5 as amended to make by-laws not inconsistent with such Act or with any regulation made by the Governor in Council or the Minister of Indian Affairs and Northern Development for the purpose of providing for the health of residents on the Reserve and may impose penalties on summary conviction for violation thereof;

WHEREAS the Council of the Mistawasis First Nation desires to make a by-law to provide for the health of the residents on the Reserve by the regulation of smoking on the Reserve.

NOW THEREFORE the Council of the Mistawasis First Nation hereby enacts the following by-law:

SHORT TITLE

1. This by-law may be cited as the "Smoking Regulation By-law"

INTERPRETATION

2. In this by-law, the following words shall have the following meanings:

- (a) "Act" means the Indian Act, R.S.C. 1985, c.1-5 as amended;
- (b) "Band" means the body of Indians known as the "Mistawasis First Nation", being a band within the meaning of Section 2(1) of the Act;
- (c) "Council" means the Chief and Council of the Mistawasis First Nation;
- (d) "Designated Non-Smoking Areas" means an area on the Reserve that has been designated by Resolution of the Council as an area in which smoking is not permitted and which has been marked as such by a Notice and "Designated Non-Smoking Areas" shall have a corresponding meaning;
- (e) "Member" means a member of the "Mistawasis First Nation";
- (f) "Minister" means the Minister of Indian Affairs and Northern Development;
- (g) "Notice" means a written sign in a form approved by Resolution that a particular area on the Reserve has been designated by Resolution as a Designated Non-Smoking Area;
- (h) "Person" means any individual, whether or not he or she is a Member;

- (i) "Public Facility" means any facility, including but not limited to buildings, property, and recreation areas, which are owned, leased or otherwise operated or funded by the band;
- (j) "Reserve" means the Reserve(s) set apart for the use and benefit of the Mistawasis First Nation;
- (k) "Resolution" means a Resolution of the Council;
- (l) "School" means an educational institution, including primary, secondary and post secondary, including vocational and trade institutions;
- (m) "Smoking" means the use for burning tobacco or any other substance the vapour from which is inhaled and exhaled by humans but, for greater clarity, does not include any such activity if such activity is carried on exclusively for traditional Aboriginal culture or spiritual purposes: and "Smoke" shall have a corresponding meaning.

DESIGNATION OF DESIGNATED NON-SMOKING AREAS

3. The Council shall ensure that any Public Facility or business on the Reserve that is not a private dwelling, on and after March 31, 2007, shall be a Designated Non-Smoking Area.

3.1 Every Public Facility and business shall prohibit a person from smoking or holding lighted tobacco in the Designated Non-Smoking Areas.

3.2 Subject to Subsection 3, no person shall smoke or hold lighted tobacco in an enclosed public place to which young persons are ordinarily permitted to access.

3.3 Without limiting the generality of subsection (3.2), no person shall smoke or hold lighted tobacco in the following places or premises:

- (a) any building occupied by a school;
- (b) any facility operated by, or an enclosed place or premises occupied by, a health authority or an affiliate, including a special-care home and community clinic;
- (c) any daycare facility;
- (d) any building or portion of a building occupied by the Band or any of its corporation, boards, commissions or other agencies;
- (e) a public library; or
- (f) any video arcade, and enclosed amusement centre or a theatre.

3.4 Subsection (3.2) and (3.3) do not apply to any portion of a place or premises mentioned in Section 3 that is not included within a Designated Non-Smoking Area.

SIGNAGE

4. Each Designated Non-Smoking Area shall contain a Notice reasonably visible to the occupants of such area to the effect that it is a Designated Non-Smoking Area. For greater clarity, unless such a Notice is visible to the occupants of such area, such area shall be deemed not to be a Designated Non-Smoking Area. As long as such Notice is not visible to the occupants, provided however, that such area shall revert to the status of a Designated Non-Smoking Area without further action of the Council as soon as a Notice is posted conspicuously in such area.

