

VILLAGE OF ANDREW SMOKING BYLAW No. 2006-01

Being a Bylaw of the Village of Andrew in the Province of Alberta to regulate Smoking in Public Places.

WHEREAS, The Municipal Government Act, RSA, 2000, c. M-26 grants the Municipal Council of the Village of Andrew the authority to pass Bylaws respecting the safety, health and welfare of people and the protection of people and property, and

WHEREAS, it has been determined that second hand tobacco smoke including exhaled smoke and the smoke from idling tobacco products poses a health hazard or causes physical discomfort to many persons,

NOW THEREFORE, The Municipal Council of the Village of Andrew, duly assembled hereby enacts as follows:

This Bylaw consists of nine (8) Sections and four (4) Schedules

Section 1	Definitions
Section 2	Application
Section 3	Prohibitions
Section 4	Restrictions
Section 5	Exemption
Section 6	Signs
Section 7	Enforcement
Section 8	Severability
Schedule 1	Fines
Schedule 2	Smoking Prohibited Sign
Schedule 3	Smoking Permitted in Designated Areas Sign
Schedule 4	Smoking Permitted Sign

SECTION 1 DEFINITIONS

- 1.1 "ACT" shall mean the Municipal Government Act, RSA, 2000, c. M-26
- 1.2 "BAR" means a business premises primarily serving alcoholic beverages for consumption on the premises, and where entry by persons under the age of 18 years of age is prohibited by Provincial law.
- 1.3 "BINGO HALL" means any building, location or premises where the conduct of Bingo events is licensed.
- 1.4 "VILLAGE" shall mean the Village of Andrew.
- 1.5 "Village Facility" shall mean all buildings either owned, leased or rented by the Village of Andrew which are used for the conduct of Village business or the provision of services to the public. It shall also mean any structure or enclosure, including but not limited to a tent or baseball dugout, bleacher seating either permanent or temporary erected by the Village for any purpose, any deck or patio either free standing or attached to a Village facility.
- 1.6 "DECK" (see Patio)
- 1.7 "EMPLOYEE" means any full time, part time, contracted, or volunteer worker whether or not

they receive money for the work performed and whether or not they are employed by the proprietor of the workplace.

- 1.8 **“EMPLOYER”** includes any person who as the owner, Proprietor, manager, superintendent or overseer of any activity, business, work, trade, occupation, profession, has control over, or direction of, or is directly or indirectly responsible for the employment of a person therein.
- 1.9 **“LOUNGE”** (see Bar)
- 1.10 **“LOBBY”** (see Reception Area)
- 1.11 **“PATIO”** means an outdoor area licensed for service or consumption of food or beverages that is contiguous to a Restaurant, Bar (Lounge) or Bingo Hall which:
- 1.11.1 has no roof or awning; or
 - 1.11.2 if it has a roof or awning has a maximum of two walls.
 - 1.11.3 if contiguous to a Village Facility is considered a Village Facility.
- 1.12 **“PERSON”** includes an individual, proprietorship, corporation or society.
- 1.13 **“PRIVATE CLUB”** or **“LODGE”** means a development used for the meeting, social, or recreational activities of members of non-profit, philanthropic, social service, athletic, or fraternal organizations to which access is restricted to members or invited guests and to which the general public does not have access.
- 1.14 **“PRIVATE FUNCTION”** means a specific social event for which an entire and enclosed hall or room which is not a private residence has been reserved, at which attendance is limited to people who have been specifically invited or designated by the sponsor, and at which all the seating is under the control of the sponsor of the event and not the proprietor of the hall or room, but does not include events which are held primarily for the purpose of business, sales or education.
- 1.15 **“RESIDENCE”** Private means accommodation providing sleeping quarters, washrooms, and a kitchen intended for domestic use, and used or intended to be used permanently or semi-permanently for a household.
- 1.16 **“PROPRIETOR”** means the owner or his agent or representative of the premises referred to in this Bylaw, and includes any person in charge thereof or anyone who controls, governs or directs the activity carried on therein. For the purposes of this bylaw Proprietor shall also mean the designated manager when the activity refers to a Private Club.
- 1.17 **“PUBLIC PLACE”** means the whole or part of an enclosed place which the public have access of as by right or by invitation express or implied for the purposes of worship, entertainment, recreation, business or amusement and includes but is not limited to theatres, convention centres, walkways and food courts of shopping centres, arenas, recreation centres, video arcades, churches, church halls, concert halls, auditoriums, movie houses, lecture halls, libraries, but does not include a Private Club or a place where a Private Function is being held. For the purposes of this Bylaw a Public Place shall include the outdoor area enclosed within a two (2) Metre radius of an entrance to a Public Place, Village Facility, Workplace, Restaurant, or Retail Store.
- 1.18 **“RECEPTION AREA”** means the public space used by an office or any business establishment for the receiving of customers, clients, patients or other persons dealing with such office or establishment. Reception Area includes any service counter associated with the office or establishment.

