

CITY OF PORT COQUITLAM
SMOKING CONTROL BYLAW, 2018

Bylaw No. 4037

The Council of the Corporation of the City of Port Coquitlam enacts as follows:

1. CITATION

This Bylaw may be cited as the “Smoking Control Bylaw, 2018, No. 4037.

2. REPEAL

City of Port Coquitlam Smoking Control Bylaw, 2002, No. 3361, as amended, is repealed.

3. INTERPRETATION

3.1 Schedule “A” contains definitions of words used in this Bylaw.

3.2 Schedule “A” is attached to this Bylaw and forms part of this Bylaw.

3.3 Unless otherwise provided in this Bylaw, words and phrases used herein have the same meanings as in the *Community Charter, SBC 2003, Local Government Act, RSBC 2015, and Interpretation Act, RSBC 1996*.

3.4 A reference in this Bylaw to a statute refers to a statute of the Province of British Columbia, and a reference to any statute, regulation, or bylaw refers to that enactment, as amended or replaced from time to time.

3.5 Words in the singular include the plural, and gender specific terms include all genders and corporations.

3.6 Headings in this Bylaw are for convenience only and must not be construed as defining or in any way limiting the scope or intent of this Bylaw.

3.7 A decision by a court that any part of this Bylaw is illegal, void, or unenforceable severs that part from this Bylaw, and does not affect the validity of the remainder of this Bylaw.

4. SMOKING REGULATION

No person shall smoke:

4.1 in a building or within 7.5 metres of an entrance to a building or any air intake vent or operable window for a building;

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- 4.2 within 7.5 metres of a transit stop or transit shelter where people wait to board a public transit vehicle;
- 4.3 in any City park, sports venue, playground, or outdoor public space;
- 4.4 on a City street when used as part of an outdoor public event;
- 4.5 in a customer service area;
- 4.6 in a place of assembly.
- 4.7 in an outdoor public space where smoking is prohibited by a sign;
- 4.8 in a passenger directed vehicle;
- 4.9 in a vehicle when any other occupant of the vehicle is under the age of 19 years of age;
- 4.10 within 7.5 metres of a crosswalk.

5. EXEMPTIONS SPECIFIED

This Bylaw does not apply to:

- 5.1 ceremonial use of tobacco in relation to a traditional First Nation's cultural activity;
- 5.2 smoking by an actor as part of a stage or theatrical performance to which the public is invited.

6. MISHANDLING BURNING SUBSTANCES

- 6.1 No person shall drop, release or mishandle
 - (a) a burning substance, or
 - (b) any other thing that the person reasonably ought to know is likely to cause a fire, or
 - (c) any part of a cigarette, cigar, or pipe, whether the substance is burning or not.
- 6.2 A person who does not comply with section 6.1 must immediately extinguish, if practicable,
 - (a) the burning substance, and
 - (b) any fire that results from dropping, releasing or mishandling the burning substance or the other thing, as the case may be.

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- 6.3 The owner of a vehicle, which was used during a contravention of section 6.1 is liable for that contravention, notwithstanding that at the time of the contravention, the vehicle is in the possession of another person.

7. OFFENCES, PENALTIES AND ENFORCEMENT

- 7.1 A violation of a provision of this Bylaw will result in liability for penalties and late payment amounts established in the City's *Bylaw Notice Enforcement Bylaw, No. 3814, 2013* and *Ticket Information Utilization Bylaw, 1992, No. 2743*.
- 7.2 A violation of any of the provisions identified in this Bylaw will be subject to the procedures, restrictions, limits, obligations, and rights established in the City's current *Bylaw Notice Enforcement Bylaw*, in accordance with the *Local Government Bylaw Notice Enforcement Act, SBC 2003, C. 60*.
- 7.3 A person who contravenes, violates, or fails to comply with any provision of this Bylaw is deemed to have committed an offence under this Bylaw, and is liable on summary conviction to a fine not exceeding \$10,000.00 for each offence.
- 7.4 Each violation of this Bylaw will constitute a separate offence.
- 7.5 If a Bylaw Enforcement Officer has determined that a person has violated a provision of this Bylaw, that person must, when requested by the Bylaw Enforcement Officer, provide their name and address to the officer.
- 7.6 A bylaw enforcement officer has the right of entry and may enter at all reasonable hours onto any land or into any building to which this bylaw applies in order to ascertain whether the provisions of this bylaw are being complied with.
- 7.7 If a bylaw enforcement officer has determined that a person has violated a provision of this bylaw, that person must, when requested by the bylaw enforcement officer, immediately extinguish the burning substance in a safe manner.

