Smoke Free Bylaw
Bylaw No. 07/042
BYLAW NO. 07/042

BEING A BYLAW OF THE REGIONAL MUNICIPALITY OF WOOD BUFFALO TO REGULATE SMOKING IN PUBLIC PLACES AND WORKPLACES.

WHEREAS pursuant to Section 7(a) of the Municipal Government Act, R.S.A. 2000, c.M-26, a Council may pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property;

AND WHEREAS pursuant to Section 7(b) of the Municipal Government Act, R.S.A. 2000, c.M-26, a Council may pass bylaws for municipal purposes respecting people, activities and things in, on or near a public place or place that is open to the public;

AND WHEREAS pursuant to Section 7(i) of the Municipal Government Act, R.S.A. 2000, c.M-26, a Council may pass bylaws for municipal purposes respecting the enforcement of bylaws made under the Municipal Government Act or any other enactment including any or all of the matters listed therein;

AND WHEREAS health officials have determined that secondhand tobacco smoke is a health hazard and causes discomfort for many persons;

AND WHEREAS the Council of the Regional Municipality of Wood Buffalo deems it expedient and appropriate to limit the effects of secondhand smoke in the Regional Municipality of Wood Buffalo by regulating smoking in public places and workplaces within the Regional Municipality of Wood Buffalo;

NOW THEREFORE, the Council of the Regional Municipality of Wood Buffalo, duly assembled, hereby enacts as follows:

PART 1 - PURPOSE, DEFINITIONS AND INTERPRETATION

PURPOSE

1. The purpose of this bylaw is to regulate smoking in designated public places by reducing exposure to secondhand smoke.

SHORT TITLE

2. This bylaw may be cited as the “Smoke Free Bylaw”.

DEFINITIONS

3. For the purpose of administering the provisions of this bylaw, the following definitions shall apply:
Bylaw No. 07/042

(a) “ashtray” means a receptacle for ashes, and for cigar and cigarette butts;

(b) “building” means anything constructed or placed on, in, over or under land, whether permanent or temporary, into which a person could enter;

(c) “Bylaw Officer” means any duly appointed Bylaw Enforcement Officer of the Regional Municipality of Wood Buffalo or any member of the Royal Canadian Mounted Police;

(d) “Chief Administrative Officer” means the Chief Administrative Officer of the Regional Municipality of Wood Buffalo, or his delegate;

(e) “Council” means the Council of the Regional Municipality of Wood Buffalo;

(f) “designated public place” means any place to which the public has access, regardless of whether or not access is granted by means of membership or admission fees, and includes:
   (i) licensed gaming establishments;
   (ii) drinking establishments;
   (iii) restaurants;
   (iv) outdoor patios;
   (v) private clubs;
   (vi) public transportation vehicles and all areas within 10 metres of public transportation vehicle shelters;
   (vii) public buildings and all areas within 10 metres of an entrance or exit to a public building; and
   (viii) workplaces and all areas within 10 metres of an entrance or exit to a workplace;

(g) “drinking establishment” means a business where the primary purpose is the sale of alcoholic beverages for consumption on the premises and the secondary purposes of which may include entertainment, dancing, music, the preparation and sale of food for consumption on the premises, take-out food services and the sale of alcoholic beverages for consumption away from the premises;

(h) “employee” means a person who:
(i) performs any work for, supplies any services or fulfills any contractual obligation to any employer; or

(ii) receives any instructions or training in the activity, business, work, trade, occupation or profession of the employer;

(i) “employer” means any person who, as the owner, proprietor, manager, superintendent or overseer of 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;

(j) “licensed gaming establishment” means any premises for which the Province of Alberta has a bingo licence or casino licence issued under the Gaming and Liquor Act;

(k) “Municipality” means the Regional Municipality of Wood Buffalo;

(l) “outdoor patio” means an area outside of a building intended for the consumption of food or beverages by patrons of a business providing such food or beverages, and includes:

(i) a public premises where food or beverages are served that is not fully contained within an enclosed building; and

(ii) an outside extension of an eating or drinking establishment regardless of whether it is covered;

(m) “person” includes an individual, business, proprietorship, corporation, society, non-profit organization, or government agency;

(n) “private club” means an enclosed place or premise that operates primarily for the benefit and pleasure of the members of a non-profit corporation or service club;

(o) “private residence” means a self-contained living premises for the domestic use of one or more persons and is provided with a separate private entrance from the exterior of a building or from a common hall, lobby or stairway, but does not include any portion of such area used as a workplace with the exception of a hotel room or motel room;

(p) “proprietor” means the owner, or his agent or representative of a designated public place, and includes any person in charge thereof or anyone who controls, governs or directs the activity carried on therein, and includes the person who ultimately controls, governs or directs the activity carried on within any premises referred to in this bylaw and includes the person usually in charge thereof;

(q) “public” means any person other than the owner, lessee, proprietor or employer of
a particular building or place;

