

VILLAGE OF PEMBERTON

BYLAW NO. 848, 2018

Being a bylaw to regulate smoking in the Village of Pemberton

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

AND WHEREAS the Village of Pemberton has satisfied the preconditions to adopting this Bylaw set out in the *Public Health Bylaws Regulation including amendments up to B.C. Reg. 255/2016, and any amendments or replacements thereof*;

NOW THEREFORE the Council of the Village of Pemberton, in open meeting assembled, **ENACTS AS FOLLOWS:**

PART 1: CITATION

1.1. This Bylaw may be cited as “Village of Pemberton Smoking Regulation Bylaw No. 848, 2018.”

PART 2: DEFINITIONS

2.1. In this Bylaw:

Bank includes credit union, trust company, savings or loan company or other financial institution;

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;

Bylaw enforcement officer means a person appointed to that position for the Village by the Chief Administrative Officer.

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*;

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;

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.

Licensed establishment means any establishment licensed under the provisions of the *Liquor Control & Licensing Act*.

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;

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;

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;

Place of public assembly means a *building* or *structure* used for the assembly of persons for such purposes as worship, entertainment, recreation, business or amusement;

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:

- (a) A *business* or other use that occupies all or substantially all of a *building*;
- (b) A *business* or other use that occupies a *premises*;
- (c) A *business*;

- (d) An *outdoor service area*;
- (e) A *common area*;
- (f) An *outdoor venue*;
- (g) A *vehicle for hire*; or
- (h) 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,
- (i) And, in respect of a *common area*, includes a strata corporation or cooperative association;

Retail establishment means a *Building, Structure*, or other place where goods or services are exposed or offered for sale by retail;

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;

Smoke or *smoking* means to inhale or exhale smoke or vapour from or burn or carry a lighted cigar, cigarette, pipe, vaporizer, electronic cigarette or other lighted or activated smoking equipment 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.

Sporting event means an organized athletic competition.

Structure includes part of a structure;

Village means Village of Pemberton.

PART 3: AREAS OF SMOKING PROHIBITION

3.1. Responsible Person Obligations

- a) The *responsible person* of any of the following:

- i. a *retail establishment*;
- ii. a *personal services establishment*;
- iii. a *bank*;
- iv. a hospital or health clinic;
- v. a *food service establishment*;
- vi. a taxicab or a public bus;
- vii. a *place of public assembly*;
- viii. a billiard or pool hall;
- ix. a *licensed establishment*;
- x. any other *building, structure*, vehicle, place or area that is *fully or substantially enclosed* and:
 - (a) 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
 - (b) is a prescribed place under the *Tobacco and Vapour Products Control Act (B.C.)*

must not cause, permit or allow a person to *smoke* while within any such *building, structure*, vehicle, place, or area.

- b) The *responsible person* of any of the following:
 - i. a *retail establishment*;
 - ii. a *personal services establishment*;
 - iii. a *bank*;
 - iv. a hospital or health clinic;
 - v. a *food service establishment*;
 - vi. a *place of public assembly*;

- vii. a billiard or pool hall;
- viii. a *licenced establishment*;
- ix. any other *building, structure*, vehicle, place or area that is *fully or substantially enclosed* and:
 - (a) 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
 - (b) is a prescribed place under the *Tobacco and Vapour Products 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.

3.2. Recreational Areas, Transit Shelters and School Property

- a) No person shall light a cigarette, cigar, pipe or other smoking equipment, *smoke*, or use tobacco or cannabis in any other manner in, at, on or within 25 metres of any of the following:
 - i. an *outdoor venue*;
 - ii. a playground;
 - iii. a playing field;
 - iv. a place at which a *sporting event* is occurring;
 - v. a transit shelter;
 - vi. *school property*
- b) *Smoking* is prohibited in all locations in the Village of Pemberton Zoned P-1 (Public), PR-1 (Parks and Recreation), OR-1 (Outdoor Recreation) and E-1 (Education) as per Zoning Bylaw No. 832, 2018 and any amendments and replacements thereof.

PART 4: SIGN REQUIREMENTS

- 4.1. 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:
- b) is prominently displayed and maintained at the applicable location;
 - c) 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, contains the text “No Smoking within 6 Metres” in capital or lower case letters or a combination of both;
 - d) In respect of a place that is not fully or substantially enclosed, or in respect of a vehicle, contains the text “No Smoking” in capital or lower case letters or a combination of both.
 - e) Consists consist of two contrasting colours, except that if the lettering is on a clear panel, the lettering must contrast to the background colour;
 - f) includes the text “Village of Pemberton Smoking Regulation Bylaw No. 843, 2018” and “Maximum Penalty \$10,000” in letters of not less than one (1) centimetre in height.
- 4.2. A person must not remove, alter, conceal, deface or destroy any sign required under this Bylaw.

PART 5: POWER TO INSPECT

- 5.1. 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 6: OBSTRUCTION

- 6.1. 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 7: OFFENSE, PENALTIES AND ENFORCEMENT

7.1. 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.
- c) Pursuant to Section 264 of the *Community Charter*, S.B.C. Chapter 26, this Bylaw may be enforced by means of a ticket issued pursuant to the Village of Pemberton Municipal Ticket Information Utilization Bylaw as replaced or amended from time to time.

PART 8: SCHEDULES

8.1. The following schedules are attached to and form part of this Bylaw and are enforceable in the same manner as this Bylaw:

Schedule "A" - Fines

PART 9: SEVERABILITY

9.1. 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.

PART 10: REPEAL

10.1. Village of Pemberton "Smoking Regulation Bylaw No. 843, 2018" is hereby repealed.

PART 11: EFFECTIVE DATE

11.1. This Bylaw comes into force the day it is adopted.

READ A FIRST TIME this 27th day of November, 2018.

READ A SECOND TIME this 27th day of November, 2018.

READ A THIRD TIME this 27th day of November, 2018.

DEPOSITED with the Minister of Health this 7th day of December, 2018.

ADOPTED this 11th day of December, 2018.

Mike Richman
Mayor

Sheena Fraser
Corporate Officer

SCHEDULE "A"

FINES

Bylaw Section	Description	Penalty
3.1 & 3.2	Areas of Smoking Prohibition (Personal)	\$100.00
3.1 & 3.2	Areas of Smoking Prohibition (Responsible Person)	\$200.00
4.1	Sign Requirements	\$100.00
4.2	Remove or deface Sign	\$100.00
6.1	Interfere with or Obstruct Enforcement Officer	\$300.00