

NIPISSING FIRST NATION

Smoking Law

Law No. 001-2017

**Smoking Law to Regulate smoking
in public places and workplaces
within Nipissing First Nation
and to minimize health risk caused
by second hand smoke to
non-smokers.**

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SMOKING LAW

NIPISSING FIRST NATION

Law No. 001-2017 of Nipissing First Nation

BEING A LAW TO REGULATE SMOKING IN PUBLIC PLACES AND WORKPLACES WITHIN NIPISSING FIRST NATION AND TO MINIMIZE THE HEALTH RISK CAUSED BY SECOND HAND SMOKE TO NON-SMOKERS.

WHEREAS, it has been determined that second-hand tobacco (exhaled smoke and the smoke from idling cigarettes, e-cigarettes, cigars and pipes) is a health hazard or discomfort for many non-smoking residents of Nipissing First Nation;

AND WHEREAS, it is desirable in the interest of promoting the health, safety and welfare of all residents and employees of Nipissing First Nation to prohibit or regulate smoking, or both, on the Nipissing First Nation or any lands and community buildings now owned or may be owned in the future by Nipissing First Nation as hereinafter set out;

AND WHEREAS, the Council of Nipissing First Nation is empowered to make laws pursuant to Part 11, 11.4 of the Nipissing Gichi-Naaknigewin;

THEREFORE, the Council of Nipissing First Nation hereby enacts the following law:

1. SHORT TITLE:

1.1 This law may be cited as the "Nipissing First Nation Smoking Law".

2. INTERPRETATION:

2.1 In this law,

"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, and, where the context so requires, includes the Nipissing First Nation Council;

"First Nation" means the Nipissing First Nation;

"Enforcement Officer" means any police constable or other person charged with the duty to preserve and maintain the public peace, and a by-law officer or any other person appointed by the Council for the purpose of enforcing the provisions of this law;

"Place of Employment" means:

- a) any enclosed area of a building or structure in which an employee works; and
- b) any area used exclusively by employees, and
- c) vehicles owned, rented or leased when the vehicle is used for business purposes.

"Reserve" means Nipissing First Nation reserve land;

"Signs" or "Signage" means a sign as prescribed by Section 8 of this law;

"Smoke" or "Smoking" includes the carrying of a lighted cigarette, pipe, cigar or e-cigarette and any other lighted smoking equipment;

"Workplace" means any enclosed area of a building or structure in which an employee works and includes washrooms, corridors, reception area, hallways, and offices utilized by an employee.

3. PUBLIC PLACES:

3.1 The following are designated to be a Public Place for the purpose of this law:

- a) Administration Complexes
- b) Community Centers
- c) Common Areas of any Elders' Independent Living Apartment Complexes
- d) Health Centers
- e) Day Care Centers
- f) Business Centers
- g) Schools
- h) Libraries
- i) Pow Wow Grounds
- j) All Nipissing First Nation owned or leased buildings set out for public use.
- k) Community recreational facilities (ie: fitness center, ice rinks, ball fields, Designated children's playground areas)

4. SMOKING IN PUBLIC PLACES:

- 4.1 No person shall smoke or hold lighted tobacco including e-cigarettes in any Public Place whether or not a "No Smoking" sign is posted, unless otherwise exempted under this law;
- 4.2 No person shall smoke or hold lighted tobacco including e-cigarettes in any enclosed facility that is owned by Nipissing First Nation unless otherwise exempted under this law;
- 4.3 Smoking shall be permitted in a Public Place in areas so designated, by the person in charge of the Public Place, for that purpose which will be identified with the sign in Schedule "C" and a cigarette disposal container is present.

5. PLACE OF EMPLOYMENT:

- 5.1 No person shall smoke in a Place of Employment on the Reserve;
- 5.2 No person shall smoke within a nine (9) meter (29.5 feet) radius extending from the limits of any entryway to a Place of Employment;
- 5.3 No person shall smoke in any area other than in an area designated as a smoking area in accordance with 5.4;
- 5.4 An employer may designate an area outside of an enclosed work area for smoking as identified by means of a sign or signs stated "SMOKING IN THIS AREA ONLY" provided that such area is an area to which non-smoking employees do not require access and such area is less than 25% of the total area of the Place of Employment;
- 5.5 Where an area designated for smoking under Section 5.4 of this law, the employer shall post and maintain in a conspicuous location adjacent to the designated area a sign at least 14 centimeters (5.5 inches) by 14 centimeters (5.5 inches) in size that includes:
 - (i) a depiction of the international Smoking symbol at least 7.5 centimeters (3 inches) in height;
 - (ii) lettering at least 0.8 centimetres (5/16 inch) high and at least 0.2 centimetres (1 /16 inch) wide at the narrowest point that reads "Smoking permitted in this area" as set out in Schedule "C"; and
 - (iii) the designated smoking area must have a container to extinguish and dispose of cigarettes, cigars, etc.

