

**VILLAGE OF PEMBERTON  
-COMMITTEE OF THE WHOLE MEETING AGENDA-**

**Agenda** for the **Committee of the Whole** of Council of the Village of Pemberton to be held Tuesday, June 16, 2009 at 10:30 am (or immediately following Regular Council Meeting) in Room C at 7390 Cottonwood Street. This is meeting No. 0016

<b>Time</b>	<b>Item of Business</b>	<b>Page No.</b>
10:30 a.m.	1. <b>CALL TO ORDER</b>	
	2. <b>APPROVAL OF AGENDA</b>  <b>Recommendation: THAT</b> the agenda be approved as presented.	
10:35 a.m.	3. <b>BCR Properties / Signal Hill Homes Development Proposal – OR 103 Community Amenities and Contributions – Discussion</b>	2
11:00 a.m.	4. <b>Unsightly Premises Amendment Bylaw - Discussion</b>	15
11:15 a.m.	5. <b>Temporary Business License and Signage - Discussion</b>	20
11:30 a.m.	6. <b>Smoking Regulations Bylaw – Review and Discussion</b>	28
11:45 a.m.	7. <b>ADJOURNMENT</b>	
	8. <b>Finance Committee – Agenda to follow under separate cover on Monday, June 15, 2009.</b>	
	9. <b>Public Works &amp; Parks Committee – Agenda to follow under separate cover on Monday, June 15, 2009.</b>	

**Date:** June 16, 2009

**From:** Caroline Lamont  
Manager of Development Services

**Subject:** BCR Properties / Signal Hill Homes Development Proposal  
Community Amenities and Contributions

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## **PURPOSE**

The purpose of this report is to get direction from Council related to outstanding flood protection and off-site servicing requirements for the BCR/Signal Hill development.

## **BACKGROUND**

On June 2, 2009, the Village of Pemberton held the statutory public hearing for Official Community Plan Amendment Bylaw No. 635, 2009 and Zoning Amendment Bylaw No. 636, 2009. The subject hearing, however, was adjourned until July 7, 2009 pending the resolution of outstanding requirements related to flood protection and off-site servicing.

On June 10<sup>th</sup>, proponent Garth Phare submitted a "Discussion Paper" outlining certain terms for dyking and servicing improvements and contributions. This document is attached as Appendix "A". An overview of the summary documents is as follows:

### **1.0 Flood Protection:**

The following outlines the background information and possible solutions as presented by the proponent.

#### **1.1 *Background Information (as Presented by the Proponent)***

- The existing Pemberton dyke along the north-east side of Pemberton Creek does not meet safety standards necessary to protect the Village.
- The Pemberton Valley Dyking District has made application through Build Canada to recover 90% of the dyke upgrade.
- The remaining 10% will be the responsibility of a third party. No precedent exists within the Village to determine who takes responsibility for the remaining 10% of the upgrade funding.
- The existing dyke was constructed without consent and currently is located on the lands owned by the Phare family.

These facts have been reviewed with the PVDD staff and have responded as follows:

- the PVDD requires 10% of the total cost of the project, upon submission of the final financial documentation, February 26, 2010. The 10% does not have to come direct from the developer.
- the precedent has been that any upgrades were 100% the responsibility of the developer. BC Rail Properties Upgrade upstream of the CN Rail bridge, Creekside Condos Training Berm and the Staehli - Talbot Subdivision (SLRD) are examples.
- Orthophotos indicate that Pemberton Creek once flowed directly through the proposed development area.
- Channel realignment, gravel extraction and dyking have been carried out since the 1940's to expand agricultural and developable land. Works carried out were protected under the "Dike Maintenance Act" as is the case throughout the District.
- The Phare Family will be given equal and fair consideration should the project be tendered.

### **1.2 Proposed Solutions (as presented by the Proponent)**

- BCR/Signal Hill Homes will cover the 10% dyke remediation shortfall in the amount of \$150,000, but would receive credit in lieu of the community amenity charge.
- Payment by BCR/Signal Hill Homes will be paid by equalized sums corresponding to the phases of the complete project.
- The 10% would only be paid if the 90% contribution from Build Canada is exhausted.
- The Phare family would be given the first right of refusal for any and all dyke upgrades, in consideration for the value of the land where the dyke is currently located.

## **2.0 Off-site Servicing**

The following outlines the background information and possible solutions (as presented by the proponent).

### **2.1 Background Information (as Presented by the Proponent):**

- the existing sewer lines will not accommodate additional load and as such their improvement must be considered prior to any further connection; and
- the Village has not identified these necessary upgrades as DCC projects.

### **2.2 Proposed Solutions (as Presented by the Proponent):**

- Adopt a site specific bylaw whereby future subdivisions contribute to the proposed improvements/upgrades;
- Adopt a Development Servicing Agreement to collect the appropriate funds to undertake the necessary improvements/upgrades.

## COMMENTS

Staff have reviewed the discussion paper with the PVDD staff and the Village engineer and have the following comments:

### 1.0 Flood Protection

The following briefly reviews the options suggested by the proponent, as follows:

#### 1.1 10% Contribution as a Community Amenity

The BCR/Signal Hill Homes project is considered to be a development phased over 10-15 years. The Village may identify the flood protection upgrades as appropriate contributions in lieu of the Community Amenity Charge. The Community Amenity Charge, however, is payable at the time of subdivision. The 10% flood protection works, however, must be committed to by February 26, 2010. Senior government grants typically require the benefactor of the monies to undertake the works, and then submit their expenses for reimbursement. Further, although the cost estimate for the grant has been estimated as \$1.5 million, the works may cost anywhere from \$900,000 to \$1,500,000 – therefore the 10% contribution may be reduced. The developer should be aware that subdivision and building permits can not be issued without certainty that the proposed development has the appropriate flood protection.

→ *Given the discussion paper submitted by BCR/Signal Hill Homes, it appears that there may be a question of who should be responsible for the 10% funding. It is suggested that to address this issue, the discussion paper should be referred to the PVDD. Upon receipt of this direction, the Village can then determine the recommended timing for the contribution (if it is deemed to be the developer's responsibility).*

#### 1.2 10% Required Only if Improvements Exceed 90% of the Estimate

The Build Canada grant requires matching funds, and therefore if the project comes in under budget the matching funds will be proportionately reduced rather than reduced/eliminated.

→ *The matching funds must be available and be in compliance with the terms of the Build Canada grant.*

#### 1.3 First Right of Refusal

The PVDD would be either tendering the works or contracting them in-house.

→ Any agreement on first right of refusal to undertake the required site works would need to be decided on by the PVDD Board.

## **2.0 Off-Site Servicing**

The following briefly reviews the options suggested by the proponent, as follows:

### **2.1 New Bylaw Creation**

Creation of a new Bylaw specific to improvements to sanitary sewer mains identified in the report prepared by ISL Engineering & Land Services as deficient will essentially achieve the same purpose as the existing DCC Bylaw. The DCC Bylaw has been established to accumulate resources to fund deficiencies within the Village infrastructure system. A new Bylaw would create unnecessary redundancy. Many municipalities require such servicing requirements to be undertaken in addition to DCC contributions, particularly for a development of this size. For example, if the Benchlands proceeded first, they would be bound to undertake these improvements.

