

RESORT MUNICIPALITY OF WHISTLER

SMOKING REGULATION BYLAW NO. 2136, 2017

A Bylaw to regulate smoking in public places in the Resort Municipality of Whistler

WHEREAS it has been determined that second-hand tobacco smoke is a health hazard and nuisance for many inhabitants of and visitors to the Resort Municipality of Whistler;

AND WHEREAS the Resort Municipality of Whistler has satisfied the preconditions to adopting this Bylaw set out in the *Public Health Bylaws Regulation, B.C. Reg. 42/2004*;

NOW THEREFORE the Council of the Resort Municipality of Whistler, in open meeting assembled, **ENACTS AS FOLLOWS:**

PART 1: INTRODUCTION

1. In this Bylaw:

“Beach” means an area adjacent to the shore of a lake, pond, stream or river normally used for swimming and similar aquatic exercises or for sunbathing;

“Building” means a structure fully or substantially enclosed with walls and/or roofs, and used for the shelter or accommodation of persons, animals, chattels or things or any combination thereof;

“Business” means a business, trade, profession, or other occupation for which a person must obtain a licence under the Business Licence Bylaw No. 567, 1987, as amended;

“Bylaw Enforcement Officer” means a person employed as a Bylaw Enforcement Officer or Parking Enforcement Officer by the Municipality whose duties include enforcement of bylaws, or a Royal Canadian Mounted Police officer;

“Cannabis” means a cannabis plant including:

(1) Any part of a cannabis plant, including the phytocannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not;

(2) Any substance or mixture of substances that contains or has on it any part of such a plant; and

(3) Any substance that is identical to any phytocannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained; but does not include:

i. A non-viable seed of a cannabis plant;

- ii. A mature stalk, without any leaf, flower, seed or branch, of such a plant;
- iii. Fibre derived from a stalk referred to in item 2; and
- iv. The root or any part of the root of such a plant.

“Common Area” includes, but is not limited to, lobbies, foyers, stairwells, elevators, corridors, cloakrooms, washrooms, food fair seating areas, and other public areas of a Building;

“Municipality” means the Resort Municipality of Whistler;

“Outdoor Customer Service Area” means a part of private or public property located immediately outside of a restaurant, retail food service, neighbourhood public house or licensed lounge whether partially enclosed or unenclosed, including a balcony, patio, yard, or sidewalk that is connected to or associated with a Business or use in a Building or Premises that includes the service of food or beverages, which may include alcoholic drinks, to customers or other persons for consumption on site;

“Park” means all land within the boundaries of the Municipality which are used for pleasure, recreation and community uses of the public, including land held under foreshore lease and the public malls and squares in Whistler Village but not including the Meadow Park Sports Centre, the Whistler Secondary School community space or the Myrtle Phillips Community School space;

“Premises” means a portion of a Building of which a person has exclusive possession;

“Responsible Person” means a person who owns, controls, manages, supervises, operates, or holds:

- (1) a Business or other use that occupies all or substantially all of a Building;
- (2) a Business or other use that occupies a Premises;
- (3) an Outdoor Customer Service Area;
- (4) a Common Area, includes a strata corporation or cooperative association;
- (5) a Vehicle For Hire; or
- (6) a permit for any outdoor public event or activity that the Municipality has authorized by the issuance of a permit and to which this Bylaw applies.

“Smoke” or “Smoking” means to inhale, exhale, burn or carry a lighted cigarette, cigar, pipe, hookah pipe, vaping device, e-cigarette, or other lighted or activated electronic smoking device that burns or vapourizes tobacco, cannabis or other weed or substance, but does not apply to the ceremonial use of tobacco in connection with a traditional aboriginal cultural activity;

“Transit Shelter” means a Building or other structure located on property of the Municipality and constructed near a bus stop to provide seating and/or protection from the weather for the convenience of waiting passengers;

“Transit Stop” means a sign-posted location where public transit vehicles or Vehicles for Hire stop to pick up riders, and distances from a Transit Stop shall be measured from the sign that identifies the Transit Stop location;

“Valley Trail” means a paved or unpaved Type I or Type II recreational path as defined by Whistler Trail Standards (2003) for pedestrian, non-motorized bicycles, and wheeled mobility aid use that may be in Parks, on streets or on other public lands; and

“Vehicle for Hire” means a Vehicle for Hire as defined in the “Vehicles for Hire Regulation Bylaw No. 1494, 2002” as amended.

