

SUMMARY:

The Clean Indoor Air and Smoking Regulation Bylaw sets out the regulations under which owners or operators of restaurants, bowling alleys, bingo halls and shopping mall food services may designate part of their premises as an area in which smoking is permitted. The bylaw also provides for the size, colours and wording required on "no-smoking" and "smoking permitted" signs.

This bylaw is a 'consolidated' version and includes amendments up to the date listed in the bylaw heading. It is placed on the Internet for convenience only, is not the official or legal version, and should not be used in place of certified copies which can be obtained through the Office of the City Clerk at City Hall. Plans, pictures, other graphics or text in the legal version may be missing or altered in this electronic version.

CITY OF KELOWNA

BYLAW NO. 5980-86 *REVISED: July 23, 2007*

CONSOLIDATED FOR CONVENIENCE TO INCLUDE BYLAW NOS. 7334, 7966, 8846 and 9572

CLEAN INDOOR AIR AND SMOKING REGULATION BYLAW

A bylaw for the purpose of providing clean indoor air and to regulate the places people may smoke indoors in the City of Kelowna

WHEREAS it has been determined that second-hand tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars, and pipes) is a health hazard and discomfort for many inhabitants of the City of Kelowna;

AND WHEREAS pursuant to the *Local Government Act*, Council may, by bylaw, subject to the Health Act, regulate persons, their premises, and their activities to further the care, protection, promotion and preservation of the health of the inhabitants of the City of Kelowna;

AND WHEREAS the approval of the Minister of Health is necessary for any bylaw adopted pursuant to the *Local Government Act*;

NOW THEREFORE, the Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. In this bylaw, unless the context otherwise requires,

BL7334 and BL8846 amended definitions:

- (a) "Council" means the Municipal Council of the City of Kelowna.
- (b) "Manager of Inspection Services" means a person appointed by the Municipal Council of the City of Kelowna.
- (c) "Medical Health Officer" means the medical health officer appointed under the Health Act to act within the limits of the jurisdiction of the local board of health for the City of Kelowna.

BL7334 added the following definition:

- (d) "Prominently" means placed in such a position that the text of the sign or graphic symbol is clearly visible to a person.
- (e) "Smoke" or "Smoking" includes the carrying of a lighted cigar, cigarette, pipe or other lighted smoking equipment.

BL7334 and BL7966 amended the following definition:

- (f) "**Workplace**" means the whole or any part of a building or structure in which a business is carried on and which is physically partitioned off from any **public premise**, but excludes private residences and any part of the building or structure which constitutes a **public premise**.

BL7334 and BL8846 amended Section 2:

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.

BL9572 added a new subsection (c):

- (c) 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 within 10 metres of any entrance or exit to the Kelowna International Airport main terminal building.

BL8846 amended Section 3:

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 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.

BL8846 amended Section 4:

4. SIGNS

BL7966 and BL8846 amended sub-section (a):

- (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.

- (b) A no-smoking sign shall state:
 - (i) the phrase 'no smoking', or
 - (ii) be a graphic symbol substantially in the form shown on Schedule "A" attached hereto, which shall be a minimum of four inches (10.16 cm) in diameter and may include the words 'Bylaw No. 5980-86' or 'Bylaw No. 5080-86 Maximum Penalty \$500.00'.
- (c) A designated smoking area sign shall state:
 - (i) 'Smoking permitted in this area only' or
 - (ii) 'Smoking permitted'; or
 - (iii) words or graphic symbols of similar meaning.
- (d) Signs shall consist of at least two contrasting colours, or if the lettering is to be applied to a clear panel then the lettering shall contrast to the colour of the background.

BL7966 and BL8846 amended subsection (e):

- (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.

5. INSPECTION OF PREMISES

The Medical Health Officer and/or Manager of Inspection Services or their appointed representative, shall have the right of entry and may enter on to any land or into any building at all reasonable hours in order to inspect the same and ascertain whether the provisions of this Bylaw are being or have been carried out. Any person interfering with or obstructing the entry of any such official or employee of the City of Kelowna on to any such land or into any such building to which said entry is made or attempted, pursuant to the provisions of this section of the Bylaw, shall be deemed to be guilty of infraction of this Bylaw and liable to a penalty of not more than \$500.00.

BL8846 and BL9572 amended Section 6:

6. OFFENCE AND PENALTY

Any person who contravenes a provision of this bylaw shall be guilty of an offence and, on summary conviction, shall be liable to a fine of not less than \$25.00 and not more than \$500.00 for the first offence; 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 offences.

- 7. This Bylaw may be cited as the "Clean Indoor Air and Smoking Regulation Bylaw No. 5980-86".

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Read a first time by the Municipal Council this 12th day of May, 1986.

Read a second time by the Municipal Council this 12th day of May, 1986.

Read a third time by the Municipal Council this 12th day of May, 1986.

Approved by the Minister of Health this 4th day of July, 1986.

Reconsidered, finally passed and adopted by the Municipal Council of the City of Kelowna this 29th day of July, 1986.

"G.D. Hammill"

Mayor

"R.A. Beauchamp"

City Clerk

BL7334 (November 9, 1993) adds the following Schedule 'A':
SCHEDULE 'A'



BL7966 (April 8, 1997) adds the following Schedule 'B':
SCHEDULE 'B'

SMOKING POLICY

**Kelowna By-Law
5980-86 Requires
Minimum 50% Non-
Smoking Seats.**

**Percentages vary
from time to time**



**We Proudly Offer NON-SMOKING
VIOLATION LINE XXX-XXXX**