Due to the historically deficient condition of some portions of existing sanitary mains (which have difficulties in accommodating existing demands) these facilities would likely be considered as DCC qualifying projects in the absence of developer driven improvements.

Currently the sanitary sewers in question are not identified in the DCC Bylaw.

Should a developer be required to complete infrastructure improvements in order to service a particular development, and the improvement works are identified in the DCC Bylaw, then the developer would be entitled to receive DCC credits for the value of the works completed.

→ *A new Bylaw would create unnecessary redundancy to the existing DCC Bylaw.*

### **2.2 Development Servicing Agreement**

A Development Servicing Agreement as described creates a pool of financial resources through development contributions for the use by the Village on random improvement projects left to the discretion of Village staff.

In this instance, the formula for a particular development's contribution must be established and considered equal for all other developments. This does not currently exist and would likely follow a similar structure as the DCC Bylaw.

The process also suggests general contributions to a fund can be allocated to unique utility improvement projects (similar to General Reserves rather than a specified Sanitary Sewer Reserve). The implications of identifying specific utility improvement projects and collecting funds based on those related improvement works with the possibility of *not* allocating those funds to that specific utility, may create the following conditions:

- A utility may not be improved in time to allow for a development's connection due to insufficient funds. In this event, the Village could be held responsible for all improvements and the associated costs.

- A structured and scheduled system of utility upgrades established by the Village may be compromised. Funds that would normally have been contributed for sanitary upgrades, for example, may be used for road upgrades. As a result, sanitary upgrades could remain deficient for extended periods. This may be an internal issue for the Village, but structure eliminates bias.
- The permitted use of funds collected may not benefit developments specifically (i.e. the General Reserves can be used for projects such as.....)
  - *Certainty of the immediately required utility upgrades may not be realized and may become the responsibility of the developer.*
  - *Formula of equality for contribution would likely follow similar format to DCC Bylaw.*

## **DISCUSSION**

The proposed BCR Properties/Signal Hill development provides a comprehensive development program that includes a substantial new housing stock for the community as well as new parks, trails and community amenities. It is staff's position that the project will complement and enhance the social and economic opportunities in the community, while embracing environmental best practices. At this time, however, issues have been raised with regard to the developer's responsibility for certain flood protection requirements and off-site servicing as outlined in this report.

It is the intent that at the Committee of the Whole, Council and the developer discuss the proposed on and off-site works for flood protection and off-site servicing. Staff has framed the outstanding issues as follows:

### **1.0 Flood Protection:**

The developer has indicated concern as to whether they should be solely responsible for contributing the 10% matching funds for the Build Canada grant.

- a) The decision on the matching funds is a combined effort of the Village and the PVDD. The Village does not have any funds to contribute to the matching funds, however, they can require such improvements as part of the rezoning process and/or in lieu of the community amenity contribution.
- b) The PVDD has submitted the Build Canada grant in an effort to recognize that there is a community benefit to the dyke upgrade.

**At this time the issue should be referred to the PVDD to determine if they have any alternative sources of matching funds.**

### **DISCUSSION POINT #1**

**Once this has been addressed, then the project could return to Council for a decision as to whether the 10% funding will continue to be a developer responsibility (and if so, whether it will be credited in lieu of the CAC).**

## **Off-Site Servicing**

The issue of off-site servicing can be narrowed down to two main challenges:

- whether the developer is required to pay for both the project-specific and community-wide off-site servicing improvements, primarily related to wastewater servicing.
- what is the appropriate mechanism to achieve the servicing upgrades.

### ***DISCUSSION POINT #2***

**Council should determine whether the developer can fund off-site works through the CACs or DCCs (which would need to be updated to achieve) or a third funding obligation. Upon resolving this requirement, staff would then work with Council and the developer to identify the appropriate mechanism.**

## Discussion Paper

Re: Land use development application with regards to Village dyking requirements & Off-site sewage upgrades.

We wish to further discussions with regard to the dyking issue pertaining to the land use application of Signal Hill Homes and BCR Properties, and the off-site sewage requirements relative to the noted application, by first confirming the situation as it exists today.

### **Dyking Issue**

It has been determined, through review of the existing dyke requirements for this land use application, that the existing dyke does not meet safety standards necessary to protect the Village of Pemberton. It has been further determined that the existing dyke upgrades come under the Pemberton Valley Dyking District( PVDD) mandate, and that the PVDD has made application through Build Canada to cover 90% of the said upgrade. The remaining 10% will be the responsibility of a third party. No precedent exists within the Village of Pemberton to determine who takes responsibility for the remaining 10% of the upgrade funding.

The existing dyke was constructed without consent and currently sits on the Phare Lands.

### **Offsite Sewage Requirements and costs**

As set out in the May28, 2009 Offsite Servicing Requirements-Signal Hill Development (OR103) by ISL engineering, the existing sewage lines will not accommodate any additional load, and as such “their improvement must be considered prior to any further connection”. This ISL study mirrors the recommendations set out by Associated Engineering in 2007. The ISL study further states that the Village of Pemberton does not identify these necessary upgrades as DCC projects, and therefore these lines no longer meet acceptable standards. And it must be noted that some portions of these lines are at 100% capacity during low flow periods of the day.

### **Proposed Solutions for Dyking Issue**

Signal Hill Homes and BC Rail Properties wish to confirm at the outset, that there continues to be only two sources of funds from which all DCC, CAC and offsite requirements can be funded through. At present they are Imposed Development Cost Charges via bylaw 521 as well as the Community Amenity Charge Policy.

We wish to propose that the 10% third party shortfall dyking remediation costs be covered by Signal Hill Homes and BC Rail Properties in the amount of One Hundred and Fifty Thousand ( \$ 150 000.00) dollars . This would be done via the Community Amenity Charge, but we must request that this amount be paid by equalized sums corresponding to the phases of the complete development.

The proponents would like to be very clear that the funding received from Build Canada for the dyke upgrade be applied in full (100%) to this specific dyke upgrade and that only in the event that funds shortfall would the proponents be required to fund the 10% (\$ 150 000.00).

As part of this proposal the Phare family suggest that they be given the right of first refusal for any and all dyke upgrade works at this site.

We make this request for consideration of the value of the 1+ acres that the dyke currently sits on. This approach would be considered by the Phare family as compensation for unpaid rent of the land, lost opportunity of said land, and or payment in lieu of said lands.

This proposal would also help to acknowledge the prior remediation of the upper most portion of the Dyke system by BC Rail Properties.

### **Proposed solutions for Offsite Servicing requirements**

Due to the very onerous amount of upgrading needed for any additional connections to the present Sewer system, and the fact that many recent developments have not contributed to maintain the present sewer pipe infrastructure we anticipate that the future upgrades will require extraordinary solutions. We envision two possibilities.

