

THE CORPORATION OF THE TOWN OF FORT SMITH

BY-LAW #728

A BY-LAW OF THE CORPORATION OF THE TOWN OF FORT SMITH, IN THE NORTHWEST TERRITORIES, AMENDING THE SMOKING BY-LAW 701, PURSUANT TO SECTION 148 OF THE OF THE CITIES, TOWNS AND VILLAGES ACT;

WHEREAS, the Council of the Municipal Corporation of the Town of Fort Smith in the Northwest Territories deems it to be in the public interest to amend the Smoking By-Law;

WHEREAS, the *Cities, Towns and Villages Act* empowers Council to protect the public from imminent and serious danger to public health or safety;

NOW THEREFORE the Council of the Town of Fort Smith, at a duly assembled meeting enacts as follows:

1. To amend Bylaw #701, the Smoking Bylaw to permit smoking in designated areas at Town of Fort Smith Recreation facilities.

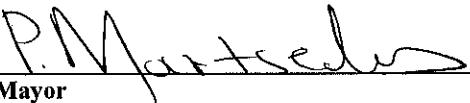
In proximity to the exterior of the front entrance a sign conforming with the specifications set out in the Smoking By-law #701, and bearing the text "Smoking is Permitted Only in a Designated Smoking Area", shall be posted to indicate a designated smoking area at the Recreation and Community Center.

2. This By-Law shall come into effect after third and final reading.


READ A FIRST TIME this 20 day of April, 2004

READ A SECOND TIME this 18 day of May, 2004

READ A THIRD TIME this 22 day of June, 2004



Mayor



Senior Administrative Officer

THE CORPORATION OF THE TOWN OF FORT SMITH

BY-LAW #701

A BY-LAW OF THE CORPORATION OF THE TOWN OF FORT SMITH, IN THE NORTHWEST TERRITORIES, PURSUANT TO SECTION 102 OF THE OF THE CITIES, TOWNS AND VILLAGES ACT R.S.N.W.T. 1998 c. C-8;

PURSUANT TO Section 102 of the Cities, Towns and Villages Act, R.S.N.W.T., 1988 c. C-8 as amended from time to time (hereinafter referred to as the "Cities, Towns and Villages Act").

WHEREAS, The Council of the Corporation of the Town of Fort Smith, in the Northwest Territories, deems it in the public interest to regulate and prohibit smoking in public places;

AND WHEREAS a Council may make by-laws pursuant to Section 102 of the Cities, Towns and Villages Act respecting public health and contagious diseases, and specifically prohibiting smoking in public places,

AND WHEREAS it has been determined that second-hand tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars and pipes) is a health hazard with immediate and long-term negative consequences;

AND WHEREAS it is desirable in the interest of promoting health, safety and welfare of the inhabitants of the Town of Fort Smith and especially its children, to prohibit or regulate smoking or both, in the Town of Fort Smith as hereinafter set out;

AND WHEREAS Town Council intends to prohibit smoking in all enclosed public places where young persons are permitted by July 1, 2003

NOW THEREFORE, The Council of the Town of Fort Smith, at a duly assembled meeting enacts as follows:

SHORT TITLE

1. That this Bylaw be cited as the "Smoking Bylaw"

INTERPRETATION

1. In this bylaw;

- (a) "Arcade" means any building, room or area having token or coin operated table games, electronic games of skill and/or chance, which are provided for the entertainment of patrons;
- (b) "Bingo Hall" means any room or building, which has been licensed by the Town of Fort Smith for use either on a permanent or temporary basis, for the playing of bingo;
- (c) "Casino" means any room or building, which has been licensed by the Town of Fort Smith for use either on a permanent or temporary basis, for gambling;
- (d) "Club" means a social, sporting, community, benevolent or fraternal organization or society, or any branch of it, incorporated by an Act of the Territories or an Act of Canada;

