

## **CITY OF BURNABY**

### **BYLAW NO. xxxxx**

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,

<b>“assembly use”</b>	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;
<b>“bicycle lane”</b>	means that portion of a <b>street</b> that is designated for use by persons on bicycles;
<b>“boulevard”</b>	has the meaning set out in the <i>Street and Traffic Bylaw</i> ;
<b>“burn”</b>	means to produce smoke, vapour or other substances that can be inhaled;
<b>“business licence”</b>	has the meaning set out in the <i>Burnaby Business Licence Bylaw 2017</i> , as amended or replaced from time to time;
<b>“business premises”</b>	has the meaning set out in <i>Burnaby Business Licence Bylaw 2017</i> , as amended or replaced from time to time
<b>“commercial use”</b>	means a use that involves:  (a) the sale, rental, or repair of goods to the general public; or

- (b) the provision of services to a person, business or household,

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 <i>Street and Traffic Bylaw</i> ;
“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 <b>business</b> 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 <i>Burnaby Zoning Bylaw, 1965</i> , as amended or replaced from time to time;
“e-cigarette”	means the following: <ul style="list-style-type: none"><li>(a) a product or device, whether or not it resembles a cigarette, containing an electronic or battery-powered heating element capable of vapourizing an <b>e-substance</b> for inhalation or release into the air; or</li><li>(b) a product or device similar in nature or use to a product or device described in clause (a);</li></ul>
“e-substance”	means a solid, liquid or gas that, on being heated, produces a vapour for use in an <b>e-cigarette</b> , 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 <b>business premises</b> : <ul style="list-style-type: none"><li>(a) with a roof or other covering; and</li><li>(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 <b>business premises</b>;</li></ul>

<b>“institutional use”</b>	means a use that involves public educational, governmental, or civic functions that are not <b>commercial uses</b> , and includes public schools, libraries, public recreational facilities, community centres and other civic facilities;
<b>“multi-use path”</b>	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” or “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> ;
<b>“Street and Traffic Bylaw”</b>	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) is on or along any **street** identified in Schedule “A”;

- (ii) abuts a property with a principal **commercial use**, principal **assembly use** or principal **institutional use**; or
- (iii) 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 designated **smoking** areas;
- (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*.

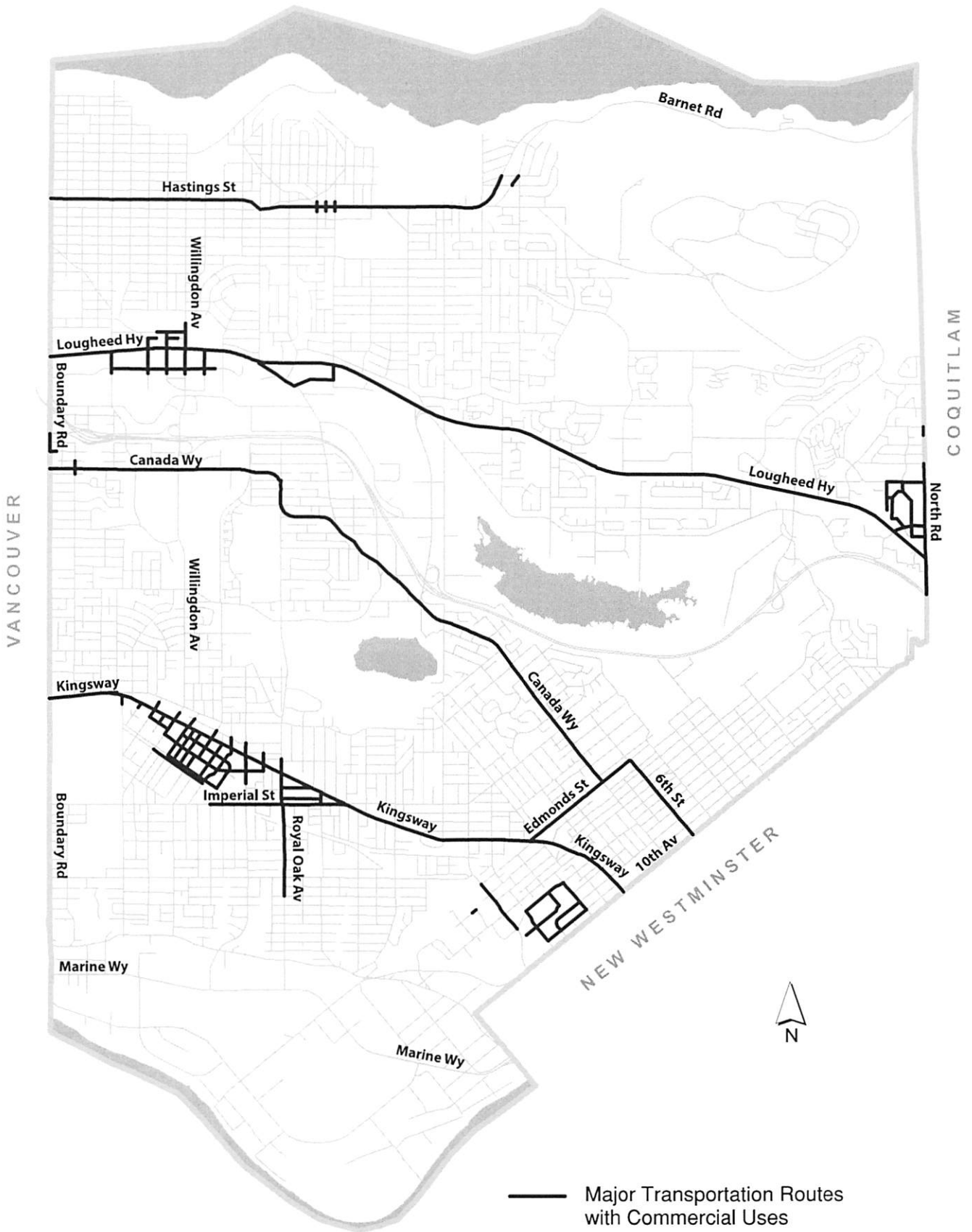
## **PART 7: SEVERABILITY**

- 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.

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





Item.....
Meeting.....2019 Sep 16

COUNCIL REPORT

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**TO:** CITY MANAGER **DATE:** 2019 Sept 11

**FROM:** DIRECTOR PARKS, RECREATION & CULTURAL SERVICES **FILE:** 42000-01

**SUBJECT: FEASIBILITY OF BANNING THE SMOKING AND VAPING OF ALL SUBSTANCES IN CITY OF BURNABY PARKS**

**PURPOSE:** To report on the feasibility of banning the smoking and vaping of all substances in City of Burnaby Parks and to request that Council authorize staff to examine the feasibility and advisability of extending the prohibition to all public facilities.

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**RECOMMENDATIONS:**

1. **THAT** Council authorize staff to examine the feasibility and advisability of extending the ban on smoking and vaping of all substances to all public places in the City of Burnaby.

**REPORT**

At its Open meeting of 2019 September 10, the Parks, Recreation and Culture Commission received and adopted the attached report on the feasibility of banning the smoking and vaping of all substances in City of Burnaby Parks.

Arising from discussion, the Commission AMENDED the report to include a recommendation that Council authorize staff to examine the feasibility and advisability of extending the ban on smoking and vaping of all substances to all public places in the City of Burnaby.

A handwritten signature in black ink that reads "D. Ellenwood".

Dave Ellenwood  
DIRECTOR PARKS, RECREATION & CULTURAL SERVICES

DE:km  
Attachments





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Meeting .....	2019 Sept 10

## COMMISSION REPORT

**TO:** CHAIR AND MEMBERS  
PARKS, RECREATION & CULTURE  
COMMISSION

**DATE:** 2019 Sept 04

**FROM:** DIRECTOR - PARKS, RECREATION &  
CULTURAL SERVICES

**FILE:** 42000-01  
*Reference:*

**SUBJECT:** FEASIBILITY OF BANNING THE SMOKING AND VAPING OF ALL  
SUBSTANCES IN CITY OF BURNABY PARKS

**PURPOSE:** To report on the feasibility of banning the smoking and vaping of all  
substances in City of Burnaby parks and obtain direction regarding the  
preparation of a further report recommending specific amendments to  
the Parks Regulation Bylaw.

### **RECOMMENDATION:**

1. **THAT** staff be authorized to pursue the preparation of a further report outlining specific bylaw text amendments to the Burnaby Parks Regulation Bylaw 1979, Bylaw 7331, to include a ban on smoking and vaping of all substances in City of Burnaby parks, as outlined in this report.

## **REPORT**

### **1.0 INTRODUCTION**

At the 2019 June 11, Parks, Recreation and Culture Commission meeting the following Notice of Motion was received for consideration:

THAT smoking of all substances be banned in City of Burnaby parks .

The Parks, Recreation and Culture Commission referred the matter to staff for a report on the feasibility of banning smoking of all substances in City of Burnaby parks.

This report responds to the above referral.

**To:** *Parks, Recreation & Culture Commission*  
**From:** *Director - Parks, Recreation & Cultural Services*  
**Re:** *Feasibility of Banning the Smoking and Vaping of  
all Substances in City of Burnaby Parks*

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## **2.0 POLICY SECTION**

The proposed ban on smoking all substances in City of Burnaby Parks is aligned with the City of Burnaby's Corporate Strategic Plan, by supporting the following goals and sub-goals of the plan.

- **A Safe Community**  
Maintain a high level of safety in City buildings and facilities for the public and City staff
- **A Healthy Community**
  - **Healthy life –**  
Encourages opportunities for healthy living and well-being
  - **Healthy environment –**  
Enhance our environmental health, resilience and sustainability
- **A Thriving Organization**
  - **Organizational culture –**  
Ensure that our core values are reflected in our policies, programs and service delivery

## **3.0 REASONS FOR SUPPORTING THE NOTICE OF MOTION**

Clean air is fundamental to healthy human life. In Canada, smoking is a leading cause of preventable death, and is a known health risk to both users and bystanders. This means that the health effects of smoking and vaping and exposure to second hand smoke in public parks has serious implications for community health. According to Health Canada, there is no safe level of exposure to second-hand smoke. Children and infants are especially at risk from second-hand smoke, because their breathing (respiratory) and immune systems are still developing. Vapour products, which include a range of handheld devices that heat a variety of substances such as nicotine, flavourings, cannabis or other unregulated ingredients to create vapour for inhalation or release into the air, have also been identified as a public health concern.

