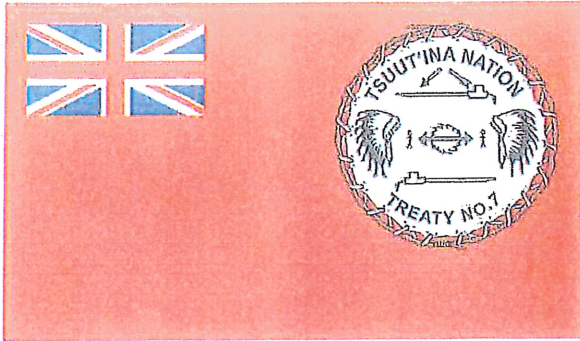


L.S.1810

LAW



## Tsuut'ina Nation Smoking Control Law, 2018 L.S.1810

Under the guidance of Almighty God, Our Creator, and as a sovereign Nation; We, the peoples of Tsuut'ina Nation, in preservation and continuation of the Tsuut'ina Nation's unique culture, identity, traditions, language and institutions, and with respect to the special relationship to the land and resources, in continued relationship with all First Nations and Canada; Do ordain and establish this law in accordance with our inherent right to governance.

Nato ninist'iya dinachowi diyi nananitini k'asona diyi dat'ishi nanisaatluni niiha nihina?o-ha tlaat'a Tsuut'ina wusa dinaloku nihininisha, nihiusno, misila yino?i, nihigunaha misila nihininana?o-hi. Nisk'a uwa mits'i-hi tlaat'a dina-tii uwa Canada isla najuna adadanazini diyi datlishi dik'asilo niiha nihina?o-ha gwasaaala.

**A Document to Ratify the L.S.1810  
Within the Tsuut'ina First Nation Lands, Alberta, Canada**

**Amended on October 19 of 2018 in Tsuut'ina Nation  
Coming Into Force: October 19, 2018**



### **Preamble**

WHEREAS the Tsuut'ina Nation Chief and Council desire to make a Law governing Smoking on the Tsuut'ina Nation Reserve;

AND WHEREAS the Government of Canada recognizes the inherent right of self-government as an existing aboriginal right under section 35 of the Constitution Act, 1982;

AND WHEREAS it is recognized that the inherent right of governance includes the right to govern in relation to matters that are internal to the community, and integral to the unique culture, identity, traditions, languages and institutions of the Nation;

AND WHEREAS it is considered to be necessary for the benefit, security and preservation of the Tsuut'ina Nation and culture;

NOW THEREFORE: the Tsuut'ina Citizens hereby enact this Law through the Tsuut'ina Legislative Process and give authority to Chief and Council to ratify this Law:

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Title

1. This Law may be cited as the *"Tsuut'ina Nation Smoking Control Law, 2018"*.

## Definitions

### 2. In this Law:

- (a) **"Designated Cannabis Smoking or Vaping area"** means a Cannabis area designated by Chief and Council.
- (b) **"Designated Tobacco Smoking or Vaping area"** means a Tobacco area designated by Chief and Council.
- (c) **"Cannabis"** has the meaning given to that term in the *Cannabis Act* (Bill C-45 *An Act respecting Vaping and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts, 1<sup>st</sup> Sess, 42<sup>nd</sup> Parl, 2017*).
- (d) **"Electronic Smoking Device"** means an electronic device that can be used to deliver a vapour, emission or aerosol to the person inhaling from the device, including but not limited to, an electronic cigarette, cigar, cigarillo or pipe.
- (e) **"Minor"** means a person under the age 18 years.
- (f) **"Officer"** means any police Officer, police constable or other person charged with the duty to preserve and maintain the public peace, and a bylaw Officer or any other person appointed by Chief and Council for the purpose of this Law.
- (g) **"Private Residence"** means a self-contained unit of accommodation used by one or more Tsuut'ina Nation Citizens as a home, such as a house, apartment, mobile home, duplex, townhouse, condominium building or other substantial structure.
- (h) **"Proprietor"** means an employer or other person who, directly or indirectly, controls, governs or directs the activities in the place.
- (i) **"Public Place"** means all or any part of a building, structure or other enclosed area to which members of the public have access as of right or by express or implied invitation.
- (j) **"Public Vehicle"** means a bus, taxi or other vehicle that is used to provide transportation services to members of the public.
- (k) **"Reserve"** means lands reserved for the Nation from time to time.
- (l) **"Smoke Cannabis" or "Smoking of Cannabis"** means:
  - i. the inhaling or exhaling the smoke produced by burning Cannabis, or
  - ii. Holding or otherwise having control of any device or thing containing lit Cannabis or;
- (m) **"Smoke Tobacco" or "Smoking of Tobacco"** means:
  - i. the inhaling or exhaling the smoke produced by burning tobacco, or
  - ii. Holding or otherwise having control of any device or thing containing lit tobacco.

