

**CITY OF BURNABY**

**BYLAW NO. 14360**

The Council of the City of Burnaby ENACTS as follows:

**PART 1: CITATION**

1.1 This Bylaw may be cited as **BURNABY SMOKING REGULATION BYLAW 2021**.

**PART 2: DEFINITIONS**

2.1 In this Bylaw, unless the context otherwise requires,

“assembly use”	means a use that involves the assembly or gathering of persons for religious, charitable, philanthropic, cultural, recreational, or private educational purposes, and includes churches, auditoriums, meeting rooms, social halls, child care, youth centres, and group camps;
“bicycle lane”	means that portion of a <b>street</b> that is designated for use by persons on bicycles;
“boulevard”	has the meaning set out in the <i>Street and Traffic Bylaw</i> ;
“burn”	means to produce smoke, vapour or other substances that can be inhaled;
“business licence”	has the meaning set out in the <i>Burnaby Business Licence Bylaw 2017</i> , as amended or replaced from time to time;
“business premises”	has the meaning set out in <i>Burnaby Business Licence Bylaw 2017</i> , as amended or replaced from time to time
“commercial use”	means a use that involves: <ul style="list-style-type: none"><li>(a) the sale, rental, or repair of goods to the general public; or</li><li>(b) the provision of services to a person, business or household,</li></ul> and includes retail stores and grocery stores; personal, business

and household service offices and establishments; banks and other financial services; cafes, restaurants and liquor primary establishments; personal health care offices; and commercial recreation;

- “**crosswalk**” has the meaning set out in the *Street and Traffic Bylaw*;
- “**customer service area**” means a partially enclosed or unenclosed area, including a balcony, patio, yard or sidewalk, that is part of or connected to or associated with a business that includes the service of food or beverages, including alcoholic beverages, to customers or other persons for consumption on site;
- “**dwelling unit**” means a dwelling unit as defined in *Burnaby Zoning Bylaw, 1965*, as amended or replaced from time to time;
- “**e-cigarette**” means the following:
- (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 into the air; or
  - (b) a product or device similar in nature or use to a product or device described in clause (a);
- “**e-substance**” means a solid, liquid or gas that, on being heated, produces a vapour for use in an **e-cigarette**, regardless of whether or not the solid, liquid or gas contains nicotine;
- “**enclosed or substantially enclosed business premises**” means that portion, or those portions, of a **business premises**:
- (a) with a roof or other covering; and
  - (b) in respect of which air is prevented from easily flowing through more than 50% of the wall space of that portion, or portions, of a **business premises**;
- “**institutional use**” means a use that involves public educational, governmental, or civic functions that are not **commercial uses**, and includes public schools, libraries, public recreational facilities, community centres and other civic facilities;
- “**multi-use path**” means a paved or unpaved pathway that supports shared walking, cycling and other active modes of transport and is physically separated from on-street infrastructure and facilities that support higher speed modes of transport such as motor

	vehicles and buses;
“ <b>park</b> ”	has the meaning set out in the <i>Parks Regulation Bylaw, 1979</i> , as amended or replaced from time to time;
“ <b>responsible person</b> ”	means a <b>person</b> who owns, operates, controls, manages or supervises a <b>business premises</b> or a <b>customer service area</b> ;
“ <b>sidewalk</b> ”	has the meaning set out in the <i>Street and Traffic Bylaw</i> ;
“ <b>smoke</b> ” or “ <b>smoking</b> ”	means to inhale, exhale, <b>burn</b> or carry: <ul style="list-style-type: none"><li>(a) a lighted cigarette, cigar, pipe, hookah pipe, or other lighted smoking device or equipment that <b>burns</b> tobacco, cannabis or other weed or any substance; or</li><li>(b) an <b>activated e-cigarette</b>.</li></ul>
“ <b>street</b> ”	has the meaning set out in the <i>Street and Traffic Bylaw</i> ;
“ <i>Street and Traffic Bylaw</i> ”	means <i>Burnaby Street and Traffic Bylaw 1961</i> , as amended or replaced from time to time.

### PART 3: PARKS AND OUTDOOR PUBLIC SPACES

3.1 Unless otherwise permitted under this Bylaw, a person shall not **smoke**:

- (a) in a **park** or on a **multi-use path**;
- (b) on any **bicycle lane, boulevard, crosswalk, sidewalk**, walkway, or other public space or passageway that is either dedicated road or otherwise secured for public use through a statutory right of way agreement, and that:
  - (i) abuts a property with a **commercial use, assembly use** or **institutional use**;  
or
  - (ii) abuts a **park**.
- (c) on any lands and improvements that are owned or leased by the City, and that are intended for public or civic use, with the exception of **smoking** areas designated by the head of the City department responsible for the lands or improvements;
- (d) within six metres of:
  - (i) the perimeter of an enclosed or partially enclosed shelter or public transit

facility or infrastructure where people wait to board a public transit vehicle;

- (ii) a bench where people wait to board public transit, measured from any point at the base of the bench; or
- (iii) a pole indicating a stopping place for a public transit vehicle, measured from the base of the pole parallel to the **street**.