The most logical would be to create a Bylaw that is site specific, and triggered by subdivision, that collects and dedicates the exact sums that would ordinarily be collected under bylaw 521, for the off site engineering and sewer servicing requirements as outlined in the ISL report. This new Bylaw creation, is necessary in order that the community has future opportunity for growth. Without consideration of this specific new Bylaw the Village of Pemberton may be forced once again to place a moratorium on further developments until such time as the infrastructure funding is found and the sewer upgrade works are complete.

Our land use proposal already addresses, Parks, Trails, Community Gardens, Smart Growth strategies, Pedestrian Safety, Sustainable development and achieves many of the requirements of the Leeds 2000 policies .This new Bylaw, would specifically address the sewer line upgrades required for this land use application and any future development . The Village benefits inherent in our proposed land use combined with this new Bylaw would achieve more towards future community sustainability than application of Bylaw 521 on its own.

The second option that may be given consideration is a Development Servicing Agreement. The Development Servicing Agreement could be used to accomplish much the same as a new bylaw but would allow more flexibility to what the monies collected were used for. This would not be the preference of the proponents of this Land use application as it does not have the same certainty as a Bylaw. The needs as outlined in the ISL report must have certainty for the security of the community's present and future health.

We propose these workable solutions that offer the Village Of Pemberton the opportunity to address sewer line deficiencies which presently stop any future tax base expansions, be considered in conjunction with the proposed solutions which address the outstanding dyking issues .We do not make these proposals in isolation but rather in combination. We further request that these combined proposals be considered for discussion and a solution determined prior to the impending dyke upgrade funding award .



**Adopted: Council No. 1185  
July 10, 2007**

## **PURPOSE**

Village Council has established a Community Amenity Policy (Policy) in order for Village to address the burden which residential development imposes on the demand for public facilities, services and amenities. As part of the Village Council exercising its discretion to rezone land, and the Approving Officer considering subdivision applications, the Policy addresses certain public interest considerations.

## **COMMUNITY AMENITY POLICY**

1. Proponents of **rezoning applications**, which include a residential component of more than 3 units, are requested by Council to address the burden which residential development imposes on demand for public facilities, services and amenities by contributing to a fund for their provision, improvement and expansion through the payment of a *Community Amenity Contribution*. If the proponent does not offer to contribute to the fund, Council may deny the application because the proposed development would impose a special burden, which the Village is not in a position to financially contend with.
2. Proponents of **subdivision applications**, which have not been the subject of a rezoning application, are requested by Council to address the burden which residential development imposes on demand for public facilities, services and amenities by contributing to a fund for their provision, improvement and expansion through the payment of a *Community Amenity Contribution*. If the proponent does not offer to contribute to the fund, the Approving Officer may deny the application because the proposed development would impose a special burden, which the Village is not in a position to financially contend with.
3. The *Community Amenity Charge* is **\$9165 / building lot** and **\$6110 / multiple family dwelling**. The detail of the manner in which this charge has been determined is outlined in Appendix A of this Policy.
4. At the time of submission of a rezoning application, the proponent shall submit a *Confirmation of Contribution Form*, a copy of which is attached as Appendix B of this Policy.

5. Prior to adoption of the bylaw that will rezone the proponent's land, proponents will be requested to enter into a 219 restrictive covenant agreement with the Village that will require that the *Community Amenity Policy* contribution will be payable to the Village of Pemberton by way of certified cheque at the time of application for building permit for multi-family projects, or at the time of subdivision for single-family lots.
6. Prior to the approval of a subdivision, the *Community Amenity Policy* contribution shall be payable to the Village of Pemberton by way of certified cheque.
7. The *Community Amenity Policy* will be deposited in a Community Amenity Reserve Fund that will only be used by Council to assist in the financing of the following types of community amenities that includes but is not limited to:
  - ❑ an indoor swimming pool complex;
  - ❑ an arena;
  - ❑ outdoor skating rink
  - ❑ a water park;
  - ❑ a skateboard park; and
  - ❑ bike park
8. Council will review the *Community Amenity Policy* every two years.
9. This policy was adopted as presented at Regular Council Meeting No. 1185, held Tuesday, July 10, 2007.

## APPENDIX A

### DETAILS ON THE CALCULATION OF THE COMMUNITY AMENITY CONTRIBUTION

- Projected cost of community amenities as per Lot 12 and 15 Master Plan – skateboard and bike park - \$660,000; water park - \$150,000; skating rink - \$150,000; and, youth centre and landscaping on Lot 15 - \$660,000. **Total - \$1.62 million**
- Assume a split of 50% Village of Pemberton and 50% SLRD - \$ 810,000 each of the cost of amenities as per Lot 12 and 15 of the Master Plan
- New Swimming Pool – \$8 million<sup>1</sup>
- New Arena – \$5.6 million<sup>2</sup>
- Total Projected Cost of Community Amenities - \$14.41 million
- Estimate of projected amount of development (20 years): 840 Dwelling Units
- Assume \$ 14.41 million split - 53% existing residents and 47% new residents
- Cost of community amenities attributed to New Development - \$6.77 million
- Estimated Dwelling Unit Mix – 66.3% single family, 33.3% multi family
- Assume Single Family Dwelling Premium Factor – 1.5<sup>3</sup>
- Proposed Community Amenity Contribution: **\$9165 per building lot**  
**\$6110 per multiple family dwelling**

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<sup>1</sup> Based on 2005 Pemberton and Electoral Area C Master Plan Update Focus on Major Facilities

<sup>2</sup> Based on 2005 Pemberton and Electoral Area C Master Plan Update Focus on Major Facilities

<sup>3</sup> The Community Amenity Charge is 50% higher for single family building lots

**APPENDIX B**

**CONFIRMATION OF CONTRIBUTION  
TO OFFSET BURDEN OF REZONING AND SUBDIVISION**

To: VILLAGE OF PEMBERTON

By: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(the "Applicant")

Re: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
("the Lands")

WHEREAS the Applicant has applied to rezone and/or subdivide the lands so as to permit a residential development greater than three dwelling units;

AND WHEREAS the Applicant acknowledges that such a rezoning and/or subdivision imposes a special burden on the Municipality in relation to public facilities, services and amenities required to support such development;

THEREFORE, the Applicant volunteers and agrees to contribute the sum of **\$9165 per building lot** and **\$6110 per multiple family dwelling unit** permitted by the rezoning in order to help offset this special burden in the event that the rezoning is approved by the Council of the Village of Pemberton, or a subdivision is approved by the Village of Pemberton Approving Officer.

The Applicant acknowledges that this contribution is being made voluntarily and that it is not in lieu of development cost charges, or any other contribution, fee, charge or levy which the Village of Pemberton is authorized to impose.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signature \_\_\_\_\_  
(Applicant)



## REPORT TO COUNCIL

**Date:** June 2, 2009

**From:** Richard Nicolas, Manager of Community Services  
Ben Hansler, Bylaw Officer

**Subject:** Unsightly Premises Amendment Bylaw No. 638, 2009

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### **RECOMMENDATION**

**THAT** Village of Pemberton Unsightly Premises Amendment Bylaw No. 638, 2009 receive First, Second and Third Reading.

### **BACKGROUND**

At a meeting of Industrial Park owners, held March 12, 2009, discussion took place regarding a number of issues and concerns owners had related to development, building and bylaw enforcement.