- (n) **"Tobacco"** means a product composed in whole or in part of Tobacco, including Tobacco leaves and any extract of tobacco leaves, but does not include any product for use in nicotine replacement therapy.
- (o) **"Tsuut'ina Nation Citizen"** means a Citizen of the Tsuut'ina who is or who becomes a Citizen under the Tsuut'ina Citizenship Code First Amendment.
- (p) **"Tsuut'ina Nation"** means the sovereign nation previously referred to as the "Sarcee" Nation.
- (q) **"Tsuut'ina Nation Chief and Council"** means the duly elected Chief and Council of the Tsuut'ina Nation.
- (r) **"Vape Cannabis" or "Vaping Cannabis" means:**
- i. Inhaling or exhaling the vapour, emissions, or aerosol produced by an electronic Smoking device or similar device containing Cannabis or any other substance, or
  - ii. Holding or otherwise having control of an electronic Smoking device that is producing vapour, emissions or aerosol from Cannabis or any other substance.
- (s) **"Vape Tobacco" or "Vaping Tobacco" means:**
- i. Inhaling or exhaling the vapour, emissions, or aerosol produced by an electronic Smoking device or similar device containing Tobacco or any other substance, or
  - ii. Holding or otherwise having control of an electronic Smoking device that is producing vapour, emissions or aerosol from Tobacco or any other substance.
- (t) **"Workplace"** means all or any part of building, structure or other enclosed area in which employees perform the duties of their employment, whether or not members of the public have access to the building, structure or area as of right or by express or implied invitation, and includes reception areas, corridors, lobbies, stairwells, elevators, eating areas, washrooms, lounges, storage areas, laundry rooms, enclosed parking garages and work vehicles.
- (u) **"Work Vehicle"** means a vehicle owned or leased by an employer and used by employees in the course of their employment.

**Tobacco Prohibited**

3. Except as otherwise provided in this Law, no person shall Smoke or Vape Tobacco in the following places:
- (a) A Public Place;
  - (b) A Workplace; and
  - (c) A Public Vehicle.

### Tobacco Exclusions

4. Nothing in this Law affects the rights of Nation members to carry out traditional, spiritual or cultural practices or ceremonies.
5. This Law does not apply to a Private Residence, structure or vehicle.

## Tobacco Exceptions

6. Chief and Council may, on application by a Proprietor of a Public Place or Workplace, issue a permit to allow Smoking or Vaping Tobacco in a Designated Smoking or Vaping Tobacco area, which area may be all or any part of that Public Place or Workplace.
7. An application pursuant to Section 6:
  - (a) shall be in such form as may be specified by Chief and Council; and
  - (b) shall be accompanied by such application fee as may be specified by Chief and Council.
8. Chief and Council may, at its sole discretion:
  - (a) refuse to grant a permit
  - (b) require the applicant to provide further information in or in support of the application as may be deemed necessary by Chief and Council; and
  - (c) issue a permit in such form and containing such conditions as may be determined by Chief and Council, including conditions as to the physical separation of the Designated Smoking or Vaping area from areas where Smoking or Vaping Tobacco is prohibited under this Law and the maintenance of ventilation systems.
9. A person shall be entitled to Smoke or Vape Tobacco in a Designated Smoking or Vaping Tobacco area, and the Proprietor shall be entitled to permit Smoking or Vaping in a Designated Smoking or Vaping Tobacco area, provided that the Proprietor of that Public Place or Workplace:
  - (a) ensures that signs are posted and conspicuously displayed indicating that Minors are not permitted to enter or be in the place where smoking is permitted; and
  - (b) complies with any other conditions in the permit.
10. The Proprietor of a place where Smoking or Vaping Tobacco is prohibited under this Law must not permit a person to Smoke or Vape Tobacco in that place.
11. The Proprietor of a Public Place or Workplace must not permit persons under the age of eighteen (18) years to enter or be in a Designated Smoking or Vaping Tobacco area.
12. Chief and Council in its sole discretion may revoke a permit granted pursuant to section 8 on 90 day's written notice to the Proprietor of the Public Place or Workplace to which the permit applies.

## Tobacco Penalties

13. Any person who contravenes any provision of Sections 3 to 12 of this Law commits an offence, and is liable on summary conviction to a fine not exceeding \$1,000.00 and in default of payment of any fine imposed, to a period in imprisonment not exceeding thirty (30) days.

### Cannabis Prohibited

14. It is strictly prohibited for a person to Smoke Cannabis, Vape Cannabis or consume Cannabis, unless it is an area clearly marked Designated Cannabis Smoking or Vaping area.