5.6 Sections 5.1 and 5.2 do not apply to:

- (i) a part of a Place of Employment that is used as a private residence;
- (ii) a room in a hotel, motel or other place where rooms are rented for sleeping accommodation, provided the room is used for sleeping accommodation only and the room is designated and specifically set aside as a room in which smoking is permitted; or
- (iii) a Place of Employment located in a dwelling where the only employees of that workplace are persons who live in the dwelling.

6. PUBLIC PLACES AND PLACES OF EMPLOYMENT

- 6.1 All employers and persons in charge of Public Places shall ensure that "No Smoking" signs are conspicuously posted and are clearly visible in all areas where smoking is prohibited under this law; and
- 6.2 Ensure that ashtrays and other articles used in connection with smoking are not present in areas where smoking is prohibited under this law; and
- 6.3 Inform any person who is smoking in a prohibited area that smoking in that area is prohibited.

7. INSPECTIONS

- 7.1 An Enforcement Officer may, at any reasonable time, enter any public place or workplace for the purposes of determining compliance with this law;
- 7.2 No person shall hinder or obstruct, or attempt to hinder or obstruct, any Enforcement Officer who is exercising a power or performing a duty under this law including determining compliance with this law.

8. SIGNS AND SYMBOLS:

- 8.1 Where an entranceway is non-smoking under this law, the employer or person in charge of a Public Place shall post and maintain in a conspicuous location adjacent to the designated entrance a sign at least 14 centimeters (5.5 inches) by 14 centimeters (5.5 inches) in size that includes:
- (i) a depiction of the international No Smoking symbol at least 7.5 centimeters (3 inches) in height;
 - (ii) lettering at least 0.8 centimetres (5/16 inch) high and at least 0.2 centimetres (1 /16 inch) wide at the narrowest point that reads "Smoking is prohibited within 9 metres of this entranceway"; and

- (iii) with the rest of the lettering sized proportionately, which reads "Nipissing First Nation Law".

as set out in Schedule B".

- 8.2 Where a No Smoking sign is required to be placed or posted under this law, the sign shall have the proportions, characteristics and minimum measurements consistent with Section 8.1 and as depicted in Schedule "A" and consists of two (2) contrasting colours, or if the lettering and graphic symbol is to be applied directly to surface or to be mounted on a clear panel, the lettering and graphic symbol shall contrast with the background.
- 8.3 Despite the fact that the symbol referred to in Schedule "A" is a cigarette, it may include a lighted cigar, cigarette, pipe or any other lighted smoking instrument including e-cigarettes.
- 8.4 Deviations from the colour or content of the sign prescribed by this section that do not affect the substance or that are not calculated to mislead do not invalidate, spoil or impair quality of the sign.
- 8.5 Any sign prohibiting smoking that refers to a previous version of this law or that fails to refer to a law number is deemed to be referring to this law.
- 8.6 Every employer and person in charge of a Public Place shall post and maintain in conspicuous locations within the building including in every washroom, a sign at least 14 centimetres (5.5 inches) by 14 centimetres (5.5 inches) in size that includes:
 - (i) a depiction of the international No Smoking symbol at least 7.5 centimetres (3 inches);
 - (ii) lettering at least 0.8 centimetres (5/16 inch) high and at least 0.2 centimetres (1/16 inch) wide at the narrowest point; and
 - (iii) with the rest of the lettering sized proportionately, which reads "Nipissing First Nation Maximum Fine (\$5000)".

9. EXCEPTIONS TO THE SMOKING LAW

- 9.1 This law shall not apply to tobacco and other traditional medicines used for the purpose of conducting a cultural ceremony (pipe ceremony, smudging, etc.) and when used in live plays.