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READ A FIRST TIME this 13th day of February, 2018

READ A SECOND TIME this 13th day of February, 2018

READ A THIRD TIME this 13th day of February, 2018

Consult with the medical health officer responsible for public health matters within the municipality occurred on the 22nd day of February, 2018

DEPOSITED with the Minister of Health this 8th day of March, 2018

ADOPTED this 13th day of March, 2018

Acting Mayor G. Pollock
Mayor

G. Joseph
Corporate Officer

RECORD OF AMENDMENTS

Bylaw	Section	Date
4216	Sections 4 & 6, Definitions	2021 02 09
4321	Section 6, Mishandling Burning Substances	2023 07 11

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SCHEDULE "A"

DEFINITIONS

In this Bylaw:

"building" means a building or structure accessible to the public or to where the public is invited.

"bylaw enforcement officer" means every person employed by the City for the purposes of enforcement of the City's bylaws and includes members of the Royal Canadian Mounted Police.

"City" means the Corporation of the City of Port Coquitlam.

"City trail" means a paved or unpaved path for pedestrian and/or cyclist and wheeled mobility aid use that may be in parks, on streets, or on other public lands.

"customer service area" means a partially-enclosed or unenclosed area, including any balcony, patio, yard area, or sidewalk that is part of or connected to a business or use in a building or premises that includes the service of food or beverages (both alcoholic and non-alcoholic) to customers or other individuals for consumption in that area.

"e-cigarette" means:

- (a) a product or device, whether or not it resembles a cigarette, containing an electronic or battery-powered heating element capable of vapourizing an e-substance for inhalation or release in the air, or
- (b) a prescribed product or device similar in nature or use to a product or device described in paragraph (a)

"e-substance" means a solid, liquid or gas, that:

- (a) upon being heated, produces a vapour for use in an e-cigarette, whether or not the solid, liquid or gas contains nicotine; and
- (b) is not a controlled substance within the meaning of the *Controlled Drugs and Substances Act, S.C 1996*.

"outdoor public space" means any outdoor area owned, controlled, or operated by the City that is open to the public or to which the public is customarily admitted or invited, and includes any:

- (a) children's playground;
- (b) playing field, sports venue, stadium, or sports facility;

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- (c) City trail;
- (d) outdoor recreational facility;
- (e) utility easement;
- (f) City street when used as part of an outdoor public event.

“outdoor public event” means any event where the public is invited, including any park, public square or street, including, but not limited to:

- (a) a market, contest, festival, celebration, fair, exhibition or concert;
- (b) an outdoor public event on any City owned, controlled or operated property that is leased to a third party; or
- (c) an event for which a City rental or use permit is required.

“park” means any real property owned or occupied by the City for the purpose of pleasure, recreation or community use by the public, including, but not limited to dedicated parks, but does not include any City land leased to a third party;

“passenger directed vehicle” means taxis, limousines, and vehicles operated under a license held by a transportation network service provider under the *Passenger Transportation Act*.

“place of assembly” means a building or portion thereof or other area used for the gathering of persons for the purpose of deliberation, education, worship, entertainment, recreation, business, professional seminars or amusement, and includes, without limitation, a school, college, university, theatre, convention centre, arena, recreation centre, video arcade, pool or billiard hall, bowling area, dance hall, church, church hall, concert hall, auditorium, public swimming pool, movie house, premises of licensed gaming events, lecture hall, library, museum, art gallery or similar places.

"public body" means:

- (a) a ministry of the government of British Columbia;
- (b) an agency, board, commission, corporation, office or other body controlled by the government of British Columbia or a municipality or regional district; or
- (c) a municipality or regional district.

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“smoke” or “smoking” means to inhale, exhale, burn, or carry a lighted cigarette, cigar, pipe, hookah pipe, vaping device, e-cigarette or other lighted or activated electronic smoking device that burns or vapourizes tobacco, cannabis, or any other plant, substance or material.

“street” includes a road, lane, bridge, viaduct, sidewalk or any other way open to public use, other than a public right of way on private property.

“transit shelter” means a building or other structure located on City property and constructed near a transit stop to provide seating and/or protection from the weather for the convenience of waiting passengers.

“transit stop” means a sign-posted location where public transit vehicles stop to pick up riders, and distances from a transit stop shall be measured from the sign that identifies the transit stop location.