

VILLAGE OF SAYWARD

SMOKING REGULATION BYLAW No. 385, 2010

A BYLAW TO REGULATE SMOKING WITHIN THE VILLAGE OF SAYWARD

WHEREAS it has been determined that tobacco smoke is a health hazard, and

WHEREAS it is desirable to regulate smoking for the health, safety and welfare of the public in the Village, and

WHEREAS the Council has the authority to regulate and control smoking and impose requirements in relation to smoking and related matters;

THEREFORE the Council of the Village of Sayward enacts as follows:

Citation

1. This bylaw may be cited as “**Smoking Regulation Bylaw 385, 2010**”.

Interpretation

2. Definitions

In this Bylaw:

“**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;

“**Business**” means a business, trade, profession, or other occupation for which a person must obtain a licence under the Business Licence Bylaw 242 as amended;

“**Bylaw Enforcement Officer**” means a delegate of the Medical Health Officer, the Chief Administrative Officer or any person appointed by the Village as the bylaw enforcement officer for the purpose of enforcement of municipal bylaws or for the purposes of carrying out the responsibilities of the Bylaw Enforcement Officer under this Bylaw or a member of the Royal Canadian Mounted Police;

“**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;

“**Village**” means the Corporation of the Village of Sayward;

“**Dwelling Unit**” means a Dwelling Unit as defined in the Zoning Bylaw 309, as amended;

“**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 Premises;
- (c) a Common Area;
- (d) a permit for any outdoor public event or activity that the Village has authorized by the issuance of a permit and to which this Bylaw applies;

“Smoke” or “Smoking” means to purposely inhale or exhale smoke from or burn or carry, a lighted cigarette, cigar, pipe, hookah pipe, or other lighted smoking equipment that burns tobacco or other weed or substance, but does not apply to the ceremonial use of tobacco in connection with a traditional aboriginal cultural activity.

General Smoking Regulations

3. A person must not smoke:

- (a) in a Building, except in:
 - (i) a Dwelling Unit other than a Dwelling Unit in which a Business to which employees or the public are invited is carried on therein;
 - (ii) a hotel or motel room or suite designated for Smoking by a Responsible Person;
 - (iii) enclosed Premises:
 - (1) that are not open to the public, and
 - (2) where the only occupants are the owner or owners of the business carried on in the Premises;
- (b) within 6 metres measured on the ground from a point directly below any main (or front) door opening into any Building, or
- (c) within 3 metres measured on the ground from a point directly below any other entrance doors including any door or window that opens or any air intake.

Duties of Responsible Person and Sign Requirements

4. Except as permitted by subsection 3 (a), a Responsible Person must not suffer or allow a person to smoke in:

- (a) a Building;
- (b) a Common Area or Premises;

- (c) an area described in subsections 3 (b) and (c) except to the extent that all or part of such area is not part of the parcel on which the Building is situated and is not an area over which such Responsible Person has possession or control; or

in each case, that is owned, controlled, managed, supervised, operated or held by that Responsible Person.

- 5. A Responsible Person must display a sign at all times:

At each entrance area to a Building or to a Premises where section 3 prohibits Smoking, stating:

“SMOKING IS PROHIBITED WITHIN 6 METRES OF THE MAIN DOOR”,
or

“SMOKING IS PROHIBITED WITHIN 3 METRES OF DOORS AND
WINDOWS THAT OPEN AND ANY AIR INTAKE”;

- 6. All signs referred to in section 5 must:

- (a) include the text “Bylaw 385” 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”, provided that in each case the 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 in size;
- (e) be clearly visible.

Power to Inspect

- 7. 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.

Obstruction

- 8. 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.

Offences and Penalties

- 9. a) Any person who violates or who causes to be violated any of the provisions of this Bylaw, shall be guilty of an offence against the Bylaw, and each day that such violation is caused or allowed to continue shall constitute a separate offence.
- b) Any person who contravenes any of the provisions of this Bylaw shall be liable on conviction to a fine of not more than Two Thousand (\$2,000) Dollars.
- c) Nothing in this part interferes with the right of the Village to commence proceedings and charge by way of the procedures as set out in the *Offence Act*.

Severability

- 10. a) If any division, section, subsection, sentence, clause or phrase of this bylaw is for any reason held to be invalid by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the bylaw.
- b) Nothing in this Bylaw relieves a person from complying with any provision of any federal or provincial law or regulation, other bylaw or any requirement of any lawful permit, order or license.

Repeal

- 11. Smoking Regulation Bylaw 182 is repealed.

READ a first time this the 1st day of September, 2010

READ a second time this the 1st day of September, 2010

READ a third time this the 1st day of September, 2010

Certified a true copy of “Smoking Regulation Bylaw 385, 2010” as at Third Reading:

Chief Administrative Officer

APPROVED by the Minister of Health on the ____ day of _____, 2010

FINALLY ADOPTED this the ____ day of _____, 2010

<p>Certified a true copy of Bylaw No. 384 this ____ day of _____, 2010.</p> <p>_____ Chief Administrative Officer Village of Sayward</p>
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Mayor

Chief Administrative Officer