

CITY OF POWELL RIVER

BYLAW 2232, 2009

A Bylaw to regulate smoking in the City of Powell River.

WHEREAS it is desirable for the protection, promotion and preservation of health of the inhabitants of the City of Powell River for Council to regulate and prohibit smoking in the City;

AND WHEREAS Council has consulted with the Medical Health Officer on this Bylaw and has deposited a copy thereof with the Minister of Health;

The Council of the City of Powell River, in open meeting assembled, enacts as follows:

TITLE

1. This Bylaw may be cited as "Smoking Regulation Bylaw 2232, 2009"

DEFINITIONS

2. In this Bylaw:

"building" means a structure or portion of a building or structure which is used or intended for supporting or sheltering any use or occupancy and includes premises;

"common areas" means lobbies, foyers, stairwells, hallways, elevators, corridors, cloakrooms, laundry rooms, amenity areas, washrooms, food fair seating areas and other public areas of a building;

"customer service area" means a partially enclosed or unenclosed area, including a balcony, patio, yard or sidewalk, that is part of or connected to or associated with a business or use in a building or premises that includes the service of food or alcoholic drinks to customers or other persons for consumption on site;

"playground" means an outdoor area for children to play on;

"playing field" means a field used for outdoor games;

"premises" means a portion of a building in respect of which a person has exclusive possession;

"responsible person" means a person who owns, controls, occupies, manages, supervises, or operates:

- (a) a business or other use which occupies all or substantially all of a building,
- (b) a business or other use which occupies premises,
- (c) common areas, or
- (d) a customer service area,

and, in respect of common areas, includes a strata corporation or cooperative association, and also means a person who drives a vehicle for hire;

"school yard" means that portion of the lands of a school as defined in the School Act without buildings or structures; and

“smoke” or “smoking” means to inhale, exhale, burn, or carry a lighted cigarette, cigar, pipe, hookah pipe, or other lighted smoking equipment that burns tobacco or other weed or substance;

“Zoning Bylaw” means City of Powell River Zoning Bylaw 2100, 2006 and all amendments thereof.

DUTY OF ADMINISTRATION AND ENFORCEMENT

3. The intent of this Bylaw is to set standards in the general public interest, and not to impose a duty on the city or its employees to enforce its provisions, and:
- (a) a failure to administer or enforce its provisions, or the incomplete or inadequate administration or enforcement of its provisions, does not give rise to a cause of action in favour of any person; and
 - (b) the grant of any approval or permission or issuance of any permit is not a representation, warranty, or statement of compliance with the Bylaw, and the issuance thereof in error is not to give rise to a cause of action.

BAN ON SMOKING

4.1 A person must not smoke:

- (a) in a building, except in:
 - (i) a dwelling unit or sleeping unit defined under the Zoning Bylaw including a dwelling unit in which an owner or occupier also carries on a business,
 - (ii) a hotel or motel room or suite designated for smoking by a responsible person, or
 - (iii) enclosed premises:
 - (A) that are not open to the public;
 - (B) that are not private clubs or smoking clubs, a purpose which is to allow patrons, customers, or other persons to smoke, and
 - (C) where the only occupants are the owner or owners of the business carried on in the premises;
- (b) in a vehicle for hire;
- (c) on public transit including a school bus or passenger bus;
- (d) in an enclosed or partially enclosed shelter where people wait to board a vehicle for hire or public transit or within a six metre radius of any such shelter;
- (e) within six metres measured on the ground from a point directly below any point of any opening into any building including any door or window that opens or any air intake;
- (f) in a customer service area;
- (g) within six metres of the perimeter of a customer service area;
- (h) within six metres of the perimeter of a playing field, playground or school yard.

- 4.2 Notwithstanding sections 4.1 and 5, smoking in a customer service area is not prohibited where use of and access to that customer service area is limited to persons 19 years of age or older.

ENFORCEMENT OF BAN ON SMOKING

5. Except as permitted by section 4, a responsible person must not suffer or allow a person to smoke in:
- (a) a building or customer service area;
 - (b) premises or common areas;
 - (c) an area described in section 4.e. or g. except to the extent that all or part of such area is not part of the parcel on which the building or customer service area is situate and is not an area over which such responsible person has possession or control; or
 - (d) in a vehicle for hire.

