

PROVINCE OF ALBERTA

SMOKING BY-LAW

A BY-LAW OF THE TOWN OF WESTLOCK, IN THE PROVINCE OF ALBERTA, RESPECTING SMOKE FREE PUBLIC PLACES AND WORKPLACES.

WHEREAS, the Council of the Town of Westlock deems it expedient and appropriate to regulate the smoking of tobacco products in public places and workplaces within the Town of Westlock; and, in accordance with the Municipal Government Act R.S.A. 2000 c. 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;

WHEREAS, health officials have determined that second hand tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars and pipes) is a health hazard or discomfort for many persons;

AND WHEREAS, Council deems it expedient to impose smoking restrictions in a manner that balances competing considerations respecting health concerns, economic viability for business operations, and an individual's personal freedoms;

NOW THEREFORE, the Council of the Town of Westlock, duly assembled, hereby enacts as follows:

That Smoking within the Town of Westlock in all Designated Public Places will be prohibited commencing January 1, 2008.

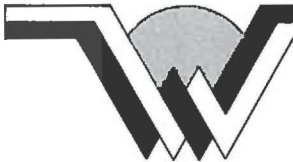
SECTION 1 - SHORT TITLE

- 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 "Bar" means a place that is governed by either a "Class A – Minors Prohibited" or "Class B" or "Class C" liquor license granted on behalf of the Province of Alberta under the Gaming and Liquor Act;
- 2.3 "Building" includes anything constructed or placed on, in, over or under land, whether permanent or temporary, into which a Person could enter;
- 2.4 "Designated Public Place" means a place prescribed in Section 3;
- 2.5 "Enclosed Walkway" means any pedway, bridge, hallway, connecting stairway, or similar structure that is physically enclosed;
- 2.6 "Licensed Gaming Events" means events held pursuant to a bingo license or a casino license granted on behalf of the Province of Alberta under the Gaming and Liquor Act;
- 2.7 "Manager" means an employer, or other person who, directly or indirectly controls, directs or is responsible for a place or who controls the activities in the place;
 - 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 President of an Educational Institution
- 2.8 "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:
 - a) a public premises where food or beverages are served that is not fully contained within an enclosed building; and
 - b) an outside extension of an eating or drinking establishment regardless of whether it is covered



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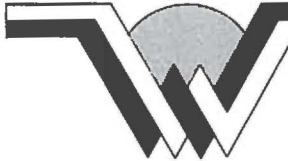
SMOKING BY-LAW

(SECTION 2 – DEFINITIONS, cont'd)

- 2.9 "Bylaw Enforcement 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;
- 2.10 "Person" includes an individual, proprietorship, corporation or society;
- 2.11 "Private Club or Organization" includes premises that are not open to the public and the use of which is restricted to members and their guests, residents and their guests or some other basis acceptable to the Board.
- 2.12 "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 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;
- 2.13 "Public" means any person regardless of age, other than the owner, lessee, proprietor or employer of a particular building or place;
- 2.14 "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 manager 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) 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
- 2.15 "Sign" means a sign as prescribed in the Alberta Regulation 207/2005 Smoke-Free Places Act, Alberta Regulation 207/2005 Smoke-Free Places Act Signs Regulation;
- 2.16 "Smoke" or "Smoking" includes the carrying, holding or otherwise controlling of a lighted cigar, cigarette, pipe or any other lighted smoking equipment;
- 2.17 "Violation Tag" means a ticket or similar document issued by the Town pursuant to the Municipal Government Act R.S.A. 2000, c. M-26, as amended, and as referred to in Section 7 of this By-Law;
- 2.18 "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 and regulations thereunder, and as referred to in Section 8 of this By-Law;
- 2.19 "Workplace" means any enclosed area of a building or structure in which an employee works and includes washrooms, corridors, bars, eating areas, outdoor patios, reception areas, elevators, escalators, foyers, hallways, stairways, enclosed walkways, amenity areas, lobbies, laundry rooms, licensed gaming events, and enclosed parking garages utilized by an employee. Without limiting the generality of the foregoing:
- a) a place is a Workplace whether or not the employee is employed by the manager 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 No person shall smoke in the following places;

- (a) public building
- (b) work place
- (c) bar
- (d) outdoor patio
- (e) private club or organization

3.2 Subject to Section 3.3, the following are Designated Public Places for the purposes of this By-Law:

- a) Public Buildings and those areas within 3 meters of a public entrance except on a public sidewalk adjacent to a roadway.
- b) Workplaces and those areas within 3 meters of a public entrance except on a public sidewalk adjacent to a roadway.
- c) Bar and those areas within 3 meters of a public entrance except on a public sidewalk adjacent to a roadway.
- d) Outdoor Patio and those areas within 3 meters of a public entrance except on a public sidewalk adjacent to a roadway.
- e) Private Club or Organization and those areas within 3 meters of public entrance except on a public sidewalk adjacent to a roadway.

