

VILLAGE OF SAYWARD

BY-LAW NO. 182

WHEREAS it has been determined that secondhand tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars, and pipes) is a health hazard or discomfort for many inhabitants within the Village of Sayward, and

WHEREAS it is desirable for the health, safety and welfare of the inhabitants within the Village of Sayward, to prohibit or regulate smoking, or both, in the Village of Sayward as in this bylaw more particularly set out.

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

1. In this bylaw

- a) **Corporation** means the Corporation of the Village of Sayward;
- b) **Educational Facilities** includes Nursery Schools and other institutions whose primary purpose is the educating of persons in any field of knowledge or trade, who grants generally accepted degrees, diplomas, or certificates of standing.
- c) **Employee** means any person who is employed by an employer for consideration for direct or indirect monetary wages and profit;
- d) **Employer** means any person who employs the services of an individual person;
- e) **Exemptions** are bars, taverns, night clubs and beverage lounges;
- f) **Place of Public Assembly** means an enclosed building or portion thereof, or structure to which members of the general public or people at large are admitted for events of interest to the public and includes recreation, deliberation, entertainment, business, cultural events and libraries;
- g) **Proprietor** means the person who ultimately controls, governs, or directs the activity carried on within the kinds of premises referred to in this bylaw and includes the person actually in charge thereof;
- h) **Reception Area** means the public space used by an office or establishment for receiving or greeting of customers, clients or other persons dealing with such office establishments, or any waiting area for the use of public, clients, or customers;
- i) **Restaurant** means any enclosed public place where meals are made available to be consumed on the premises and includes dining lounges, cafeterias, lunch counters, and canteens, but excludes any premises primarily intended for the consumption of alcoholic beverages;
- j) **Retail Shop** means a building or part of a building, booth, staff or place where goods are exposed or offered for sale by retail;

- k) **Second Hand Smoke** means
 - i) exhaled smoke
 - ii) smoke from idling cigarette, cigar or pipe or any other tobacco using or constructing device;
- l) **Service Line** means an indoor line of two (2) or more persons awaiting service of any kind, regardless of whether or not such service involves the exchange of money, including, but not limited to, sales, provision of information, transactions or advice and transfers of money or goods, and includes a service counter where such transactions take place;
- m) **Smoke or Smoking** includes the carrying of a lighted cigarette, cigar, pipe or any other lighted smoking equipment;
- n) **Village** means the Village of Sayward;
- o) **Work Place** means any enclosed area of a structure or a portion thereof in which people work and includes employee eating and lounge areas, but does not include parts of structures otherwise defined in this bylaw.

2. Retail Shops

- a) No person shall smoke in any retail shop except in accordance with Section 9 (c) of this bylaw
- b) The proprietor of every retail shop shall ensure that a sufficient number of signs prescribed in Section 12 of this bylaw are prominently and conspicuously displayed so as to be clearly visible from all parts of each area to which Section 2 a) applies.
- c) Notwithstanding the above, any area of the premises not accessible to the public and where no "open to air" food is stored, shall be exempt from the above a) and b).

3. Service Counters and Service Lines

- a) No person shall smoke in any service line or at any service counter on any premises.
- b) The proprietor of any premises referred to in a) above, shall ensure that a sufficient number of signs as prescribed in Section 12 are prominently displayed so as to be clearly visible from all parts of premises in which a) above, applies.

4. Reception Areas

- a) Nonsmoking area within reception areas and waiting rooms must be designated by proprietor. Nonsmoking signs must be clearly visible.

5. Elevators, escalators and Stairways

- a) No person shall smoke in an elevator, on an escalator or stairway in any building or part thereof.
- b) The proprietor of any premises having elevators, escalators or stairways as referred to in Section 5 a) hereof shall ensure that a sufficient number of signs prescribed in Section 12 are prominently and conspicuously posted in all areas regulated by Section 5 a)

6. Places of Public Assembly

- a) No person shall smoke in any enclosed area being used as a place of public assembly, except as allowed in Section 6 b)
- b) In the case of special occasion public or private functions (banquets, weddings, etc.), and in arcades, the proprietor and/or sponsor may designate smoking restrictions. If areas are to be designated, the proprietor and/or sponsor shall ensure that a sufficient number of signs prescribed in Section 12 are prominently and conspicuously posted so as to be clearly visible from all areas in this section.
- c) The proprietor of a library must ensure that signs are conspicuously posted throughout the library and are also required at all entrances.