#### **PART 4: BUSINESS PREMISES AND CUSTOMER SERVICE AREAS**

- 4.1 Unless otherwise permitted under this Bylaw, an individual shall not, and a **responsible person** shall not permit an individual to, **smoke** in:
- (a) a **customer service area**; or
  - (b) an **enclosed or substantially enclosed business premises** that is a workplace or 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.
- 4.2 A **responsible person** must display and maintain, or cause to be displayed and maintained, at all times at each entrance to a **customer service area**, a sign stating:

**THIS IS A SMOKE FREE ENVIRONMENT – NO SMOKING**

#### **PART 5: EXCEPTIONS**

- 5.1 With the prior written approval of the City, a person may:
- (a) engage in the ceremonial use or **smoking** of tobacco or other substance in relation to a traditional aboriginal cultural activity; or
  - (b) **smoke** or permit **smoking** during a movie production or theatrical or other artistic performance.
- 5.2 Subsection 4.1(b) of this Bylaw does not apply to **smoking**:
- (a) in a **business premises** located within a **dwelling unit** that is not open to members of the public and the only person or persons employed by the business also reside in the **dwelling unit**; and
  - (b) in a hotel room or motel room designated within a hotel or motel by a **responsible person** as a smoking room.
- 5.3 Section 4.1 of this Bylaw does not apply to the use of a hookah pipe to **smoke** substances

other than tobacco or cannabis in the following **business premises** for so long as the associated **business licence** holder has a valid **business licence** for such **business premises** at the location listed below:

<b>Business Premises</b>	<b>Business Licence Holder</b>	<b>Doing Business As</b>
#101 - 6462 Kingsway	1207941 BC Ltd.	Lounge Sixty
7751 6th Street	Arwaz Hookah Lounge Limited	Arwaz Hookah Lounge
#A - 5593 Kingsway	Narah Shisha Café Inc.	Kayan Shisha Hookah Café
5236 Irmin Street	Rima Abduljawad	Reema's Shisha House
6649 Hastings Street	The Glass House Hookah Lounge Ltd.	The Glass Hookah Lounge
4027 Hastings Street	Bula Lounge Inc.	Bula Lounge
4052 Hastings Street	Bloo Bby Restaurant Ltd.	Bloo Bby Restaurant
4705 Hastings Street	Dejavu Lounge Ltd.	Déjà Vu Hookah Lounge
#116 - 3787 Canada Way	Living Room Café Inc.	Living Room Café
#102 - 2849 North Road	PMC Hookah Lounge Ltd.	PMC Hookah Lounge
7670 6th Street #102	Perk & Puff Café Inc.	Perk & Puff Café

5.4 For certainty, if any of the **business licence** holders set out in section 5.3 of this Bylaw:

- (a) fails or ceases to maintain a valid **business licence** for the **business premises**;
- (b) assigns, sells, transfers or in any way disposes of all or a portion of the holder's interest in the **business licence**; or
- (c) changes the location of the **business premises** from the location set out in section 5.3 of this Bylaw,

then the exception in section 5.3 of this Bylaw will no longer apply to that **business licence** holder and the associated **business premises** and section 4.1 will become effective immediately in respect to such **business licence** holder and/or the associated **business premises**.

## **PART 6: OFFENCES AND PENALTIES**

- 6.1 Every person who violates any of the provisions of this Bylaw, or who suffers or permits any act or thing to be done in contravention of any of the provisions of this Bylaw, or who neglects to do or refrains from doing anything required to be done by any of the provisions of this Bylaw, is guilty of an offence and is liable, on summary conviction, to a fine of up to fifty thousand dollars (\$50,000.00).
- 6.2 If an offence continues for more than one day, a separate offence occurs on each day or part of a day, and separate fines may be issued for each day or part of a day in respect of

which the offence occurs or continues.

- 6.3 A violation of any of the provisions identified in this Bylaw shall result in liability for penalties and late payment amounts established in Schedule A of BURNABY BYLAW NOTICE ENFORCEMENT BYLAW, 2009, and be subject to the procedures, restrictions, limits, obligations and rights established in BURNABY BYLAW NOTICE ENFORCEMENT BYLAW, 2009 and the *Local Government Bylaw Notice Enforcement Act*.

## **PART 7: SEVERABILITY**

- 7.1 If any definition, section, subsection, paragraph, subparagraph, clause or phrase in this Bylaw is held invalid by a Court of competent jurisdiction, the invalid definition, section, subsection, paragraph, subparagraph, clause or phrase must be severed and the remainder of this Bylaw is deemed to have been adopted without the severed definition, section, subsection, paragraph, subparagraph, clause or phrase.

## **PART 8: COMING INTO FORCE**

- 8.1 This Bylaw shall come into force and effect on January 1, 2022.

Read a first time this	day of	, 2021
Read a second time this	day of	, 2021
Read a third time this	day of	, 2021
Reconsidered and adopted this	day of	, 2021

MAYOR

CLERK