## Cannabis Exclusions

15. This Law does not apply to a Private Residence or structure.

## Cannabis Exemptions

16. Tsuut'ina Nation Chief and Council may, on application by a Proprietor of a Public Place or Workplace, issue a permit to allow Smoking or Vaping of Cannabis in a Designated Cannabis Smoking or Vaping area, which area may be all or any part of that Public Place or Workplace.
17. An application pursuant to Section 16:
  - (a) shall be in such form as may be specified by Tsuut'ina Nation Chief and Council; and
  - (b) shall be accompanied by such application fee as may be specified by Tsuut'ina Nation Chief and Council.
18. The Tsuut'ina Nation Chief and Council may, at its sole discretion:
  - (a) refuse to grant a permit;
  - (b) require the applicant to provide further information in or in support of the application as may be deemed necessary by the Tsuut'ina Nation Chief and Council; and
  - (c) issue a permit in such form and containing such conditions as may be determined by the Tsuut'ina Nation Chief and Council, including conditions as to the physical separation of the Designated Cannabis Smoking or Vaping area from areas where Cannabis Smoking or Vaping is prohibited under this Law and the maintenance of ventilation systems.
19. A person shall be entitled to Smoke or Vape Cannabis in a Designated Cannabis Smoking or Vaping area, and the Proprietor shall be entitled to permit Smoking or Vaping of Cannabis in a Designated Cannabis Smoking or Vaping area, provided that the Proprietor of that Public Place or Workplace:
  - (a) ensures that signs are posted and conspicuously displayed indicating that Minors are not permitted to enter or be in the place where Smoking or Vaping Cannabis is permitted; and
  - (b) complies with any other conditions in the permit.
20. The Proprietor of a place where the Smoking or Vaping of Cannabis is prohibited under this Law must not permit a person to Smoke or Vape Cannabis in that place.
21. The Proprietor of a Public Place or Workplace must not permit persons under the age of eighteen (18) years to enter or be in a Designated Cannabis Smoking or Vaping area.
22. The Tsuut'ina Nation Chief and Council in its sole discretion may revoke a permit granted pursuant to section 16 on 90 days' written notice to the Proprietor of the Public Place or Workplace to which the permit applies.

## Cannabis Penalties

23. Where an Officer believes that a person has contravened any provision of Sections 14 to 22 of this Law, the Officer may commence proceedings against the person by issuing a violation ticket.
24. This shall not prevent an Officer from issuing a violation ticket requiring a court appearance of the defendant from laying an information instead of issuing a violation ticket.
25. Any person who contravenes a provision of Sections 14 to 22 of this Law is guilty of an offence and is liable upon conviction:
  - (a) for a first offence, to a fine of \$150.00;
  - (b) for a second offence, to a fine of \$250.00; and
  - (c) for a third or subsequent offence, to a fine of not less than \$500.00 and not more than \$2,500.00.
26. An individual who is convicted of an offence shall also be liable, in default of payment of any fine, to imprisonment for up to six months.
27. Each day that an offence continues shall constitute a separate offence.
28. Where an Officer has reason to believe that a person has contravened any provision in Sections 14 to 22 of this Law, he or she may serve upon such person:
  - (a) an Offence Ticket allowing payment to the Tsuut'ina Nation of the specified fine set out in Section 25 (a) and (b), which payment shall be accepted by the Court of Competent jurisdiction, in lieu of prosecution for the offence; or
  - (b) for a first offence or second offence, a Violation Ticket requiring a person to appear in Court of Competent jurisdiction with the alternative of making a voluntary payment; or
  - (c) for a third or subsequent offence, a Violation Ticket requiring a person to appear in a Court of Competent jurisdiction without the alternative of making a voluntary payment.
29. If a Violation Ticket containing a specified penalty is issued to a person for a breach of this Law, the person may make a voluntary payment equal to the specified fine by delivering the Violation Ticket and the specified fine to the Court of Competent jurisdiction specified on the Violation Ticket within the required time. In that event, the voluntary payment will be accepted as a guilty plea and no court appearance is required.

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Chief and Council Signatory Page

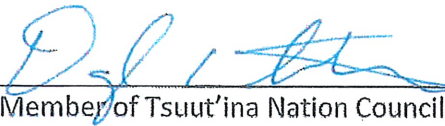
THIS Law IS HEREBY made at this duly convened meeting of the Chief and Council of the Tsuut'ina Nation this 19 day of October, 2018 by Nation Council Resolution.

Voting in favour of the Tsuut'ina Nation Smoking Control Law, 2018, as evidenced by signatures, are the following members of the Chief and Council:

  
Tsuut'ina Nation Chief

  
Member of Tsuut'ina Nation Council

  
Member of Tsuut'ina Nation Council

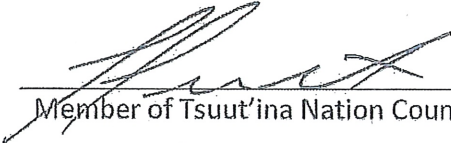
  
Member of Tsuut'ina Nation Council

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Member of Tsuut'ina Nation Council

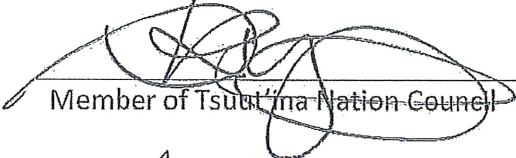
  
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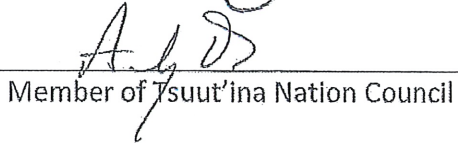
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