

BY-LAW NO. 1782/GEN/01

MUNICIPAL CORPORATION OF THE TOWN OF HAY RIVER

A BY-LAW of the Municipal Corporation of the Town of Hay River to prohibit and regulate smoking in public places;

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 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 or regulating 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 the health, safety and welfare of the inhabitants of the Town of Hay River and especially its children, to prohibit or regulate smoking, or both, in the Town of Hay River as hereinafter set out;

AND WHEREAS Town Council intends to prohibit smoking in all enclosed public places where young persons are permitted by April 1, 2002.

NOW THEREFORE, The Council of the Municipal Corporation of the Town of Hay River, in regular session duly assembled, enacts as follows:

INTERPRETATION

1. In this By-law;
 - (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 Hay River for use either on a permanent or temporary basis, for the playing of bingo;
 - (c) "Bowling Alley" means any place, room or building in which the activity of bowling occurs;
 - (d) "Casino" means any room or building, which has been licensed by the Town of Hay River for use either on a permanent or temporary basis, for gambling;

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- (e) "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, a Province or the Yukon or Nunavut Territory;
- (f) "Dance Hall" means any place, which is open to the public for licensed and non-licensed dance entertainment;
- (g) "Health Care Facility" includes any place in which medical, dental, optical, physiotherapy, chiropractic, or other similar health services are provided or arranged;
- (h) "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;
- (i) "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;
- (j) "Non-Smoking Area" means an area, designated by the Proprietor, in which smoking is not permitted.
- (k) "Non-Smoking Establishment" means a Restaurant, Club, Private Recreational Facility, Bingo Hall, Dance Hall, Pool Hall, Bowling Alley, Casino or Arcade, in respect of which the Proprietor has designated the entire premises as a Non-Smoking Area.
- (l) "Officer" means a person who is appointed in accordance with the *Cities, Towns and Villages Act* as a By-law Officer to enforce the By-laws of the Town of Hay River, or any Peace Officer who is authorized to enforce the By-laws of the Town of Hay River;
- (m) "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;



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- (n) "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, Bowling Alley, Dance Hall, Restaurant, Reception Area or a place where only a Private Social Function is being held;
- (o) "Pool Hall" means any facility where a total of four or more pool or billiard tables are kept for the purpose of providing entertainment or amusement to the public for a fee;
- (p) "Post" means the erection or placing of a sign, and includes the act of keeping the sign continuously displayed;
- (q) "Private Social Function" means a special event for which an entire room or hall has been solely reserved;
- (r) "Proprietor" means:
 - (i) 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;
 - (ii) the owner or driver of a taxi cab;
 - (iii) the owner or driver of a public bus or other form of public transportation;
 - (iv) the owner or driver of a school bus;
 - (v) the governing body of a Hospital, Health Care Facility, school or college;
 - (vi) the Municipal Corporation of the Town of Hay River.
- (s) "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;
- (t) "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;
- (u) "Retail Shop" means any place or premises, booth or stall where goods are



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displayed or offered for sale by retail, but does not include a Restaurant or hotel;

- (v) "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, dry cleaner, appliance repair shop or travel agency;
- (w) "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;
- (x) "Service Line" means an indoor line of one or more persons 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;
- (y) "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;
- (z) "Smoking Area" means an area, designated by the Proprietor, which has been arranged to restrict smoke, by ventilation or physical barriers from entering into Non-Smoking Areas, in which Smoking is permitted.
- (aa) "Smoking Establishment" means a Restaurant, Club, Private Recreational Facility, Bingo Hall, Dance Hall, Pool Hall, Bowling Alley, Casino or Arcade, in respect of which the Proprietor has designated any part of the premises as a Smoking Area.
- (bb) "Town" means the Municipal Corporation of the Town of Hay River, established pursuant to the laws of the Northwest Territories;
- (cc) "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, an escalator, or stairway, hallway or a washroom in any building



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generally open to, and accessible by, the public;

- (b) in a taxi cab while operating within the Town;
- (c) in a school bus, public bus, or other form of public transportation, or a transit shelter, for any of the said forms of 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 concourse of a retail shopping centre
- (h) in the Hay River Public Library.
- (i) in the Ben Sivertz Sports Complex, Smoking is permitted only in those areas which have been designated as Smoking Areas in accordance with the terms of this By-Law.

HOSPITALS AND HEALTH CARE FACILITIES

- 4. 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.

RESTAURANTS, CLUBS, PRIVATE RECREATIONAL FACILITIES

- 5. The Proprietor of a Restaurant, Club or Private Recreational Facility may designate in one location not more than fifty (50%) percent of the floor area thereof for the seating and service of customers as a Smoking Area.
- 6. Patrons of a Restaurant, Club or Private Recreational Facility designated as a Smoking Establishment shall have the option of sitting in a Smoking or a Non-Smoking Area.
- 7. No person shall smoke in the area of a Restaurant, Club or Private Recreational Facility which has been designated as a Non-Smoking Area.



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

8. The Proprietor of a Bingo Hall, Dance Hall, Pool Hall, Casino or Arcade may designate in one location not more than seventy-five (75%) percent of the floor area thereof for the seating and service of customers as a Smoking Area.
9. The Proprietor of a Bowling Alley may designate in one location not more than fifty (50%) percent of the floor area thereof for the seating and service of customers as a Smoking Area.
10. Patrons of a Bingo Hall, Dance Hall, Pool Hall, Bowling Alley, Casino or Arcade, shall have the option of sitting in a Smoking or a Non-Smoking Area.
11. No person shall smoke in the area of a Bingo Hall, Dance Hall, Pool Hall, Bowling Alley, Casino or Arcade which has been designated as a Non-Smoking Area.

