

**RESORT MUNICIPALITY OF WHISTLER**

**SMOKING REGULATION BYLAW NO.1884, 2008**

**A Bylaw to Regulate Smoking 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. Citation**

This Bylaw may be cited as “Smoking Regulation Bylaw No.1884, 2008”.

**2. Definitions**

In this Bylaw:

- (a) “Bank” includes credit union, trust company, savings or loan company or other financial institution;
- (b) “Building” includes part of a building;
- (c) “Food Service Establishment” means any place of business where food intended for public consumption is sold, offered for sale, supplied, handled, prepared, packaged, displayed, served, processed, stored, transported or dispensed, and includes a patio used in conjunction with that place;
- (d) “Fully or Substantially Enclosed” means a Building or Structure, vehicle or any other place having a roof or other covering where more than 50% of the wall space is enclosed by any material that does not permit air to flow easily through it;
- (e) “Licenced Establishment” means any establishment licensed under the provisions of the *Liquor Control & Licencing Act* (B.C.);
- (f) “Municipality” means the Resort Municipality of Whistler;

- (g) “Operator” means any person who, as owner, proprietor, lessee, manager, employee, or otherwise, carries on the operation of a facility or business, and includes any person managing or supervising such facility or business;
- (h) “Outdoor Venue” means a place that is not Fully or Substantially Enclosed and is used for the assembly of persons for such purposes as worship, entertainment, recreation, business or amusement;
- (i) “Personal Services Establishment” means a place of business in which a person provides a service to or on the body of another person, and includes but is not limited to a barber shop, beauty parlour, health spa, massage parlour, tattoo shop, sauna and steam bath;
- (j) “Place of Public Assembly” means a Building or Structure used for the assembly of persons for such purposes as deliberation, education, worship, entertainment, recreation, business or amusement, including a shopping mall and a bingo hall, but does not include a Food Service Establishment or a private residential dwelling;
- (k) “Retail Establishment” means a Building, Structure, or other place where goods or services are exposed or offered for sale by retail;
- (l) “School Property” means property that is
  - (a) owned or leased by, or operated under the authority of, a board established under the *School Act* or the *Independent School Act*, and
  - (b) used for the purposes of delivering educational programs or other learning programs,
 and includes real property and improvements;
- (m) “Smoke” or “Smoking” means to inhale, exhale, burn or carry a lighted cigar, cigarette, pipe or other lighted smoking equipment that burns tobacco or other weed or substance but does not include the carrying of lighted incense or other lighted smoking equipment used solely for ceremonial or religious purposes;
- (n) “Sporting Event” means an organized athletic competition where admission is by ticket, whether paid or unpaid;
- (o) “Structure” includes part of a structure.

**PART 2 – AREAS OF SMOKING PROHIBITION****3. Operator Obligations**

- (1) The Operator of any of the following:
- (a) a Retail Establishment;
  - (b) a Personal Services Establishment;
  - (c) a Bank;
  - (d) a hospital or health clinic;
  - (e) a Food Service Establishment;
  - (f) a taxicab or a public bus;
  - (g) a Place of Public Assembly;
  - (h) a billiard or pool hall;
  - (i) a Licenced Establishment;
  - (j) any other Building, Structure, vehicle, place or area that is Fully or Substantially Enclosed and:
    - (i) is a place to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry, or
    - (ii) is a prescribed place under the *Tobacco Control Act* (B.C.),

must not cause, permit or allow a person to Smoke while within any such Building, Structure, vehicle, place, or area.

- (2) The Operator of any of the following:
- (a) a Retail Establishment;
  - (b) a Personal Services Establishment;
  - (c) a Bank;
  - (d) a hospital or health clinic;

- (e) a Food Service Establishment;
- (f) a Place of Public Assembly;
- (g) a billiard or pool hall;
- (h) a Licenced Establishment;
- (i) any other Building, Structure or place that is Fully or Substantially Enclosed and:
  - (iii) is a place to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry, or
  - (iv) is a prescribed place under the *Tobacco Control Act* (B.C.),

must not cause, permit or allow a person to Smoke within six (6) metres from a doorway, window or air intake of the Building, Structure, place, or area.

