



CHIPPEWAS OF RAMA FIRST NATION
Being a Band within the meaning of the *Indian Act*

**RAMA FIRST NATION
ANTI- SMOKING BY-LAW**

By-Law No. 20-01

**Being a By-Law to Repeal and Replace By-Law No. 06-03
Enacted on the 1st day of June, 2006.**

This By-Law shall come into force and effect on March 9, 2020.

WHEREAS the Chippewas of Rama First Nation has and recognizes its inherent right of self-government, and its jurisdiction to pass laws and powers pursuant to the *Indian Act* to create By-Laws providing for the health and safety of the residents on and visitors to the Rama First Nation Territory;

AND WHEREAS medical research has determined that second-hand tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars and pipes) may be a health hazard and discomfort for non-smokers;

AND WHEREAS it is desirable, in the interest of promoting the health, safety and well-being of all members, employees and visitors to the Chippewas of Rama First Nation, to prohibit or regulate smoking, or both, on the Chippewas of Rama First Nation Reserve as hereinafter set out;

AND WHEREAS Chief and Council enacted Rama First Nation Anti-Smoking By-Law no. 06-03 on June 1st, 2006;

AND WHEREAS Chief and wish to repeal and replace By-Law No. 06-03 and replace it with By-Law No. 20-01, the latter of which provides limited liability for potential claims;

NOW THEREFORE the Chief and Council of the Chippewas of Rama First Nation hereby make the following By-Law:

1. PREAMBLE

- 1.1. Principles of promoting a healthy community and prevention of health risks are essential to establishing a safe work environment and places of public assembly. Whereas it is believed that anti-smoking measures are needed to protect the health of members, Employees, and visitors to the Chippewas of Rama First Nation, it is also imperative to maintain our cultural and spiritual integrity through traditional practices. It is our inherent right to practice our customs and therefore any practices involving burning or smoking of traditional medicines for spiritual or cultural wellness will be permitted, whereas recreational smoking will be banned



in all places of employment and public gathering unless otherwise provided for in this By-Law.

2. SHORT TITLE

2.1. This By-Law may be cited as the "RFN Anti-Smoking By-Law."

3. INTERPRETATION

3.1. In this law:

- a) **"Building Inspector"** means the Chippewas of Rama First Nation Building Inspector or any other person so appointed by the Chippewas of Rama First Nation Chief and Council;
- b) **"Ceremonial Use"** or **"Cultural Use"** means the use of burning or pipe smoking traditional medicines for spiritual ceremonies, including the burning of tobacco, sage, cedar, sweet grass (or any other medicinal plant) for smudging or gifting the Creator and ancestors of the First Nations of Canada, including any medicinal plants and herbs for celebration, teaching and cultural conservation;
- c) **"Council"** means the Chief and Council of the Chippewas of Rama First Nation;
- d) **"Designated Smoking Room"** or **"DSR"** means an enclosed room in a building or portion of a building that is designated for smoking under Section 4.1(c);
- e) **"Employer"** includes any person who as an 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 Council; and is not limited to Rama First Nation Administration but any Employer of any Employees employed within the jurisdiction of Rama First Nation Reserve. All Employers must comply with the provision of this By-Law unless this By-Law otherwise specifies;
- f) **"Employee"** includes any person who is acting in the capacity of the course of their occupation, work and job, and any person who is employed within the territory of Rama First Nation Reserve regardless of who their Employer is. Every Employee, unless otherwise stated in this By-Law, must comply with all provisions contained within this By-Law;
- g) **"Environmental Tobacco Smoke"** or **"Recreational Tobacco Smoking"** includes the carrying of a lighted cigarette, pipe, cigar, or any other lighted smoking equipment that has no connection to Cultural or spiritual Use;