PART 2: GENERAL SMOKING RESTRICTIONS

2. A person must not Smoke within:
 - (a) a Building, except in:
 - (i) enclosed Premises that are not open to the public;
 - (ii) a private dwelling;
 - (b) a Vehicle for Hire;
 - (c) any public transit vehicle, including a school bus, or passenger bus;
 - (d) 10 metres of the perimeter of an Outdoor Customer Service Area;
 - (e) 10 metres measured on the ground from a point directly below any opening into any Building including any door or window that opens or any air intake;
 - (f) the Village Stroll, including all public plazas identified in Schedule “A”.

PART 3: SMOKING IN PARKS AND OTHER PUBLIC PROPERTY

3. A person must not Smoke in or within 25 metres of:
 - (a) children’s play equipment (unless located on a legal parcel on which a private dwelling is situated), or a playground, playing field, Beach, food concession, picnic area, skateboard park, in a Park or a Valley Trail;
 - (b) any part of a Park or other municipal property that is being used for any public event or activity that the Municipality has authorized by the issuance of a permit;
 - (c) the grounds of any municipal Building used for public recreation;
 - (d) school property;

- (e) a Building, Transit Stop or Transit Shelter where people wait to board a Vehicle for Hire or public transit vehicle.

PART 4: DUTIES OF RESPONSIBLE PERSON

- 4. Except where smoking is not prohibited under Part 2, a Responsible Person must not suffer or allow a person to Smoke in:
 - (a) a Building or Outdoor Customer Service Area;
 - (b) a Common Area or Premises;
 - (c) an area described in subsections 2(e) or 3(f), except to the extent that all or part of such area is not part of the parcel on which the Building or Outdoor Customer Service Area is situated and is not an area over which such Responsible Person has possession or control; or
 - (d) a Vehicle For Hire.

PART 5: SIGN REQUIREMENTS

- 5. A Responsible Person shall, in respect of the Building, Premises, Outdoor Customer Service Area, Common Area, Vehicle for Hire or outdoor public event which he or she owns, controls, manages or supervises, post a sign that:
 - (a) is prominently displayed and maintained at the applicable location;
 - (b) consists of at least two contrasting colours, except that if the lettering is on a clear panel then the lettering must contrast to the colour of the background;
 - (c) displays the international symbol to designate “No Smoking”;
 - (d) is posted at each entrance to a Building, Premises and Outdoor Customer Service Area, at several prominent locations at an outdoor public event and in each Vehicle for Hire, stating:
 - NO SMOKING IN THIS AREAin letters not less than 6 centimetres in height; and
 - (e) includes the text “Resort Municipality of Whistler Smoking Regulation Bylaw” in letters not less than one centimetre in height.

PART 6: CONDITION OF SIGNS

6. A person must not remove, alter, conceal, deface or destroy any sign required under this Bylaw.

PART 7: POWER TO INSPECT

7. A Bylaw Enforcement Officer has the right of entry and may enter at all reasonable hours onto any land or into any Building to which this Bylaw applies in order to ascertain whether the provisions of this Bylaw are being complied with.

PART 8: OBSTRUCTION

8. A person must not interfere with, delay, obstruct or impede a Bylaw Enforcement Officer or designate or other person lawfully authorized to enforce this Bylaw in the performance of duties under this Bylaw.

PART 9: OFFENCE, PENALTIES AND ENFORCEMENT

9. In respect of this Bylaw:
 - (a) Every person who violates a provision of this Bylaw, or who neglects to or refrains from doing anything required to be done by a provision of this Bylaw, is guilty of an offence and is liable to the penalties imposed under this Bylaw or any other applicable bylaw of the Municipality, and is guilty of a separate offence each day that a violation continues to exist.
 - (b) Any person who contravenes any of the provisions of this Bylaw commits an offence punishable upon summary conviction and is liable to a fine of not more than \$10,000.00 or to imprisonment for not more than six months or to both. Each day that an offence continues shall constitute a separate offence.

PART 10: SEVERABILITY

10. If any section, subsection or clause of this Bylaw is for any reason held to be invalid by the decision of a court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Bylaw.

PART 11: REPEAL

11. "Smoking Regulation Bylaw No. 1884, 2008" is repealed.