SMOKING IN NON-DESIGNATED SMOKING AREAS

5. No person shall smoke in a Non-Designated Smoking Area and no person shall place an ashtray in a Designated Non-Smoking Area for the use of persons who smoke.
6. The Council may by Resolution appoint a By-law Enforcement Officer and such other persons as may be necessary to enforce the provisions of this By-law and may pay such persons reasonable remuneration. The Council may dismiss the By-law Enforcement Officer and any other appointed persons from their positions for failure to carry out their duties as described in this by-law, or, for been convicted of an employment related offence under the Criminal Code (Canada).

DUTIES OF BY-LAW ENFORCEMENT OFFICER

7. The By-law Enforcement Officer and other persons appointed to assist him or her shall:
 - (a) maintain an up- to-date record of all areas that have been designated as Designated Non-Smoking Area” under the provisions of this by-law;
 - (b) ensure that appropriate signs are posted in a conspicuous manner in all Designated Non-Smoking Areas, attend to the enforcement of the provisions of this by-law and any Resolutions enacted pursuant hereto;
 - (c) report to the Council or those appointed by the Council (as required) on his or her activities under this by-law;
 - (d) the By-law Enforcement Officer may enter any public place or workplace (other than a private residential dwelling) without a warrant or notice for the purpose of determining whether it is in compliance with this by-law;
 - (e) the By-law Enforcement Officer may conduct such examinations, investigations and inquiries as are necessary to determine whether or not there is compliance with this by-law;
 - (f) no person shall hinder, obstruct or interfere with the By-law Enforcement Officer or any other person carrying out the enforcement of this by-law.

OFFENCE

8. (a) Any person who contravenes any provisions of this by-law is guilty of an offence and upon summary conviction is liable to a fine not exceeding \$1,000 or imprisonment for a term not exceeding 30 days, or both, for violation of this by-law.
- (b) The summary conviction procedures of part XXVII of the Criminal Code Canada as amended from time to time, apply to offences under this by-law.

9. **SEVERABILITY**

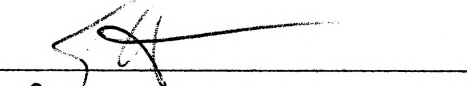
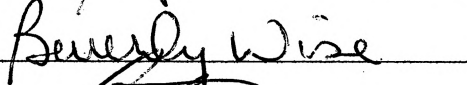
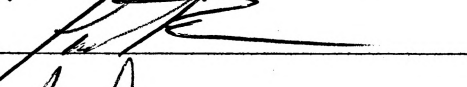
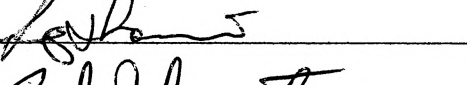
If any section of this By-law or if any part hereof is not plausible by any court of competent jurisdiction to be illegal or beyond the power of the Council to enact, such section or part thereof shall be deemed to be severed. The other sections or parts of this by-law shall be deemed to be separate and independent thereby and to be enacted as such.

10. **EFFECTIVE DATE**

A copy of this by-law shall be forwarded to the Minister as required by Subsection 82 (1) of the Act and shall come into force as provided in Subsection 82 (2) of the Act.

This by-law is hereby passed at a duly convened meeting of the Band Council of the Mistawasis First Nation Indian Band, this 10 day of MAY, 2007.

Voting in favour of this by-law are the following members of the Council:


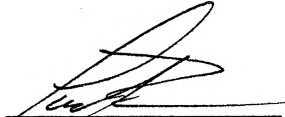
 _____ MEMBER OF COUNCIL
Beverly Wise _____ MEMBER OF COUNCIL
 _____ MEMBER OF COUNCIL
Leah _____ MEMBER OF COUNCIL
Pat Johnstone _____ MEMBER OF COUNCIL
 _____ MEMBER OF COUNCIL
 _____ MEMBER OF COUNCIL

being the majority of those members of the Band Council of the Mistawasis Indian Band present at the aforesaid meeting of the Council.

The quorum of the Band Council is of 4 members.

Number of members of the Band Council present at the meeting: 6.

I, DARYL WATSON Chief/Councillor of the Mistawasis Indian Band, 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 District/Regional/Hull office (as the case may be) pursuant to subsection 82 (1) of the Indian Act, this 10 day of MAY, 2007.

 _____ (Chief/Councillor)
 _____ (Witness)