- 1.19 “RESTAURANT” means any place of business where food or refreshments are prepared to order and sold for human consumption on the premises or take-out, and includes a lunch counter or cafeteria. For the purposes of this bylaw Restaurant shall also include any contiguous outdoor patio.
- 1.20 “RETAIL STORE” means any building, booth, stall, tent or place where goods are exposed, auctioned or offered for sale to the public.
- 1.21 “SERVICE LINE” means a line of one (1) or more persons awaiting service of any kind regardless of whether or not such services include the exchange of money including but not limited to sales, provision of information, a transaction, advice or the transfer of money or goods.
- 1.22 “SIGNS” means those signs detailed in Section 6 and Schedules 2, 3, and 4 of this Bylaw.
- 1.23 “SMOKE” or “SMOKING” includes the carrying or custody and control of a lighted cigar, cigarette, pipe or any other lighted smoking equipment.
- 1.24 “TAXI” or “BUS” means any Taxicab, Limousine or bus, which is being used by a passenger or passengers for hire or which is being offered for hire.
- 1.25 “TRADITIONAL PIPE CEREMONY” means a cultural or religious ceremony performed by Canada’s Aboriginal Peoples involving the use of tobacco products and is held out of doors or in a separate and specific aboriginal structure such as a tipi.
- 1.26 “WORKPLACE” means any enclosed area of a building or structure in which an employee works and includes washrooms, corridors, lounges, eating areas, elevators, escalators, reception areas, hallways, stairwells, amenities areas, laundry rooms, and enclosed parking garages used by any employee.

SECTION 2 APPLICATION

This Bylaw applies within the Village Limits of the Village of Andrew

SECTION 3 PROHIBITIONS

- 3.1 Subject to the specific exemptions granted in this Bylaw, Smoking is not permitted in any public place.
- 3.1.1 Anyone who Smokes in an area where smoking is not permitted is guilty of an offence.
- 3.1.2 A Proprietor or an Employer who permits anyone to smoke in an area where smoking is not permitted is guilty of an offence.
- 3.1.3 All ashtrays or other receptacles designed or intended to be used as ashtrays must be removed from any public place.
- 3.2 Persons under the age of 18 years are not permitted to enter any place where smoking is otherwise permitted under this Bylaw, including a Private Function.
- 3.2.1 A Proprietor or other person who permits a person under the age of 18 years to enter and remain in an area where Smoking is permitted is guilty of an offence. This applies to customers, staff or volunteers.
- 3.3 Smoking is not permitted in any Village Facility whether or not the activity is a Private Function.

- ~~3.3.1~~ 3.3.1 NO SMOKING except in the Andrew Fire Department Bay Area of the Fire Hall and Clubroom.
- 3.3.2 Anyone who Smokes in a Village Facility is guilty of an offence.
- 3.4 Smoking is not permitted in any Reception Area, Retail Store or Service Line.
 - 3.4.1 Anyone who Smokes in any Reception Area, Retail Store (subject to any exemption granted by 4.1.4 of this Bylaw) or Service Line is guilty of an offence.
 - 3.4.2 A Proprietor or Employer who permits anyone to Smoke in a Reception Area, Retail Store (subject to any exemption granted by 4.1.4 of this Bylaw) or Service Line is guilty of an offence.
- 3.5 Smoking is not permitted in a Taxi or a bus by the driver or passengers.
 - 3.5.1 Anyone who Smokes in a Taxi or a bus is guilty of an offence.
 - 3.5.2 The owner / operator of a Taxi or bus must post a sign clearly visible to passengers indicating that Smoking is not permitted.
- 3.6 Smoking is not permitted anywhere in a Restaurant.
 - 3.6.1 Anyone who Smokes in a Restaurant is guilty of an offence.
 - 3.6.2 A Proprietor or Employer who permits anyone to Smoke in a Restaurant is guilty of an offence.