The toxins and plastics from cigarette litter are harmful to wildlife, water quality and the environment at large. The discarding of cigarette butts also leads to increased fire risk and maintenance costs for parks and public spaces.

Thanks to federal, provincial, territorial and municipal actions arising from the Government of Canada's Federal Tobacco Control Strategy, Canadians are now more protected than ever from exposure to second-hand smoke indoors, and in certain outdoor spaces. It is good governance for local governments to protect the health of citizens by enacting bylaws to make all public parks and outdoor spaces accessible to the public, smoke and vape free.

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## **4.0 TOBACCO AND VAPOUR PRODUCTS CONTROL AND REGULATION**

### **Provincial Legislation and Enforcement**

The Province's legislation is a key tool in reducing tobacco and vapour product use and protecting youth from accessing tobacco and vapour products. This legislation also protects people from the harmful effects of second hand smoke and vapour emissions in both indoor and certain outdoor settings.

**Legislation and Regulation** - In British Columbia, the Tobacco and Vapour Products Act and the Tobacco and Vapour Control Regulation came into effect on 2016, September 01. This legislation sets the laws, regulations and policy around the sale, display, promotion and use of both tobacco and vapour products and restricts exposure to emissions of these products. Under the Act and Regulation, tobacco and vapour product use is prohibited on school properties, indoor public spaces, workplaces, residential common areas, transit shelters, and within 6 metres of a doorway, window, or air intake of any building, structure, vehicle or any other place that is fully or substantially enclosed and accessible to the public. These prohibitions do not apply to the ceremonial use of tobacco in relation to a traditional aboriginal cultural activity, or by a prescribed group for a prescribed purpose.

**School Property** - All public and private schools in BC (Kindergarten to Grade 12) are tobacco and vape-free under the Tobacco and Vapour Products Act and Regulation. This ban extends to all school property 24 hours a day, 7 days a week, regardless of whether or not school is in session. The ban also includes vehicles, parking lots, sports fields, driveways, courtyards, and private vehicles parked on school property.

The ceremonial use of tobacco is exempt from the ban on tobacco use in schools if the ceremonial use is pre-approved by the school board and performed in relation to a traditional aboriginal activity. Use of tobacco in schools by a prescribed group for a prescribed purpose is also exempt if pre-approved by the school board.

**Enforcement** - The Ministry of Health is responsible for the administration of the Act and Regulation. The five regional health authorities employ enforcement officers and environmental health officers; both enforce the tobacco and vapour product laws on behalf of the Ministry of Health. Enforcement officers designated under the act are not responsible for enforcing local government bylaws unless a specific agreement to this effect has been approved between a local government and a health authority. Such an agreement sets out the delegation of authority to the enforcement officer.

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## 5.0 CANNABIS CONTROL AND LICENCING LEGISLATION AND REGULATION

### Provincial Legislation and Regulations

The federal government legalized non-medical cannabis on 2018 October 17. With public health and safety top of mind, the Province of British Columbia passed legislation on 2018, April 26, to provide for legal, controlled access to non-medical cannabis in British Columbia. Under the Cannabis Control and Licensing Act and Cannabis Control Regulation, the consumption in public of cannabis is prohibited or restricted as follows:

**School Property** - A person must not consume cannabis in or on school property, or within a prescribed distance from school property.

**Health Board Property** - A person must not smoke or vape cannabis in or on any health board property, except in any area designated by the health board as an area in which a person may use tobacco or e-cigarettes.

**Outdoor Smoking and Vaping** - A person must not smoke or vape cannabis in or on any skating rink, sports field, swimming pool, playground or skate park, spray pool, wading pool, splash pad, or a deck, seating area, or viewing area used in association with these places, or within a prescribed distance from these places, if the place is a public place that is outdoors. A person must not smoke or vape cannabis in a prescribed area of any park (within the meaning of the Park Act); a regional park (within the meaning of the local government act); an outdoor area established by a local government for purposes of community recreation (as listed above); a permanent public park over which the Park Board has jurisdiction under section 488 of the Vancouver Charter.

**Indoor Smoking or Vaping** - A person must not smoke or vape cannabis in a public place that is fully or substantially enclosed, a workplace, a common area within an apartment building, condominium or dormitory, or within a prescribed distance from a doorway, window or air intake of these places.

**Consumption in Vehicles and Boats** - A person must not consume cannabis while operating a vehicle or boat, or in or on a vehicle or boat being operated by another person, regardless of whether the vehicle or boat is in motion. A person must not operate a vehicle or boat if the person knows that another person is smoking or vaping cannabis in the vehicle or boat.

Other than the above referenced public outdoor places, some of which may be located in a municipal park, the prohibitions under the Cannabis Control and Licensing Act and Cannabis Control Regulation do not apply to other outdoor spaces in municipal parks, such as beaches, passive open spaces, linear parks, woodlands and forests, ravines and watercourses and conservation lands. In Burnaby, these other spaces comprise approximately 75 % of the park system.

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## 6.0 MUNICIPAL LEGISLATION, REGULATIONS AND ENFORCEMENT

### Municipal Bylaws

Local governments may pass bylaws regarding tobacco and vapour product control, including bylaws that prohibit smoking or vaping of all substances in workplaces and in public places, including outdoor spaces. These bylaws may impose requirements that are more restrictive than provincial law.

***Metro Vancouver Municipalities that Ban Smoking in Parks*** - In Metro Vancouver, thirteen municipalities have implemented a site-wide smoking ban in their respective parks. These municipalities are Anmore, Coquitlam, Delta, Langley City, Langley District Municipality, Lions Bay, Port Coquitlam, Port Moody, Richmond, Surrey, Vancouver, White Rock and the Metro Vancouver Regional District. Details of the bylaws, smoking prohibitions and relevant bylaw sections and definitions are provided for each of the thirteen municipalities in summary Table 1 ([Attachment #1](#)).

The more recent amendments in eight of these thirteen municipalities also include vapour products in such smoking prohibitions in accordance with the Tobacco and Vapour Products Control Act and Regulation. Six of these municipalities have also introduced recent amendments to include cannabis in such smoking and vaping prohibitions in accordance with the Cannabis Control and Licensing Act.

***Metro Vancouver Municipalities that Partially Ban Smoking in Parks*** - In Metro Vancouver, seven other Metro Vancouver municipalities have implemented smoking buffers of 7 metres or greater around specific areas, such as transit shelters and signs, customer service areas, playgrounds, sport fields, off-leash dog areas, food concessions, and doors, windows, air intakes or other building openings. These municipalities are Belcarra, Maple Ridge, New Westminster, North Vancouver City, North Vancouver District, Pitt Meadows, and West Vancouver. Details of the bylaws, smoking prohibitions and relevant bylaw sections and definitions are provided for each of these seven municipalities in summary Table 2 ([Attachment #2](#)).

Four of these seven municipalities also included vapour products in such smoking prohibitions in accordance with the Tobacco and Vapour Products Control Act and Regulation. Two of these seven municipalities have introduced recent amendments to include cannabis in such smoking and vaping prohibitions in accordance with the Cannabis Control and Licensing Act.

***Metro Vancouver Municipalities that Do Not Prohibit Smoking*** - Only two Metro Vancouver municipalities (Burnaby and the Island Municipality of Bowen Island) have not implemented smoking and vaping prohibitions of any kind relating to parks and or public open spaces. Details are provided for these 2 municipalities in summary Table 3 ([Attachment #3](#)).

*To: Parks, Recreation & Culture Commission*  
*From: Director - Parks, Recreation & Cultural Services*  
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## **Bylaws Created by Metro Vancouver Municipalities**

Of the twenty-two Metro Vancouver municipalities surveyed only three municipalities have implemented their smoking prohibitions via a Park Regulation Bylaw. These municipalities are Lions Bay, Metro Vancouver Regional District and the City of Surrey.

Thirteen other municipalities have implemented their smoking prohibitions via either a Smoking Control Bylaw or Smoking Regulation Bylaw. These municipalities are Anmore, Belcarra, Coquitlam, Delta, Langley City, Port Coquitlam, Port Moody, Maple Ridge, New Westminster, North Vancouver City, Vancouver, and West Vancouver.

Both Richmond and White Rock have implemented their smoking prohibitions via a Public Health Protection Bylaw or Public Health Smoking Protection Bylaw.

Both Pitt Meadows and Langley District Municipality have implemented their smoking prohibitions via a Public Places or Public Spaces Regulation Bylaw.

## **Municipal Bylaw Enforcement**

Local government bylaws are enforced by local government bylaw enforcement officials in compliance with the Local Government Bylaw Notice Enforcement Act and their respective bylaw notice enforcement bylaw.

## **7.0 CONTROL OF SMOKING AND VAPING PRODUCTS IN BURNABY**

### **City of Burnaby Policy and Regulations on Smoking and Vaping**

The City of Burnaby has implemented a non-smoking policy for City workplaces in compliance with provincial regulations under both the Tobacco and Vapour Products Act and Worksafe B.C. Regulations 4.81-4.83. This policy defines a workplace as any City facility, vehicle, mobile equipment or designated work zone, where the City conducts its business. Under the policy, smoking is restricted to a designated safe outdoor location that is a minimum of 6 metres away from a doorway, window or air intake to an indoor workplace.

Presently, the City of Burnaby does not further regulate, by bylaw, the use of tobacco and vapour products, including the smoking or vaping of tobacco, e-substances and cannabis in either indoor or outdoor public spaces in the City of Burnaby.

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As noted earlier Local governments may pass bylaws regarding tobacco and vapour product control, including bylaws that prohibit smoking or vaping of all substances in workplaces and public places, including outdoor spaces. These bylaws may impose requirements that are more restrictive than provincial law.

### **Burnaby Parks Regulation Bylaw Amendments Option**

In Burnaby, the Parks, Recreation and Culture Commission uses the Burnaby Parks Regulation Bylaw 1979, Bylaw No. 7331 to make rules and regulations governing the management, maintenance, improvement, operation, control and use of any real property held for pleasure, recreation and community use of the public.