(r) “public building” means any enclosed building or structure as defined in this bylaw to which the public can and does have access by right or by invitation, whether or not:

(i) all members of the public are invited;

(ii) the proprietor has the right to exclude any particular person;

(iii) payment, membership or the performance of some formality is required prior to access;

(iv) the public has access to the building only at certain times, or from time to time;

(v) a member of the public has access only if they are a member or if they are accompanied by a member;

(vi) Subject to subsections (vii) and (viii) below, if the public has access only to a portion of the building or structure, the entire building or structure shall be deemed to be a public building;

Where a building includes a private residence, the following shall apply:

(vii) that portion of the building containing the private residence shall be deemed not to be a public building;

(viii) if a building contains two or more private residences, those common areas of the building, including washrooms, corridors, reception areas, elevators, escalators, foyers, hallways, stairways, lobbies, laundry rooms and enclosed parking garages, shall be deemed to be a public building;

(s) “public transportation vehicle” means a school bus, bus, taxi, limousine, airplane or other similar vehicle which is being used, or is subject to use, by a passenger or passengers for hire or which is being offered for hire;

(t) “public transportation vehicle shelter” means any structure with a roof designed to protect a passenger from the elements while waiting for a school bus, bus, taxi, limousine, airplane or other similar vehicles;

(u) “restaurant” means an enclosed place or premises, the primary purpose of which is the preparation and sale of food for consumption on the premises, the secondary purpose of which may include the sale of alcoholic or non-alcoholic beverages, take out food services and catering. A restaurant does not include a drinking establishment, but does include any premises for which a Class A liquor license
Bylaw No. 07/042

has been issued for the sale and consumption of liquor in premises open to the public, and where minors are not prohibited by the terms of the license.

(v) “smoke” or “smoking” means the carrying, holding or otherwise controlling of a lit cigar, cigarette, pipe or any other lit smoking equipment;

(w) “traditional pipe ceremonies” means any cultural and/or religious ceremony involving pipes or the use or consumption of tobacco products.

(x) “violation ticket” means a ticket issued pursuant to Part II of the Provincial Offences Procedure Act, R.S.A. 2000 c. P-34, as amended or replaced from time to time, and regulations thereunder, and as referred to in Part V of this bylaw;

(y) “workplace” means any enclosed area of a building or structure in which an employee works and includes washrooms, corridors, lounges, eating areas, outdoor patios, reception areas, elevators, escalators, foyers, hallways, stairways, enclosed walkways, amenity areas, lobbies, laundry rooms and enclosed parking garages utilized by an employee. For clarification purposes:

(i) a place is a workplace whether or not the employee is employed by the proprietor of the premises at which the employee works;

(ii) subject to subsection (iv) below, if an employee works in any portion of a building, the entire building shall be deemed to be a workplace;

(iii) home offices that employ non-residents or that require public access shall be deemed to be a workplace; and

(iv) any portion of a building that is used exclusively as a private residence, including a hotel room or a motel room shall not be deemed to be a workplace.

PART 2 – DESIGNATED PUBLIC PLACES

4. No person shall smoke in any designated public place within the Municipality regardless of whether or not a ‘No Smoking’ sign is posted.

5. No proprietor and/or employer shall permit smoking in a designated public place, whether or not a ‘No Smoking’ sign is posted or visible.

6. Every proprietor and/or employer of a designated public place shall:

(a) ensure compliance with this bylaw;

(b) prohibit smoking in the designated public place; and
(c) post ‘No Smoking’ signs in accordance with Part III of this bylaw.

7. Every proprietor and/or employer shall inform each employee that smoking is prohibited in the designated public place.

8. A proprietor and/or employer who takes, or ensures that, the following steps are taken shall be deemed to have complied with the obligation described in Section 6:

(a) advises a smoker that smoking is not allowed and requests the smoker to extinguish any lit cigar, cigarette, pipe, or other smoking equipment;
(b) asks any smoker who refuses to comply with such a request to leave the premises;
(c) refuses to provide any further service to such person; and
(d) immediately reports to a Bylaw Officer any smoker who refuses to extinguish a lit cigar, cigarette, pipe, or other smoking equipment and who refuses to leave the premises when requested to do so.

9. The proprietor and/or employer of a designated public place shall ensure that no ashtrays are placed or allowed to remain in any designated public place.

10. A proprietor and/or employer of a designated public place may, where sufficient space exists, ensure that ashtrays are placed more than 10 metres from the entrance or exit of the designated public place, if employees or members of the public, from time to time, gather to smoke in a location outside the designated public place. At all times, the ashtray must remain on the proprietor’s and/or employer’s property.

11. No person may dispose of ashes or cigars and/or cigarette butts in anything other than an ashtray, as defined within this bylaw. Any person who does not comply with this Section is guilty of an offense.

