

BY-LAW 10-01 OF THE TOWN OF ATHABASCA

BY-LAW 10-01 OF THE TOWN OF ATHABASCA, IN THE PROVINCE OF ALBERTA, TO REGULATE SMOKING WITHIN THE TOWN OF ATHABASCA.

WHEREAS CONTINUED EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE IN PUBLIC PLACES AND WORKPLACES IS AN UNACCEPTABLE HEALTH RISK; AND

WHEREAS IT IS DESIRABLE TO PROMOTE THE HEALTH AND WELL BEING OF PERSONS, ESPECIALLY CHILDREN, IN THE MUNICIPALITY; AND

WHEREAS IT IS THE INTENT OF COUNCIL TO PROTECT THE PUBLIC HEALTH AND WELFARE BY RESTRICTING SMOKING IN RESTAURANTS, TO PROTECT SMOKE-FREE AIR FOR NON-SMOKERS, AND TO RECOGNIZE THAT THE NEED TO BREATHE SMOKE-FREE AIR SHALL HAVE PRIORITY OVER THE DESIRE TO SMOKE IN AN ENCLOSED PUBLIC AREA; AND

WHEREAS PART II – 7 (a & b) OF THE *MUNICIPAL ACT* (s.a. 1994 c M-26.1 as amended) AUTHORIZES THE COUNCIL OF A LOCAL MUNICIPALITY TO PASS A BY-LAW REGULATING THE SMOKING OF TOBACCO IN PUBLIC PLACES OR WORKPLACES AND DESIGNATING PUBLIC PLACES OR WORKPLACES OR CLASSES OR PARTS OF SUCH PLACES AS PLACES IN WHICH SMOKING TOBACCO OR HOLDING LIGHTED TOBACCO IS PROHIBITED;

THE COUNCIL OF THE TOWN OF ATHABASCA HEREBY ENACTS AS FOLLOWS:

PART I DEFINITIONS

1. **“CLASS “A” public place” means an enclosed building or an enclosed portion of building used for the sale of goods and/or service of food or drink or both food and drink to the public for consumption on the premises but does not include outdoor patio or a Class “C” public place.**

Class “A” public place includes:

- dinner theatres**
- restaurants**
- fast food outlets**
- community halls**

Class “A” public place shall be designated as: 100% SMOKE-FREE.

2. **“CLASS “B” public place” means a public place used for the playing of games of chance as defined by the *Gaming Control Act, 1992*, where no patron under the age of eighteen (18) years of age is admitted to the premises at any time, and includes such public places as Church basements, community halls, non and/or not-for-profit society facilities, and other places of public assembly.**

Class “B” public place shall be: EXEMPTED FROM THIS BY LAW.

3. **“CLASS “C” public place” means an enclosed building or an enclosed portion of a building used for the sale and service of food and drink to the public for consumption on the premises which is licensed under the *Liquor License Act* and where no patron under the age of eighteen (18) years of age is admitted to the premises at any time.**

A Class “C” public place includes:

- bar**
- entertainment lounge**
- nightclubs**
- not-for-profit organization’s private social functions**

Class “C” public place shall be: EXEMPTED FROM THIS BY LAW.

A Class "C" public place does not include premises otherwise defined in this by-law;

Athabasca Branch #103 of the Royal Canadian Legion SHALL BE SMOKE-FREE WHEN PERSONS UNDER THE AGE OF EIGHTEEN (18) YEARS ARE PRESENT.

4. "CLASS "D" public place" shall mean all public buildings owned by the Federal, Provincial, and Municipal Governments and shall be designated as 100% SMOKE-FREE.
5. "CLASS "E" public place" shall mean all telephone booths, elevators, escalators, stairwells, and service lines and shall be designated as 100% SMOKE FREE.
6. "CLASS "F" public place" shall mean all busses, taxis, handi-busses, and public transit vehicles and shall be designated as 100% SMOKE FREE.
7. "CLASS "G" public place" shall mean all buildings used for retail/commercial purposes within the boundaries of the Town of Athabasca; and shall be designated as;

Class "G" public place shall be: EXEMPTED FROM THIS BY LAW.

8. "CLASS "H" public place" shall mean all buildings used for industrial purposes within the boundaries of the Town of Athabasca; and shall be designated as;

"Class "H" public place shall be: EXEMPTED FROM THIS BY LAW.