SECTION 4 RESTRICTIONS

4.1 Workplaces

Smoking is not permitted in any Workplace except that a Proprietor or Municipal Council may designate a staff Smoking area provided that:

- 4.1.1 the designated staff Smoking area does not exceed 50% of the total area of the Workplace.
- 4.1.2 the designated staff Smoking area does not include any part of the Workplace that is regularly used by or available for use by all or substantially all Employees at the Workplace. This includes but is not limited to lunch rooms, staff rooms, cafeterias, coat rooms, washrooms, copier, fax or mail rooms, stairwells, or hallways.
- 4.1.3 the designated Smoking area is physically separated from any customer service area or other Public Place.
- 4.1.4 where the Workplace is a Retail Store the Proprietor may designate a staff Smoking area subject to 4.1.2 and 4.1.3 above.
- 4.1.5 the designated Smoking area is not in a location otherwise prohibited by Federal or Provincial Statute or by order of the Provincial Fire Marshall.
- 4.1.6 No person may smoke in any area that is used by the public or is used to serve the public whether or not it is outside business hours and the business is not open to the public.

4.2 Home Based Business

If the Workplace is also a Private Residence operating as a licensed home based business as permitted under Bylaw C-328-98 Land Use Bylaw (as amended), Smoking is permitted except in any Reception Area at any time the workplace is open to the public.

4.3 Bars (Lounges)

A Proprietor may permit Smoking in a Bar or Lounge.

4.3.1 Smoking is not permitted in a Bar (Lounge) that adjoins or is a component of a Restaurant unless the Bar (Lounge) is physically separated from the Restaurant by complete (floor to ceiling) and solid walls, a close able door and a separate ventilation system. For the purposes of this section ceiling shall mean the nearest full barrier above the floor and does not include a false or suspended ceiling. The close able door must remain closed when not actually being used by customers and staff for passage between the lounge and any other portion of the building. The close able door may not be propped open or held open by any device.

4.3.2 The Proprietor of a Bar (Lounge) may designate all of a contiguous outdoor Patio or Deck as a Smoking area.

4.4 Bingo Halls

A Proprietor may permit Smoking in a Bingo Hall.

4.4.1 Section 3.2 applies to customers, staff and volunteers.

4.4.2 The Proprietor of a Bingo Hall may designate a contiguous outdoor Patio or Deck as a Smoking area

4.5 Private Club

4.5.1 Smoking may be permitted in a Private Club if the rules of the Private Club allow it. If Smoking is permitted, Sections 3.2 and 3.3 shall apply.

4.5.2 If at any time a Private Club is open to the public it becomes a Public Place for the period that it is open to the public and Smoking is not permitted. Examples are an open house of the Private Club to invite new membership, the use of the Private Club's facilities by a third party for an open house or cultural event that is not a Private Function, or the use of the Private Club's facilities for a community event or celebration.

4.6 Bowling Alleys

Bowling Alleys are licensed as Recreation Facilities and as such are Public Places. Smoking is not permitted in a Bowling Alley.

4.7 Private Functions

A sponsor may permit Smoking at a Private Function if a proprietor wishes to grant that option. If a sponsor permits Smoking, Sections 3.2 and 3.3 of this Bylaw shall apply.

SECTION 5 EXEMPTION

5.1 Traditional Pipe Ceremony

A Traditional Pipe Ceremony is exempt from the provisions of this Bylaw except that:

- 5.1.1 the exemption only applies to those persons actually participating in the ceremony, and
- 5.1.2 the exemption does not apply to spectators or onlookers.