Section 14 of the Parks Regulation Bylaw 1979, Bylaw No. 7331 addresses the matter of cigarette litter as follows:

*No person shall throw or place any lighted match, cigar, cigarette or similar thing or any burning substance or thing in or on any park.*

An amendment to the Burnaby Parks Regulation Bylaw to include a section banning the smoking of all substances within City of Burnaby Parks is the simplest option available to implement the Notice of Motion Commission received at its 2019 June 11.

In order to prepare a more concise bylaw text amendment, it may be necessary to add additional definitions to the bylaw to more fully describe smoking and vaping, vaping devices, and e-substances. In addition, some housekeeping text amendments are required to reflect the status of Burnaby as a City, as well as to update the current maximum fine permitted.

A bylaw amendment that includes an option for exceptions through the written permission of the Administrator is preferred. This allows for the address of exemptions for the ceremonial use of tobacco if it is performed in relation to a traditional aboriginal activity, or use of tobacco in a parks or park facility, by a prescribed group for a prescribed purpose (e.g., the smoking or vaping of a lit cigarette by an actor during a theatrical performance).

### **Other Considerations**

***Smoking on patios at restaurants located within Parks*** - A full ban on smoking and vaping in Burnaby Parks will mean that any patios that currently meet the setback requirement of the Smoking and Vapour Products Control Act and Regulation will no longer be permitted to allow smoking or vaping by restaurant patrons.

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***Smoking at Beer Gardens or Spaces Set aside for Smoking at Events within Parks***

A full ban on smoking and vaping in Burnaby Parks will mean that the City will no longer be able to offer event attendees a place to smoke away from other event patrons.

***Open Space and Civic Spaces that fall outside of the Park System*** - It should be noted that implementation of the proposed smoking and vaping ban via the Parks Regulation Bylaw will limit regulation of smoking and vaping of all substances by the City to parks, and indoor facilities located within parks, only.

The smoking and vaping would not be regulated on or within other public open spaces, such as sidewalks and boulevards fronting parks, most school grounds, the city hall grounds, civic square at Metrotown, landscape buffers on city land, urban trails, civic walkways, and other walkways and open spaces located on private lands accessible to the public via public access statutory rights of way.

***Park and Recreation Facilities and Amenities located on School Grounds*** - The application of the bylaw regulations to joint park school sites, especially those sites where the City does not own the land, may not be possible, except potentially where the City exerts control of the facility site via a formal agreement for use and management of a community recreation facility on School District land. Further research is required to determine whether the bylaw would be applicable in these instances.

**Parks and Public Spaces Bylaw Option**

If the intent of the Notice of Motion is to further regulate smoking and vaping of all substances on or within all city parks, public spaces, open spaces, walkways, urban trails, and school sites, then a new stand alone bylaw banning smoking and vaping of all substances in these places would be a more suitable option. The pursuit of such a bylaw would require Council authorization, and the bylaw would need to be prepared in consultation with other city departments who provide, operate and maintain these other civic outdoor facilities and open spaces, as well as the Burnaby School District. There may also be a requirement for approval and sign off by the Local Health Authority or Health Ministry, especially if exceptions/exemptions are proposed to be set out in the bylaw. The timeframe for preparation of and implementation of a stand-alone bylaw would also be longer than pursuit of a bylaw text amendment for the Burnaby Park Regulation Bylaw.



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## 8.0 RECOMMENDATION

It is recommended that staff be authorized to pursue the preparation of a further report outlining specific bylaw text amendments to the Burnaby Parks Regulation Bylaw 1979, Bylaw No. 7331. This would include house keeping amendments, text amendments to revise and or add new definitions, and a text amendment that addresses the banning of smoking and vaping of all substances in City of Burnaby Parks, except with the written permission of the Administrator.



Dave Ellenwood  
DIRECTOR - PARKS, RECREATION & CULTURAL SERVICES

ATS:km

Attachments (3)

Commission REPORT\_feasibility of banning smoking of all substances in COB parks

Copied to: City Solicitor

**Table 1: Municipal Smoking Bylaws within the Metro Vancouver Area that Ban Smoking within Parks**

Municipality / Jurisdiction	Population (2018 Sub-Provincial Estimates, BC Stats)	Current Bylaw (Year Added or Amended)	Smoking Prohibitions (Explicitly Mentioned in Bylaw)					No Smoking Buffer (Paraphrased)	Relevant Bylaw Sections and Definitions
			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
Anmore	2,389	Anmore Smoking Control Bylaw No. 448-2008 (2018)	X	X		X	X	7.5 m within:  doorway, window or air intake of a place of public assembly (s.4 (b))	<p><b>4. Place of Public Assembly</b></p> <p>A person must not smoke:</p> <ul style="list-style-type: none"> <li>a) in any Place of Public Assembly;</li> <li>b) within 7.5 meters of any doorway, window or air intake of a Place of Public Assembly; or</li> <li>c) on or in any Outdoor Public Space</li> </ul> <p><i>"Outdoor Public Space"</i> means any outdoor area owned, controlled or operated by the Village that is open to the public or to which the public is admitted or invited, and includes any municipally-owned:</p> <ul style="list-style-type: none"> <li>a) playground;</li> <li>b) park;</li> <li>c) trail;</li> <li>d) easement;</li> <li>e) street or sidewalk, and</li> <li>f) bus shelter or bus stop.</li> </ul> <p><i>"Place of Public Assembly"</i> means a building or structure, or portion thereof, used for the purposes of business, deliberation, education, entertainment, recreation or worship, and to which the public is ordinarily invited or permitted access."</p>

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			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
Anmore cont.									"Smoke or smoking" means the inhaling, exhaling, burning or carrying of a lighted cigar, cigarette, e-cigarette, pipe or other smoking equipment that burns cannabis, tobacco, or any other weed or plant, substance or material.
Coquitlam	149,809	Smoking Control Bylaw No. 3037, 1996  (2010, 2016)	X	X		X		N/A	<p>3.1 A person must not Smoke, use an E-Cigarette, or hold an Activated E-Cigarette:</p> <p>3.1.4 in any Park;</p> <p>3.1.6 in any Place of Public Assembly</p> <p>"Activated E-Cigarette" means an E-Cigarette in which an E-Substance is being vapourized;</p> <p>"E-Cigarette" means 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;</p> <p>"E-Substance" means a solid, liquid or gas that, on being heated, produces a vapour for use in an E-Cigarette, regardless of whether the solid, liquid or gas contains nicotine;</p>

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			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
Coquitlam cont.									<p><b>"Park"</b> means any land dedicated as a park or parkland or any other land used for leisure or recreation which the City owns or controls by means of title, lease, license or other legal instrument, and is within the jurisdiction of the City;</p> <p><b>"Public Place of Assembly"</b> means a place used for the gathering together of persons for the purpose of deliberation, education, worship, entertainment, recreation, business, professional seminars or amusement;</p> <p><b>"Smoke"</b> or <b>"Smoking"</b> means to inhale, exhale, burn, or carry a lighted cigarette, cigar, pipe, hookah pipe, or other lighted smoking equipment that burns tobacco or other weed or substance;</p>
Delta	109,484	Delta Smoking Regulation Bylaw No. 7779, 2018 (2018)	X	X		X	X	<p>7.5 m within:</p> <p>any Park or City Land; (s. 5.1.f)</p> <p>a Public Event (s.5.1.g)</p>	<p>5.1. A person must not Smoke:</p> <p>d) in any place of Business to which the public is invited or has access;</p> <p>f) in, or within 7.5 metres, of any Park or Municipal Land;</p> <p>g) at, or within 7.5 metres, of a Public Event.</p> <p>5.4 Section 5.1 of this bylaw does not apply to:</p>

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			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
Delta cont.									<p>a) ceremonial use of Smoke as part of an indigenous peoples traditional cultural activity; or</p> <p>b) Smoking by actors as part of a commercial stage or theatrical performance or a stage or theatrical performance that is expressly permitted by Delta.</p> <p><i>"Activated E-Cigarette"</i> has the same meaning as in the Tobacco And Vapour Products Control Act.</p> <p><i>"Business"</i> has the same meaning as in Delta Business License Bylaw No. 7670, 2017.</p> <p><i>"Parks or Municipal Land"</i> has the same meaning as in Delta Parks Regulation Bylaw No. 7206, 2013 but excludes a Highway.</p> <p><i>"Public Event"</i> means any event where the public is invited to gather on any area of City owned, controlled or operated property, including any park, public square, or street and includes:</p> <p>a) A market, contest, festival, celebration, fair, exhibition, sporting activity, or concert; or</p>

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			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
Delta cont.									<p>b) any occasion open to the public for which a City permit is required.</p> <p>"Smoke" or "Smoking" means the inhaling , exhaling, or carrying of a lighted cigarette, cigar, pipe, Activated E-Cigarette, or any other equipment, device, or item being used for burning or heating tobacco, cannabis, or any other consumable substance or material.</p>
Langley, City	27,577	Smoking Regulation Bylaw No. 2792 (2019)	X	X		X	X	N/A	<p>4.1 A person must not Smoke:</p> <p>i) Cannabis in any area that may be frequented by children, including but not limited to Parks and Public Facilities; or</p> <p>j) Tobacco in Parks and Public Facilities, except within designated Smoking Areas.</p> <p>"Cannabis" has the same meaning as in the Cannabis Control and Licensing Act.</p> <p>"Electronic Smoking Device" means a vaporizer or inhalent-type device or a component of such a device, that contains a power source and heating element designed to heat a substance and produce a vapour intended to be inhaled by the user of the device directly through the mouth.</p>

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			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
Langley, City cont.									<p>"Park" means a Park as defined in the City's Parks and Public Facilities Regulation Bylaw, 2018, No. 3048.</p> <p>"Public Facility" means a Public Facility as defined in the City's Parks and Public Facilities Regulation Bylaw, 2018, No. 3048.</p> <p>"Smoke" or "Smoking" means to</p> <ul style="list-style-type: none"> <li>a) burn, light operate, or activate a cigarette, cigar, pipe, electronic smoking device, hookah pipe or other smoking equipment that burns tobacco, Cannabis or other substance; or</li> <li>b) carry or hold a lit cigarette, cigar or pipe.</li> </ul> <p>"Smoking Area" means those areas designated and signed for Smoking tobacco.</p>
Langley, District Municipality	127,290	Public Spaces Regulation Bylaw 2018 No. 5298 (2018)	X		X	X	X	N/A	5.25 No person shall Smoke within a Public Space except in an area specifically designated by the Township or the School District, as applicable, for such activity.

