

CITY OF KAMLOOPS

BY-LAW NO. 24-26

CLEAN INDOOR AIR BY-LAW RESPECTING SMOKING

The Municipal Council of the City of Kamloops, in open meeting assembled, enacts as follows:

1 In this by-law:

"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, beauty parlour, health spa, massage parlour, tattoo shop, sauna and steam bath;

"place of employment" means any indoor place of work other than:

- (i) a private home which also serves as a place of work, or
- (ii) a workplace occupied solely by an independent contractor or only by the partners to a partnership,

and includes any parts of a retail shop used exclusively by the employees of such premises, but does not include a reception area;

"place of public assembly" means a building or structure or 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 or a place where only a private social function is being held;

"post" includes the act of keeping continuously displayed;

"private social function" means a special social event for which an entire room or hall has been solely reserved, and at which attendance is limited to people who have been specifically invited or designated by the sponsor, but does not include events which are held privately for the purpose of business, sales or education;

"proprietor" means the person who controls, governs or directs the activity carried on within the building, place or premises referred to in this by-law and includes the person actually in charge thereof;

"reception area" means the public space of an office or other establishment used for the receiving or greeting of customers, clients or other persons dealing with such office or establishment;

"retail shop" means any place or premises where goods are displayed or offered for sale by retail, but does not include a restaurant or a place where the only trade or business carried on therein is the custom blending of tobaccos and the sale of tobaccos, pipes, cigars or smokers' sundries;

"school building" means a building provided or managed by a Board of School Trustees or independent persons or organizations for the education of individuals up to the level of Grade 12;

"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 social function as defined herein;

(24-31)

"shopping mall concourse" means any enclosed area to which retail shops have entrances or exits, but does not include parts of structures otherwise defined in this by-law;

"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 substance, but does not include smoking by actors as part of a stage or theatrical performance;

"smoking area" means an area, designated by the proprietor, in which smoking is permitted.

2. No person shall smoke:

- (a) in an elevator, an escalator, an inside stairway or a washroom in any building generally open to and accessible by the public;
- (b) in a taxi cab while operating within the City of Kamloops except with the consent of all passengers and the driver;
- (c) in a school bus, public bus or other form of public transportation;
- (d) in or near a service line or a service counter in any building generally open to and accessible by the public;
- (e) in any part of a retail shop generally open to and accessible by the public;
- (24-31) (f) in a shopping mall concourse.

3. Where an exception is provided by this by-law to permit smoking in a smoking area, a proprietor of any building, structure, space, place or area specified in sections 4 to 9 inclusive may designate all or a portion of the premises as a smoking area, provided that the area so designated:

- (a) is fully identified by means of signs as provided for in section 11;
 - (b) is designed, constructed or arranged to ensure that the toxic effect of smoke or the chemicals or gases resulting from smoking is minimized in adjacent non smoking areas through the use of physical barriers, ventilation systems or other special arrangements;
 - (c) does not exceed the size limitations imposed by any other section of this by-law;
 - (d) does not include any part of the premises to which non smokers may need access; and
 - (e) does not include any area in which smoking is prohibited by the Fire Commissioner or the Fire Chief or pursuant to any other by-law, statute or regulation.
4. No person shall smoke in a reception area except in a smoking area, which smoking area shall occupy not less than 6 m² (64.56 sq. ft.) nor more than fifty percent (50%) of the floor area of the reception area.
5. No person shall smoke in a hospital, health clinic, medical or dental office, public health unit, care facility or any similar place except in a smoking area.
6. No person shall smoke in a personal service establishment except in a smoking area, which area shall not occupy more than fifty percent (50%) of the seating area.
7. No person shall smoke in a place of public assembly, except:
- (a) anywhere in a pool hall, dance hall, cocktail lounge, cabaret, public house and bar, unless the proprietor otherwise elects to designate only a portion or part of the premises as a smoking area; and
 - (b) in a smoking area of any other place of public assembly, which smoking area shall not exceed fifty percent (50%) of the floor area of the building, structure, place or area that is generally open to the public, and provided further that the area designated as a smoking area shall not include those parts of a building used as classroom, concert hall, auditorium, gymnasium, swimming pool, indoor sporting area, library, lecture hall, seating area of theatre or motion picture house, music hall, display area in museum or art gallery, or parts of a school building frequented by pupils, which areas shall not be used in the calculation of the total floor area for the purposes of this section.
- (24-31) 8. No person shall smoke in a restaurant, except that a person may smoke in a smoking area, which area shall not occupy more than fifty percent (50%) of the seating area and provided that if a smoking area is designated, patrons of the restaurant shall be given the option of being seated in a smoking or non smoking area.