3.3 No person shall smoke in a Designated Public Place, whether or not a "No Smoking" sign is posted or visible.

3.4 No manager shall permit smoking in a Designated Public Place, whether or not a "No Smoking" sign is posted or visible.

SECTION 4 - ASHTRAYS

4.1 The manager of every Designated Public Place shall ensure that no ashtrays are placed or allowed to remain in any Designated Public Place.

4.2 The manager 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 than 3 meters from the entrance or exit of the Designated Public Place, except where allowed in Section 3.2.

SECTION 5 - SIGNS

5.1 The manager of every Designated Public Place shall ensure that signs are posted conspicuously and in accordance with Smoke - Free Places Signs Regulation and this By-Law so as to clearly identify that smoking is prohibited.



NO SMOKING
Town of Westlock
Smoking By-Law 2006-02

5.2 The graphic symbol referred to in Subsection 5.1 shall include the text "Town of Westlock" or "Town of Westlock Smoking By-Law 2006-02."

5.3 In addition to the graphic symbol referred to in Subsection 5.2 there may be added appropriate symbols such as directional arrows.

5.4 No person other than a manager or a person acting under the manager's instructions shall remove, alter, conceal, deface or destroy any sign posted pursuant to this By-Law.



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SMOKING BY-LAW

SECTION 6 - PENALTIES

- 6.1 The specified penalty for an offence(s) committed pursuant to this By-Law will be established by resolution of Council.
- 6.2 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 - VIOLATION TAGS

- 7.1 A Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Tag to any person who the Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this By-Law.
- 7.2 Where a Violation Tag is issued pursuant to Section 7 of this By-Law, the person to whom the Violation Tag is issued may, in lieu of being prosecuted for the offence, pay to the Town the penalty specified within the time period indicated on the Violation Tag.
- 7.3 Nothing in the By-Law shall prevent a Bylaw Enforcement Officer from immediately issuing a Violation Ticket.

SECTION 8 - VIOLATION TICKET

- 8.1 In those cases where a Violation Tag has been issued and if the penalty specified on a Violation Tag has not been paid within the prescribed time, then a Bylaw Enforcement 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 the By-Law, a Bylaw Enforcement 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 By-Law Enforcement Officer has reasonable grounds to believe has contravened any provision of this Bylaw.

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 there from and to be enacted as such.

SECTION 10 - ENFORCEMENT

- 10.1 For the enforcement of this By-Law, a Bylaw Enforcement Officer, upon producing proper identification, may at all reasonable hours, enter any Designated Public Place and may make examinations, investigations and inquiries.

This By-Law shall come into force and effect all as of January 1, 2008

READ A FIRST TIME THIS 11th DAY OF December, A.D. 2006.

READ A SECOND TIME THIS 12 DAY OF March, A.D. 2007.

READ A THIRD TIME THIS 12 DAY OF March, A.D. 2007.


MAYOR, Bruce Lennon


TOWN MANAGER, Norm McInnis



Smoking By-Law

Schedule of Penalties

Penalties**Offence****First Offences – Specified Penalties for Violation Tickets**

	<u>Penalties</u>	<u>Section</u>
Person smoking in a Designated Public Place	\$250.00	3.1, 3.2, 3.3
Manager allowing smoking when in a Designated Public Place	\$500.00	3.4
Manager's failure to ensure proper signage	\$250.00	5.1
Anyone found removing; altering; concealing; defacing; or destroying any sign posted pursuant to By-law 2006-02	\$250.00	5.4
Any other offence	\$250.00	

Second or subsequent offence within one (1) year of committing first offence, double the specified penalty shall apply. All offences double the original amount.

First, Second or Subsequent Offences – Specified Penalties for Violation Tags

All offences	\$250.00
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Administrative Surcharge - if payment of penalty charged is not received by the Municipality within 30 (thirty) days of date of issuance of Violation Tag, the surcharge shall be \$20.00 or 20% of the specified penalty, whichever amount is greater.