In this regard, there was discussion about the current Village of Pemberton Unsightly Premises Bylaw and whether the Bylaw takes into account that conditions may be different for properties at the Industrial Park as some businesses require the storage of equipment, supplies and other items that under the current bylaw might be considered unsightly.

Staff has reviewed the Bylaw and established that it does not allow for any accumulation of materials on any piece of property and therefore many of the properties in the Industrial Park are in violation of the bylaw.

### **DISCUSSION**

In consultation with other communities, an Amendment Bylaw that addresses the concerns raised and provides for more clarity from an enforcement point of view has been drafted and is attached.

The following summarizes the amendments that have been made:

#### **Section 6 – Unsightly Real Property**

##### **Section 6.5**

The current Bylaw does not distinguish between differently zoned properties. A commercial property is treated the same as a residential property and does not account

for different uses. Section 6.5 has been amended to include reference to the zoning regulations on a property. This means that if a property is zone for a lumber yard and as such building materials are accumulated it will no longer be in violation of the Bylaw.

## **Section 6.6**

Section 6.6 has been amended to clarify that derelict equipment, building materials, discarded materials or rubbish must be kept behind appropriately screened fencing or in a closed building or structure.

Section 6.6 has been further amended to include Subsection c) that requires an owner of a property that is storing building material to hold a valid building permit or Business Licence. This will ensure that owners comply with the Zoning Bylaw, Building Bylaw and the Business Licence Bylaw or a combination thereof which will provide more flexibility for enforcement purposes.

These two amendments allow for some accumulation of debris, materials or derelict equipment as long as it is properly screened or enclosed and not visible from a public place, as per the definition in Bylaw 476, 2002, or adjacent property. This also provides for a different standard for construction sites.

## **Section 9 – Notice of Non-Compliance**

Section 9.1 has been amended to include Subsection d) that allows the Village to request that a fence with an appropriate screening be erected to block unsightly materials from public view.

This amendment provides the Village with another tool in the enforcement of the unsightly bylaw.

Finally, Staff have taken advantage of this opportunity to amend the bylaw and made some minor text changes in the sections noted above in order to tighten up some of the wording. These minor text changes do not impact or change the intent of the bylaw.

**THE VILLAGE OF PEMBERTON  
BYLAW NO. 638, 2009**

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**Being a bylaw to amend Village of Pemberton Unsightly Premises By-law No. 476, 2002 to provide clarity with regard to unsightly premises at the Pemberton Industrial/Business Park.**

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**WHEREAS** Section 137 of *the Community Charter* empowers the Council, by bylaw, to amend an original bylaw;

**AND WHEREAS** pursuant to Section 8 (3) (h) of the Community Charter and amendments thereto, a Council may, by bylaw, regulate, prohibit and impose requirements in relation to the protection and enhancement of the well-being of its community in relation to the matters referred to in section 64 [nuisances, disturbances and other objectionable situations];

**AND WHEREAS** Council has determined it would be appropriate to amend the Village of Pemberton Unsightly Premises By-law No. 476, 2002 in order to provide clarity with regard to unsightly premises at the Pemberton Industrial/Business Park.

**NOW THEREFORE**, the Council of the Village of Pemberton, in open meeting assembled, **ENACTS AS FOLLOWS:**

1. Bylaw No. 476, 2002 cited as the "Village of Pemberton Unsightly Premises By-law No. 476, 2002", is hereby amended by inserting the following:

**Section 3 – Interpretation**

Addition of the following definition:

"Closed Structure or Closed Building" means a structure the contents of which are not visible to the public from a roadway, a public place or from private property other than that on which the structure is located;

**Section 6 – Unsightly Real Property**

Subsection 6.1 is hereby deleted:

6.1 deleted

Subsection 6.3 is hereby amended as follows:

- 6.3 No owner or occupier of real property within the Village shall allow such property to become, or to remain, untidy or unsightly, and shall be required to maintain the said property in a neat and tidy condition in

keeping with a reasonable standard of maintenance prevailing in the neighbourhood.

Subsection 6.5 is hereby amended as follows:

- 6.5 Without in any way restricting the generality of the word “unsightly”, any one or more of the following conditions may render real property unsightly where such property is not zoned for such use and, where zoned, if the accumulation of items is untidy and not stored in a lawfully constructed closed structure or closed building, within the meaning of this bylaw:
- a) dilapidated or broken fences;
  - b) materials of any sort that are strewn about the real property rather than piled in a neat and orderly manner
  - c) the storage or accumulation of all or any part of a vehicle (snowmobile, motorcycle, all terrain vehicle, trailer or motorhome) which is not validly registered and licensed in accordance with the Motor Vehicle Act, and is incapable of moving under its own power;
  - d) the storage or accumulation of all or any part of a boat which is inoperable, un-seaworthy, or in a dilapidated state;
  - e) furniture (other than furniture designed specifically for outdoor use), bedding or appliances stored outside the premises or in open carport areas;
  - f) unused landscaping materials such as dirt piles or discarded planting pots, or tree or plant material clippings;
  - g) uncontained and un-maintained compost piles;
  - h) accumulations of rubbish, trash, bottles, broken glass or other discarded or unwholesome materials;

Subsection 6.6 is hereby amended as follows:

- 6.6 It shall be unlawful for any person to store, keep, leave or maintain on any real property, except behind a lawfully constructed fence with appropriate screening or in a lawfully constructed closed building or closed structure erected or used as an enclosure, with the express purpose that materials are not visible from a public place or an adjacent property, the following:
- a) any derelict or partially dismantled vehicle or vehicle parts engines, machinery
  - b) discarded materials or rubbish of any kind.
  - c) the accumulation of building material, such as but not limited to, lumber, bricks, metal, pre-load, equipment and supplies, on the parcel unless
    - i) the owner of the parcel is in possession of a valid building permit;  
or
    - ii) the owner of the parcel has a business license for building material sales or storage

d) firewood, unless neatly piled or stacked.

**Section 9 – Notice of Non-Compliance**

Section 9 is amended with the addition of sub-section d) as follows:

d) to construct a fence with appropriate screening, with the express purpose that unsightly materials may be stored behind the fence and not be visible from a public place or adjacent property.

**2. Citation**

This Bylaw may be cited as “The Village of Pemberton Unsightly Premises Amendment Bylaw No. 638, 2009.”

