

THE CORPORATION OF THE DISTRICT OF SUMMERLAND

BYLAW NUMBER 2015-020

A Bylaw to Regulate Smoking Outdoors in the District of Summerland

WHEREAS a council may, by bylaw, regulate, prohibit and impose requirements in relation to public health and public places;

AND WHEREAS it is desirable for the health, safety, welfare and environment of the inhabitants of and visitors to the District of Summerland to prohibit or regulate smoking, or both, in the District of Summerland as in this Bylaw more particularly sets out;

NOW THEREFORE the Council of the District of Summerland, in open meeting assembled enacts as follows:

1. TITLE

This Bylaw will be cited as “Outdoor Smoking Regulation Bylaw No. 2015-020”.

2. DEFINITIONS

In this Bylaw:

“**Bylaw Enforcement Officer**” means a Bylaw Enforcement Officer for the District;

“**Council**” means the Council of the Corporation of the District of Summerland;

“**Designated Smoking Area**” means an area that is set aside and with signage indicating that smoking is allowed in this area, provided that such area will be a minimum of nine (9) metres from any entrance, exit, building opening of any District facility including but not limited to parkland, playground, sports field, spectator seating area, ice surface whether or not a “No Smoking” sign is posted;

“**District**” means the Corporation of the District of Summerland;

“**Facility**” means any building, structure or premise to which the District holds right of ownership.

“**Highway**” includes a street, road, lane, bridge, viaduct and any other way open to public use, other than a private right of way on private property, which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

“**Municipal Sidewalk**” means a sidewalk intended for pedestrians located between that portion of a Highway intended for the general passage of vehicles and the lateral property

line but does not include a sidewalk located within a District owned park or District owned and operated public space;

“Outdoors” means an open outdoor space located on District Property, including any temporary building, structure or part thereof, whether covered by a roof or not, but does not include a Highway intended for the passage of vehicles or the vehicles, whether open or closed upon such a Highway;

“Park” means any Property owned or occupied by the District for the purpose of pleasure, recreation or community use by the public, including but not limited to dedicated parks and trails, but does not include District Property leased to a third party;

“Person” includes an individual or corporation;

“Property” means that which belongs exclusively to the District, and to which legal rights apply;

“Smoke” or **“Smoking”** means the inhaling, exhaling, burning or carrying of a lighted cigarette, cigar, pipe, electronic cigarette, or other smoking equipment that burns or vaporizes tobacco, marijuana, or any other substance;

“Swimming Beach” means an area adjacent to the shore of the lake or other body of water that is used for swimming; and

“Walkway” means that area of land designated or designed specifically for the passage of pedestrians or active uses and shall include a pathway but will not include a Municipal Sidewalk.

3. SMOKING PROHIBITED

- 3.1 No Person may smoke outdoors on any Park, Swimming Beach, Walkway owned and occupied by the District, or on Property upon which is located a Facility operated by the District, whether or not a “No Smoking” sign is posted.

4. EXEMPTIONS

- 4.1 Notwithstanding Section 3.1, such prohibition will not apply to:

- a) a Highway or Municipal Sidewalk; and
- b) a Designated Smoking Area.

5. OBSTRUCTION

A Person must not interfere with, delay, obstruct or impede a Bylaw Enforcement Officer or designate, or another person lawfully authorized to enforce this Bylaw in the performance of duties under this Bylaw.

6. ENFORCEMENT BY TICKET

This Bylaw is designated pursuant to Section 264 (1) (a) of the *Community Charter* as a bylaw enforceable by means of a ticket in the form prescribed in the Community Charter Bylaw Enforcement Ticket Regulation, B.C. Reg. 425/2003.

7. BYLAW ENFORCEMENT OFFICERS

Bylaw Enforcement Officers are designated to enforce this Bylaw by means of a ticket pursuant to Section 264 (1) (b) of the *Community Charter*.

8. VIOLATIONS AND PENALTIES

8.1 The provisions of this Bylaw may be enforced by a Bylaw Enforcement Officer through the issue of a ticket under the "District of Summerland Ticket Information Utilization Bylaw No. 95-030".

8.2 Any person who violates any provision of this Bylaw or permits or allows any act or thing to be done in violation of 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 is guilty of an offence against this Bylaw and punishable upon summary conviction by a fine of not less than \$1,000, and the cost of prosecution.

9. SEVERABILITY

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

10. REPEAL

"Clean Indoor Air and Smoking Regulation Bylaw, Number 91-001", and all amendments, are hereby repealed.

Read a first, second time this 24th day of August, 2015.

Read a third time this 14th day of September, 2015.

Deposited with the Minister of Health this 8th day of October, 2015.

Adopted by the Municipal Council this 13th day of October, 2015.

Mayor

Corporate Officer