

**BY-LAW NUMBER 1436  
TOWN OF INNISFAIL**

**BY-LAW NUMBER 1436 OF THE TOWN OF INNISFAIL IN THE PROVINCE OF ALBERTA, BEING A BYLAW RESPECTING SMOKE FREE PUBLIC PLACES AND WORKPLACES, AND TO RESCINDING BY-LAW NUMBER 1320.**

**WHEREAS**, health officials have determined that second hand tobacco smoke is a health hazard or discomfort for many persons;

**AND WHEREAS**, the Council of the Town of Innisfail deems it expedient and appropriate to limit the effects of second hand smoke for residences and visitors to the Town of Innisfail;

**AND WHEREAS**, the Council deems it expedients and appropriate to regulate the smoking of tobacco products in public places and workplaces including all indoor areas accessible to persons under the age of eighteen (18) years in the Town of Innisfail and, in accordance with the Municipal Government Act, R.S.A. 2000 Chapter M-26 as amended, has the authority to pass by-laws respecting:-

- a) the safety, health and welfare of people and the protection of people and property;
- b) people, activities and things in, on or near a public place or place that is open to the public;
- c) businesses, business activities and persons engaged in business;

**NOW THEREFORE, THE COUNCIL OF THE TOWN OF INNISFAIL, DULY ASSEMBLED, HEREBY ENACTS AS FOLLOWS:**

**SECTION I – SHORT TITLE**

- 1.1. This by-law may be cited as the “Smoking By-Law.”

**SECTION 2 – DEFINITIONS:** In this by-law,

- 2.1. “Ashtray” means a receptacle for tobacco ashes and for cigar and cigarette butts;
- 2.2. “Building” includes anything constructed or placed on, in, over or under land, whether permanent or temporary, into which a Person could enter;
- 2.3. “Town” means the Town of Innisfail;
- 2.4. “Town Building” means any of the buildings owned, leased, operated or occupied by the Town of Innisfail;
- 2.5. “Town Vehicle/Equipment” means any of the vehicles, equipment owned, leased, operated or occupied by the employees of the Town of Innisfail;
- 2.6. “Council” means the Council of the Town of Innisfail;
- 2.7. “Designated Public Place” means a place prescribed in Section 3;
- 2.8. “Educational Institution” means a public or private school or post-secondary institution;
- 2.9. “Employee” includes a person who:
  - a) performs any work for or supplies any services to any Employer, or
  - b) receives any instructions or training in the activity, business, work, trade, occupation or profession of the Employer;
- 2.10 “Employer includes 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;
- 2.11 “Town Manager” means the chief administrative officer or his designate;

- 2.12 “Municipal Tag” means a ticket or similar document issued by the Town of Innisfail pursuant to the Municipal Government Act R.S.A. 2000 Chapter M-26, as amended, and as referred to in Section 8 below;
- 2.13 “Peace Officer” means a person appointed as a By-Law Enforcement Officer pursuant to the Municipal Government Act, to do any act or perform any duties under this By-law and includes a member of the Royal Canadian Mounted Police and, when authorized, a Special Constable;
- 2.14 “Person” includes an individual, proprietorship, corporation or society;
- 2.15 “Private Residence” means a self contained living premise for domestic use of one or more persons and is provided with a separate private entrance from the exterior of the building or from a common hall, lobby or stairway, but does not include any portion of such area used as a workplace which the exception of a hotel room or a motel room;
- 2.16 “Proprietor” means the owner, or his agent or representative of a Designated Public Place referred to in this By-law, and includes any person in charge thereof or anyone who controls, governs or directs the activity carried on therein, where applicable includes:
- a) the person who ultimately controls, governs or directs the activity carried on within any premises referred to in this By-law and includes the person usually in charge thereof;
  - b) a Regional Health Authority Board appointed pursuant to the provisions of the Regional Health Authority Act;
  - c) the Board of Governors, Board of Trustees or Resident of an Educational Institution;
- 2.17 “Public” means any person other than the owner, lessee, proprietor or employer of a particular building or place;
- 2.18 “Public Building” means any enclosed building or structure as defined in this By-law to which the public can and does have access by right or by invitation, whether or not:
- a) all classes of the public are invited;
  - b) the proprietor has the right to exclude any particular person;
  - c) payment, membership or the performance of some formality is required prior to access;
  - d) the public has access to the building only at certain times, or from time to time;
  - e) a member of the public has access only if they are a member or if they are accompanied by a member;
  - f) subject to subsection (g) and (h) and (i) 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:
  - g) that portion of the building containing the private residence shall be deemed to not be a public building;
  - h) 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;
  - i) a proprietor may apply to Council for one-year renewable special building status in cases where reasonable steps have been taken to ensure that smoke does not enter any place where smoking is prohibited under this By-law;
- 2.19 “Public Transportation Vehicle” means a school bus, a bus or vehicle owned or operated by or on behalf of the Town of Innisfail, a taxicab, limousine or other similar vehicle which is being used by a passenger or passengers for hire or which is being offered for hire;
- 2.20 “Sign” means a sign as prescribed in Section 5;
- 2.21 “Smoke” or “Smoking” includes the carrying, holding or otherwise controlling of a lighted cigar, cigarette, pipe or any other lighted smoking equipment;