- (e) "Dance Hall" means any place, which is open to the public for licensed and non licensed dance entertainment;
- (f) "Health Care Facility" includes any place in which medical, dental, optical physiotherapy, chiropractic, or other similar health services are provided or arranged;
- (g) "Hospital" means an institution operated for the care of diseased, injured or sick people, and shall include the common public areas of nursing homes, receiving homes, or senior citizen homes;
- (h) "Licensed Beverage Room" means any premises, which have been licensed for the sale of liquor, pursuant to provisions of the Liquor Act, R.S.N.W.T. 1988, c. L-9, as amended, and are primarily intended for the consumption of alcoholic beverages;
- (i) "Non-Smoking Area" means an area, designated by the Proprietor, in which smoking is not permitted.
- (j) "Non-Smoking Establishment" means a Restaurant, Club, Private Recreational Facility, Bingo Hall, Casino or Arcade, in respect of which the Proprietor has designated the entire premises as a Non Smoking Area;
- (k) "Officer" means a person who is appointed in accordance with the Cities, Towns and Villages Act as a Peace Officer to enforce the By-Laws of the Town of Fort Smith, or any Peace Officer who is authorized to enforce the By-Laws of the Town of Fort Smith;
- (l) "Place of Employment" means any indoor place of work other than:
 - (i) a private home which also serves as a place of work; or
 - (ii) a workplace occupied solely by an independent contractor, or only by the partners to a partnership; and
 includes any parts of a retail shop used exclusively by the employees of such premises, but does not include a Reception area;
- (m) "Place of Public Assembly" means a building or structure or portion thereof used for the gathering together of persons for the purpose of education, worship, entertainment, recreation, or amusement, but does not include an Arcade, a Bingo Hall, Pool Hall, Casino, Licensed Beverage Room, Dance Hall, Restaurant, Reception Area or a place where only a Private Social Function is being held;
- (n) "Pool Hall" means any facility where a total of four or more pool or billiard tables are kept for the purposes of providing entertainment or amusement to the public for a fee;
- (o) "Post" means the erection or placing of a sign, and includes the act of keeping the sign conspicuously displayed;
- (p) "Private Social Function" means a special event for which an entire room or hall has been solely reserved;

(q) "Proprietor" means:

- the person who controls, governs or directs the activity carried on within the building, place or premises referred to in this By-law, and includes any person in charge thereof, or any person who controls, governs or directs the activity carried on therein;
 - the owner or driver of a taxi cab;
 - the owner or driver of a public bus or other form of transportation;
 - the owner or driver of a school bus;
 - the governing body of a Hospital, Health Care Facility, school or college;
 - the Municipal Corporation of the Town of Fort Smith.
- (r) "Reception Area" means the public space of an office or other establishment used for the receiving or greeting of customers, clients or other persons dealing with such office or establishment;
- (s) "Restaurant" means every public place where meals are made available to be consumed on the premises, and includes dining lounges, cafeterias, lunch counters and canteens;
- (t) "Retail Shop" means any place or premises, booth or stall where goods are displayed or offered for sale by retail, but does not include a Restaurant or hotel;
- (u) "Service Business" means any business that derives the majority of revenue from the provision of services, and includes, but is not limited to, barber shop, hair salon, real estate office, appliance repair shop, travel agency or laundromat;
- (v) "Service Counter" means an indoor counter at which one or more persons are standing awaiting service of any kind, but does not include a counter or desk where the customer is seated to do business;
- (w) "Service Line" means an indoor line of one or more person standing awaiting service of any kind, and includes, but is not limited to, sales, transactions, provision of information or advice, and the exchange or transfer of money or goods, but does not include a counter or desk where the customer is seated to do business or a service line at a Private Social Function;
- (x) "Smoke" or "Smoking" includes the inhaling, exhaling, burning or carrying of a lighted cigarette, cigar, pipe, or other lighted smoking equipment burning tobacco, or any other organic substance;
- (y) "Smoking Area" means an area, designated by the Proprietor, which has been arranged to restrict smoke, by ventilation and physical barriers from entering into Non-Smoking Areas, in which Smoking is permitted;

(z) "Smoking Establishment" means a Restaurant, Club, Private Recreational Facility, Bingo Hall, Pool Hall, Casino or Arcade, in respect of which the Proprietor has designated any part of the premises as a Smoking Area;

(aa) "Town" means the Municipal Corporation of the Town of Fort Smith, established pursuant to the laws of the Northwest Territories;

(bb) "Young Person" is a person under the age of 18 as defined by the Tobacco Act, S.C. 1997, c.13, s. 2.

PLACES OF PUBLIC ASSEMBLY AND COMMON PUBLIC AREAS

2. No person shall Smoke in a Place of Public Assembly.

3. No person shall Smoke:

- (a) in an elevator, stairway, hallway or a washroom in any building generally open to and accessible by the public;
- (b) in a taxi cab while operating within the Town;
- (c) in a school bus or other form of public transportation;
- (d) while standing in, or near, a Service Line or Service Counter in any building generally open to, and accessible by, the public. Employees, when serving customers who are standing at a Service Line or Service Counter, shall not Smoke;
- (e) in any part of a Retail Shop generally open to and accessible by the public;
- (f) in any Reception Area;
- (g) in the lobby of a retail shopping center;
- (h) in any municipal building unless otherwise permitted in this bylaw;

RESTAURANTS AND LICENSED DINING LOUNGES

4. (a) The proprietor of a restaurant or licensed dining room may designate an area not to exceed twenty-five percent (25%) of the total seating area of the facility as a smoking area.
- (b) The designated area shall be completely enclosed and ventilated directly to the outside so that those individuals seated in non-designated areas are not subjected to second hand smoke.

