

**THE CORPORATION OF THE DISTRICT OF PEACHLAND**

**BYLAW NUMBER 1983**

A Bylaw to Permit Encroachment on District Sidewalks and Road Rights of Ways  
for the purpose of Operating a Sidewalk Café, Merchant Displays and Mobile Vending Business

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WHEREAS Section 8 of the *Community Charter* authorizes Council, by bylaw, to regulate, prohibit and impose requirements in relation to public places;

AND WHEREAS it is deemed desirable to allow businesses to encroach onto District sidewalks and road rights of ways in order to operate sidewalk cafes and mobile vending businesses.

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

**Citation**

1. This Bylaw may be cited as "Sidewalk Café, Merchant Display and Mobile Vending Encroachment Bylaw No. 1983, 2012".

**Prohibition on New Construction**

2. No person shall occupy any portion of a highway or other public place for the purpose of operating a sidewalk café merchant display or mobile vending business without first entering into a Licensing and Encroachment Agreement from the District. The District is under no obligation to enter into a Licensing and Encroachment Agreement with any person.

**Requirement for Removal of Unlawful Construction**

3. Every applicant shall immediately remove from the sidewalk and road right of way area any sidewalk café merchant display or mobile vending structure or object belonging to him that is not permitted or that is no longer permitted by a valid and subsisting agreement or license from the District.

**Delegation**

4. Council hereby delegates to the Building Inspector and the Director of Planning and Development Services both hereinafter referred to as the Licensing Inspector, the authority to consider, make requirements in relation to, issue, refuse, renew, transfer, enforce, use security in relation to, terminate and otherwise administer licenses for sidewalk café, merchant display and mobile vending business on District sidewalks and road rights of ways, pursuant to Council's policy.
5. Licensing and Encroachment Agreements issued pursuant to section 4 may be executed on behalf of the District by any two of the Licensing Inspector, the Mayor, and the Corporate Officer.
6. If the Licensing Inspector should in any case choose not to exercise the power delegated in section 4, the Licensing Inspector may require a person to apply to Council of the District for issuance of the sublease or license.
7. All of the following apply to any decision by a delegate under section 6:

- (a) Any applicant that is subject to a decision under section 6 who is dissatisfied with the decision is entitled to have the decision reconsidered by Council in accordance with this section;
- (b) An applicant who wishes to have a decision reconsidered by Council must apply for the reconsideration by delivering to the Corporate Officer, or the Chief Administrative Officer within 30 days after the decision is communicated in writing to the applicant, a reconsideration application in writing, which must set out all of the following:
  - (i) the name of the delegate who made the decision, the date of the decision and the nature of the decision;
  - (ii) reasons why the applicant wishes the decision to be reconsidered by Council;
  - (iii) the decision the applicant requests be made by Council, with brief reasons in support of the requested decision; and
  - (iv) a copy of any materials considered by the applicant to be relevant to the reconsideration by Council;
- (c) A reconsideration application must be considered by Council at the next regular or special meeting of Council held after the date on which the reconsideration application is delivered to the District;
- (d) The Corporate Officer or Chief Administrative Officer must:
  - (i) place each reconsideration application on the agenda for a meeting of Council in accordance with section 7(c);
  - (ii) before each reconsideration by Council, deliver to each Council member a copy of the materials that were considered by the delegate in making the decision that is to be reconsidered;
- (e) In **reconsidering** a decision the Council must consider the material that was considered by the delegate in making the decision;
- (f) At a reconsideration of a decision, the applicant and any other person who is interested in the decision are entitled to be heard by Council;
- (g) Council is entitled to adjourn a reconsideration of a decision, and;
- (h) After having reconsidered a decision, Council may either confirm the decision or may set aside the decision and substitute the decision of Council.

#### **Severability**

- 8. If a court should find any provision or part of a provision in this Bylaw illegal, unenforceable or void, the remaining provisions or parts of provisions of this Bylaw will continue to have full force and effect.

#### **Offences**

- 9. Every person who violates any provision of this Bylaw, or who permits any act or thing to be done in violation of any provision of this Bylaw, is guilty of an offence against this Bylaw which is punishable upon summary conviction by a fine not exceeding \$10,000.00 and not less than \$1,000.00 for **each** offence, plus the costs of prosecution.

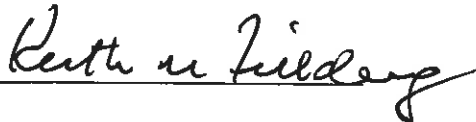
10. Each day that a violation of any provision of this Bylaw continues to exist is a separate offence against this Bylaw.

READ A FIRST TIME this 28<sup>th</sup> day of February, 2012

READ A SECOND TIME, this 28<sup>th</sup> day of February, 2012

READ A THIRD TIME this 28<sup>th</sup> day of February, 2012

FINALLY RECONSIDERED AND ADOPTED this 13<sup>th</sup> day of March, 2012

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Corporate Officer

Dated at Peachland, B.C.

This 28<sup>th</sup> day of Feb , 2012.