- h) **“Medicinal Plants and Herbs”** includes tobacco, sage, sweet grass and cedar, and any other plants and herbs that were utilized in a medical or spiritual capacity by First Nations, but does not include any unlawful narcotic or illicit substances and drugs as established in the *Criminal Code R.S. 1985 c.C-46* and Regulations as amended from time to time;
- i) **“Officer”** means a By-Law Enforcement Officer, or a member of the Police Services, or any other person so appointed by Rama First Nation Chief and Council;
- j) **“Open-Air Shelter”** means a non-enclosed structure with or without a roof, without interior rooms, and open on at least one side, that is categorically and structurally separate from a building and does not share entrance or exit with any building. Open-Air Shelters do not require exhaust ventilation under the provisions of this Bylaw;
- k) **“Place of Employment”** means any enclosed area of a building or structure in which an Employee works and includes any area used exclusively by Employees. It also includes any vehicle, heavy machinery or equipment used in the course of employment, but does not include parts of structures or buildings otherwise provided for within this By-Law;
- l) **“Place of Public Assembly”** means any building or portion thereof used for the gathering together of persons for purposes such as deliberation, holding a meeting or workshop, entertainment, recreation, playing of games of chance, business or amusement, transportation facilities and waiting areas, and includes but is not limited to places such as the Band Government Office, recreational center, church hall, and similar facilities; but does not include Private Dwellings or Open-Air Shelters;
- m) **“Private Dwellings”** means a set of living quarters in which a person or group of persons reside or could reside, and for the purposes of this Bylaw includes the private living quarters for senior citizens at the Senior Centre or Getsidjig Endaawaad.
- n) **“Proprietor”** means the owner, or his/her agent or representative of the premises 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, and, where the context so requires, also includes Council;
- o) **“Smoking Kiosk”** means a fully enclosed separate structure that is categorically and structurally separate from a building and does not share entrance or exit with any building, that is designated for smoking under Section 4.1(d);
- p) **“Tobacco”** includes cigarettes, pipes, cigars or any other smoking equipment that has no connection to Ceremonial or Cultural Use.



4. PROHIBITION

4.1. SMOKING PROHIBITIONS

- a) No person shall smoke or carry lighted Tobacco in any Place of Employment or Place of Public Assembly on the Chippewas of Rama First Nation, Reserve, except as provided for in subsection (c).
- b) No person shall smoke or carry lighted Tobacco within 9 metres or 29.5 feet radius of any entrance or exit of the following places within the First Nation:
 - 4.1.b.1. Mnjikaning Kendaaswin Elementary School (MKES);
 - 4.1.b.2. Early Childhood Education Centre (Binoojiinsag Kinoonaaewjamig or ECE);
 - 4.1.b.3. Mnjikaning Arena Sports Ki (MASK);
 - 4.1.b.4. Water and Wastewater Treatment Plants; and
 - 4.1.b.5. all health care buildings as designated by Chief and Council.
- c) An Employer or Proprietor may, at their own expense and accepting all related liability, designate an area not to exceed 25% of the total floor area of a Place of Employment or Place of Public Assembly as a Designated Smoking Room as per Section 6 of this Bylaw.
- d) An Employer or Proprietor may, at their own expense and accepting all related liability, designate a separate enclosed structure as a Smoking Kiosk as per Section 6 of this Bylaw.
- e) Where an area has been designated in accordance with subsection (c) or (d), smoking shall be permitted in such area.

4.2. PROVISION OF TOBACCO

- a) No person shall sell or supply Tobacco to a person who is less than 19 years of age.
- b) This By-Law does not regulate or enforce the private and individual cultural gifting of Tobacco between individuals.

4.3. PROMOTION OF TOBACCO PRODUCTS TO PERSONS UNDER 19

- a) No person shall, in any place where tobacco products are sold or offered for sale, promote the sale of tobacco products through product association, product enhancement or any type of promotion material, to persons less than 19 years of age.



5. CEREMONIAL OR CULTURAL USE EXCEPTION

5.1. Section 4.1, subsections (a) and (b) do not apply to any Ceremonial or Cultural Use of burning Tobacco, medicinal plants or herbs for spiritual or religious purposes. Ceremonial or Cultural Use of Tobacco is permitted.

6. DSR & SMOKING KIOSK EXCEPTIONS

6.1. Further to Section 4.1(c), an Employer or Proprietor may, at their own expense and accepting all related liability, designate a room within a Place of Employment or a Place of Public Assembly as a Designated Smoking Room (DSR) where smoking is permitted; or further to Section 4.1(d) establish separate contained Smoking Kiosk structures, provided that the DSR or Smoking Kiosk is:

- a) Physically separate and enclosed by walls, a floor and a ceiling which are sealed to ensure odour and air filtration is kept from adjoining spaces;
- b) clearly identified by a sign stating "SMOKING IN THIS AREA ONLY";
- c) meets all applicable building code standards, ASHRAE ventilation standards, and Rama First Nation governing authority requirements, including the building permit requirements set out in the Rama First Nation Land Use & Development Bylaw No. 17-02, as may be amended from time to time;
- d) is equipped with automatic door closures;
- e) equipped with ashtrays or non-combustible covered receptacles for the disposal of waste.

6.2. Construction or renovation of a DSR or Smoking Kiosk is subject to the Rama First Nation Building Permit Process. Permit applications for DSRs or Smoking Kiosks shall be reviewed on a case by case basis. Large Places of Public Assembly such as gaming facilities, theatres or halls, shall require engineering and scientific evidence in support of the building permit application. This shall include studies of existing HVAC systems, airflow patterns and stated design objectives. All required documentation is at the applicant's expense.