- (3) The Operator of any Building, Structure, place, area, or vehicle where Smoking is not permitted under sections 3 or 4 this Bylaw must post at least one sign meeting the requirements of Part 3:
  - (a) in respect of a Building, Structure, place or area that is Fully or Substantially Enclosed, at each doorway and air intake to the Building, Structure, place or area;
  - (b) in respect of a Building, Structure, place or area that is not Fully or Substantially Enclosed, in, at or on each gate, parking lot or other point of access to the Building, Structure, place or area; and
  - (c) in respect of a vehicle, on the dashboard or a passenger window of the vehicle.
  - (d) in respect of a Park or playing field at each major point of access

#### **4. Recreational Areas, Transit Shelters and School Property**

- (1) No person shall light a cigarette, cigar, pipe or other Smoking equipment, Smoke, or use tobacco in any other manner in, at, on or within 25 metres of any of the following:
  - (a) an Outdoor Venue;

- (b) a playground;
- (c) a playing field;
- (d) a place at which a Sporting Event is occurring;
- (e) a transit shelter;
- (f) School Property.

### **PART 3 – SIGN REQUIREMENTS**

#### **6. Sign Contents**

- (1) If an Operator is required to post a sign or signs pursuant to this Bylaw, the Operator must ensure that each sign:
  - (a) is prominently displayed and maintained at the applicable location;
  - (b) if the sign is posted by a door, window or air intake of a Building, Structure, place or area that is Fully or Substantially Enclosed, contain the text “No Smoking within 6 Metres”, in capital or lower case letters or a combination of both;
  - (c) in respect of a place that is not Fully or Substantially Enclosed, or in respect of a vehicle, contain the text “No Smoking”, in capital or lower case letters or a combination of both;
  - (d) consist of two contrasting colours, or if the lettering is to be applied directly to a surface or to be mounted on a clear panel, the lettering must contrast with the background colour;
  - (e) include in the text at the bottom of each sign “Resort Municipality of Whistler Smoking Regulation Bylaw No. 1884, 2008” and “Maximum Penalty \$10,000”.

**7. Existing and Alternative Signs**

- (1) A sign with the text “Resort Municipality of Whistler Bylaw No. 497 Maximum Penalty \$1000”, which was erected prior to the date of adoption of this Bylaw, is deemed to meet the requirements of section 6.

**PART 4 – VIOLATIONS AND PENALTIES**

**8. Deemed Infractions**

- (1) Any person who:
  - (a) violates or who causes, permits or allows any of the provisions of this Bylaw to be violated;
  - (b) fails to comply with any of the provisions of this Bylaw; or
  - (c) neglects or refrains from doing anything required under the provisions of this Bylaw,

is deemed to have committed an infraction of, or an offence against, this Bylaw and is liable on summary conviction, to either or both of a fine not to exceed \$10,000 and up to 6 months imprisonment, and the cost of prosecution. Each day that such violation is caused, permitted or allowed to continue constitutes a separate offence.

**PART 5 - ENACTMENT**

**9. Severability**

- (1) If any section or lesser portion of this Bylaw is held to be invalid by a Court of competent jurisdiction, such invalidity shall not affect the remaining portions of the Bylaw.

**10. Repeal**

- (1) The Resort Municipality of Whistler “Smoking Regulation Bylaw No. 497, 1985” is hereby repealed.

GIVEN FIRST READ A FIRST TIME this 7<sup>th</sup> day of April, 2009.

READ A SECOND TIME this 7<sup>th</sup> day of April, 2009.

READ A THIRD TIME this 7<sup>th</sup> day of April, 2009.

DEPOSITED with the Minister of Health this 11<sup>th</sup> day of May, 2009.

ADOPTED this 19<sup>th</sup> day of May, 2009.

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Ken Melamed  
Mayor

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Shannon Story  
Corporate Officer

I hereby certify that this is a  
true copy of "Smoking Regulation  
Bylaw No.1884, 2008

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Shannon Story  
Corporate Officer