**READ A FIRST TIME** this 2<sup>nd</sup> day of June, 2009.

**READ A SECOND TIME** this 2<sup>nd</sup> day of June, 2009.

**READ A THIRD TIME** this 2<sup>nd</sup> day of June, 2009.

**RECONSIDERED AND FINALLY ADOPTED** this            day of            , 2009.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Administrator

1, 2, 3 Reading - June 2, 2009

**Date:** June 16, 2009

**From:** Richard Nicolas, Manager of Community Services and Building Inspection

**Subject:** Temporary Commercial Vendors Business Licence and Temporary Signage - Bylaw Review.

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### **RECOMMENDATION**

**THAT** this report be received for information.

### **BACKGROUND**

At the Village of Pemberton Council meeting, held Tuesday, May 19, 2009, concerns were raised regarding a hot tub vendor's sales stand located in the Pony Parking lot during the May long weekend and signage that is often posted around town to advertise sporadic sales and events (i.e. seafood vendors and liquidation sell-offs). In particular, Council requested an opportunity to review the corresponding sections of the Business Licence Bylaw and the Sign Bylaw.

#### **Temporary Commercial Vendors Business Licences:**

The Village of Pemberton Business Licence Amendment Bylaw No. 418, 1999, specifically deals with temporary or mobile businesses (attached). The Bylaw details what a mobile vendor must do in order to receive a Temporary Commercial Vendors Business Licence and establishes that the Village may only issue five such licences in each year. In a typical year, the Village will issue one maybe two Temporary Vendor Business Licences a year and usually to movie companies, the carnival and a fish vendor.

In the case of the Hot Tub Sales vendor, the Village was advised late on the Friday of the long weekend of the set up and the Bylaw Officer visited the site and requested that the vendor make application for a Temporary Commercial Vendors Business Licence. It was agreed that, in this case, the vendor could stay for the weekend and that payment must be received by the Village the following week. The vendor has since applied for a Temporary Commercial Vendors Business Licence but it has not been issued as payment is outstanding. The licence fee is \$300.

In the case of the Liquidation Sales vendor that comes into town twice a year. The sale is held at the old Community Centre which is located within the Regional District so no Business Licence is required.

### **Temporary Signage:**

Temporary signage is addressed in Section 7.0 of the Village of Pemberton Sign Bylaw No. 380, 1996 (see section attached) which states:

*Temporary signs are permitted only as outlined in this section and such signs (except election signs and special event signs) are permitted without a formal sign permit provided they comply in all respects with the regulations of this By-law.*

Although a Sign Permit is not required for temporary signs, other than election or special events, any temporary sign must conform with the overall provisions of the bylaw and any other applicable bylaws of the Village. The challenge lies in determining how to monitor and enforce compliance of a temporary sign (ie: Liquidation Sale, Garage Sale, Private home sale) as in most cases the signage is only in place for a short period of time.

### **DISCUSSION**

As Council is aware, bylaw enforcement within the Village is on a complaint bases. Once a comment or concern is received by the Village, Office Staff will inspect and investigate whether or not there is a bylaw infraction and will follow up as required. As noted above, in many cases the signage/vendor is gone before Staff are able to attend to the matter.

A high level review of the Sign Bylaw suggests that there are components that are out-dated not only related to Temporary Signs but signage in general as the Bylaw does not address sandwich board signs of which there are several throughout the Village. As well, it is noted that some of the existing signage in the Village is in conflict with the existing bylaw. Development Services will be conducting a full and thorough review following the completion of the OCP Update and Zoning Bylaw review.

With respect to the Business Licence Bylaw, the challenge with a temporary vendor permit is that most temporary vendors arrive in town on Friday and leave before Monday. In these circumstances it is difficult to get compliance as they are gone before staff are able to contact them although every effort is made to ensure compliance should they return. Most traveling sales operators will contact the Village Office in advance of their arrival to arrange for appropriate permits as this is a matter of doing business for them.

### **STRATEGIC PRIORITY**

A review of the Business Licence and Sign Bylaws is not on the Strategic Plan.

THE CORPORATION OF THE VILLAGE OF PEMBERTON

BYLAW NO. 418

Being a Bylaw to amend Business License Bylaw No. 183, 1984.

WHEREAS the Council of the Village of Pemberton deems it necessary and appropriate to amend Business Licence Bylaw No. 183, 1984;

NOW THEREFORE the Council of the Village of Pemberton, in open meeting assembled, enacts as follows:

1. Section 17 of Schedule "A" of Bylaw No. 183, 1984 is hereby deleted and the following substituted therefore:

"17. MOBILE STORE

This section applies to every person carrying on the business of operating a mobile store who vends on any highway, street, lane, or public place, any goods, wares, merchandise, or foodstuffs.

- 1) Portable Food Vendor means a person who offers to sell food items from a cart, trailer or motor vehicle to the general public for immediate consumption.

Temporary Commercial Vendor means a person who offers for sale from a stationary vehicle, or temporary stall that is not part of a permanent use on the lot, goods, other than food items for immediate consumption, otherwise permitted to be sold in the zone in which the vehicle or stall is located.

- 2) Only 1 Portable Food Vendor license will be issued per parcel of land.
- 3) A maximum of 5 Portable Food Vendors will be licensed in a calendar year.
- 4) Portable Food Vendors and Temporary Commercial Vendors shall:
  - a) obtain written permission from the owner of the land, allowing the portable vending cart, trailer, vehicle, or temporary stall to be located on the property, and provide a copy of such permission to the License Inspector;
  - b) obtain permission to use washroom facilities on the property or in adjacent premises, and provide a written statement indicating said permission;
  - c) provide a garbage container at the location of the vending cart, trailer, vehicle, or temporary stall, and pick up all garbage and debris, within 100 meters of their location, which is a result of their business operation;
  - d) obtain a business licence for each separate location where the business will be operated.
  - e) pay a yearly business license fee of **\$300.00**
- 5) Mobile Stores shall:
  - a) be fully self-contained with no service connection other than electrical service being required;
  - b) be located other than on a highway, sidewalk, or boulevard, except in required off-street parking spaces, but not so as to interfere with or block any motor vehicle, pedestrian exit, or walkway;
  - c) be kept in good repair;

- d) when in use for food vending, meet Provincial Health regulations, and the vendor shall provide written confirmation from a Provincial Health Inspector."


2. This bylaw may be cited as "The Corporation of the Village of Pemberton Business License Bylaw No. 183, 1984, Amendment Bylaw No. 418, 1998."

READ A FIRST TIME this 3rd day of March, 1998.

READ A SECOND TIME this 3rd day of March, 1998.

READ A THIRD TIME this 3rd day of March, 1998.

RECONSIDERED, FINALLY PASSED AND ADOPTED this 7th day of April, 1998.

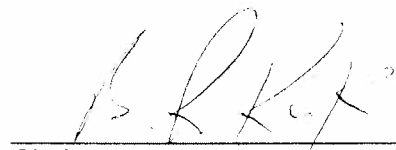


\_\_\_\_\_  
Mayor

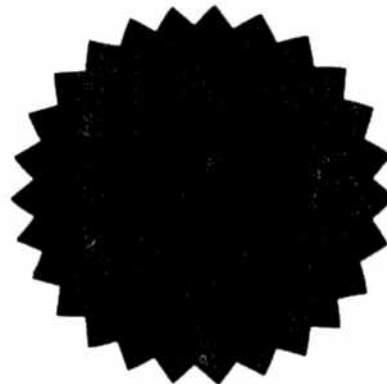


\_\_\_\_\_  
Clerk-Treasurer

Certified to be a true and correct copy of  
the Corporation of the Viliage of Pemberton  
Business License Bylaw No. 183, 1984,  
Amendment Bylaw No. 418, 1998.