6.3. Subject to any additional or revised guidelines which are identified by the Rama First Nation Building Department arising from engineering or scientific studies during the Building Permit Application case by case review, the following general guidelines shall apply to all DSRs and Smoking Kiosks:

- a) Air from DSRs or Smoking Kiosks shall not be recirculated or transferred back to the DSR or non-smoking areas of the building; and fresh air supply and room exhaust air systems shall be dedicated for DSRs or Smoking Kiosks with no connections to any other building HVAC systems.



- b) Minimum of 40 CFM (20 L/S) per person of outdoor air (fresh air) will be allowed for the maximum projected occupancy of the DSRs or Smoking Kiosks; minimum of 20 ACH of outdoor air (fresh air) shall be provided at all times to the space.
- c) Exhaust system shall provide minimum negative pressurization of 0.03" W.G. (8 Pa) between the DSR or Smoking Kiosk and adjoining spaces.
- d) DSR and Smoking Kiosk supply and exhaust air flow pattern shall provide effective smoke capture and exhaust. Down blow supply at entry and high level exhaust at far side is recommended.
- e) Systems shall be alarmed for failure with audible/visual alarms posted outside and inside smoking room.
- f) DSR and Smoking Kiosk fan exhaust point shall be minimum 25' (8m) away from opening windows or fresh air intakes, taking prevailing wind direction into design consideration.
- g) DSR and Smoking Kiosk heating and cooling requirements shall meet the applicable building code requirements as per Rama First Nation Bylaw No. 20-01.
- h) A positively pressurized vestibule (air lock) shall be required for all DSRs.
- i) Entry doors to smoking room shall be provided with self closing hardware to keep doors in closed position at all times.
- j) Floor to ceiling partitions with any permeable material, including but not limited to acoustic tiles, shall not be used.
- k) Soft fabric window coverings, carpets, ceiling tiles or soft fabric cover furniture shall not be used; all furniture in DSRs or Smoking Kiosks shall be of non-combustible, non-permeable, durable and easily cleanable surface material.

6.4. A qualified person shall perform the maintenance checks on the DSR or Smoking Kiosks and their respective systems, and correct anything that is not in compliance with the requirements of this Bylaw, including:

- a) a monthly visual inspection of the DSR or Smoking Kiosk to ensure that it is operating in compliance with the Bylaw;
- b) a quarterly routine maintenance or maintenance as recommended by the equipment manufacturer, whichever is more frequent, and further maintenance as appropriate given the use of the system, including but not limited to changing the filter, checking and maintaining the motors, refrigeration system, heating system, and control system, and cleaning the coils and heat recovery system; and



c) an annual engineering inspection including air flow testing.

6.5. All DSRs and Smoking Kiosks must be separate from Employee break rooms.

6.6. Rama First Nation Building Inspectors have the authority to:

- a) inspect from time to time once the DSR or Smoking Kiosk meets standards to ensure ongoing compliance;
- b) shut down a DSR or Smoking Kiosk that does not meet the required standards; DSRs or Smoking Kiosks that do not meet required standards shall be reported to an Officer.

6.7. Employers shall not require an Employee to enter a DSR or Smoking Kiosk however an Employer may permit an Employee to work in a DSR or Smoking Kiosk only if the Employee has volunteered to do so and even then the Employee can spend no more than 20% of their work day or shift in the DSR or Smoking Kiosk.

6.8. No Employee will be responsible for attending or maintaining a DSR or Smoking Kiosk unless they have been contracted specifically for the maintenance and cleaning of a DSR or Smoking Kiosk.

7. SIGNS AND SYMBOLS

7.1. Where, under any section of this By-Law, a sign is to be displayed in accordance with this subsection, such sign shall:

- a) carry the required text in capital letters;
- b) consist of two (2) contrasting colors, or if the lettering is to be applied directly to a surface or to be mounted on a clear panel, the lettering shall contrast to the background color;
- c) with respect to size of lettering, be not less than a letter height of 2.54 cm or 1 inch;
- d) for "NO SMOKING" signs, include in the text at the bottom of each sign, "Chippewas of Rama First Nation By-Law No. 20-01, MAXIMUM FINE \$1,000" in letters not less than 1.27 cm or .5 inch in height for signs with letter size of 2.54 cm or 1 inch, and not less than one-quarter (1/4) of the height of the letters on all other sizes of signs.