SIGNS BANNING SMOKING

6. A responsible person must display, or ensure the display of a sign at all times:
- (a) at each entrance to a building or customer service area or to premises, or in a vehicle for hire, where section 4 prohibits smoking, stating:

THIS IS A SMOKE FREE ENVIRONMENT – NO SMOKING; and
 - (b) on each exterior wall of a building, where section 4 prohibits smoking stating:

SMOKING IS PROHIBITED WITHIN SIX METRES OF OPENINGS INTO THIS BUILDING INCLUDING DOORS AND WINDOWS THAT OPEN AND ANY AIR INTAKE.

SIGN REQUIREMENTS

7. All signs referred to in section 6 must:
- (a) include the text "City of Powell River Smoking Regulation Bylaw" in letters not less than one quarter of the height of all other letters on the sign;
 - (b) display the international symbol to designate "No Smoking", or, in areas where smoking is permissible, the international symbol to designate "Smoking Permitted", which symbol must occupy at least 25% of the size of the sign;
 - (c) consist 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;
 - (d) be at least 30 cm by 15 cm;
 - (e) in a vehicle for hire must be at least 9cm by 11 cm;
 - (f) be clearly visible; and

- (g) except for the text specified in subsection a., consist of lettering, whether upper case or lower case that is not less than the following heights based upon the following maximum viewing distances in direct line of sight:

Viewing Distance	Letter Height
Up to 3 m	1 cm
Up to 6 m	2 cm
Up to 12 m	4 cm
Up to 12 m	4 cm

CONDITION OF SIGNS

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

NOTICE OF VIOLATIONS

9. An inspector or official of the City, or a Bylaw enforcement officer, may give notice to any person ordering or directing that person to:

- (a) discontinue or refrain from doing anything that contravenes this Bylaw; or
- (b) carry out any work or do anything to bring any land or building into conformity with this Bylaw;

within the time specified in such notice.

SERVICE OF NOTICE

10. An inspector or official of the city, or a bylaw enforcement officer, may serve a notice under this Bylaw:

- (a) by mailing it by registered post to an owner who is the addressee of the notice at the address of the owner shown on the real-property assessment roll prepared pursuant to the Assessment Act;
- (b) by handing it to the person who is the addressee of the notice; or
- (c) if the notice refers to real property, by posting it on the real property.

OFFENCES UNDER BYLAW

11. A person who:

- (a) violates any provision of this Bylaw, or does any act or thing which violates any provision of this Bylaw, or suffers or allows any other person to do any act or thing which violates any provision of this Bylaw;
- (b) neglects to do or refrains from doing anything required to be done by any provision of this Bylaw; or

- (c) fails to comply, suffers or allows any other person to fail to comply, with an order, direction, or notice given under any provision of this Bylaw;

is guilty of an offence against this Bylaw, and liable to the penalties imposed under Section 12 and Section 13.

FINE FOR OFFENCE

12. Every person who commits an offence against this Bylaw is punishable on conviction by a fine of not less than \$100.00 and not more than \$2000.00 for each offence, except that a person who commits an offence under section 11.c. of this Bylaw is liable of a fine of not less than \$500.00 for each offence.

FINE FOR CONTINUING OFFENCE

13. Every person who commits an offence of continuing nature against this Bylaw is liable to a fine not exceeding \$50.00 for each day such offence continues.

REPEAL

14. Municipal Smoking Regulation Bylaw 1233, 1987 and all amendments are hereby repealed.

SEVERABILITY

15. If any section or lesser portion of this Bylaw is held to be invalid by a Court, such invalidity shall not affect the remaining portions of the Bylaw.

EFFECTIVE DATE

16. This Bylaw shall come into force and effect on 01 October 2009.

READ A FIRST TIME the 2nd day of April, 2009.

READ A SECOND TIME the 2nd day of April, 2009.

READ A THIRD TIME the 2nd day of April, 2009.

PUBLIC NOTICE GIVEN the 17th and 24th days of April, 2009.

RECEIVED by the Ministry of Health for deposit the 7th day of May, 2009.

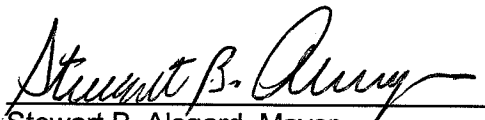
THIRD READING RESCINDED the 18th day of June, 2009.

AMENDED the 18th day of June, 2009.

THIRD READING AS AMENDED the 18th day of June, 2009.

RECEIVED AS AMENDED by the Ministry of Health for deposit the 24th day of June, 2009.

ADOPTED the 20th day of August, 2009.


Stewart B. Alsgard, Mayor


Marie Claxton, City Clerk