\_\_\_\_\_  
Clerk-Treasurer



## Sign Bylaw No. 380, 1996

### Temporary Signs:

#### Permitted Signs (Temporary)

Temporary signs are permitted only as outlined in this section and such signs (except election signs and special event signs) are permitted without a formal sign permit provided they comply in all respects with the regulations of this By-law.

#### 7.2 Election Signs

7.2.1 Subject to compliance with the provisions of the "Municipal Act", the "Motor Vehicle Act", the "Highway Act", and other applicable provincial or federal statutes, orders, By-laws or regulations relating thereto, posters, advertising cards, and sign boards are permitted for election purposes which advertise a particular party or candidate, plebiscite or issue subject to the regulation of this section.

7.2.2 An election sign shall not exceed 2 m<sup>2</sup> in area.

7.2.3 An election sign shall not exceed 2.4 m in height.

7.2.4 In addition to the permit fee provided for election signs, an applicant for a permit to erect one or more election signs shall deposit \$200 cash with the Village to ensure the removal of the sign or signs.

7.2.5 Signs may be placed on private property or on a Municipal road right of way in front of private property, but only with the permission of the owner of the parcel.

7.2.6 No sign may be placed on any public property which has thereon a building or structure or has otherwise been improved by the municipal or other government agency, including a park, nor on any road allowance or land under control of the Department of Transportation and Highways.

7.2.7 All election signs permitted under this Section shall be removed within seven days after the date of the election, plebiscite or other event in respect of which the same were placed or erected.

### 7.3 Special Event Signs

7.3.1 Temporary signs for promoting, identifying, or directing a special event are permitted in all zones provided the signs are in conformance with the regulations for election signs listed in this By-law.

7.3.2 Special event banners up to 5 m<sup>2</sup> in area displayed on or over public or private property may be approved by the Signage Officer if the following conditions are met:

- a) the primary purpose of such banners shall be to advertise and inform of upcoming community events. No more than twenty-five percent (25%) of any sign shall be used for the name or logo of a commercial sponsor;
- b) banners shall only be displayed at sites approved by the Signage Officer and reserved on a first come, first served basis;
- c) the owner of a banner shall agree to assume full liability and indemnify the Village for any damage to persons or property arising from its display, mounting, or removal; and
- d) banners may be displayed only immediately before and during the Special Event, and in no case shall the banner be displayed more than fourteen (14) days.

### 7.4 Real Estate Signs

7.4.1 Real estate signs advertising a property "for sale" or "for rent" or "for lease" are permitted in all zones of the Village subject to the following regulations:

- a) one sign per parcel up to a maximum area of 0.6 m<sup>2</sup>;
- b) where more than one parcel is offered for sale or lease at one time, the permitted sign area for each parcel may be combined up to a maximum of 3.0 m<sup>2</sup>, provided no other real estate signs are erected relating to those parcels;
- c) maximum height of 2.0 m;
- d) not more than one sign may be placed or erected on the parcel to which it relates; and
- e) such signs shall be removed not later than two weeks after the sale, rental or lease of the parcel(s) or if it is otherwise taken off the market.

7.4.2 In addition to the signs permitted under this section, an "open house" sign and "directional arrow" signs are permitted in all zones subject to the following regulations:

- a) one "open house" sign may be located on the parcel to which the sign relates or on a vehicle;
- b) one "directional arrow" sign is permitted at each intersection leading directly to the parcel;
- c) maximum area 0.6 m<sup>2</sup> with a maximum height of 2.0 m; and
- d) signs permitted under this section may only be displayed during the hours that the parcel to which they relate is open to the public for inspection and must otherwise be removed.

7.4.3 Real Estate signs advertising a property "for rent", or "for lease" are permitted subject to the following regulations:

- a) one sign per parcel up to a maximum area of 0.6 m<sup>2</sup>;
- b) only window signs are permitted; and
- c) real estate signs are permitted only for commercial, retail, personal service, or office uses on a parcel.

## 7.5 Contractor's Signs

7.5.1 Contractor's signs are permitted subject to the following regulations:

- a) one contractor's sign up to a maximum of 1.0 m<sup>2</sup> may be erected on the site of a single family dwelling or duplex under construction in a residential area;
- b) one contractor's sign up to a maximum area of 3.0 m<sup>2</sup>, giving the name of the building, owners, financial backers, architects and consultants, contractors and subcontractors, may be erected on the site of a building under construction other than a single family dwelling or duplex in any area of the Village;
- c) maximum height of 2.4 m;
- d) all contractor's signs shall be removed upon issuance of the occupancy permit;
- e) maximum of one contractor's sign per parcel.

## 8. General Provisions and Specifications

8.1 The keeping, placing or erection of any sign shall be in conformity with all of the provisions of this By-law and any other applicable Village of Pemberton By-laws.

8.2 Any person who erects, owns, maintains or who continues the use of any permanent sign which projects on or over any street shall register with the Village an Encroachment Agreement Bond of Indemnity or Policy of Insurance in form satisfactory to the Village Solicitor indemnifying and holding harmless the Village of Pemberton against all claims and demands, actions, suits, or other proceedings, and

against all loss and costs of whatsoever kind, which may be caused by or arise out of, or in any way be attributable or incidental to the erection, construction, maintenance or use of such projecting sign, or appurtenance thereto or in connection therewith during the maintenance of any such sign; such Bond of Indemnity or Policy of Insurance shall be a minimum amount of one million dollars (\$1,000,000) which shall be continued and in full force and effect during the maintenance and use of such sign.

- 8.3 If at any time any sign does not conform in every respect with the provisions of this By-law or any other By-law applicable thereto, or if any sign is in the opinion of the Signage Officer, in an unsafe or defective condition or in disrepair, or if the information on the sign has become obsolete due to changed use or occupancy of the parcel, the Signage Officer may give notice to the owner of such sign, or owner or occupier of the parcel or premise upon which it is displayed, to repair or remove the same within the period specified in the notice. It shall be the duty of such owner to repair or remove such sign in accordance with the said notice, failing which the Council may authorize the removal of said sign according to Section 735 of the Municipal Act.

### Appeals

An appeal may be made to Council by way of a Development Variance Permit Application for permission to place, erect or maintain a sign not provided for by this By-law.

### Permit Fees

- 10.1 No person shall place, erect or alter the design or construction of any sign without a permit first obtained from the Signage Officer and payment of a permit fee as set forth in this Part unless the sign is specifically exempted from permit requirement by this By-law.

**Date:** June 16, 2009  
**From:** Sheena Fraser, Manager of Administrative Services  
**Subject:** Smoking Regulation Bylaw No. 637, 2009

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**RECOMMENDATIONS**

**THAT** the draft Smoking Regulations Bylaw No. 637, 2009 be approved as presented;  
**AND THAT** the draft bylaw be sent to local business owners with patios for comment.