9. No person shall smoke in a place of employment, except that a person may smoke in a smoking area designated pursuant to Sections 3 and 10.
10.
 - (a) Any employee may object to his or her employer about smoke in his or her workplace. Using already available means of ventilation or separation or partition of work space, the employer shall attempt to reach a reasonable accommodation, insofar as possible, between the preferences of non smoking and smoking employees; however, an employer is not required by this by-law to make any expenditures or structural changes to accommodate the preferences of non smoking or smoking employees.
 - (b) If an accommodation which is satisfactory to all affected non smoking employees cannot be reached in any given workplace, the preferences of non smoking employees shall prevail and the employer shall prohibit smoking in that workplace. Where the employer prohibits smoking in any workplace, the area in which smoking is prohibited shall be clearly marked with signs.
- (24-31) 11. The proprietor of any place to which sections 2(e), 2(f) and 3 apply, shall post:
 - (a) within the building and in proximity to each public entrance a sign, conforming with the specifications set out in section 12 and bearing the text, "No Smoking in this Building" or "Smoking is Permitted Only in a Designated Smoking Area", depending on which alternative prevails therein, and
 - (b) within any area designated as a smoking area one or more signs placed in a conspicuous position and clearly visible from all parts of the area and bearing the text "Smoking Permitted Only in this Area".
- (24-31) (c) within mall concourses signage in accordance with Section 12 or in accordance with a signage scheme approved by the Medical Health Officer or her/his designate.
12. All signs required to be posted pursuant to this by-law shall conform to the following specifications:
 - (a) All signs shall include the text "City of Kamloops By-law No. 24 26 Maximum Penalty \$500" in letters not less than one quarter of the height of all other letters on the sign and except for the signs specified in Section 11(b), all signs shall also display the international symbol to designate "No Smoking". Such graphic symbol shall occupy not less than twenty five percent (25%) of the area of the sign.

- (b) Signs shall consist of at least two contrasting colours, or if the lettering is to be applied to a clear panel then the lettering shall contrast to the colour of the background.
- (c) Except for the text specified in sub section (a), the size of lettering shall be not less than the following heights based upon the following maximum viewing distance in direct line of sight:

<u>Viewing Distance</u>	<u>Letter Height</u>
Up to 3 m (9.843 ft.)	2.5 cm (0.984 in.)
Up to 6.1 m (20.014 ft.)	5.1 cm (2.008 in.)
Up to 12.2 m (40.028 ft.)	7.6 cm (2.992 in.)
Up to 24.4 m (80.056 ft.)	10.2 cm (4.016 in.)
Up to 48.8 m (160.113 ft.)	15.5 cm (6.102 in.)
Over 48.8 m (240.169 ft.)	20.3 cm (7.992 in.)

- (d) Lettering may be in either upper or lower case or combination thereof but "letter height" when used in this section means the actual height of a letter whether or not it is in upper or lower case.
13. No person shall remove, alter, conceal, deface or destroy any sign posted pursuant to this by-law.
 14. Penalty
Any person who contravenes the provisions of this by-law is guilty of an offence and, on summary conviction, is liable to a fine of not less than Fifty Dollars (\$50.00) and not more than Five Hundred Dollars (\$500.00).
 15. This by-law may be cited as the "Clean Indoor Air By-law No. 24 26".
 16. This by-law shall come into force and take effect on the First day of July, 1987.

ORIGINAL SIGNED BY J. L. DORMER
MAYOR

ORIGINAL SIGNED BY R. D. KASK
ASSISTANT CITY ADMINISTRATOR

Dates of Adoption of By-law and Amendments

BY-LAW NO. 24-26 - 1987 May 26
BY-LAW NO. 24-31 - 1993 June 1