

**THE CORPORATION OF THE
CITY OF WHITE ROCK
BYLAW 1858**



City of White Rock Public Health Smoking Protection Bylaw

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

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

NOW THEREFORE the Council of the Corporation of the City of White Rock, pursuant to its statutory powers, in open meeting enacts as follows:

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**SECTION 1
INTERPRETATION**

Title

- 1.1 This Bylaw may be cited as the “White Rock Public Health Smoking Protection Bylaw, 2008, No. 1858”.

Definitions

- 1.2 For the purposes of this Bylaw:

“building” or “structure” includes, as the context requires, “premises”.

“business” means the carrying on of a commercial or industrial undertaking of any kind or nature or the providing of professional, personal or other services for the purpose of gain or profit.

“City” means The Corporation of the City of White Rock.

“common public area” means an area in a building generally available for common use by the public or by a building’s occupants and visitors, including, without restricting the generality of the foregoing, hallways, lobbies, stairways, elevators, restrooms, laundry rooms, amenity areas, cloakrooms, or food service establishments.

“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 the 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.

“medical health officer” means the Medical Health Officer, appointed for the City under the *Health Act*.

“owner” includes the registered owner or purchaser under an agreement for sale, mortgagee in possession, agent, tenant, and any person in charge or control of a building, premises, land or vehicle.

“post” means the act of keeping continuously on display.

“premises” means a portion of a building in respect of which a person has exclusive possession.

“public transportation” means school bus, public bus or other form of public transportation and includes, without limiting the generality of the foregoing, taxicabs, limousines, or vehicles for hire, but does not include rentals of personal vehicles for private use.

“responsible person” means a person who owns, controls, 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, including a customer service area;
- (c) common public areas;
- (d) a reception area; or
- (e) a vehicle for hire.

“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 or as part of a traditional aboriginal cultural activity.

Table of Contents

- 1.3 The table of contents for this Bylaw is for convenient reference only, and is not for use in interpreting or enforcing this Bylaw.

Severability

- 1.4 A decision by a court of competent jurisdiction that any part of this Bylaw is illegal, void or unenforceable severs that part from this Bylaw and is not to affect the balance of this Bylaw.

Duty of Administration and Enforcement

- 1.5 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 is not to 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.

SECTION 2 HEALTH REGULATIONS

- 2.1 No person shall smoke:
- (a) in a building, except in:

- (i) a dwelling unit as defined in the City of White Rock Zoning bylaw including any balcony or patio accessible therefrom and immediately adjacent thereto, 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) 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, passenger bus or rapid transit;
- (d) in an enclosed or partially enclosed shelter where people wait to board a vehicle for hire or public transit;
- (e) in a vehicle when any other occupant of the vehicle is under the age of 16 years;
- (f) within seven and a half meters measured horizontally from any door or window that opens or any air intake;
- (g) in a customer services area;
- (h) within seven and a half meters of the perimeter of a customer service area but this subsection does not apply to smoking in a dwelling unit as defined in subsection 2.1(a)(i) herein; or
- (i) in any outdoor gathering place under the jurisdiction of the City of White Rock including parks, sports fields, playgrounds, the promenade, the pier and the beach.

Enforcement of ban on smoking

- 2.2 Except as permitted by section 2.1, a responsible person must not suffer or allow a person to smoke in any of the areas specified in section 2.1(a) through (i).

Signs banning smoking

- 2.3 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 2.1 prohibits smoking, stating:

“THIS IS A SMOKE FREE ENVIRONMENT - NO SMOKING”

and the words:

“MAXIMUM FINE \$2,000.00”

on each exterior wall of a building where section 2.1 prohibits smoking, stating:

“SMOKING IS PROHIBITED WITHIN 7.5 METRES OF OPENINGS INTO THIS BUILDING INCLUDING DOORS AND WINDOWS THAT OPEN AND ANY AIR INTAKE”

Sign requirements

2.4 All signs referred to in section 2.3 must:

- (a) 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;
- (b) 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;
- (c) be at least 30 cm by 15 cm;
- (d) be clearly visible;
- (e) 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:

<u>Viewing Distance</u>	<u>Letter Height</u>
Up to 3 m	1 cm
Up to 6 m	2 cm
Up to 12 m	4 cm

- (f) included in the text at the bottom of each sign:
 “White Rock Public Health Smoking Protection Bylaw, 2008, No. 1858” in letters not less than 1 cm in height for signs with letter size of 2 cm and not less than 0.25 cm of the height of the letter on all other sizes of letters.”

2.5 Notwithstanding the fact that the symbol in section 2.4 is a cigarette, it shall be deemed to include a lighted cigar, pipe or other lighted smoking equipment burning tobacco or any other weed or substance.

Conditions of signs

2.6 A person must not remove, alter, conceal, deface or destroy any sign required under this Bylaw or cause any sign required under this Bylaw to be removed, altered, concealed, defaced or destroyed.

SECTION 3 OFFENCES AND PENALTIES AND ENFORCEMENT

Notice of Violation

- 3.1 A building official or a bylaw enforcement officer, may give notice to any person ordering or directing that person to:
- (a) discontinue or refrain from proceeding with any work or using or occupying any land or building or 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

- 3.2 A building official or a bylaw enforcement officer, may serve a notice under this Bylaw:
- (a) by sending 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

- 3.3 A person who:
- (a) violates any provision of this Bylaw or does any act or thing which violates any provision of this Bylaw 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 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 sections 3.4 and 3.5 of this Bylaw. A person may be subject to the penalties imposed under section 3.3(a) or (b) above regardless of whether the person has been given a prior notice under section 3.1.

Continuing Offence

3.4 Each day that a violation of this Bylaw continues constitutes a separate offence.

Fines for Offence

3.5 Every person who commits an offence against of this Bylaw is punishable on conviction by a fine of not less than \$100.00 and not more than \$2000.00.

**SECTION 4
REPEAL AND ENACTMENT**

4.1 This Bylaw repeals White Rock Smoking Regulation Bylaw, 1996, No. 1502, as amended.

Force and Effect

4.2 This Bylaw comes into force and takes effect on November 1, 2008 except section 2.1(g) and (h) which are to come into force and take effect on January 1, 2009.

RECEIVED FIRST READING on the 20th day of October, 2008

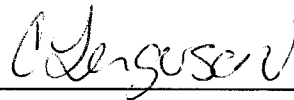
RECEIVED SECOND READING on the 20th day of October, 2008

RECEIVED THIRD READING on the 20th day of October, 2008

RECEIVED by the Ministry of Health for 29th day of October, 2008

DEPOSIT on the

RECONSIDERED AND FINALLY ADOPTED on the 3rd day of November, 2008



MAYOR



CITY CLERK