7.2. Notwithstanding the provisions of subsection (8.1), the following graphic symbol can be used to indicate no smoking areas:



Chippewas of Rama First Nation Council
By-Law No. 20-01

7.3. Any such symbol shall be on a white background with the circle and the interdictory stroke in red, with a cigarette, letters and figures in black, and provided that the diameter of the circle is at 15 cm or 5.9 inches.

8. ENFORCEMENT

8.1. This By-Law shall be enforced by the Rama First Nation By-Law Enforcement Officers and the Rama Police Service.

8.2. Employers, Proprietors and Managers are required upon becoming aware of a breach of this By-Law, to notify the offender that they are in contravention of this By-Law and ask them to immediately comply or to remove themselves from the Place of Employment or Place of Public Assembly. In the event that the person fails to comply, the Employer, Proprietor or Manager must immediately report the offence to an Officer and must ensure that the offender does not remain in the Place of Employment or Place of Public Assembly.

8.3. A person who fails or refuses to comply with any provision of this By-Law, or who fails or refuses to comply with an order made under this By-Law, or who resists or interferes with an Officer acting under this By-Law commits an offence.

8.4. This By-Law is enacted under section 81 of the *Indian Act* and, pursuant to the provisions of that *Act*, is enforceable in a Canadian court of competent jurisdiction.

9. PENALTY

9.1. Any person who commits an offence under this By-Law is liable on summary conviction to a fine of not more than \$ 1,000 (one thousand dollars) or to imprisonment for a term of 30 days (thirty days), or to both.

9.2. Any Proprietor or Employer who fails or neglects to perform the duties imposed on him by any of the provisions of this By-Law commits an offence and is liable on summary conviction to a fine of not more than \$ 1,000 (one thousand dollars) or to imprisonment for a term of 30 days (thirty days), or to both.



10. ELECTION

10.1 Any person who receives a ticket under this By-Law shall have the initial right to elect to appear before a justice or provincial court judge, or, alternatively, to appear before a Rama Tribunal.

10.2 In the event that an election is made to appear before a Rama Tribunal, all related charges will be stayed in provincial court until such time as the matter is finally resolved before the Tribunal and all related fines are paid to the First Nation, at which time the charges will be withdrawn. Failure to comply with the decision of the Tribunal, including non-payment of fine, shall result in the charge proceeding in provincial court.

10.3 Notice of election must be provided within 7 days of the date of the ticket, failing which the charge will be processed through the courts. Decisions of the Rama Tribunal are final and shall not be subject to review.

11. PROCEEDINGS AGAINST RAMA FIRST NATION

11.1. Rama First Nation is not liable for torts committed by,
a) Rama First Nation agencies
b) Rama First Nation corporations, or
c) Independent contractors providing services to Rama First Nation for any purpose.

11.2. No proceeding that includes a claim for damages may be brought against Rama First Nation unless, at least 60 days before the commencement of the proceeding, the claimant serves on Rama First Nation, notice of the claim containing sufficient particulars to identify the occasion out of which the claim arose.

11.3. Counsel for Rama First Nation may require such additional particulars as in his or her opinion are necessary to enable the claim to be investigated.

12. SEVERABILITY

12.1. If any section or part of this By-Law is found to be invalid for any reason, such section or part or item 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.

13. REPEAL

13.1. Bylaw No. 06-02 enacted on the 10th day of April, 2006, and being a Bylaw to regulate smoking, is hereby repealed. By-law No. 06-03 enacted on the 1st day of June, 2006, and being a Bylaw to regulate smoking is hereby repealed.

14. FORCE AND EFFECT



14.1. This By-Law shall come into effect on of March 9, 2020 and shall apply on all Rama First Nation Reserve Lands, as defined in the *Indian Act*.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Chief and Council of the Chippewas of Rama First Nation this 9th day of March, 2020.

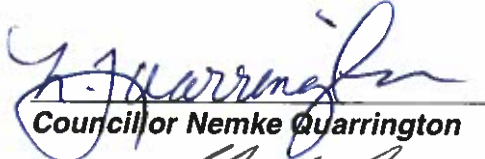
Voting in favour of the By-Law are the following members of Chief and Council:

Chief and Council Signatures of Approval


Chief Rodney Noganosh


Councillor Ted Snache


Councillor Ron Douglas


Councillor Nemke Quarrington

VACATION
Councillor Jeremy St. Germain


Councillor Ted Williams


Councillor Tracey Snache

being the majority of those members of the Council of the Chippewas of Rama First Nation present at the aforesaid meeting of Chief and Council.

The quorum of Chief and Council is four members.

Number of members of Chief and Council present at the meeting: 6.