LICENSED BEVERAGE ROOMS

12. The Proprietor of any Licensed Beverage Room may designate a portion of the premises, not to exceed ninety (90%) percent, as a Smoking Area.
13. When the Proprietor of any Licensed Beverage Room has designated the premises, or a portion thereof, as a Smoking Area he or she shall Post signs in conspicuous locations as prescribed 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.
14. No person shall Smoke in any Licensed Beverage Room, or portion thereof, which has been designated as a Non-Smoking Area.

SERVICE BUSINESSES

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 an area of a Service Business designated as a Non-Smoking Area.



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- (d) Designated Smoking Areas shall not exceed ten (10%) percent of the total area.

PLACES OF EMPLOYMENT

- 16. (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%) percent of the total area.

SMOKING ESTABLISHMENTS AND MINORS

- 17. Effective April 1, 2002, the Proprietor of a Restaurant, Club, Private Recreational Facility, Bowling Alley or Arcade that is a Smoking Establishment must not permit any Young Persons to enter the premises except when the following conditions have been met:
 - (a) The Proprietor must have banned Smoking throughout the premises, including all the Smoking Areas, for a minimum of 8 hours prior to the time of entry of any Young Persons, and
 - (b) The Proprietor must continue to ban Smoking throughout the premises, including all the Smoking Areas, for the entire time that any Young Persons are permitted by the Proprietor to remain on the premises.
- 18. Effective April 1, 2002, no person shall smoke in a Restaurant, Club, Private Recreational Facility, Bowling Alley or Arcade, or in designated Smoking Areas, at any time when the Proprietor has advised that Smoking is being temporarily banned for the purposes of allowing Young Persons on the premises in accordance with section 17.
- 19. Sections 17 and 18 apply to a Restaurant, Club, Private Recreational Facility, Bowling Alley or Arcade, notwithstanding that it may have been rented by individuals for a Private Social Function.



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GENERAL PROVISIONS

20. 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%) percent of the total area.
21. No person shall Smoke in a Non-Smoking Area designated by a Proprietor or established pursuant to this By-law.

SMOKING AREAS

22. 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 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.
23. Notwithstanding any other provision in this By-Law, a Proprietor may temporarily prohibit Smoking in all Smoking Areas for the purposes of being able to allow Young Persons on the premises in accordance with sections 17 to 19.

SIGNS

24. The Proprietor of a Restaurant shall, and subject to Section 13 of this By-law, the Proprietor of a Licensed Beverage Room shall:
 - (a) Post a no-smoking sign in the Non-Smoking Area, or place a no-smoking sign on each table in the no-smoking area;
 - (b) Post a sign at the entrance to the Restaurant or Licensed Beverage Room either




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containing the words "Smoking permitted only in Smoking Areas"; or containing the words "No Smoking in this Establishment" to reflect the circumstances pertaining to such premises;

- (c) not place ashtrays on tables or other locations in Non-Smoking Areas.
25. 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) "No Smoking in this Building";
 - (b) "No Smoking in this Workplace", or
 - (c) "Smoking is Permitted Only in a Designated Smoking Area".
26. The Proprietor of any place other than a Restaurant, Licensed Beverage Room, or a Place of Employment shall Post:
- (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".
27. 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 Hay River By-Law No. 1579" in letters not less than one-half (1/2) of the height for signs with letter height of three (3) centimetres, 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 25(twenty five) percent 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



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

PENALTIES

- 29. (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.
 - (b) 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.
30. (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.
- (b) 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.
31. 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.
32. Pursuant to Sections 29 and 30 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



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the Town the applicable voluntary penalty prior to the court date specified on the ticket.

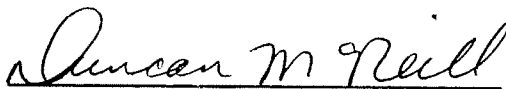
33. In addition to any other penalties which may be imposed pursuant to this By-Law, the Town may apply to the Supreme Court of the Northwest Territories to obtain an order prohibiting the continuation or repetition of any contravention of this By-Law.
34. If any section, sub-section or any portion thereof is determined by a Court of competent jurisdiction to be unenforceable or in invalid for any reason whatsoever, that unenforceability or invalidity shall not affect the enforceability or validity of the remaining portions of this Bylaw and such unenforceable or invalid section, sub-section or portion thereof shall be severed from the remainder of this Bylaw.
35. By-law No. 1579 being a by-law to prohibit and regulate Smoking in public places is hereby repealed.

READ A FIRST TIME this 26th day of November, 2001.

READ A SECOND TIME this 12th day of March, 2002.

READ A THIRD AND FINAL TIME this 12th day of March, 2002.

and passed with the consent of Council.


MAYOR


SENIOR ADMINISTRATIVE OFFICER

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**SCHEDULE "A"
TO BY-LAW NO. 1782/GEN/01**

(NO SMOKING SIGN)



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**SCHEDULE "B"
TO BY-LAW NO. 1782/GEN/01**

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