HOSPITALS AND HEALTH CARE FACILITIES

5. No person shall smoke in a Hospital, Health Care Facility, or any similar place except in areas designated by the proprietor as Smoking Areas for patients, staff, or residents, excluding cafeterias.

CLUBS, PRIVATE RECREATIONAL FACILITIES

6. No person shall smoke in a Club or Private Recreation Facility where Young Persons are permitted entry.

BINGO HALLS, DANCE HALLS, POOL HALLS, CASINOS AND ARCADES

7. The Proprietor of a Bingo Hall, Dance Hall, Pool Hall, Casino or Arcade may designate in one location not more than seventy-five percent (75%) of the floor area thereof for the seating and service of customers as a Smoking Area.
8. Patrons of a Bingo Hall, Dance Hall, Pool Hall, Casino or Arcade shall have the option of sitting in a Smoking or a Non-Smoking Area.
9. No person shall smoke in the area of a Bingo Hall, Dance Hall, Pool Hall, Casino or Arcade which has been designated as a Non-Smoking Area.
10. No Young Person shall be permitted in a Bingo Hall, Dance Hall, Pool Hall, Casino or Arcade where a Smoking Area has been designated.

LICENSED BEVERAGE ROOMS

11. The Proprietor of any Licensed Beverage Room may at his or her discretion designate a portion of the premises as a Non-Smoking Area.
12. When the Proprietor of any Licensed Beverage Room has designated the premises, or a portion thereof, as a Non-Smoking Area he or she shall Post signs in conspicuous locations as described in Section 24 of this By-Law; and request people to desist from Smoking in the premises or portion thereof which has been designated a Non-Smoking Area.
13. No person shall Smoke in any Licensed Beverage Room, or portion thereof, which has been designated as a Non-Smoking Area.

SERVICE BUSINESSES

14. (a) A Proprietor may designate all, or any portion of, such premises as a Non-Smoking Area by posting therein non-smoking signs in accordance with this By-law.
 - (b) Service Lines, Service Counters, and Reception Areas shall be Non-Smoking Areas.
 - (c) No person shall Smoke in an area of a Service Business designated as a Non-Smoking Area.
 - (c) Designated Smoking Areas shall not exceed ten (10%) of the total area.

PLACES OF EMPLOYMENT

15. (a) A proprietor may designate all, or any portion of, such premise as a Non-Smoking Area by posting therein Non-Smoking signs in accordance with this By-law

- (b) Service Lines, Service Counters and Reception Areas shall be Non-Smoking Areas.
- (c) No person shall Smoke in a non-smoking area of a Place of Employment designated as a Non-Smoking Area.
- (d) Designated Smoking Areas shall not exceed ten (10%) of the total area.

SMOKING ESTABLISHMENTS AND MINORS

16. Effective July 1, 2003, the Proprietor of a Club that is a Smoking Establishment must not permit any Young Persons to enter the premises.

GENERAL PROVISIONS

17. Notwithstanding the specific provisions listed elsewhere in this by-law, the Proprietor of any building, or other indoor premises not specifically listed in this By-Law, may designate all, or any portion of such premises as a Non-Smoking Area, by posting therein no-smoking signs in accordance with this By-law. Designated Smoking Areas are not to exceed ten (10%) of the total area.

18. No person shall Smoke in a Non-Smoking Area to be designated by a Proprietor or established pursuant to this By-law.

SMOKING AREAS

19. Where this By-law permits a Smoking Area to be designated by a Proprietor, such Smoking Area shall:
- (a) be fully identified by means of signs as provided for by this By-law;
 - (b) not to exceed the size limitations imposed by any section of this By-law;
 - (c) not include any area in which Smoking is prohibited by any other by-law, statute or regulation;
 - (d) be arranged to restrict smoke, by ventilation or physical barriers, from entering into non-smoking areas; and
 - (e) no Young Persons shall be permitted to enter any Smoking Area.

SIGNS

20. The Proprietor of a Restaurant shall, and subject to Section 11 of this By-law, the Proprietor of a Licensed Beverage Room shall:
- (a) post a sign at the entrance to the Restaurant or Licensed Beverage Room either containing the words "Smoking permitted only in Smoking Area"; or containing the words "No Smoking in this Establishment" to reflect the circumstances pertaining to such premises;
 - (b) not place ashtrays on tables or other locations in Non-Smoking Areas.
21. The Proprietor of a Place of Employment shall Post at the main staff entrance thereto, and conspicuously in at least one (1) location within the Place of Employment, signs in one of the following forms, as applicable:
- (a) within the building, and in proximity to the front entrance a sign, conforming with the specifications set out in this By-law, and bearing the text "No Smoking in this Building" or "Smoking is Permitted Only

in a Designated Smoking Area”, to reflect the circumstances pertaining to such premises;

- (b) within any area designated as a Smoking Area, one or more signs placed in a conspicuous position, and clearly visible from all parts of the area, and bearing the text “Smoking Permitted”.