12. No person shall smoke inside any vehicle that is used as a public transportation vehicle, regardless of whether the vehicle is on or off duty.

**PART 3 – SIGNS**

13. The proprietor and/or employer of a designated public place shall ensure that signs are posted in a prominent, clearly visible location and in accordance with this bylaw so as to clearly identify that smoking is prohibited.

14. The proprietor and/or employer of every designated public place shall ensure that:

(a) signs are posted at all entrances to the designated public place;
(b) signs are posted at the entrance to each washroom; and

(c) signs are posted in the vicinity of any seating area where food or beverages are sold or consumed.

15. The signs referred to in this bylaw shall consist of graphic symbols that comply with the provisions contained herein.

16. The following graphic symbol, on a white background with the circle and the interdictory stroke in red, shall be used to indicate the areas where smoking is prohibited pursuant to this bylaw:

![Graphic Symbol]

17. The graphic symbol referred to in Section 16 shall include the text “Regional Municipality of Wood Buffalo Smoke Free Bylaw”. Text shall be a minimum of 1.3 centimetres in height and at no time will be less than one-quarter (1/4) of the height of all other letters of the sign.

18. The graphic symbol referred to in Section 16 shall include the text “No Smoking” in letters at least fifty (50%) percent of the diameter of the circle or symbol, and of a letter height not less than 2.54 centimetres.

19. The lettering of signs may be in either upper or lower case or combination thereof, but the words “letter height”, as used in Sections 17 and 18, shall mean the actual height of a letter whether it is in upper or lower case.

20. With respect to size of the graphic symbol, the diameter of the circle in the symbol referred to in Section 16 shall be a minimum of 15 centimetres.

21. Deviation from the colour or content of the signs prescribed by this section does not invalidate the sign as long as the deviations do not affect the substance or interpretation, or otherwise mislead the public.

22. Notwithstanding that the graphic symbol in Subsection 16 is a cigarette, it shall be deemed to include a reference to a lit cigar, cigarette, pipe or other lit smoking equipment.
23. Any sign prohibiting smoking that refers to a former non-smoking bylaw of the Regional Municipality of Wood Buffalo is deemed to refer to this bylaw and to provide proper notice.

24. No person shall remove, alter, conceal, deface or destroy any sign posted pursuant to this bylaw. Any person who does not comply with this section is guilty of an offence.

**PART 4 – PENALTIES**

25. Any person who fails or neglects to perform the duties or requirements imposed upon it under the provisions of this bylaw is guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars ($10,000.00).

26. The specified fine for an offence committed pursuant to this bylaw shall be two hundred fifty dollars ($250.00) for each such occurrence.

27. Any person convicted of an offence shall also be liable, in default of payment of any fine, to imprisonment for up to six (6) months.

28. In the case of an offence that is of a continuing nature, a contravention shall constitute a separate offence in respect of each day, or part of a day, on which that offence continues and a person guilty of such an offence is liable to a fine in an amount not less than that established by this bylaw for each such day.

**PART 5 - VIOLATION TICKET**

29. A Bylaw Officer is hereby authorized and empowered to issue a violation ticket pursuant to Part II of the Provincial Offences Procedure Act, R.S.A. 2000, c.P-34, as amended, or replaced from time to time, to any person who the Bylaw Officer has reasonable grounds to believe has contravened any provision of this bylaw.

**PART 6 – EXEMPTION**

30. Traditional pipe ceremonies are exempt from this bylaw.

**PART 7 - SEVERABILITY**

31. If any section or sections of this bylaw or parts thereof are found in any court of law to be illegal or beyond the power of Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this bylaw shall be deemed to be separate and independent therefrom and to be enacted as such.
PART 8 – ENFORCEMENT

32. For the enforcement of this bylaw, a Bylaw Officer, upon producing proper identification, may enter any designated public place and may make examinations, investigations and inquiries.

33. No Bylaw Officer may enter a workplace that is also a private residence without the consent of the occupant or without first obtaining and producing a warrant.

34. Where a Bylaw Officer has reason to believe that a person has contravened any provision of this bylaw, he or she may serve upon such person:

   (a) a violation ticket requiring a person to appear in Court with the alternative of making a voluntary payment in lieu of prosecution; or

   (b) a violation ticket requiring a person to appear in Court without the alternative of making a voluntary payment.

PART 9 - ABANDONMENT, REPEAL AND EFFECTIVE DATE

35. Bylaw No. 00/081, and all amendments thereto, are hereby repealed.

36. The provisions of this bylaw shall become effective as of 12:01 a.m. on September 1, 2007.

READ a first time this 22nd day of May, A.D. 2007.

READ a second time this 12th day of June, A.D. 2007.

READ a third and final time this 12th day of June, A.D. 2007.

SIGNED and PASSED this 15th day of June, A.D. 2007.

_________________________________
MAYOR

_________________________________
CHIEF LEGISLATIVE OFFICER