- 2.22 “Violation Ticket” means a ticket issued pursuant to Part II of the Provincial Offences Procedure Act, R.S.A. 2000 Chapter P-34 as amended and regulations thereunder, and as referred to in Section 9 of this By-law;
- 2.23 “Workplace” means any enclosed area of a building or structure in which an employee works and includes washrooms, corridors, lounges, eating areas, reception areas, elevators, escalators, foyers, hallways, stairways, enclosed walkways, amenity areas, lobbies, laundry rooms and enclosed garages accessible to persons under the age of eighteen (18) years. Without limited the generality of the foregoing,
- a) a place is a Workplace whether or not the employee is employed by the proprietor of the premises at which the employee works;
  - b) subject to clause d) below, if an employee works in any portion of a building, the entire building shall be deemed to be a workplace;
  - c) home offices that employ non-residents or that require public access shall be deemed to be a workplace; and
  - d) 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.

### **SECTION 3 – GENERAL PROVISIONS:**

- 3.1 Subject to Section 3.2, the following are Designated Public Places for the purposes of this By-law:
- a) Public Buildings and those areas within 6m of an entrance or exit to a Public Building;
  - b) Town Buildings and those areas within 6m of an entrance or exit to a Town Building;
  - c) Town Vehicles/Equipment;
  - d) Public Transportation Vehicles;
  - e) Workplaces and those areas within 6m of an entrance or exit to a Workplace;
- 3.2 No person shall smoke in a Designated Public Place accessible to persons under the age of eighteen (18) years, whether or not a “No Smoking sign is posted or visible;
- 3.3 No proprietor or employer shall permit smoking in a Designated Public Place accessible to persons under the age of eighteen (18) whether or not a “No Smoking” sign is posted or visible;

### **SECTION 4 – ASHTRAYS:**

- 4.1 The proprietor and employer of every Designated public place shall ensure that no ashtrays are placed or allowed to remain in any Designated Public Place;
- 4.2 The proprietor and employer of every Designated Public Place shall, if employees or members of the public from time to time gather to smoke at a location outside the Designated Public Place, ensure that ashtrays are placed more that 6m from the entrance or exit of the Designated Public Place.

### **SECTION 5 – SIGNS:**

- 5.1 The proprietor and employer of every Designated Public Place shall ensure that signs are posted conspicuously and in accordance with this By-law so as to clearly identify that smoking is prohibited.
- 5.2 The proprietor and employer of every Workplace, Public Building or Town Building shall ensure that:
- a) signs are posted at every entrance to the Workplace, Public Building or Town Building;
  - 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.
- 5.3 The signs referred to in this By-law shall consist of graphic symbols that comply with the provisions of this section.
- 5.4 The following graphic symbol shall be used to indicate the areas where smoking is prohibited pursuant to this By-law.

On a white background with the circle and the interdictory stroke in red.