SECTION 6 SIGNAGE

6.1 Proprietors Responsibility

- 6.1.1 The Proprietor of a Workplace, Restaurant, Bar (Lounge), Bingo Hall, or other Public Place is responsible to post and maintain in good condition all signage required by this Bylaw. The manager of a Private Club is responsible to post and maintain in good condition all signage required by this Bylaw. The proprietor or manager must replace any Sign that becomes defaced or has been subject to fading or deterioration due to the elements
- 6.1.2 Failure to post Signs or to maintain those Signs in good condition is an offence.

6.2 Signs

- 6.2.1 Notwithstanding that the signs used to designate Smoking permitted, Smoking restricted, and Smoking prohibited areas carry a representation of a lighted cigarette, these Signs shall also mean a cigar, pipe or other lighted Smoking equipment.
- 6.2.2 Signs must be clearly posted at all entrances and clearly visible to the public prior to entry to any Public Place, Workplace, Bar, Restaurant, Bingo Hall, or Private Club.
- 6.2.3 **Smoking Prohibited**
Smoking Prohibited Signs must be posted on all entrances to a Public Place, Workplace, Restaurant, or Private Club unless Smoking is otherwise permitted by this Bylaw. The Sign must comply with the standards shown at Schedule 2 to this Bylaw. The Sign may be combined with a directional arrow.
- 6.2.4 **Smoking Restricted**
 - 6.2.4.1 Where Smoking is permitted in a designated area within a Workplace, or Private Club all exterior public entrances to that Workplace or Private Club must display a Smoking Permitted in Designated Areas Only Sign. The Sign must comply with the standards shown at Schedule 3 to this Bylaw. The Sign may be combined with a directional arrow.
 - 6.2.4.2 Where Smoking is permitted in a designated area within a Workplace or Private Club all interior entrances to that designated area must display a Smoking Permitted No Entry to Persons Under 18 Years of Age Sign. The Sign must comply with the standards shown at Schedule 4 to this Bylaw. The Sign may not be combined with any other sign.

6.3 Smoking Permitted

- 6.3.1 Where Smoking is permitted, all entrances to that area must display a Smoking Permitted No Entry to Persons Under 18 Years of Age Sign. The Sign must comply with the standards shown at Schedule 4 to this Bylaw. The Sign may not be combined

- with any other sign.
- 6.3.2 If at any time a Private Club that permits Smoking is open to the public and therefore becomes a public place in accordance with this Bylaw, for the period that it is open to the public **Smoking is not permitted**. All Smoking Permitted Signs must be fully covered or removed from view and replaced with Smoking Prohibited Signs.

SECTION 7 ENFORCEMENT

- 7.1 This Bylaw may be enforced by members of the RCMP or Village of Andrew Enforcement Services.
- 7.2 For the enforcement of this Bylaw a member of the RCMP or a Village of Andrew Enforcement Officer, upon presentation of proper identification, may at all reasonable hours, enter any Public Place, Workplace or Private Club and make investigations and enquiries.
- 7.3 In those cases where a Violation Tag has been issued and if the prescribed penalty has not been paid within the allotted time, then the member of the RCMP or Enforcement Officer will issue a Violation Ticket pursuant to Part II of the Provincial Offences Procedure Act, RSA, 2000, c. P-34.

SECTION 8 SEVERABILITY

If at any time, any provision of this Bylaw is declared or held to be illegal, invalid, or ultra vires, in whole or in part, then the provision shall not apply and the remainder of this Bylaw shall continue in full force and effect and be construed as if it had been enacted without the illegal, invalid or ultra vires provision.