9. "employee" means a person who performs any work for or supplies any service to an employer, and includes a volunteer and a person who is self employed and employment has a corresponding meaning;
10. "employer" means any person who, as the owner, manager, contractor, 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 an employee, whether paid or not, therein;
11. "enclosed" means closed in by a roof or ceiling and walls (including glass) with an appropriate opening or openings for ingress or egress, which openings are equipped with doors which are kept closed except when actually in use for ingress or egress;
12. "food court or indoor patio" means an area located within a public place that is used in conjunction with a restaurant or take-out eating establishment, where unenclosed seating accommodation is provided or where meals or refreshments are consumed by the public;
13. "Medical Officer of Health" means the Medical Officer of Health for the Town of Athabasca Regional Health Services Unit or any person acting under his or her authority;
14. "minor" shall mean a person under the age of eighteen (18) and be consistent with the definition for "minor" as contained within the Liquor Control Act of the Province of Alberta;
15. "proprietor" means the person who ultimately controls, governs or directs the activity carried on within the premises referred to in **PART III PUBLIC PLACES**, and includes the person actually in charge of the premises;
16. "private club" means a not-for-profit corporate establishment that operates solely for the benefit and pleasure of its members, that directs its publicity and advertisements to its members and has passed bylaws regulating the admission of persons and the conditions of membership, the fees and dues of members, the issue of membership cards, the suspension and termination of memberships, the qualification of and the remuneration of the directors, the time for and the manner of electing directors and the time, place and notice to be given for the holding of meetings of the members and of the board of directors;

17. **“public building”** shall mean all buildings or facilities owned/operated/leased by the Municipal, Provincial, or Federal Government, whether covered by a roof or not, to which the public has access as of right, expressed or implied;
18. **“public place”** means the whole or part of an indoor area, whether covered by a roof or not, to which the public has access as of right, expressed or implied;
19. **“public transit vehicle”** includes a school bus and a passenger vehicle used for hire;
20. **“smoke or smoking”** includes the carrying of a lighted cigar or cigarette, pipe or any other lighted smoking equipment;
21. **“workplace”** means a building or part of a building in which one or more employees work, including employees’ eating and lounge areas, includes a public transit vehicle (including a taxi cab or livery cab) and any other conveyance in which an employee works. In the case of Town of Athabasca, workplace includes all buildings/facilities listed in **“Schedule A.”**

PART II WORKPLACES

1. Where a workplace is also a public place, the provisions of this by-law respecting public places shall prevail.
2. Every employer shall,
 - (a) prohibit smoking in the workplace except where smoking in the workplace is permitted by this bylaw;
 - (b) conspicuously post no smoking signs in areas where smoking is prohibited;
 - (c) where enclosed designated employee smoking rooms are established, conspicuously post health warning signs at the entrance of each enclosed designated employee smoking room;
 - (d) prohibit ashtrays and like paraphernalia in areas where smoking is prohibited; and
 - (e) conspicuously post signs at every entrance to the workplace indicating that smoking is prohibited in the workplace.

PART III PUBLIC PLACES

1. No person shall smoke in a public place as defined in **PART I.**
2. This by-law does not override any existing Provincial and Federal Legislation and does not apply to the following Authorities:
 - (a) a hospital as defined in the *Public Hospitals Act*;
 - (b) a private hospital as defined in the *Private Hospitals Act*;
 - (c) a psychiatric facility under the *Mental Health Act* or *Mental Hospitals Act*;
 - (d) a nursing home as defined in the *Nursing Homes Act*;
 - (e) a home for special care as defined in the *Homes for Special Care Act*;
 - (f) an approved charitable home as defined in the *Charitable Institutions Act*;

- (g) a home for special care as defined in the *Homes for the Aged and Rest Homes Act*.
 - (h) a school as defined in the *Education Act*.
3. Every proprietor shall,
- (a) prohibit smoking except where smoking is permitted;
 - (b) post no smoking signs conspicuously where smoking is prohibited in the premises;
 - (c) prohibit ashtrays and like paraphernalia in areas where smoking is prohibited;

PART IV SIGNAGE REQUIREMENTS

1. Where a no smoking sign is required to be placed or posted pursuant to this by-law, the sign shall:
- No Smoking Symbol**
- (a) have the proportions, characteristics and minimum measurements illustrated in **Schedule C** at the end of and forming part of this by-law;
 - (b) consist of two (2) contrasting colors, or if the lettering and graphic symbol is to be applied to a surface or to be mounted on a clear panel, the lettering and the graphic symbol shall contrast to the background color;
 - (c) be posted in English and any other language the Medical Officer of Health may decide.
2. Where an employer or proprietor prohibits smoking throughout the entire workplace or public place under the control, supervision or ownership of that employer or proprietor, **that person may** post signs in a form, size and location that indicate that the entire workplace or public place is smoke free.