**BACKGROUND**

At the Committee of the Whole meeting, held Tuesday, May 19, 2009, a presentation was made by Rosanna Holehouse, Tobacco Reduction Coordinator, Vancouver Coastal Health Authority, on the merits of Pemberton Council adopting a “gold standard” Smoking Regulation Bylaw.

Studies have indicated that exposure to second hand smoke is an environmental health hazard and is known to cause lung disease, heart disease, cancer, respiratory illness and a number of other serious health conditions in non-smokers. The purpose of adopting a Smoking Regulation Bylaw is to expand on the current Provincial Tobacco Legislation by further reducing people’s exposure to second hand smoke by prohibiting smoking in a broader number of areas.

**DISCUSSION**

The current Provincial Tobacco Legislation prohibits smoking on school property and Section 2.3 extends the prohibition as follows:

- 2.3** (1) Subject to subsection (2), a person must not smoke tobacco, or hold lighted tobacco,
  - (a) in any building, structure, vehicle or any other place that is fully or substantially enclosed and
    - (i) is a place to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry,
    - (ii) is a workplace, or
    - (iii) is a prescribed place, or
  - (b) within a prescribed distance from a doorway, window or air intake of a place described in paragraph (a).

As of March 31, 2008, changes to the Tobacco Control Regulation came into effect throughout the Province and involved the banning of:

- Smoking in all indoor public spaces and work places, with exemptions made for the ceremonial use of tobacco by Aboriginal people,
- Smoking within three (3) meters of most public and workplace doorways, open windows and air intakes,
- Tobacco sales in public buildings including: hospitals and health facilities, universities, colleges, athletic and recreational facilities and provincial government buildings
- Displays of tobacco products in all places where tobacco is sold that are accessible to youth under 19, and
- Displays of tobacco products or promotions that can easily be seen from outside an establishment

These new provincial regulations establish a baseline of regulation that landlords, businesses, municipalities and health authorities may choose to exceed to fit the needs of their own individual communities, clients and population.

With the above in mind, and in anticipation of the 2010 Olympic Games, the Vancouver Coastal Health Authority has implemented a program that encourages Sea to Sky Corridor communities, including the Village of Pemberton, to support and adopt a “gold standard” Smoking Regulation Bylaw that exceeds current Provincial Tobacco legislation and regulations by prohibiting smoking on food establishment patios, within six (6) meters of doors, windows and air intakes and within twenty-five (25) meters of parks, playgrounds, outdoor venues, transit shelters and playing fields.

Several communities throughout the Province have already adopted Smoking Regulation Bylaws that include variations on the “gold standard” mostly related to the distance from which a smoker must be from a building or outdoor public gathering place.

The District of Squamish chose to prohibit smoking within three (3) meters from a doorway, window or air intake of a public place, workplace or common area and within three (3) meters of the perimeter of a patio or deck used in conjunction with a restaurant or liquor outlet. The bylaw does not establish a distance by which smoking is prohibited in other public places such as parks but does establish that smoking is permitted in municipal open spaces only where designated by signage. The District of Squamish bylaw is not considered to be “gold standard”.

In 2008, the City of Richmond amended the Public Health Protection Bylaw to include the following:

- No smoking in any building in Richmond. Exceptions to this rule are private homes, hotel or motel rooms designated for smoking, enclosed premises not open to the public, and business facilities where the owners are the only occupants of the building.
- No smoking within 6 metres of any opening into any building, including doors, windows that open, or air intakes.
- No smoking in any vehicle for hire including taxicabs, limousines, private or charter buses and driver training vehicles.
- No smoking in any vehicle if there is another occupant under 19-years-old.
- No smoking in, or within 3 metres, of any shelter for public transit or vehicle for hire.
- No smoking within 6 metres of a sign post or sign indicating a public transit or vehicle for hire stop.

Since that time, consideration is being given to amending the Bylaw in order to bring it up to the “gold standard”.

The RMOW recently adopted a “gold standard” Smoking Regulation Bylaw that prohibits smoking within six (6) meters of a public place, workplace or common area and further prohibits smoking within twenty-five (25) meters of any of the following:

- An Outdoor Venue
- A playground
- A playing field
- A place at which a Sporting Event is occurring
- A transit shelter
- School property

The proposed draft bylaw follows the “gold standard” and regulates operators of facilities and places, rather than actually regulating smokers. It requires that operators post signs in their establishments that state there is no smoking permitted in their establishment and it prohibits them from allowing a person to smoke in or within a distance of six (6) meters of their business. It also establishes that smoking is prohibited within twenty-five (25) meters of those outdoor areas noted above.

## **STATUTORY IMPLICATIONS**

Section 9 of the *Community Charter* establishes the concept of concurrent regulatory authority which recognizes that in five spheres, municipalities and the province have a shared interest in regulating activities. In this regard, the concurrent authority provisions apply to bylaws that deal with the following:

- Public Health
- Protection of the Environment
- Wildlife
- Building Standards; and

- Prohibition of soil deposits or removal

As the proposed bylaw deals with health related matters, it must be referred to the Ministry of Health for consultation before final adoption pursuant to Section 9 of the *Community Charter*. This draft bylaw has been provided by Vancouver Coastal Health Authority and is similar to that recently adopted by the RMOW.

## **OPTIONS**

### **Option One:**

Accept the draft bylaw as presented and direct staff to refer the draft bylaw to local business for comment and bring back a report to council.

### **Option Two:**

Direct Staff to bring forward the draft bylaw as presented for First and Second Reading and referral to the Ministry of Health at the July 7<sup>th</sup> Council meeting.

### **Option Three:**

Direct Staff to amend the distances proposed in the draft bylaw and bring forward for First and Second Reading at the July 7<sup>th</sup> Council meeting.

### **Option Four:**

Refer the Bylaw adoption and implementation to the Village's 2010 Strategic Plan.

## **STRATEGIC PRIORITIES**

The adoption of a smoking regulation bylaw is an important step in promoting public health and meets with the Village's Mission Statement to "support healthy and active lifestyle opportunities". Implementation of a bylaw is not specifically set out in the Village's Performance Measures.

## **BUDGET IMPLICATIONS**

Staff time for preparation of reports, consulting with effected property owners, seeking funding for signage and implementing the bylaw. In the longer term this initiative may include cost for enforcement.

## THE VILLAGE OF PEMBERTON

### SMOKING REGULATION BYLAW NO. 637, 2009

#### A Bylaw to Regulate Smoking in The Village of Pemberton

**WHEREAS** it has been determined that second-hand tobacco smoke is a health hazard and nuisance for many inhabitants of and visitors to the Village of Pemberton;

**AND WHEREAS** the Village of Pemberton has satisfied the preconditions to adopting this Bylaw set out in the *Public Health Bylaws Regulation, B.C. Reg. 42/2004*;

**NOW THEREFORE** the Council of the Village of Pemberton, in open meeting assembled, **ENACTS AS FOLLOWS:**

#### PART 1 – INTRODUCTION

##### 1. Citation

This Bylaw may be cited as “Smoking Regulation Bylaw No. 637, 2009”.