**Village of Andrew
BYLAW -----
SMOKING BYLAW
SCHEDULE 1**

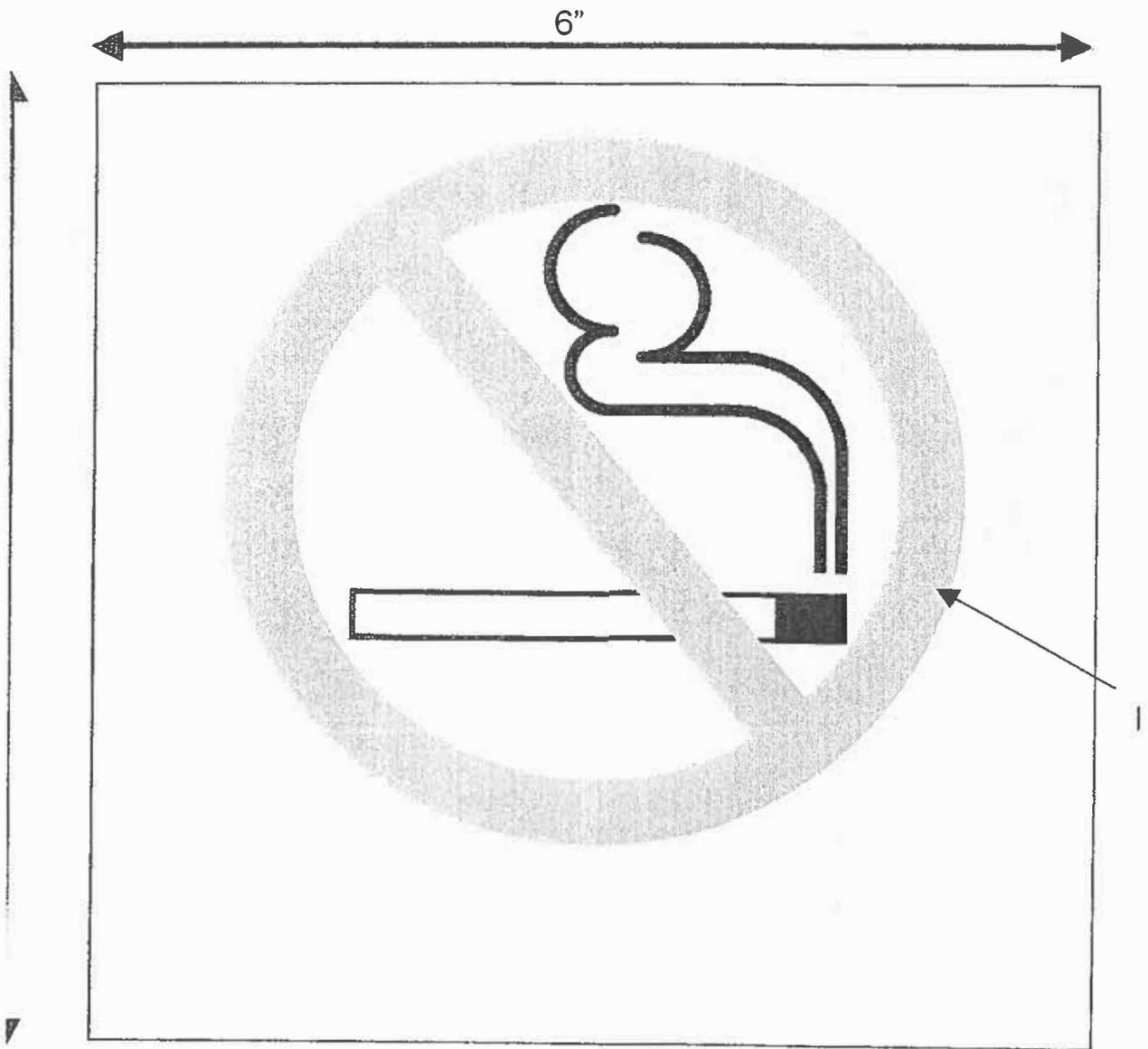
Offence Penalty Section(s)

<u>First Offence</u>	<u>Penalty</u>	<u>Section</u>
Person Smoking in a Public Place which includes within 2 metres of the doorway to a public place	\$250.00	3.1
Person Smoking in a Village Facility	\$250.00	3.3
Person Smoking in a Taxi	\$250.00	3.5
Person Smoking in a Restaurant	\$250.00	3.6
Proprietor or employer permitting smoking in a public place	\$250.00	3.1
Proprietor permitting a person under the age of 18 years to enter and remain in an area where Smoking is permitted by this Bylaw	\$250.00	3.2
Proprietor or Taxi operator failure to post or maintain signs as required by this Bylaw.	\$250.00	6.1
<u>Second and subsequent offences</u>	\$500.00	All