- 5.5 The graphic symbol referred to in Subsection 5.4 shall include the text “Town of Innisfail Smoking By-Law” not less than 1.3 centimeters in height for signs with letter height of 2.54 centimeters and not less than one-quarter (1/4) of the height of the letters on all other letters on the sign.
- 5.6 The graphic symbol referred to in Subsection 5.4 shall include the text “No Smoking” in letters at least five (5%) percent of the diameter of the circle or symbol, and of a letter height not less than 2.54 cm.
- 5.7 The lettering of signs may be in either upper or lower case or combination thereof but the words “letter height” when used in Subsections 5.5. and 5.6 shall mean the actual height of a letter whether it is upper or lower case.
- 5.8 In addition to the graphic symbol referred to in Subsection 5.4 there may be added appropriate symbols such as directional arrows.
- 5.9 With respect to size of the graphic symbol, the diameter of the circle in the symbol referred to in Subsection 5.4 shall be a minimum of 15 cm.
- 5.10 Deviations from the color or content of the signs prescribed by this section that do not affect the substance or that do not mislead do not invalidate the signs.
- 5.11 Notwithstanding that the graphic symbol in Subsection 5.4 is a cigarette, it shall be deemed to include a reference to a lighted cigar, pipe or other lighted smoking equipment.
- 5.12 Any sign prohibiting smoking that refers to a former smoking by-law of the Town of Innisfail is deemed to be referred to in this By-law.
- 5.13 No person shall remove, alter, conceal, deface or destroy any sign posted pursuant to this By-law.

**SECTION 6 – PENALTIES:**

- 6.1 Any corporation which fails or neglects to perform the duties or requirements imposed upon it under the provision of this By-law is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars (\$1,000).
- 6.2 Any individual, other than a corporation, 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 not exceeding five hundred dollars (\$500).
- 6.3 The specified fine for an offence committed pursuant to this By-law is established at:

Individual	First Offence	\$ 100
	Second Offence	\$ 500
Corporations	First Offence	\$ 250

Second Offence            \$1000

6.4 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.

**SECTION 7 – MUNICIPAL TAGS:**

7.1 A Peace Officer is hereby authorized and empowered to issue a municipal tag to any person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this By-law.

7.2 A municipal tag may be issued to such person:

- a) either personally;
- b) by mailing a copy to such person at his last known post office address, or
- c) if upon a corporation, by serving the municipal tag by mailing a copy by registered mail, or serving a person who is the agent, representative or a person in charge of the Designated Public Place.

7.3 The municipal tag shall be in a form approved by the General Manager and shall state:

- a) the name of the person;
- b) the offence;
- c) the municipal or legal description of the land on or near where the offence took place;
- d) the appropriate penalty for the offence as specified in Section 6 of this By-law;
- e) that the penalty shall be paid within 30 days of the issuance of the municipal tag;
- f) any other information as may be required by the General Manager.

7.4 Where a municipal tag is issued pursuant to Section 7 of this By-Law, the person to whom the municipal tag is issued may, in lieu of being prosecuted for the offence, pay the penalty to the Town the penalty specified within the time period indicated on the municipal tag.

7.5 Nothing in this By-law shall prevent a Peace Officer from immediately issuing a violation ticket.

**SECTION 8 – VIOLATION TICKET:**

8.1 In those cases where a municipal tag has been issued and if the penalty specified on a municipal tag has not been paid within the prescribed time, then a Peace 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*.

8.2 Notwithstanding Section 7 of this By-law, a Peace Officer is hereby authorized and empowered to immediately issue a violation ticket pursuant to *Part II of the Provincial Offences Procedure Act, R.S.A. 2000, c.P-34, as amended*, to any person who the Peace Officer has reasonable grounds to believe has contravened any provision of this By-Law.

**SECTION 9 – SEVERABILITY:**

9.1 If any section or sections of this By-law 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 By-law shall be deemed to be separate and independent therefrom and to be enacted as such.

**SECTION 10 – ENFORCEMENT:**

- 10.1 For the enforcement of this By-law, a Peace Officer, upon producing proper identification, may at all reasonable hours, enter any Designated Public Place and may make examinations, investigations and inquiries.
- 10.2 A Peace Officer is a Designated Officer for the purposes of ss. 542 – 545 of the *Municipal Government Act, R.S.A. 2000, c.M-26 as amended.*

**SECTION 11 – ABANDONMENT, REPEAL & EFFECTIVE DATE:**

- 11.1 The Town of Innisfail By-Law No. 1320 is repealed and this By-law shall come into effect all as of \_\_\_\_\_, 2005.

**READ A FIRST TIME IN OPEN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005**

**READ A SECOND TIME AS AMENDED IN OPEN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_. 2005.**

**READ A THIRD TIME AS AMENDED AND FINALLY PASSED IN OPEN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_. 2005.**

\_\_\_\_\_  
**MAYOR**

\_\_\_\_\_  
**CHIEF FINANCIAL OFFICER**