

## DISTRICT OF MISSION

### BYLAW 5143-2010

#### A Bylaw to Regulate Smoking Areas

WHEREAS it has been determined that secondhand smoke (exhaled smoke and the smoke from idling cigarettes, cigars and pipes) is a health hazard and discomfort for many inhabitants of the District of Mission;

AND WHEREAS it is desirable for the health, safety and welfare of the inhabitants of the District of Mission to prohibit or regulate smoking, or both, in the District of Mission as in this Bylaw more particularly set out;

NOW THEREFORE the Council of the District of Mission, in open meeting assembled, ENACTS AS FOLLOWS:

This Bylaw may be cited for all purposes as "District of Mission Smoking Regulation Bylaw 5143-2010".

"District of Mission Smoking Regulation Bylaw 1562-1985" is hereby repealed.

#### Definitions

1. Unless the context otherwise requires, in this bylaw,
  - (a) **'bus'** means a motor vehicle designed to carry more than 10 persons and operated by or for the District of Mission or the Board of Trustees of School District No. 75 (Mission).
  - (b) **'civic property'** means any property owned, leased, or otherwise occupied by any public entity.
  - (c) **'enclosed'** means a building, structure, vehicle or any other place is fully or substantially enclosed if:
    - i) it has a roof or other covering, and
    - ii) more than 50% of the normal wall space is enclosed by any material that does not permit air to flow easily through it (for the purpose of the definition, the nominal wall space is the area determined by calculating the length, in meters, of the perimeter of the building, structure, vehicle or place, and multiplying it by 2.7 meters).
  - (d) **'municipal property'** means any property owned or used by the District including parks, playgrounds and buildings or portion thereof.
  - (e) **'personal service establishment'** means any place or premises in which a person provides a service to or on the body of another person in exchange for money or services and includes, but is not limited to, a barber shop, hairdresser, health spa, massage therapy, chiropractic treatment or acupuncture.
  - (f) **'place of public assembly'** means a building or structure or a portion thereof used for the gathering together of persons for the purpose of education, worship, entertainment, recreation, business or amusement but does not include a restaurant, a reception area, a place where only a private social function is being held, or a municipal building or any part thereof.
  - (g) **'post'** includes the act of keeping continuously displayed.

- (h) **'proprietor'** means the person who controls, governs or directs the activities carried on in the building, place or premises referred to in this bylaw, and includes the person at the time actually in charge thereof.
- (i) **'restaurant'** means every permanent or temporary place, whether fixed or mobile, where prepared food is made available to the public for consumption on the premises, and includes dining lounges, lounges, cafeteria, lunch counters, canteens, neighbourhood public houses and night clubs.
- (j) **'retail store'** means any place or premises where goods are sold or offered for retail sale, but does not include a restaurant.
- (k) **'service counter'** includes a table surface, railing, or other similar structure provided for the convenience of the public or at which the public is served.
- (l) **'service line'** means an indoor line of two or more persons awaiting service of any kind, and includes but is not limited to sales, transactions, provision of information or advice, and the exchange or transfer of money or goods, but does not include a service line at a private function as defined herein.
- (m) **'shopping mall concourse'** means any enclosed area to which retail stores or other businesses have entrances or exits, but does not include parts of buildings or structures otherwise defined in this bylaw.
- (n) **'smoke'** or **'smoking'** means the inhaling, exhaling, burning or carrying of a lighted cigarette, cigar, pipe or other lighted smoking equipment burning tobacco or any other weed or substances, but does not include smoking by actors as part of a stage or theatrical performance.
- (o) **'smoking area'** means an area, designated by the proprietor, in which smoking is permitted.
- (p) **'spectator area'** means an area on any civic property that is clearly defined by ropes or signs that is set aside for an audience or spectators, and that may include bleachers.