SMOKING BYLAW

SCHEDULE 2

SMOKING PROHIBITED SIGN



SMOKING BYLAW

SCHEDULE 3

SMOKING PERMITTED
IN DESIGNATED AREAS ONLY SIGN



Lettering minimum of 1cm in height

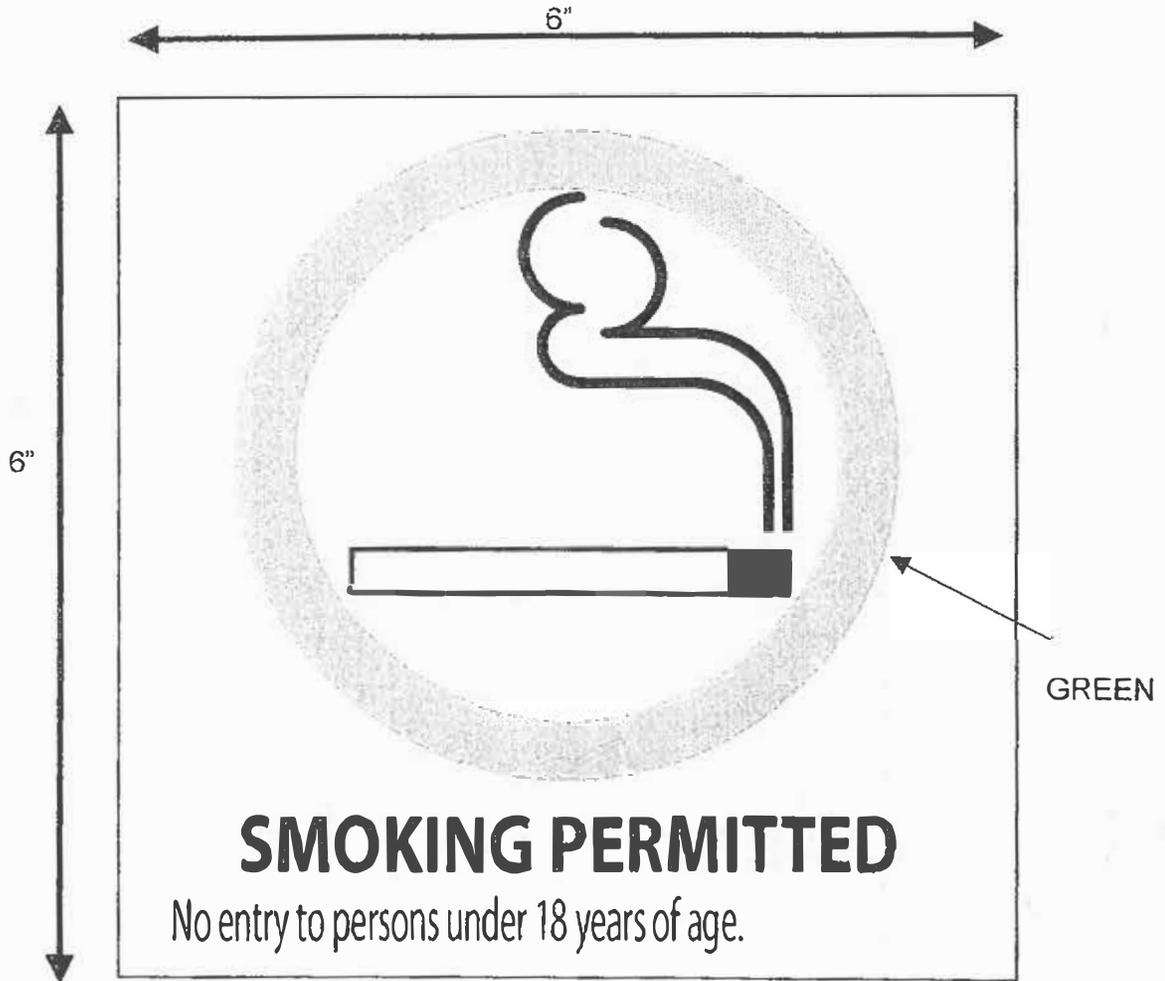
SCHEDULE "A"



SMOKING BYLAW

SCHEDULE 4

SMOKING PERMITTED SIGN
NO ENTRY TO PERSONS UNDER 18 YEARS OF AGE SIGN



Lettering minimum of 1cm in height