PART V OFFENCES

1. Any person (property owner, proprietor, employer, employee, client, customer, etc.) who contravenes any provision of this by-law is guilty of an offence.
2. Fines shall be levied in accordance with **Schedule "B."**

PART VI REPEAL PROVISIONS

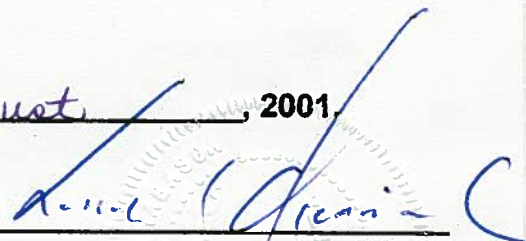
1. The following by-law is amended to include all municipally owned buildings, facilities, and vehicles.
- (a) By-Law 17-96 governing smoking within Town-owned facilities and vehicles.

PART VII ENACTMENT

THIS BY-LAW COMES INTO FORCE OCTOBER 15, 2001.

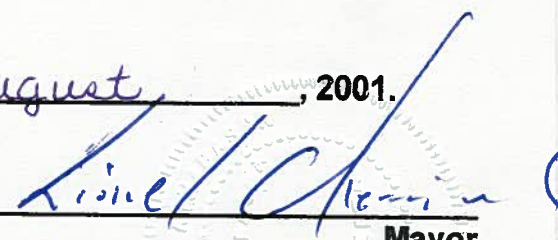
THE ATTACHED SCHEDULES "A", "B" & "C" MAY BE AMENDED BY RESOLUTION OF COUNCIL.

READ FOR A FIRST TIME THIS 21st DAY OF August, 2001.


Mayor

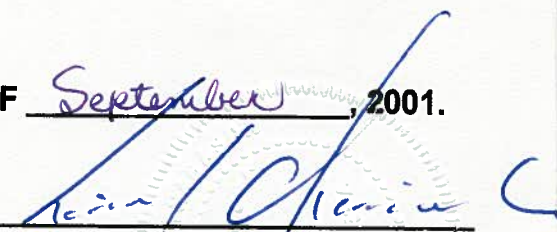
Municipal Manager

READ FOR A SECOND TIME THIS 21st DAY OF August, 2001.


Mayor

Municipal Manager

READ FOR A THIRD AND FINAL TIME THIS 4th DAY OF September, 2001.


Mayor

Municipal Manager

BY-LAW 10-01

SCHEDULE "A"

NO SMOKING

TOWN-OWNED

FACILITIES & PROPERTY

The following facilities shall be designated as "No-Smoking Facilities".

- 1) The **Athabasca Skating Arena** located at Lot B, Block 3, Plan 778 K.S. BEING **4409 - 48th Street**.
- 2) Anton J. Schinkinger **Municipal Building** located at Lots 21 to 24, Block 22, Plan 7241 A.H. BEING **4705 - 49th Avenue**.
- 3) The Town **Public Works Shop** located at Lot A, Plan 2197RS BEING **4901 Woodheights Road** (rented from County of Athabasca).
- 4) The John M. Stychin **Water Treatment Plant** located at Lot 3A, Plan 992-6518 BEING **5004 - 51st Avenue**.
- 5) The Town of Athabasca **Fire Hall** located at Lot 1, Plan 912 0677 BEING **4707 - 50th Street**.
- 6) The Town of Athabasca **Landing Pool & Teen Centre** located at Lots 13 to 18, Block 21, Plan 7241AH BEING **4705 - 48th Avenue**.
- 7) The **Brick School Complex** which includes the Nancy Appleby Theatre, the Archives, the Alice B. Donahue Library, and the offices in the Brick School located at Lots 6 to 9, Block 20, Plan 7241AH BEING **4720 - 48th Street**.
- 8) The Town of Athabasca **Community Centre** located at **4901 - 48th Street**.
- 9) The Town of Athabasca **Curling Rink ground floor** located at Lot B, Block 3, Plan 778KS BEING **4409 - 48th Street**.
- 10) The Town of Athabasca **Tourism Booth** (Train Caboose) located at on Riverfront Lot 12, Plan 992-6518 on **47th Street entry to Campsite**.
- 11) The Town of Athabasca **Riverfront Stage** located in Town Common Lot 6A, Plan 992-6518 BEING **4909 - 50th Avenue**.
- 12) **ALL VEHICLES AND EQUIPMENT OWNED BY THE TOWN OF ATHABASCA.**

BY-LAW 10-01

SCHEDULE "B"

NO SMOKING **FINES**

1. Any person who smokes in violation of any of the provisions of this By-law shall be liable to a penalty of \$100.00 and, upon summary conviction, to a fine up to the maximum of \$2,000.00
2. The Municipal Manager or his designate shall be responsible for the enforcement of this By-Law.

BY-LAW 10-01

SCHEDULE "C"

NO SMOKING

SYMBOL & SIGN