##### 2. Definitions

In this Bylaw:

- (a) “Bank” includes credit union, trust company, savings or loan company or other financial institution;
- (b) “Building” includes part of a building;
- (c) “Food Service Establishment” means any place of business where food intended for public consumption is sold, offered for sale, supplied, handled, prepared, packaged, displayed, served, processed, stored, transported or dispensed, and includes a patio used in conjunction with that place;
- (d) “Fully or Substantially Enclosed” means a Building or Structure, vehicle or any other place having a roof or other covering where more than 50% of the wall space is enclosed by any material that does not permit air to flow easily through it;

- (e) “Licenced Establishment” means any establishment licensed under the provisions of the *Liquor Control & Licencing Act* (B.C.);
- (f) “Operator” means any person who, as owner, proprietor, lessee, manager, employee, or otherwise, carries on the operation of a facility or business, and includes any person managing or supervising such facility or business;
- (g) “Outdoor Venue” means a place that is not Fully or Substantially Enclosed and is used for the assembly of persons for such purposes as worship, entertainment, recreation, business or amusement;
- (h) “Personal Services Establishment” means a place of business in which a person provides a service to or on the body of another person, and includes but is not limited to a barber shop, beauty parlour, health spa, massage parlour, tattoo shop, sauna and steam bath;
- (i) “Place of Public Assembly” means a Building or Structure used for the assembly of persons for such purposes as deliberation, education, worship, entertainment, recreation, business or amusement, including a shopping mall and a bingo hall, but does not include a Food Service Establishment or a private residential dwelling;
- (j) “Retail Establishment” means a Building, Structure, or other place where goods or services are exposed or offered for sale by retail;
- (k) “School Property” means property that is
  - (a) owned or leased by, or operated under the authority of, a board established under the *School Act* or the *Independent School Act*, and
  - (b) used for the purposes of delivering educational programs or other learning programs,
 and includes real property and improvements;
- (l) “Smoke” or “Smoking” means to inhale, exhale, burn or carry a lighted cigar, cigarette, pipe or other lighted smoking equipment that burns tobacco or other weed or substance but does not include the carrying of lighted incense or other lighted smoking equipment used solely for ceremonial or religious purposes;

- (m) “Sporting Event” means an organized athletic competition where admission is by ticket, whether paid or unpaid;
- (n) “Structure” includes part of a structure.
- (o) “Village” means the Village of Pemberton;

## **PART 2 – AREAS OF SMOKING PROHIBITION**

### **3. Operator Obligations**

- (1) The Operator of any of the following:
  - (a) a Retail Establishment;
  - (b) a Personal Services Establishment;
  - (c) a Bank;
  - (d) a hospital or health clinic;
  - (e) a Food Service Establishment;
  - (f) a taxicab or a public bus;
  - (g) a Place of Public Assembly;
  - (h) a billiard or pool hall;
  - (i) a Licenced Establishment;
  - (j) any other Building, Structure, vehicle, place or area that is Fully or Substantially Enclosed and:
    - (i) is a place to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry, or
    - (ii) is a prescribed place under the *Tobacco Control Act* (B.C.),

must not cause, permit or allow a person to Smoke while within any such Building, Structure, vehicle, place, or area.

- (2) The Operator of any of the following:
- (a) a Retail Establishment;
  - (b) a Personal Services Establishment;
  - (c) a Bank;
  - (d) a hospital or health clinic;
  - (e) a Food Service Establishment;
  - (f) a Place of Public Assembly;
  - (g) a billiard or pool hall;
  - (h) a Licenced Establishment;
  - (i) any other Building, Structure or place that is Fully or Substantially Enclosed and:
    - (iii) is a place to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry, or
    - (iv) is a prescribed place under the *Tobacco Control Act* (B.C.),
 must not cause, permit or allow a person to Smoke within six (6) metres from a doorway, window or air intake of the Building, Structure, place, or area.
- (3) The Operator of any Building, Structure, place, area, or vehicle where Smoking is not permitted under sections 3 or 4 this Bylaw must post at least one sign meeting the requirements of Part 3:
- (a) in respect of a Building, Structure, place or area that is Fully or Substantially Enclosed, at each doorway and air intake to the Building, Structure, place or area;
  - (b) in respect of a Building, Structure, place or area that is not Fully or Substantially Enclosed, in, at or on each gate, parking lot or other point of access to the Building, Structure, place or area; and
  - (c) in respect of a vehicle, on the dashboard or a passenger window of the vehicle.

(d) in respect of a Park or playing field at each major point of access

#### **4. Recreational Areas, Transit Shelters and School Property**

- (1) No person shall light a cigarette, cigar, pipe or other Smoking equipment, Smoke, or use tobacco in any other manner in, at, on or within 25 metres of any of the following:
- (a) an Outdoor Venue;
  - (b) a playground;
  - (c) a playing field;
  - (d) a place at which a Sporting Event is occurring;
  - (e) a transit shelter;
  - (f) School Property.

### **PART 3 – SIGN REQUIREMENTS**

#### **6. Sign Contents**

- (1) If an Operator is required to post a sign or signs pursuant to this Bylaw, the Operator must ensure that each sign:
- (a) is prominently displayed and maintained at the applicable location;
  - (b) if the sign is posted by a door, window or air intake of a Building, Structure, place or area that is Fully or Substantially Enclosed, contain the text “No Smoking within 6 Metres”, in capital or lower case letters or a combination of both;
  - (c) in respect of a place that is not Fully or Substantially Enclosed, or in respect of a vehicle, contain the text “No Smoking”, in capital or lower case letters or a combination of both;
  - (d) consist of two contrasting colours, or if the lettering is to be applied directly to a surface or to be mounted on a clear panel, the lettering must contrast with the background colour;

- (e) include in the text at the bottom of each sign “The Village of Pemberton Smoking Regulation Bylaw No. 637, 2009” and “Maximum Penalty \$1,000”.

**PART 4 – VIOLATIONS AND PENALTIES**

**7. Deemed Infractions**

- (1) Any person who:
  - (a) violates or who causes, permits or allows any of the provisions of this Bylaw to be violated;
  - (b) fails to comply with any of the provisions of this Bylaw; or
  - (c) neglects or refrains from doing anything required under the provisions of this Bylaw,

is deemed to have committed an infraction of, or an offence against, this Bylaw, and is liable on summary conviction, to either or both of a fine of not less than \$150 and not more than \$1,000, and the cost of prosecution. Each day that such violation is caused, permitted or allowed to continue constitutes a separate offence.

**PART 5 - ENACTMENT**

**8. Severability**

- (1) 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.

READ A FIRST TIME this     day of     , 2009.

READ A SECOND TIME this     day of     , 2009.

READ A THIRD TIME this     day of     , 2009.

DEPOSITED with the Minister of Health this     day of     , 2009.

ADOPTED this     day of     , 2009.