PART 12: EFFECTIVE DATE

12. This Bylaw comes into force on the day it is adopted.

PART 13: TITLE

13. This Bylaw may be cited for all purposes as the “Smoking Regulation Bylaw No. 2136, 2017.”

GIVEN FIRST, SECOND and THIRD READINGS this 16th day of October, 2018.

ADOPTED this 20th day of November, 2018.

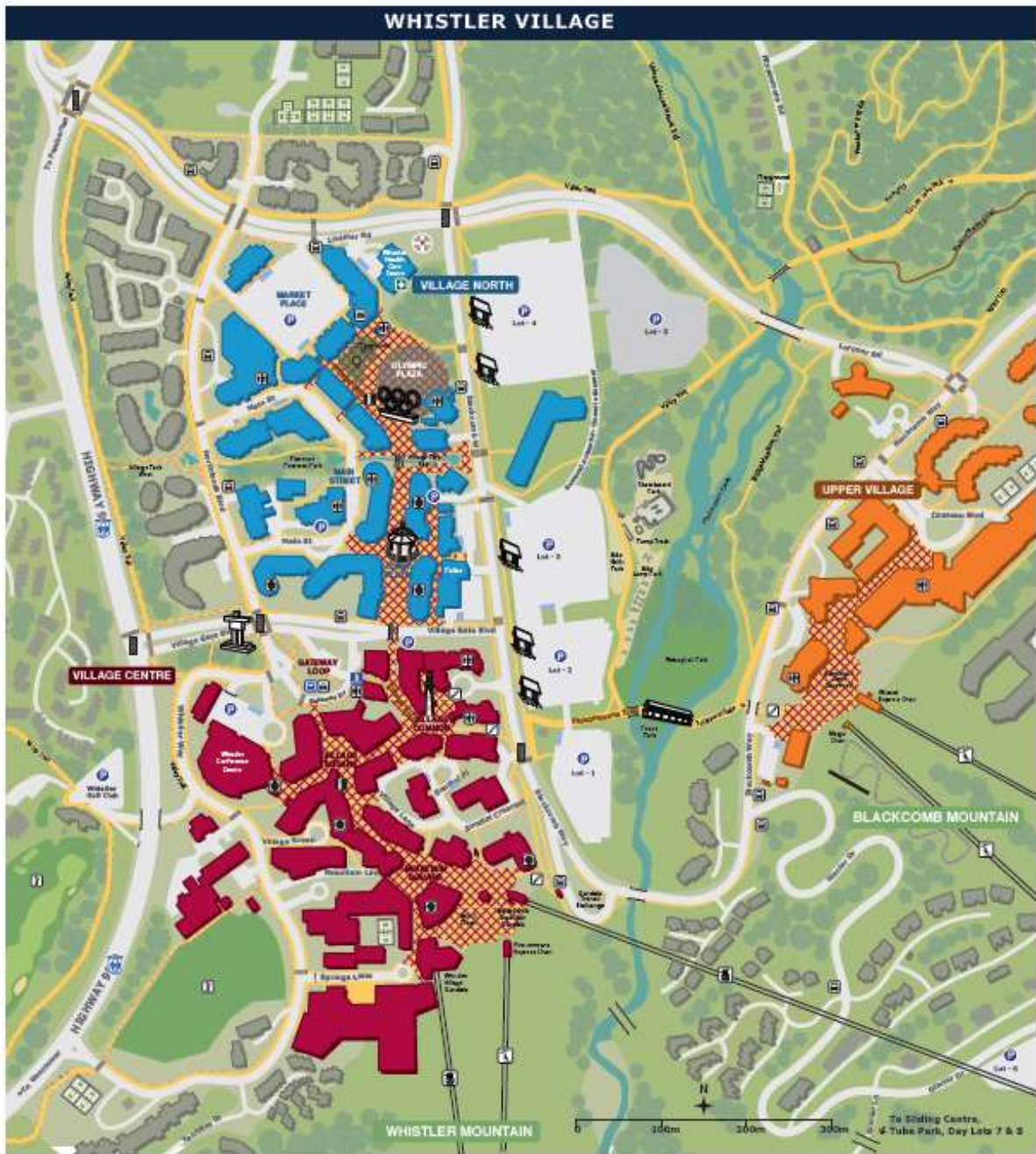
Mayor, J. Crompton

Municipal Clerk, B. Browning,

I HEREBY CERTIFY that this is a true copy of
the “Smoking Regulation Bylaw No. 2136,
2017”

B. Browning,
Municipal Clerk

Schedule "A"



 Public Plazas