7. Educational Facilities

- a) No person shall smoke in an enclosed indoor area being used as a place of education except as allowed in Section 7 b).
- b) The proprietor of a place of education may designate an area of the place as a smoking area. Designated smoking area may not occupy more than 50% of the total floor space.

8. Restaurants

- a) Nonsmoking areas must be designated, but size and location of segregated areas remain with the proprietor. Nonsmoking signs must be clearly visible.

9. Work Place

- a) Any employee in a workplace in the Village may object to his/her employer about smoke in his/her work place.

The employer shall attempt to separate physically the nonsmoking employees from the smoking employees. An employer is not, however, required by this bylaw to make any structural changes to accommodate the preferences of nonsmoking employees.

- b) If an accommodation which is satisfactory to all affected nonsmoking employees can not be reached in any given workplace, the preference of the nonsmoking employee shall prevail and the employer shall prohibit smoking in that office workplace. Where the employer prohibits smoking in a workplace, the area in which the smoking is prohibited shall be clearly marked with signs as prescribed in Section 12.

- c) Where smoking is prohibited in a work place the employer may accommodate the smoking employees by providing them with an enclosed room that can be designated for smoking if and only if;
 - i) The room is not required for any other function other than lounge or for eating;
 - ii) Equal or better lounge or eating facilities exist in the work place for nonsmokers.

10. Bowling Alleys

Nonsmoking areas must be designated, but size and location of segregated areas remain with the proprietor. Nonsmoking signs must be clearly visible as prescribed in Section 12, will enjoy the force and authority of this bylaw.

11. Voluntary Designation

Any proprietor or managing body of a business or institution not covered by the mandatory provisions of this bylaw, may never the less designate any part or all of such business or institution as nonsmoking area, and if such area is appropriately signed as prescribed in Section 12, will enjoy the force and authority of this bylaw.

12. Signs "No Smoking Area"

- a) Notwithstanding any of the provisions of this bylaw the graphic symbol set out below may be used to designate a "No Smoking Area" this shall be on a white background with the interdictory stroke in red, with circle, cigarette, letters and figures in black.
- b) With respect to size of the graphic symbol, the diameter of the circle in the symbol referred to in subsection a) hereof shall not be less than six (6) inches, or fifteen (15) centimeters.
- c) Notwithstanding that the symbol in subsection a) is a cigarette, it shall include a lighted cigar, cigarette, pipe or any other lighted smoking equipment.
- d) Signs indicating smoking is permitted will be of the same dimensions as smoking prohibited signs, and shall be on a white background with a green circle surrounding a cigarette.

13. Penalty

Any person who contravenes any provisions of this bylaw is guilty of an offence and on summary conviction is liable to a fine of not more than \$200.00, exclusive of costs.

14. Inspection

- a) For the application of this bylaw the persons authorized to act as inspectors shall be:

- i) a peace officer
- ii) a person authorized for that purpose by the Village

- b) An inspector may, to ascertain whether this bylaw is being compiled with, enter at any reasonable time, any premise referred to in this bylaw, and inspect it.

- c) No person shall hinder the action of an inspector in the performance of his/her duty.

15. Severability

If any section, subsection, sentence, clause, or phrase of this bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this bylaw.

16. Implementation Period

This bylaw will be effective on the date that this bylaw is registered in Victoria with the Ministry of Municipal Affairs, Recreation and Culture. Notwithstanding the above, a "120 DAY, MUTUAL COOPERATION IMPLEMENTATION PERIOD" will commence on the above noted day. This period is set aside to give people ample opportunity to plan and implement the terms and the spirit of the bylaw. In the spirit of cooperation, there will be no enforcement during the "120 Day Mutual Cooperation Implementation Period".

17. Citation

This bylaw may be cited as the "Village of Sayward Smoking Bylaw No. 182, 1988."

READ A FIRST TIME THIS	14 th	DAY OF	June,	1988.
READ A SECOND TIME THIS	14 TH	DAY OF	June,	1988.
PUBLIC MEETING HELD THIS	29 TH	DAY OF	September,	1988
READ A THIRD TIME THIS	10 TH	DAY OF	November,	1988.
RECONSIDERED AND ADOPTED THIS	24TH	DAY OF	November,	1988.