10. OFFENCES:

- 10.1 Any person who contravenes any of the provisions of this law is guilty of an offence and is liable to a fine as set out in Schedule "D";
- 10.2 All fines are payable to Nipissing First Nation and payment can be paid in person or by mail to Nipissing First Nation, 36 Semo Road, Garden Village, Ontario P2B 3K2 by cash or credit card.

11. CONFLICTS:

- 11.1 If a provision of this law conflicts with an Act or Regulation or another law or by-law, the provisions that is the most restrictive of smoking shall prevail.

12. SEVERABILITY:

- 12.1 If any section or sections of this law or parts thereof are found 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 law shall be deemed to be effective and independent there from and to be enacted as such.

13. APPEAL PROCESS – DISPUTE RESOLUTION:

- 13.1 Any appeals of fines issued under this law are to be filed in accordance with the Dispute Resolution Process Law of Nipissing First Nation.

14. COUNCIL MOTION:

- 14.1 This law is hereby approved at a duly convened meeting of the Council of Nipissing First Nation this 16th day of May, 2017.

15. EFFECTIVE DATE:

- 15.1 This law shall come into effect the 16th day of May, 2018.

16. SIGNATURE OF COUNCIL

THIS LAW IS HEREBY enacted at a duly convened meeting of the Council of Nipissing First Nation this 16th day of May, 2017.


Voting in favour of this law are the following members of the Council:


Chief Scott McLeod


Deputy Chief Muriel Sawyer

Councillor Corey Goulais


Councillor Rick Stevens


Councillor Jason Laronde


Councillor June Commanda


Councillor Brian Couhie


Councillor Cathy Bellefeuille

being the majority of those of the Council of the Nipissing First Nation present at the aforesaid meeting of the Council.

The quorum of the Council is five members. Number of the Council present at the meeting: _____.

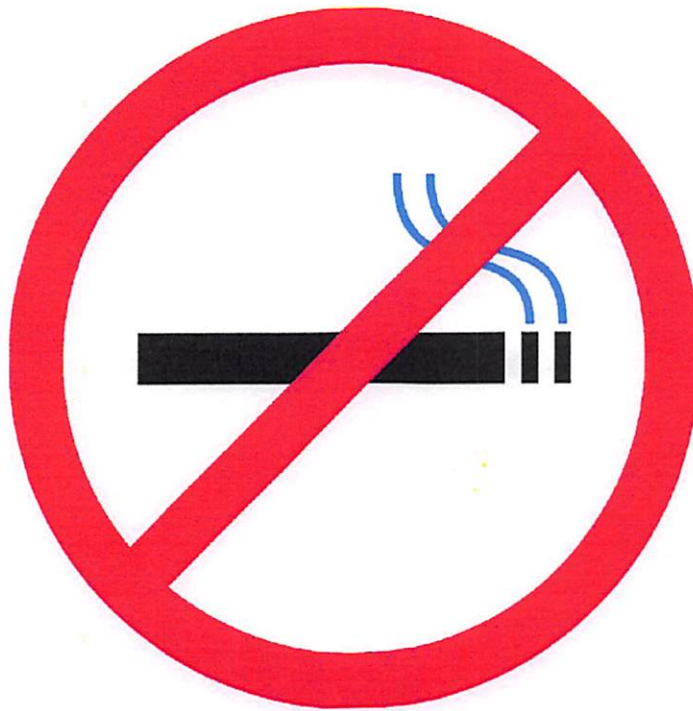
Schedule "A" to the Nipissing First Nation Law No. 001-2017



Gaanwin Skaswaawin – No Smoking Permitted

Nipissing First Nation

Maximum Fine (\$5,000.00)



←----- 9 metres ----->

**Smoking is prohibited
Within 9 metres of
This entranceway**



Enji- skaswaang –Smoking Permitted

Schedule "D" to the Nipissing First Nation Law No. 001-2017

	Short Form Wording	Provision Creating Or Defining Offence	Set Fine
1.	Smoke in workplace	5	\$250.00
2.	Employer fail to ensure compliance	5	\$250.00
3.	Employer fail to post non-smoking signs	5.5	\$250.00
4.	Employer permit ashtrays	6.2	\$250.00
5.	Smoke in public place	4	\$250.00
6.	fail to ensure compliance	6	\$250.00
7.	fail to post non-smoking signs	5.5	\$250.00
8.	permit ashtrays	6.2	\$250.00
9.	Obstruct Enforcement Officer	7.2	\$250.00
10	Second and subsequent offenses	All	\$500.00