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			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
Langley, District Municipality cont.									<p><b>"Park"</b> means land and improvements owned or occupied by the Township for the use, recreation or enjoyment of the general public including, but not limited to, land gifted, dedicated and reserved for use as a park;</p> <p><b>"Public Spaces"</b> means Parks and School Spaces;</p> <p><b>"School Spaces"</b> means playgrounds, recreational facilities, trails and parking lots owned or occupied by the School District that the School District in its discretion from time to time permits the general public to use for recreation or enjoyment, subject to such rules and policies as the School District may impose;</p> <p><b>"Smoke"</b> means:</p> <ul style="list-style-type: none"> <li>a) to burn a cigarette, e-cigarette, cigar or joint, or</li> <li>b) to burn any substance (including, but not limited to, tobacco, cannabis, or any other plant or herb) using any type of smoking device (including, but not limited to, a pipe, a bubbler, a bong, a hookah, a vaporizer, an electronic smoking device or a home-made smoking device);</li> </ul>



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			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
Lions Bay	1,407	Lions Bay Parks Regulation Bylaw No. 448, 2012 (2019)	X						<p>6.5 No person shall place or throw any lighted match, cigar, cigarette or any burning substance or thing in or on any park. The Fire Chief may prohibit smoking in any park or Community facility at any time by posting a no-smoking order at the entrance to the park or community facility.</p> <p>11.6 No person shall smokin in any park or trailway.</p> <p>"Park" means a park or parkland or any real property or interest therein within the Village held or used for pleasure or recreation uses of the public and includes the land held under any lease, including the foreshore and land covered by water granted to the Village by her Majesty the Queen and designated W-2 under Zoning and Development Bylaw No. 520, 2017, and including the forest inside the Village boundary.</p>
Port Coquitlam	62,844	Smoking Control Bylaw, 2018, No. 4037	X	X	X	X	X		<p>4. A person may not smoke:</p> <p>4.3 in any City park, sports venue, playground or outdoor public space;</p>

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			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
Port Coquitlam cont.		(2018)							<p>4.4 on a City street when used as part of an outdoor public event or when contrary to paragraphs (a), (b) or (f);</p> <p>5. This Bylaw does not apply to:</p> <p>5.1 ceremonial use of tobacco in relation to a traditional First Nation's cultural activity;</p> <p>5.2 smoking by an actor as part of a stage or theatrical performance to which the public is invited.</p> <p>"e-cigarette" means:</p> <p>a) a product or device, whether or not it resembles a cigarette, containing an electronic or battery-powered heating element capable of vapourizing a substance for inhalation or release in the air, or</p> <p>b) a prescribed product or device similar in nature or use to a product or device described in paragraph (a)</p> <p>"e-substance" means a solid, liquid or gas, that:</p> <p>a) upon being heated, produces a vapour for use in an e-cigarette, whether or not</p>

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			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
Port Coquitlam cont.									<p>the solid, liquid or gas contains nicotine; and</p> <p>b) is not a controlled substance within the meaning of the Controlled Drugs and Substances Act, S.C. 1996.</p> <p><i>"outdoor public space"</i> 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:</p> <p>a) children's playground; b) playing field, sports venue, stadium, or sports facility; c) City trail; d) outdoor recreational facility; e) utility easement; f) City street when used as part of an outdoor public event.</p> <p><i>"outdoor public event"</i> means any public event where the public is invited to gather on any outdoor area of a City owned, controlled or operated property, including any park, public square or street, including, but not limited to:</p> <p>a) a market, contest, festival, celebration, fair, exhibition or concert;</p>

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Port Coquitlam cont.									<p>b) an outdoor public event on any City owned, controlled or operated property that is leased to a third party; or</p> <p>c) any event for which a City rental or use permit is required.</p> <p><i>"park"</i> 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.</p> <p><i>"smoke"</i> or <i>"smoking"</i> means the inhaling, exhaling, burning, or carrying of a lighted cigarette, cigar, pipe, hookah pipe, e-cigarette or other smoking equipment that burns tobacco, cannabis, hops, lettuce, comfrey, motherwort, honeyweed, catnip, lily, safe, wireweed or any other plant, substance or material.</p>
Port Moody	35,613	Smoking Regulation Bylaw No. 2773  (2018)	X	X	X				<p>4.1 A person must not smoke in any:</p> <p>d) school premises e) City parks, sports venues, playgrounds or beaches</p> <p><i>"smoke"</i> or <i>"smoking"</i> means to inhale, exhale, burn, or carry a lighted cigarette,</p>

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			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
Port Moody cont.									cigar, pipe, hookah pipe, or other lighted smoking equipment that burns tobacco or other weed or substance;
Richmond	216,300	Public Health Protection Bylaw No. 6989  (2018)	X	X	X	X	X	25m within:  any outdoor sport facility or playground.	6.3.1 A person must not smoke:  a) in a public park or school ground; or  b) on or within twenty-five (25) metres of any outdoor sport facility or playground.  "activated e-cigarette" means an e-cigarette in which an e-substance is being vapourized.  "e-cigarette" means:  a) a product or device, whether or not is 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 paragraph (a).  "e-substance" means a solid, liquid or gas that, on being heated, produces a vapour for use in an e-cigarette, regardless of

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			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
<i>Richmond cont.</i>									<p>whether the solid, liquid or gas contains nicotine.</p> <p><i>"outdoor sport facility"</i> means City owned natural and synthetic turf sports fields, ball diamonds, stadiums, track and field facilities, lawn bowling greens, golf courses, horseshoe pitching pits, lacrosse boxes, tennis courts and outdoor swimming pools.</p> <p><i>"playground"</i> means City owned playground equipment, including the surrounding playground safety surfacing.</p> <p><i>"public park"</i> means a Public Park described in the City's <b>Public Parks and School Grounds Regulation Bylaw No. 8771</b>, as amended or replaced from time to time.</p> <p><i>"school ground"</i> means a School Ground described in the City's <b>Public Parks and School Grounds Regulation Bylaw No. 8771</b>, as amended or replaced from time to time.</p> <p><i>"smoke or smoking"</i> means to inhale, exhale, burn or carry:</p> <p>a) a lighted cigarette, cigar, pipe, hookah pipe or other lighted smoking equipment</p>

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			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
Richmond cont.									that burns tobacco, cannabis or other weed or substance; or  b) an activated e-cigarette.
Surrey	569,065	Surrey Parks, Recreation and Cultural Facilities Regulation By-law, 1998, No. 13480 (2011)	X	X		X			<p>19.1 No person shall smoke within a park except in an area designated and posted for such purpose by the General Manager.</p> <p><i>"Activated e-cigarette"</i> means an e-cigarette in which an e-substance is being vapourized.</p> <p><i>"e-cigarette"</i> means the following:</p> <p>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;</p> <p>b) a product or device similar in nature or use to a product or device described in clause (a)</p> <p><i>"e-substance"</i> means a solid, liquid or gas that, on being heated, produces a vapour for use in an e-cigarette, regardless of</p>

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			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
Surrey cont.									<p>whether the solid, liquid or gas contains nicotine.</p> <p><i>"Park"</i> includes:</p> <p>a) every public park, open space, playground, urban forest (including all driveways, roadways, paths and lanes within a public park, playground or urban forest), beach boulevard, swimming pool (whether indoor or outdoor), water playground, wading pool, ice arena, community centre, art gallery, museum, arena, exhibition building, cemetery, marine, and all other community recreational or cultural facilities owned or controlled by the City; and</p> <p>b) any real property acquired and held by the City and dedicated and reserved by it for the use, recreation or enjoyment of the public.</p> <p><i>"Smoke"</i> or <i>"Smoking"</i> means to inhale, exhale, burn or carry:</p> <p>a) a lighted cigarette, cigar, pipe, hookah pipe or other lighted smoking equipment that burns tobacco or other weed or substance; or</p> <p>b) an activated e-cigarette.</p>



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			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
Vancouver	672,963	Park Board Smoking Regulation Bylaw (2010)	X	X					<p>3.1 A person must not smoke:</p> <p>a) in a park;</p> <p>b) on a seawall or beach in a park;</p> <p>c) in a building in a park, except in a caretaker's residence;</p> <p>d) in a customer service area in a park;</p> <p>e) in a vehicle for hire in a park;</p> <p>f) on public transit in a park; or</p> <p>g) in an enclosed or partially enclosed shelter in a park where people wait to board a vehicle for hire or public transit.</p> <p>"smoke" or "smoking" means to inhale, exhale, burn, or carry a lighted cigarette, cigar, pipe, hookah pipe, or other lighted smoking equipment that burns tobacco or other weed or substance;</p>
White Rock	21,370	Public Health Smoking Protection Bylaw, 2008,	X	X					<p>2.1 No person shall smoke:</p> <p>(i) in any outdoor gathering place under the jurisdiction of the City of White Rock including parks, sports fields, playgrounds, the promenade, the pier and the beach.</p>

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			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
White Rock cont.		No. 1858 (2008)							"smoke" or "smoking" means the inhaling, exhaling, burning or carrying of a lighted cigarette, cigar, pipe, or other lighted smoking equipment burning tobacco or other weed or substance, but does not include smoking by actors as part of a stage or theatrical performance or as part of a traditional aboriginal cultural activity.
Greater Vancouver Regional District	2,654,226	Regional Parks Regulation Bylaw No. 1177, 2012 (2012)	X	X					6.1 No person shall smoke except in an area designated by posted notice as allowing smoking.

