

CITY OF KELOWNA

BYLAW NO. 8846

Amendment No. 3 to Clean Indoor Air and Smoking Regulation Bylaw No. 5980-86

The Council of the City of Kelowna, in open meeting assembled, hereby enacts as follows:

1. THAT Clean Indoor Air and Smoking Regulation Bylaw No. 5980-86 be amended as follows:

- (a) Section 1 be amended by deleting the following definitions in their entirety:

“Licensed Premises
Personal Service Establishment
Place of Public Assembly
Private Social Function or Clubs, Lodges and Associations
Proprietor
Public Premises
Reception Area; and
Restaurant.”

- (b) Section 2 PROHIBITION be replaced in its entirety with the following:

“2. PROHIBITION

- (a) No person shall carry or have in his possession a burning cigarette, cigar, or pipe containing burning tobacco, or burn tobacco in any other manner in any indoor workplace, unless he is in a designated smoking area as outlined in section 3 of this Bylaw; and
 - (b) No employer shall allow any person to carry or to have in his possession a burning cigarette, cigar, or pipe containing burning tobacco, or to burn tobacco in any other manner in any indoor workplace over which that employer has control, unless the person is in a designated smoking area as outlined in section 3 of this Bylaw.”

- (c) Section 3 DESIGNATED SMOKING AREAS be replaced in its entirety with the following:

“3. DESIGNATED SMOKING AREAS

An employer may either designate the entire workplace over which he has control as non-smoking by posting one or more non-smoking signs, or may designate one or more smoking areas in the workplace, so long as no worker is required to enter into the smoking area except:

- (a) to respond to an emergency endangering life, health or property, or to investigate for illegal activity; or
 - (b) if that workplace is a "public entertainment facility" as defined by B.C. Regulation 3/2002 (the "Environmental Tobacco Smoke Regulation"), as amending B.C. Regulation 296/97 (the "Occupational Health and Safety Regulation), and the smoking area and the worker's entry into it meets all of the requirements for

Bylaw No. 8846 - Page 2.

- a "separate place for smoking" as set out in B.C. Regulation 3/2002 (the "Environmental Tobacco Smoke Regulation") as amending B.C. Regulation 296/97 (the "Occupational Health and Safety Regulation"); or
- (c) the tobacco smoke has been effectively removed."
- (d) Section 4 EXCEPTIONS be deleted in its entirety and the subsequent sections renumbered.
- (e) Section 5 SIGNS be amended by replacing subsection (a) and subsection (e) with the following:
- "(a) An employer shall **prominently** display and keep **prominently** displayed one or more no **smoking** signs at each entrance to the building or premises, at one or more conspicuous locations within the premises, in public washrooms and the entrances to stairwells.
- (e) All employers having care or control over a workplace for which a designated smoking area, as outlined in section 3 of this Bylaw, has been identified must post in a prominent location at each entrance to the applicable workplace, a sign stating the ratio of smoking to non-smoking seating in effect in the workplace at that particular time in the form shown on Schedule "B" attached hereto."
- (f) Section 7 OFFENCES be replaced in its entirety with the following:
- "6. OFFENCES
- (a) The employer of any workplace to which this Bylaw applies shall ensure that the sign or signs prescribed in Section 5 hereof or otherwise permitted by this Bylaw shall be **prominently** displayed so as to be clearly visible to persons.
- (b) Any employer who fails or neglects to perform the duty imposed upon him by subsection (a) hereof shall be guilty of an offence and liable to a penalty of not more than \$500.00.
- (c) No person shall **smoke** in any workplace, or part of a workplace, that is not identified as a designated smoking area pursuant to section 3 of this Bylaw."
- (g) Section 8 PENALTY be replaced in its entirety with the following:
- "7. PENALTY
- "Any person who contravenes the provisions of section 6 of this Bylaw is guilty of an offence and, on summary conviction, is liable to a fine of not less than \$25.00 and not more than \$500.00 for the first offence; and not less than \$75.00 and not more than \$500.00 for the second offence, and not less than \$150.00 and not more than \$500.00 for the third and subsequent offence."
- (h) Schedule "B" be deleted in its entirety.

Bylaw No. 8846 - Page 3.

2. This bylaw may be cited for all purposes as "Bylaw No. 8846, being Amendment No. 3 to Clean Indoor Air and Smoking Regulation Bylaw No. 5980-86."

Read a first, second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk