



**BYLAW #1557
of the
TOWN OF PINCHER CREEK**

**A BYLAW OF THE TOWN OF PINCHER CREEK, IN THE
PROVINCE OF ALBERTA, FOR THE PURPOSE OF
REGULATING SMOKING WITH THE TOWN OF PINCHER CREEK**

WHEREAS it has been determined that second-hand tobacco smoke (exhaled smoke and the smoke from lighted cigarettes, cigars, and pipes) is a health hazard or discomfort for inhabitants of the Town of Pincher Creek;

AND WHEREAS it is desirable in the interest of promoting the health, safety and welfare of Minors in the Town of Pincher Creek to regulate smoking in the Town as hereafter set out;

NOW THEREFORE, the Municipal Corporation of Pincher Creek in Council assembled enacts as follows:

1. This Bylaw may be cited as the Smoking Bylaw.
2. In this Bylaw,
 - a. “Bylaw Enforcement Officer” means any person employed by the Town as a Police Officer, Bylaw Enforcement Officer or Special Constable empowered to enforce this Bylaw.
 - b. “Town” means the municipal corporation of the Town of Pincher Creek, or the area contained within the geographical boundary thereof, according to the context in which the word is used.
 - c. “Enclosed Smoking Area” means an area within a building where smoking is allowed and which Minors are not allowed to enter, and that,
 - i. is closed in by a roof or ceiling and walls that prevent circulation of smoke to other areas of the building, and
 - ii. is equipped with one or more doors which are kept closed except when actually in use for ingress or egress.
 - d. “Minor” means a person under the age of 18 years.
 - e. “Proprietor” means the owner, tenant, or occupant of a building or part of a building, or his agent or representative, and includes any person in charge thereof or anyone who controls, manages, governs or directs the activity carried on therein, and for the purposed of Section 5, includes a driver of a Public Vehicle.
 - f. “Public Vehicle” means Town transit buses, school buses, chartered buses, and taxis (except when the only person in the taxi is the taxi driver).

- g. “Regulated Area” means
- (1) a building or part of a building or a Public Vehicle which Minors are allowed to enter, and includes
 - (2) includes
 - i) an area within a building described in clause (a) where Minors are not allowed to enter, unless it is an Enclosed Smoking Area, and
 - ii) an outdoor area of a Restaurant, such as a patio, where eating is allowed,
 - (3) but does not include the Royal Canadian Legion Branch # 43, a private residence, or rooms available for rent in a hotel, motel, or bed and breakfast establishment.
- h. “Restaurant” means a Regulated Area where food or beverages are prepared for consumption on the premises.
3. For the purposes of the Bylaw, a person is smoking if the person is in possession of any lighted cigarette, cigar, pipe or other lighted smoking material or equipment, irrespective of whether the person is inhaling or exhaling the smoke emitted from it.
 4. No person shall smoke in a Regulated Area within the Town.
 5. No Proprietor of a Regulated Area shall permit a person to smoke in the Regulated Area.
 6. No Proprietor of a building or part of a building in which smoking is allowed, including an Enclosed Smoking Area, shall permit a Minor to enter the building or part of the building or the Enclosed Smoking Area as the case may be.
 7. A Proprietor of a Restaurant shall ensure that a sign of sufficient size, shape, color and lettering as to be clearly visible and legible to persons entering the Restaurant is posted and maintained at each door or other place of entrance containing the words:

**No Smoking
(Town of Pincher Creek Bylaw No. 1557)**

or containing one of the symbol and word combination options depicted in Schedule “A” to this Bylaw.

8. A Proprietor of a building or part of a building in which smoking is allowed, including an Enclosed Smoking Area, shall ensure that a sign of sufficient size, shape, color, and lettering as to be clearly visible and legible to persons entering the building or part of the building or Enclosed Smoking Area, as the case may be, is posted and maintained at each door or other place of entrance containing the words:

**Smoking Permitted in this Area
No Minors Allowed**

Bylaw #1557

9. Where a bylaw Enforcement Officer believes on reasonable and probable grounds that a person has contravened any provision of the Bylaw he may commence proceedings by issuing a summons by means of a violation ticket in accordance with Part 2 of the *Provincial Offences Procedure Act* S.A. 1988 c. P-21.5.
10. The specified penalty payable in respect of a contravention of this Bylaw is the amount set out in Schedule "B".
11. Pursuant to Section 26 (2) (d) of the *Provincial Offences Procedure Act*, if the summons issued by a Bylaw Enforcement Officer under Section 9 so provides, the person named in a summons may make a voluntary payment in the specified amount set out in Schedule "B" of the Bylaw, and upon making the voluntary payment, that person is not required to appear before a justice to answer the summons.
12. A person who contravenes any provision of this Bylaw is guilty of an offence and punishable on summary conviction to pay a fine of not less than Two Hundred Fifty dollars (\$250.00) and not more the Ten Thousand dollars (\$10,000.00), or in the default of payment to a period of imprisonment for a period of not more than one year.
13. A lack of inadequacy of "No Smoking" signage as required by the Bylaw is not a defence to a charge of smoking contrary to the provisions of this Bylaw.
14. It is the intention of the Council of the Town that each separate provision of this Bylaw shall be deemed independent of all other provisions, and it is further the intention of the Council that if any provision of this Bylaw be declared invalid for any reason by a Court of competent jurisdiction, then all other provisions of the Bylaw shall remain valid and enforceable.
15. Bylaw No. 1542, and amendments thereto are hereby repealed.
16. This bylaw will come into force and effect upon final reading thereof.

READ A FIRST TIME THIS _____ DAY OF _____ 2005, A.D.

Mayor, Don Anderberg

CAO, Fran Korfeld

READ A SECOND TIME THIS _____ DAY OF _____ 2005, A.D.

Mayor, Don Anderberg

CAO, Fran Kornfeld

READ A THIRD TIME THIS _____ DAY OF _____ 2005, A.D.

Mayor, Don Anderberg

SCHEDULE 'A'

WARNING!

THIS AREA CONTAINS TOBACCO SMOKE, WHICH IS KNOWN TO CAUSE *CANCER, HEART DISEASE, LUNG DISEASE,* AND MAY HARM YOUR BABY.

**Town of Pincher Creek
Bylaw #1557**

SCHEDULE "B"
SPECIFIED PENALTIES

<u>Section</u>	<u>Offence</u>	<u>Amount</u>
4	Smoking in a Regulated Area	\$200
5	Proprietor of Regulated Area permitting a person to smoke	\$200
6	Proprietor of a building in which smoking is allowed, including an Enclosed Smoking Area, permitting a Minor to enter	\$200
7	Failing to comply with signage requirements	\$200
8	Failing to comply with signage requirements	\$200