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			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
Belcarra	684	Smoking Control Bylaw 285, 1998  (2008)		X				7.5 m within:  doorway, window or air intake of a place of public assembly (s. 3.2)  playground or public gathering place (s. 3.3)	3.3 Smoking is prohibited on playing fields and within 7.5 metres of playgrounds and other public places where children gather or play, and prohibited in public gathering places where people sit or stand together in close proximity.  "Place of public assembly" means a building or structure, or portion thereof used for the purposes of education, recreation, or business.  "Smoke or smoking" means, inhaling, exhaling, burning or carrying of a lighted cigar, cigarette, pipe or other smoking equipment of tobacco, or any other weed or plant.
Maple Ridge	88,626	Maple Ridge Smoking Regulation Bylaw No. 6968-2013  (2014)		X		X		7.5m within:  areas mentioned in 5.1.9, 5.1.10, 5.1.11 and 5.1.12.	5.1 A person shall not Smoke:  5.1.9 On any Swimming Beach or in a wading or swimming pool;  5.1.10 Within the areas of municipal park, or playground where there are playing fields, picnic areas, food concessions or children's play equipment present, or organized fitness activities taking place;

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			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
Maple Ridge cont.									<p>5.1.11 In any municipal and/or public Building including daycares, recreation and community centres;</p> <p>5.1.12 On the grounds of any municipal recreational facility, including skate board parks;</p> <p>5.1.13 Within seven point five (7.5) metres of those places outlined in sub sections 5.1.9, 5.1.10, 5.1.11, or 5.1.12 of this bylaw.</p> <p><i>"e-cigarette"</i> means a cylinder-shaped device made of stainless steel or plastic. It is similar in appearance, use and sometimes taste to a cigarette but it contains no tobacco and does not produce smoke. It consists of a battery powered atomizer that vaporizes in a chemical liquid containing propylene glycol or vegetable glycerine, flavourings, and other chemicals such as formaldehyde and acetone. The cartridge may or may not contain nicotine.</p> <p><i>"Smoke"</i> or <i>"Smoking"</i> means to inhale, exhale, burn, or carry a lighted cigarette, e-cigarette, cigar, pipe, hookah pipe, or other lighted smoking equipment that burns tobacco or other weed or substance.</p>

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			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
Maple Ridge cont.									"Swimming Beach" means any beach that is so designated by sign as a beach used for swimming or sunbathing.
New Westminster	76,799	Smoking Control Bylaw No. 6263, 1995 (2015)		X				15m within:  outdoor sports field, skate park, playground, stadium, picnic area, water park, pool, or off-leash dog area (s.3(q))	3. No person shall smoke:  (q) within 15 metres of an outdoor sports field, skate park, playground, lacrosse box, lawn bowling green, stadium, picnic area, water park, wading pool, swimming pool or off-leash dog area within a City park.  "smoke or smoking" includes inhaling, exhaling, burning or carrying of a lighted cigar, cigarette, pipe or other lighted smoking equipment of tobacco or any other weed or plant.
North Vancouver, City	56,741	Smoking Regulation Bylaw, 1998 No. 7026 (2015)		X		X		7.5m within:  children's play equipment, playground, playing field, beach, food concession, picnic area, skateboard	3. A person must not smoke in or within 7.5 metres of:  a) children's play equipment or a playground, playing field (if other persons are present), Swimming Beach, food concession, picnic area, skateboard park in a Park or City trail;  b) any part of a Park or other municipal property that is being used for any public

**Table 2: Municipal Smoking Bylaws within the Metro Vancouver Area  
that Partially Ban Smoking within Parks**

Municipality/ Jurisdiction	Population (2018 Sub- Provincial Estimates, BC Stats)	Current Bylaw (Year Added or Amended)	Smoking Prohibitions (Explicitly Mentioned in Bylaw)					No Smoking Buffer (Paraphrased)	Relevant Bylaw Sections and Definitions
			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
North Vancouver, City cont.								<p>park or City trail (s.3(a))</p> <p>area of park or municipal property being used for a public event or permit activity, except for public walkways (s. 3(b))</p> <p>municipal recreation building (s. 3(c))</p> <p>Jack Loucks Courts plaza and Rogers plaza (s. 3(d))</p>	<p>event or activity that the City has authorized by the issuance of a permit with the exception of public walkways providing a public thoroughfare through the site;</p> <p>c) the grounds of any municipal Building used for public recreation;</p> <p>d) public plazas identified in Schedule "A".</p> <p>"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.</p> <p>"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 and Beaches, but does not include any City land leased to a third party;</p> <p>"Smoke" or "Smoking" means to purposely inhale or exhale smoke from or burn or carry, a lighted cigarette, cigar, pipe, e-cigarette or other lighted smoking equipment burning tobacco or any other weed or substance, but does not apply to the ceremonial use of tobacco in</p>

**Table 2: Municipal Smoking Bylaws within the Metro Vancouver Area  
that Partially Ban Smoking within Parks**

Municipality / Jurisdiction	Population (2018 Sub- Provincial Estimates, BC Stats)	Current Bylaw (Year Added or Amended)	Smoking Prohibitions (Explicitly Mentioned in Bylaw)					No Smoking Buffer (Paraphrased)	Relevant Bylaw Sections and Definitions
			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
North Vancouver, City cont.									<p>connection with a traditional aboriginal cultural activity.</p> <p><i>"Swimming Beach"</i> means an area adjacent to the shore of the ocean or other body of water that is used for swimming;</p>
North Vancouver, District Municipality	90,814	Smoking Regulation Bylaw 7792 (2018)		X		X	X	<p>6m within:</p> <p>children's play equipment, playground, playing field (if other persons are present), swimming beach, food concession, picnic area or skateboard park (s.4(a))</p> <p>area of park or municipal property being used for a public event or permit</p>	<p>4. A person must not smoke in or within 6 metres of:</p> <p>a) children's play equipment or a playground, playing field (if other persons are present), Swimming Beach, food concession, picnic area or skateboard park in a Park;</p> <p>b) any part of a Park or other municipal property that is being used for any public event or activity that the District has authorized by the issuance of a permit;</p> <p>c) the grounds of any municipal Building used for public recreation; or</p> <p>d) Lynn Valley Village or Maplewood Farm.</p> <p><i>"Cannabis"</i> has the meaning given to it in the Cannabis Act (Bill C-45, An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the</p>

**Table 2: Municipal Smoking Bylaws within the Metro Vancouver Area  
that Partially Ban Smoking within Parks**

Municipality / Jurisdiction	Population (2018 Sub- Provincial Estimates, BC Stats)	Current Bylaw (Year Added or Amended)	Smoking Prohibitions (Explicitly Mentioned in Bylaw)					No Smoking Buffer (Paraphrased)	Relevant Bylaw Sections and Definitions
			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
North Vancouver, District Municipality cont.								<p>activity, except for public walkways (s.4(b))</p> <p>municipal recreation building (s.4(c))</p> <p>Lynn Valley Village or Maplewood Farm (s.4(d))</p>	<p><i>Criminal Code and other Acts, 1<sup>st</sup> Sess, 42<sup>nd</sup> Parl, 2017) or as subsequently amended or adopted;</i></p> <p><i>"Park"</i> means any real property owned or occupied by the District for the purpose of pleasure, recreation or community use by the public, including but not limited to dedicated parks, Swimming Beaches and Maplewood Farm, but does not include any District land leased to a third party;</p> <p><i>"Smoke"</i> or <i>"Smoking"</i> means to purposely inhale or exhale smoke or vapour from, or to burn, vape or carry a lighted cigarette, cigar, pipe, hookah pipe, or other lighted smoking equipment that burns or vaporizes tobacco, cannabis or other weed or substance, but specifically excludes the ceremonial use of tobacco in connection with a traditional aboriginal cultural activity;</p> <p><i>"Swimming Beach"</i> means an area adjacent to the shore of the ocean or other body of water that is used for swimming;</p>
Pitt Meadows	19,772	Tobacco Sales and Smoking in Public			X				3 (1). No person shall carry or have in his possession a burning cigarette or cigar or a pipe containing burning tobacco, or burn tobacco in another manner in any



**Table 2: Municipal Smoking Bylaws within the Metro Vancouver Area  
that Partially Ban Smoking within Parks**

Municipality / Jurisdiction	Population (2018 Sub- Provincial Estimates, BC Stats)	Current Bylaw (Year Added or Amended)	Smoking Prohibitions (Explicitly Mentioned in Bylaw)					No Smoking Buffer (Paraphrased)	Relevant Bylaw Sections and Definitions
			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
Pitt Meadows cont.		Places Regulation Bylaw No. 2358, 2008  (2008)							school yard or inside any part of a building, structure or vehicle or passenger conveyance, except in a private residence or a private vehicle.  "schoolyard" means that portion of the lands of a school as defined in the School Act without buildings or structures.
West Vancouver	44,886	Smoking Regulation Bylaw No. 4607, 2009  (2018)		X		X	X	6m within:  beach or pool (s. 5.2.5)  playing fields, picnic areas, food concessions, children's play equipment or organized fitness activities in a park or playground (s.5.2.5)  municipal building (s.5.2.5)	5.2 A person shall not smoke:  5.2.1 On any swimming beach or in a wading or swimming pool;  5.2.2 within the areas of a municipal park, or playground where there are playing fields, picnicking areas and picnic areas, food concessions or children's play equipment present, or organized fitness activities taking place;  5.2.3 in any Municipal and/or Public building including daycares, recreation and community centres;  5.2.4 on the grounds of any municipal recreational facility, including skate board parks; or  5.2.5 within six (6) metres of those places outlined in section 5.2.1, 5.2.2, 5.2.3, or 5.2.4.

**Table 2: Municipal Smoking Bylaws within the Metro Vancouver Area  
that Partially Ban Smoking within Parks**

Municipality / Jurisdiction	Population (2018 Sub- Provincial Estimates, BC Stats)	Current Bylaw (Year Added or Amended)	Smoking Prohibitions (Explicitly Mentioned in Bylaw)					No Smoking Buffer (Paraphrased)	Relevant Bylaw Sections and Definitions
			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
West Vancouver cont.								municipal recreation facility and skateboard parks (s.5.2.5)	<p>"<i>smoke</i>" or "<i>smoking</i>" 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 other weed or substance.</p> <p>"<i>swimming beach</i>" includes the sand, rocks and logs adjacent to those areas designated as swimming or bathing beaches by the District.</p>

**Table 3: Municipal Smoking Bylaws within the Metro Vancouver Area**  
**Municipalities with No Bylaws Restricting Smoking**

Municipality / Jurisdiction	Population (2018 Sub-Provincial Estimates, BC Stats)	Current Bylaw (Year Added or Amended)	Smoking Prohibitions (Explicitly Mentioned in Bylaw)					No Smoking Buffer (Paraphrased)	Relevant Bylaw Sections and Definitions
			Entire Park	Playgrounds & Sports Fields	School Grounds	E-Cigarettes & Vaping	Cannabis		
Bowen Island	3,977	N/A						N/A	N/A
Burnaby	248,476	N/A						N/A	N/A



Item .....
Meeting ..... 2020 Sep 14

Council REPORT

**TO:** CITY MANAGER **DATE:** 2020 Aug 27

**FROM:** DIRECTOR - PUBLIC SAFETY AND  
COMMUNITY SERVICES

**SUBJECT:** PROPOSED REGULATION OF SMOKING IN BUSINESS PREMISES

**PURPOSE:** To obtain Council authorization to establish regulations in respect to smoking in business premises.

**RECOMMENDATION:**

1. **THAT** Council authorize staff to bring forward a report with the bylaw amendments needed to implement the regulation and enforcement of smoking in business premises, as outlined in Sections 5.0 and 7.0 of this report.