### Prohibition

- 2. No person shall smoke:
  - (a) in any municipal building, municipal office or anywhere on any municipal property, excluding public sidewalks and roads;
  - (b) in any spectator area;
  - (c) in an elevator, on an escalator, or in an inside stairway or a washroom in any building generally open to and accessible by the public;
  - (d) in any enclosed bus shelter;
  - (e) in any taxicab while it is operating within the District;
  - (f) on any bus while it is operating within the District;
  - (g) in or near any service line or service counter in any building generally open to and accessible by the public;
  - (h) in any part of a retail store or mall generally open to and accessible by the public;
  - (i) in any health clinic, medical or dental office;

- (j) in any place of public assembly;
- (k) in any personal service establishment;
- (l) in any common areas of apartment buildings, condominiums or dormitories;
- (m) within three (3) metres of a doorway, window or air intake other than non-residential;
- (n) in any restaurant, cocktail lounge, public house, night club, bar, pub, casino, pool hall, or bowling alley;
- (o) in any area in which smoking is prohibited by the Fire Commissioner or Fire Chief or pursuant to any other bylaw, statute or regulation.

#### Exceptions to Bylaw

3. A patio used in conjunction with a public place is exempt from the bylaw, if all of the following conditions are met:
  - (a) the predominant use of the public place is
    - i) to sell either food or beverages, or both, including alcoholic beverages, or
    - ii) a casino or bingo hall;
  - (b) the patio is not fully or substantially enclosed within the definition of enclosed in this bylaw;
  - (c) any doorway between the patio and the public place is closed at all times while the patio is in use, except when used for entering or exiting the patio;
  - (d) any window or air intake between the patio and the public place is closed at all times while the patio is in use.
4. A person in care or resident who smokes tobacco, or holds lighted tobacco, in a room designated for tobacco use within a community care facility, assisted living residence or hospital.
5. A person who is registered as a guest under the *Hotel Guest Registration Act*, if the guest is smoking tobacco, or holding lighted tobacco, in a room or building in which the guest and the guest's party, if any, have been assigned exclusive accommodation.

#### Required Signs

6. The proprietor of every place to which section 2 applies shall post:
  - (a) within the building and in immediate proximity to each public entrance a sign bearing the text "**No Smoking in This Building**", or "**Smoking Permitted Only in Designated Smoking Area**", as applicable; and
  - (b) within any area designated as a smoking area, one or more signs placed in a conspicuous position clearly visible from all parts of the area and bearing the text "**Smoking Permitted in This Area Only**", or "**Smoking Area**".
7. The lettering on every sign required to be posted pursuant to this bylaw shall be of sufficient size to ensure that the text of the sign is clearly legible at a reasonable viewing distance.

8. The international symbol to designate "**No Smoking**" as shown below may be displayed in place of, or in addition to, any "**No Smoking**" sign required by this bylaw.



9. No person shall remove, alter, conceal, deface or destroy any sign posted pursuant to this bylaw.

Fines and Penalties

- 10(1). Any person who smokes in contravention of this bylaw is guilty of an offence and, upon summary conviction, is liable to a fine not exceeding \$200.00.
- 10(2). Any person who contravenes any provision or requirement of this bylaw other than that described in subsection (1) is guilty of an offence and, upon summary conviction, is liable to a fine not exceeding \$1,000.00 and in addition thereto, to a fine not exceeding \$100.00 for every day the offence continues, or to imprisonment for a term not exceeding 14 days, or to both fine and imprisonment.

Severability

11. If any section, subsection, sentence, clause or phrase of this bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this bylaw.


READ A FIRST TIME this 17<sup>th</sup> day of May, 2010

READ A SECOND TIME this 17<sup>th</sup> day of May, 2010

READ A THIRD TIME as amended this 17<sup>th</sup> day of May, 2010

ADOPTED this 7<sup>th</sup> day of June, 2010

  
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JAMES ATEBE, MAYOR

  
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KELLY RIDLEY, DEPUTY DIRECTOR  
OF CORPORATE ADMINISTRATION