22. All signs required to be posted pursuant to this By-law shall conform to the following specifications:

- (a) all signs shall include the words “Town of Fort Smith By-Law No. 701” in letters not less than one-half (1/2) of the height for signs with letter height of three (3) centimeters, and not less than one-quarter (1/4) of the height of letters on all other sizes of signs.
- (b) any sign posted to designate no-smoking shall display the international symbol as set out in Schedule “A” attached hereto and forming part of this By-law. Such graphic symbol shall occupy not less than twenty-five percent (25%) of the size of the sign.
- (c) signs shall consist of at least two (2) contrasting colours, or, if the lettering is to be applied to a clear panel, then the lettering shall contrast to the colour of the background.
- (d) all signs used to identify Smoking or Non-Smoking Areas shall be placed at a height and location easily seen by a person in the premises, and shall not be obscured in any way.
- (e) the size of lettering for signs shall be based upon heights and viewing distances as set out in Schedule “B” attached hereto and forming part of this By-law.
- (f) Lettering may be in either upper case or lower case, or combination thereof, but “letter height”, when used in this section, means the actual height of a letter whether or not it is in upper or lower case.

23. No person shall remove, alter, conceal, deface or destroy any sign posted by any person pursuant to this By-law.

PENALTIES

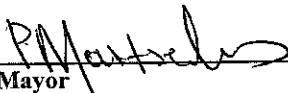
- 24. (a) Any Proprietor who fails or neglects to perform the duties or requirements imposed upon him under the provisions of this By-law, is guilty of an Offence and liable on summary conviction to a fine of Five Hundred (\$500.00) Dollars.
 - (c) Each day that a contravention of this By-law continues is deemed to be a separate offence, and the offender is liable on summary conviction to the fine of Five Hundred (\$500.00) Dollars per day for each day that the contravention continues, up to a maximum penalty of Two Thousand (\$2,000.00) Dollars.
25. (a) Any other person who contravenes any of the provisions or requirements of this By-law is guilty of an offence, and liable on summary conviction to a fine of Five Hundred (\$500.00) Dollars.
- (c) Each day that a contravention continues is deemed to be a separate offence, and the offender is liable on summary conviction to the fine of Five Hundred (\$500.00) Dollars per day for each day that the contravention continues, up to a maximum penalty of Two Thousand (\$2,000.00) Dollars.

26. The maximum penalty pursuant to this By-law shall be that as specified by the Cities, Towns and Villages Act in effect at the time of the date of the offence charged.
27. Pursuant to Sections 22 and 23 of this By-law, an Officer may issue a Summary Offence Ticket information in the form prescribed by the Summary Conviction Procedures Act, R.S.N.W.T. 1988, c.S-15, as amended and Regulations thereto, to any person who violates any provision of this By-law, and such person may, in lieu of prosecution, pay to the Town the applicable voluntary penalty prior to the court date specified on the ticket.
28. In addition to any other penalties which may be imposed pursuant to this By-law, the Town may apply to the Supreme Court of the Northwest Territories to obtain an order prohibiting the continuation or repetition of any contravention of this By-law.
29. If any section, subsection or any portion thereof is determined by a Court of competent jurisdiction to be unenforceable or invalid for any reason whatsoever, that unenforceability or invalidity shall not affect the enforceability or validity of the remaining portions of this By-law and such unenforceable or invalid section, sub-section or portion thereof shall be severed from the remainder of this By-law.
30. That this bylaw shall come into effect on July 1, 2003.

READ A FIRST TIME this 18th day of February, 2003

READ A SECOND TIME this 18th day of March, 2003

READ A THIRD TIME this 21 day of May, 2003



Mayor



Senior Administrative Officer

SCHEDULE "A"
TO BY-LAW 701

(NO SMOKING SIGN)

o

SCHEDULE "B"
TO BY-LAW NO. 701

This size of lettering for all signs shall be not less than the following heights based upon the following maximum viewing distances in direct line of sight:

<u>Viewing Distance</u>	<u>Letter Height</u>
3 m or less	2 cms
6 m or less	5 cms
12 m or less	7 cms
24 m or less	10 cms
24 m or more	15 cms