**REPORT****1.0 INTRODUCTION**

According to the World Health Organization, smoking remains a leading cause of preventable death globally. Smoking is a significant risk factor for lung cancer, heart disease, stroke, chronic respiratory disease, and other serious health conditions. The B.C. Lung Association and the Heart & Stroke Foundation of B.C., primary members of the Clean Air Coalition of B.C., continue to advocate for a smoke-free British Columbia.

Although smoking of traditional tobacco products, such as cigarettes, has been in decline in recent years, other forms of smoking have emerged. In May 2018, Health Canada legalized the sale of vaping products. E-cigarettes, or vapes, are battery-operated devices that heat and vaporize a liquid that users inhale or "vape" to imitate the smoking experience. The liquid usually contains nicotine in a mixture of propylene glycol, vegetable glycerin, water and flavouring agents.

In addition to vaping, the use of hookah is gaining in popularity. Hookahs are water-pipes that are used to smoke specially made tobacco mixtures as well as tobacco-free mixtures (such as herbal shisha) that come in a wide variety of flavors. They usually work by passing charcoal-heated air through the tobacco or tobacco-free mixture and ultimately through a water-filled chamber. A user then inhales the smoke through a tube and mouthpiece. The American Lung Association reports that hookah users often perceive it to be less harmful than smoking cigarettes, but studies show that the smoke contains

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many of the same toxic components found in cigarette smoke, such as nicotine, tar and heavy metals. Furthermore, according to the Centers for Disease Control and Prevention, the charcoal used to heat both tobacco and non-tobacco hookah mixtures can raise health risks by producing high levels of carbon monoxide, metals and cancer-causing chemicals.

This report is provided to Council to recommend regulation of smoking in business premises, through amendments to the *Burnaby Business Licence Bylaw 2017*. Enforcement would be by way of bylaw violation notices under the *Burnaby Bylaw Notice Enforcement Bylaw 2009*.

A separate report to address regulation of smoking in public parks and other public spaces is currently in development. The report will be provided to Council at a future date.

## **2.0 POLICY SECTION**

The recommended action is aligned with the City of Burnaby's Corporate Strategic Plan by supporting the following goals and sub-goals of the plan:

### **A Healthy Community**

- Healthy life – Encourages opportunities for healthy living and well-being
- Healthy environment – Enhance our environmental health, resilience and sustainability

## **3.0 PROVINCIAL LEGISLATION AND LOCAL GOVERNMENT AUTHORITY**

In British Columbia the *Tobacco and Vapour Products Control Act* (the "Act") and *Tobacco and Vapour Products Control Regulation* (the "Regulation") regulate the sales, promotion and use of tobacco and vapour products. Under the Act, businesses and owners, managers or lessees, are responsible for ensuring that their public and workplaces comply with the requirements for creating a tobacco and vapour-free environment. The Act prohibits smoking within any building or any other place that is fully or substantially enclosed and that is open to the public or is a workplace. The Act and Regulation also establish a six metre buffer zone around any doorway, air intake or open window to any public or workplace in which no one can stand and use tobacco or vapour products.

The Regulation does, however, provide certain exceptions to the six metre buffer zone restrictions. For instance, tobacco and vapour products can be used on an outdoor hospitality patio (e.g., patio of a bar or café that sells either food or beverages, or both, or the patio of a casino) that is within a buffer zone if it is not fully or substantially enclosed, there are no open windows, doors or active air intakes between the patio and the hospitality venue, and if the doorway between the patio and the hospitality venue is closed at all times when the patio is in use except when someone is passing through it.

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The standards set by the Province under the Act and Regulation are minimum requirements. Municipal governments have the authority to set stricter standards to meet the needs of their community. For instance, local governments can enact bylaws to ban the use of tobacco and vapour products in all partially enclosed or unenclosed customer service areas (e.g., balconies, yards, outdoor patios, decks, and sidewalks that are part of or associated with a business), create buffer zones that are larger than six metres, or ban the use of these products in outdoor spaces such as beaches or playgrounds. Municipalities can also place restrictions on the use of other smoking products that are not covered under the Act and Regulation, and require businesses to post signage to advise patrons of smoking restrictions.

#### 4.0 BYLAW REGULATIONS IN OTHER MUNICIPALITIES

A number of Metro Vancouver municipalities have enacted bylaws to regulate smoking. Many of these bylaws exceed provincial standards in some aspect. The table below provides an example of the regulations that have been put in place in other Metro Vancouver municipalities to protect public health.

City	Exceed 6m Buffer Zone	Include restrictions on non-tobacco products	Signage required	Prohibit smoking in customer service areas
Coquitlam	No	Yes	Yes	Yes
Vancouver	No	Yes	Yes	Yes
Port Moody	Yes (7.5m)	Yes	Yes	No
Pitt Meadows	Yes (7.5m)	Yes	Yes	Yes
White Rock	Yes (7.5m)	Yes	Yes	Yes
New Westminster	Yes (7.5m)	Yes	Yes	Yes
Richmond	Yes (9m)	Yes	Yes	Yes

#### 5.0 PROPOSED SMOKING REGULATIONS

It is recommended that Council approve the development of smoking regulations, similar to those enacted by other municipalities, to prohibit smoking within business premises and in customer service areas in business premises. Below are descriptions of the proposed regulations, which is proposed to be set out in a new schedule to the Burnaby Business Licence Bylaw 2017.

##### 5.1 Within Business Premises

The Act and Regulation prohibit smoking within any building or any other place that is fully or substantially enclosed and that is open to the public or is a workplace. It is

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recommended that the City's regulation also apply to these areas within business premises so that the City is able to enforce this prohibition independent of the Province.

Certain businesses categorized as "home occupations" operate from within private residences that are not open to members of the public and that employ only persons that reside within the dwelling unit. It is recommended that Council provide an exemption for these types of businesses from the proposed City regulation. For clarity, this exemption would not apply to home-based child care facilities operating from within a private residence as such businesses due to the presence of children.

In addition, it is also recommended that an exemption be provided for rooms for rent in hotels and motels that are designated and provided to customers as "smoking rooms".

## **5.2 Customer Service Areas**

The Act and Regulation do not apply to areas within or outside buildings that are only partially enclosed or unenclosed. Outdoor hospitality patios may also be exempt under the Regulation from the requirement to maintain a six metre buffer zone around doorways, air intakes or open windows.

It is proposed that, for business premises, smoking be prohibited in these partially enclosed or unenclosed spaces (such as balconies, hospitality patios, yards and sidewalks) where the business includes the service of food or beverage, including alcoholic beverages, to customers. Most Metro Vancouver municipalities with smoking regulation bylaws also prohibit smoking within these types of customer service areas.

## **5.3 Tobacco and non-tobacco products and substances**

As noted under Section 3.0 of this report, the Act and Regulation regulate only the sales, promotion and use of tobacco and vapour products. The Act and Regulation do not regulate the smoking of substances generally, such as the smoking of hookah pipes or other lighted smoking equipment that burns tobacco or other weed or substance. In the case of hookahs, studies have shown that the smoke from the burning of both tobacco and tobacco-free mixtures contains cancer-causing chemicals, and that the inhalation of that smoke raises health risks to users.

It is therefore recommended that the City's proposed regulation include prohibiting smoking of tobacco products, vaping products, as well as any other weed or substance within business premises and customer service areas.

## **5.4 Signage requirements**

As the proposed smoking regulations are more restrictive than those under the Act and Regulation, it is also recommended that businesses be required to place signage on or

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within certain areas of the business premises to advise patrons of the City's smoking restrictions.

## 6.0 COMMUNITY CHARTER CONSULTATION REQUIREMENTS

Under the *Community Charter* and *Public Health Bylaws Regulation*, Council may not adopt a bylaw in relation to the protection, promotion or preservation of the health of individuals unless a copy of the bylaw has first been provided to the BC Minister of Health. In 2004, the Union of British Columbia Municipalities, the Ministry of Health Services and Ministry of Community, Aboriginal and Women's Services, entered into a consultation agreement (the "**Consultation Agreement**") to establish additional processes regarding the operation of the *Public Health Bylaws Regulation*. In particular, the Consultation Agreement sets out the following process with respect to municipal bylaws that regulate some aspect of public health:

- a) The municipality must consult with the local health authority (i.e., Fraser Health Authority) prior to third reading of the bylaw; and
- b) After third reading of the bylaw, the municipality must forward a copy of the bylaw, together with evidence that consultation with the local health authority has taken place, to the Minister of Health for deposit.

If Council approves the recommendation in this report, City staff will consult with the Fraser Health Authority and after third reading of the bylaw to implement the regulation of smoking in business premises, forward a copy of the amendment bylaw, together with evidence that consultation with Fraser Health Authority has taken place, to the Minister of Health.

In addition to consultation with the Fraser Health Authority, the *Community Charter* requires that before adopting a bylaw in regards to business regulation, Council must give notice of its intention and provide an opportunity for persons who consider they are affected by the bylaw to make representations to Council. In order to ensure all interested parties are provided sufficient notification, notice of the proposed bylaw amendment to implement the regulation of smoking in business premises will need to be advertised in the local newspaper for two consecutive weeks and a period of time provided for interested parties to make written submissions to Council, prior to final adoption of the bylaw amendments.

## 7.0 ENFORCEMENT OF PROPOSED SMOKING REGULATIONS

The *Burnaby Bylaw Notice Enforcement Bylaw 2009* sets out the bylaws and bylaw contraventions that may be dealt with by way of bylaw violation notices. It is recommended any violation of the proposed smoking regulations also be enforced through bylaw violation notices. This will require an amendment to the *Burnaby Bylaw Notice Enforcement Bylaw 2009*.



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## 8.0 RECOMMENDATION

In British Columbia, the Province regulates the sales, promotion and use of tobacco and vapour products. There is a gap in the Provincial regulation as it relates to partially enclosed or unenclosed customer service areas and smoking of non-tobacco products and substances. This report proposes to address these gaps by regulating smoking of tobacco and non-tobacco products and substances within business premises, including customer service areas. It is recommended that Council authorize staff to bring forward a report with the bylaw amendments needed to implement the regulation and enforcement of smoking in business premises, as outlined in Sections 5.0 and 7.0 of this report.



Dave Critchley  
DIRECTOR - PUBLIC SAFETY AND COMMUNITY SERVICES

DC:dl

Copied to: Director Planning and Building  
Director Parks, Recreation and Cultural Services  
Director Corporate Services  
City Solicitor



Item .....
Meeting ..... 2020 Sep 28

Council REPORT

**TO:** CITY MANAGER **DATE:** 2020 Sep 16

**FROM:** DIRECTOR - PUBLIC SAFETY AND COMMUNITY SERVICES

**SUBJECT:** AMENDMENTS TO BURNABY BUSINESS LICENCE BYLAW AND BYLAW NOTICE ENFORCEMENT BYLAW TO REGULATE SMOKING IN BUSINESS PREMISES

**PURPOSE:** To bring forward bylaw amendments to the *Burnaby Business Licence Bylaw 2017* to regulate smoking in business premises and the *Burnaby Bylaw Notice Enforcement Bylaw 2009* to impose penalties for violations of the proposed regulations.

## RECOMMENDATIONS:

1. **THAT** Council authorize the City Solicitor to bring forward a bylaw to amend the *Burnaby Business Licence Bylaw 2017* to regulate smoking on business premises, substantially in the form set out in Attachment 1 of this report.
2. **THAT** Council authorize the City Solicitor to bring forward a bylaw to amend the *Burnaby Bylaw Notice Enforcement Bylaw 2009*, as described in Section 4.0 of this report.

## REPORT

### 1.0 INTRODUCTION

At its 2020 September 14 regular meeting, Council authorized the establishment of regulations in respect to smoking in business premises and adopted a staff recommendation to bring forward a report with the necessary bylaw amendments. The purpose of this report is to bring forward amendments to the *Burnaby Business Licence Bylaw 2017* and the *Burnaby Bylaw Notice Enforcement Bylaw 2009* in order to implement the regulation of smoking in business premises and impose penalties for violations of these regulations. This report provides Council with information on the proposed bylaw regulations and recommendations for implementation.

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## 2.0 POLICY SECTION

The recommended action is aligned with the City of Burnaby's Corporate Strategic Plan by supporting the following goals and sub-goals of the plan:

### A Healthy Community

- Healthy life – Encourages opportunities for healthy living and well-being
- Healthy environment – Enhance our environmental health, resilience and sustainability

## 3.0 AMENDMENT TO BUSINESS LICENCE BYLAW

In order to implement the smoking regulations authorized at the 2020 September 14 Council meeting, it is recommend that the *Burnaby Business Licence Bylaw 2017* be amended to include a new Schedule F in relation to smoking regulations (see Attachment 1). The key elements of the regulations are summarized as follows:

- Define a "customer service area" as "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".
- Define "enclosed or substantially enclosed business premises" as the part of the business premises with a roof or other covering and where air is prevented from easily flowing through more than 50% of the wall space of that part of the business premises. This definition is consistent with Provincial legislation and guidelines, which will assist with compliance and enforcement.
- Define "smoke" or "smoking" to include inhaling, exhaling, burning or carrying an activated e-cigarette or various lighted equipment (including cigarette, cigar, pipe, hookah pipe, etc.) that burns tobacco, cannabis, or other weed or any substance.
- Prohibit smoking in the customer service area or any enclosed or substantially enclosed area of the business premises that is a workplace or open to the public, except a hotel or motel room designated as a smoking room and a business in a dwelling unit that is not open to the public and only the employee(s) reside in the dwelling unit.
- Require business operators to display signage at all entrances to a customer service area stating: **THIS IS A SMOKE FREE ENVIRONMENT – NO SMOKING**

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#### 4.0 AMENDMENT TO BYLAW NOTICE ENFORCEMENT BYLAW

In order to effectively enforce the proposed smoking regulations, it is recommended that the *Burnaby Bylaw Notice Enforcement Bylaw 2009* be amended to impose penalties for contraventions of the regulations to be included in Schedule F of the *Burnaby Business Licence Bylaw 2017*. The proposed penalties are included in the table below:

Burnaby Business Licence Bylaw 2017 - Schedule "F"				
Section	Smoking Regulations	Penalty Amount	Discounted Penalty (within 15 days)	Compliance agreement available (50% reduction)
2.1 (a)	Permitting smoking in customer service area	\$500	\$400	NO
2.1 (b)	Permitting smoking in enclosed or substantially enclosed business premises	\$500	\$400	NO
2.2	Failure to post required no smoking sign	\$300	\$240	YES

The recommended penalty amounts and enforcement measures are intended to reflect the severity of any potential violation, and are consistent with the penalties for comparable violations of similar regulations.

#### 5.0 RECOMMENDATIONS

In accordance with this report, staff recommend that Council authorize the City Solicitor to bring forward a bylaw to amend the *Burnaby Business Licence Bylaw 2017* to regulate smoking on business premises, substantially in the form set out in Attachment 1, and a bylaw to amend the *Burnaby Bylaw Notice Enforcement Bylaw 2009* to impose penalties for violations of the smoking regulations, as described in Section 4.0 of this report. The amendment bylaws appear elsewhere on this Council agenda for first, second and third readings.

Following Council approval of the amendment bylaw readings and prior to final adoption, City staff will consult with the Fraser Health Authority in regard to the smoking regulations. Staff will also publish notices of the proposed amendment to the *Burnaby Business Licence Bylaw 2017* in two consecutive editions of the *Burnaby Now* and provide an opportunity for interested parties to make written submissions to Council. These consultation and notices are for the purposes of satisfying the procedural requirements under the *Community Charter*. The notices will provide a deadline of 2020 October 21 to

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make written submissions. All responses will be collected and provided to Council prior to final adoption of the amendment bylaws.



Dave Critchley  
DIRECTOR - PUBLIC SAFETY AND COMMUNITY SERVICES

DC:dl

Copied to: Director Planning and Building  
Director Parks, Recreation and Cultural Services  
Director Corporate Services  
City Solicitor  
Chief Licence Inspector

Attachment: Burnaby Business Licence Bylaw – Schedule F

**SCHEDULE “F”**  
**SMOKING REGULATIONS**

**1.0 Definitions**

**1.1 In this Schedule,**

<b>“burn”</b>	means to produce smoke, vapour or other substances that can be inhaled;
<b>“customer service area”</b>	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 <b>business</b> that includes the service of food or beverages, including alcoholic beverages, to customers or other persons for consumption on site;
<b>“dwelling unit”</b>	means a dwelling unit as defined in <i>Burnaby Zoning Bylaw, 1965</i> ;
<b>“e-cigarette”</b>	means the following: <ul style="list-style-type: none"><li>(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</li><li>(b) a product or device similar in nature or use to a product or device described in clause (a);</li></ul>
<b>“enclosed or substantially enclosed business premises”</b>	means that portion, or those portions, of a <b>business premises</b> : <ul style="list-style-type: none"><li>(a) with a roof or other covering; and</li><li>(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 <b>business premises</b>;</li></ul>
<b>“e-substance”</b>	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;
<b>“responsible person”</b>	means a <b>person</b> who owns, controls, manages, supervises or operates a <b>business</b> or a <b>customer service area</b> ;
<b>“smoke” or “smoking”</b>	means to inhale, exhale, burn or carry: <ul style="list-style-type: none"><li>(c) a lighted cigarette, cigar, pipe, hookah pipe, or other lighted smoking device or equipment that burns tobacco, cannabis or other weed or any substance; or</li></ul>

- (d) an activated e-cigarette.

## **2.0 Regulations**

**2.1 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, except **smoking** may be permitted:
  - (i) where the **business premises** are 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
  - (ii) in a hotel room or motel room designated within a hotel or motel by a **responsible person** as a smoking room.

**2.2 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**



Item .....
Meeting .....2020 Nov 23

Council REPORT

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**TO:** CITY MANAGER **DATE:** 2020 Nov 17

**FROM:** DIRECTOR - PUBLIC SAFETY AND  
COMMUNITY SERVICES

**SUBJECT: PROPOSED REGULATION OF SMOKING IN BUSINESS PREMISES  
FURTHER INFORMATION AND AMENDMENTS**

**PURPOSE:** To provide information on the feedback received in regard to the proposed regulation of smoking in business premises and recommend delaying the effective date of the regulations to 2021 July 01.

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#### RECOMMENDATIONS:

1. **THAT** Council receive for information the feedback from the public and Fraser Health Authority in regard to the proposed regulation of smoking in business premises, as summarized in Sections 3.0 and 4.0 of this report.
2. **THAT** Council approve delaying the effective date of the proposed smoking in business premises regulations and related enforcement penalties to 2021 July 01, as outlined in Section 5.0 of this report.
3. **THAT** Council rescind second and third readings of Burnaby Business Licence Bylaw 2017, Amendment Bylaw No. 2, 2020 (Bylaw No. 14220) and Burnaby Bylaw Notice Enforcement Bylaw 2009, Amendment Bylaw No. 2, 2020 (Bylaw No. 14221).
4. **THAT** Council direct the City Solicitor to bring forward Bylaw No. 14220 and Bylaw No. 14221, amended to provide for an effective date of 2021 July 01, for consideration of second and third readings, as outlined in Section 5.0 of this report.

#### REPORT

##### 1.0 BACKGROUND

At the 2020 September 14 regular meeting, Council received a staff report seeking Council authority to establish regulations in respect to smoking in business premises and bring forward bylaw amendments required to implement the regulations and related enforcement mechanism. Following approval of the report, staff brought forward a further report to the 2020 September 28 Council meeting, together with bylaws to amend the



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*Burnaby Business Licence Bylaw 2017 and Burnaby Bylaw Notice Enforcement Bylaw 2009 to regulate smoking in business premises and impose related bylaw violation enforcement penalties. At that meeting, Council gave first, second and third readings to Burnaby Business Licence Bylaw 2017, Amendment Bylaw No. 2, 2020 (Bylaw No. 14220) and Burnaby Bylaw Notice Enforcement Bylaw 2009, Amendment Bylaw No. 2, 2020 (Bylaw No. 14221).*

Following the 2020 September 28 Council meeting, notices of the proposed smoking regulations were advertised in two consecutive editions of the Burnaby Now (2020 October 8 and 15), as part of the *Community Charter* notice requirement. The purpose of the notices was to provide an opportunity for interested parties to make written submissions to Council.

This report provides Council with:

- information on the feedback received from businesses, employees and others as a result of the public notification and by other means;
- input from the Fraser Health Authority and Medical Health Officer in regard to the proposed regulations;
- a recommendation to delay the effective date of the proposed amendment bylaws to 2021 July 01; and
- clarifications with respect to the zoning and business licence categories of Burnaby businesses that currently offer hookah smoking in their premises, as the majority of public feedback received relate to such businesses.

## **2.0 POLICY SECTION**

The recommended action is aligned with the City of Burnaby's Corporate Strategic Plan by supporting the following goal and sub-goals of the plan:

### **A Healthy Community**

- Healthy life - Encourages opportunities for healthy living and well-being
- Healthy environment - Enhance our environmental health, resilience and sustainability

## **3.0 FEEDBACK FROM PUBLIC AND DELEGATIONS**

As a result of the public notification, 37 written submissions were received by the City Clerk's Office. Of these, 10 were from owners and/or operators of Burnaby businesses that currently offer hookah smoking in their premises, four were received from employees of these businesses, and the remaining 23 were from the general public, some of whom were customers of businesses that offer hookah smoking in their premises. Of the 37 submissions received, one was provided by a citizen in support of the proposal to regulate smoking in business premises and the remaining 36 were opposed to the proposed regulations.

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The correspondence submitted by the 10 business owners and operators cited the potential loss of the investments made to their businesses premises and the loss of future income. The four letters that were received from employees of Burnaby businesses offering smoking of hookah expressed concerns over the prospective loss of employment due to the introduction of the proposed smoking regulations.

Of the 23 submissions received from the general public, there was one submission in support of the proposed regulations, citing the negative health impact of smoking as the reason for supporting the bylaw amendment. The remaining 22 submissions were against the regulations for various reasons, including; the ability of individuals to choose what is “healthy” for themselves; more pressing issues for Council to focus on (e.g. homelessness); and skepticism of the negative health impacts of hookah.

As well as the submissions received by the City Clerk’s Office, at the 2020 October 05 and October 26 Council meetings, two separate delegations spoke on the proposed regulations. Both were owners of Burnaby businesses that offer hookah smoking in their premises. The 2020 October 05 delegation was presented by Ms. Pascal Berro, on behalf the Living Room Lounge located at #116 3787 Canada Way, and the 2020 October 26 delegation was presented by Ms. Oula Hamadeh, on behalf of the Kayan Shisha Café located at 5593 Kingsway. Both delegations spoke against the smoking regulations.

Council also received a delegation at the 2020 November 09 Council meeting from Ms. Marilyn Bergstra, BC Policy Specialist for Action on Smoking and Health (ASH) Canada. Mr. Bergstra spoke in support of the smoking regulations.

#### **4.0 FEEDBACK FROM FRASER HEALTH AUTHORITY**

City staff had consulted with the Fraser Health Authority prior to bringing forward the smoking regulations, as required by the *Public Health Bylaws Regulation*. By letter dated 2020 October 5, the Fraser Health Authority provided its formal support for the proposed amendment to the *Burnaby Business Licence Bylaw 2017* to include regulation of smoking in business premises (see Attachment #1).

In addition to the 2020 October 5 letter, Dr. Aamir Bharmal, Medical Health Officer – New Westminster and Burnaby, and Medical Director, Communicable Disease and Harm Reduction, Fraser Health Authority, also provided a letter in support of the proposed smoking regulations (see Attachment #2). In the letter, Dr. Bharmal cited various studies that examined the consequences of smoking on human health and opined as to the harmful effect of smoking any substance in business premises. Specifically Dr. Bharmal stated: “Inhalation of all combusted materials is harmful to lung health, and in most instances result in other harmful health effects. This is due to the toxins and carcinogens that are released regardless of the source – whether it is burning wood, tobacco, cannabis, or hookah”. Dr. Bharmal offered support for the proposal to include smoking

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regulations in the *Burnaby Business Licence Bylaw 2017* and also recommended that the City consider other smoking control policies in addition to the regulations pertaining to business premises.

## **5.0 PROPOSED DELAYED EFFECTIVE DATE FOR BYLAW AMENDMENTS**

Balancing the concerns of the Burnaby businesses that currently offer hookah smoking in their business premises and the medical evidence of the harmful effects of smoking any substance, City staff are proposing that the effective date for the amendments to the *Burnaby Business Licence Bylaw 2017* and *Burnaby Bylaw Notice Enforcement Bylaw 2009* to implement the smoking regulations and related penalties be delayed to 2021 July 01. The delayed implementation will provide businesses that currently allow smoking in its premises (i.e. those with smoking patios and that offer hookah smoking) additional time to adjust their business operations to the revised regulations. This follows the example of some Canadian municipalities (i.e. Edmonton) that introduced similar smoking regulations.

Section 136 of the *Community Charter* provides that a bylaw comes into force on the later of (a) the date it is adopted by Council, and (b) a date set by the bylaw. Since *Burnaby Business Licence Bylaw 2017, Amendment Bylaw No. 2, 2020* (Bylaw No. 14220) and *Burnaby Bylaw Notice Enforcement Bylaw 2009, Amendment Bylaw No. 2, 2020* (Bylaw No. 14221) have already received 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> readings, it is necessary to rescind 2<sup>nd</sup> and 3<sup>rd</sup> readings of the bylaw and then bring forward amended bylaws that include the delayed effective date of 2021 July 01. In addition, as the delayed effective date involves a change to Bylaw No. 14220 since the earlier consultation with Fraser Health Authority and the publishing of the public notices, it is proposed that City staff complete these procedural requirements for the amended bylaw. Once all procedural requirements are satisfied, City staff will bring forward the amended bylaws for Council consideration of Final Adoption.

## **6.0 ZONING AND BUSINESS LICENCE CATEGORIES OF CURRENT BUSINESSES THAT OFFER HOOKAH SMOKING**

As the majority of submissions received in respect to the proposed smoking regulations related to hookah smoking, staff wish to clarify the zoning and business licence categories of current Burnaby businesses that offer hookah smoking in their business premises. There are currently 11 businesses operating in Burnaby that offer water pipe smoking, commonly referred to as "hookah", to their customers. Of the 11 businesses offering hookah, six have received Burnaby business licences to operate as a "Restaurant" and the remaining five are licenced as a "Public Hall". Despite the common use of the word hookah in their business names and advertising, a hookah lounge or establishment is not recognized as a permitted land use in the *Burnaby Zoning Bylaw 1965*, nor is it defined as a business licence category within the *Burnaby Business Licence Fees Bylaw 2017*. The premises fall within the "Restaurant" or "Public Assembly" land use under the

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*Burnaby Zoning Bylaw 1965* and “Restaurant” or “Public Hall” business licence category under the *Burnaby Business Licence Bylaw 2017* and *Burnaby Business Licence Fees Bylaw 2017*.

The smoking of hookah is an activity that can take place within these 11 business premises, as such activity is currently not regulated by any City bylaws. Should the proposed amendment to the *Burnaby Business Licence Bylaw 2017* to regulate smoking in business premises be adopted, these 11 businesses will no longer be able to offer or allow the smoking of hookah in their premises. These businesses, however, would continue to be able to carry operations as a “Restaurant” or “Public Hall”, as authorized by their business licences, and use their business premises for “Restaurant” or “Public Assembly” land uses, as authorized by the *Burnaby Zoning Bylaw 1965*.

## **7.0 CONCLUSION**

The City has received submissions and delegations supporting as well as opposing the proposed regulation of smoking in business premises. Further, the Fraser Health Authority and Medical Health Officer have written in support of the regulations and provided information on the harmful effects of smoking any substance in business premises.

After reviewing the submissions and information, staff recommend that Council proceed with implementing the smoking regulations and related enforcement penalties, as set out in *Burnaby Business Licence Bylaw 2017, Amendment Bylaw No. 2, 2020* (Bylaw No. 14220) and *Burnaby Bylaw Notice Enforcement Bylaw 2009, Amendment Bylaw No. 2, 2020* (Bylaw No. 14221). However, staff recommend that Council delay the implementation date of the proposed bylaws until 2021 July 01 in order to provide affected businesses with additional time to adjust their business operations to the revised regulations.

In order to establish an implementation date of 2021 July 01, it will be necessary for Council to rescind 2<sup>nd</sup> and 3<sup>rd</sup> readings of the amendment bylaws and authorize the City Solicitor to bring forward amended bylaws that include the delayed effective date of 2021 July 01. No other changes to the amendment bylaws are recommended. Staff will undertake the consultation and public notice requirements in respect to the amended bylaws.

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**From:** Director Public Safety and Community Services  
**Re:** Proposed Regulation of Smoking in Business  
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Dave Critchley  
DIRECTOR - PUBLIC SAFETY AND COMMUNITY SERVICES

DC:dl

**Attachments** 1 - Fraser Health Authority  
2 - Dr. Aamir Bharmal

**cc:** Director Planning and Building  
Director Parks, Recreation and Cultural Services  
Director Corporate Services  
City Solicitor  
City Clerk  
Chief Licence Inspector

**Attachment 1**



**SENT VIA EMAIL**

October 5, 2020

Dan Layng, Chief Licence Inspector  
City of Burnaby  
4949 Canada Way  
Burnaby BC V5G 1M2

Dear Dan Layng:

**RE: AMENDMENTS TO BURNABY BUSINESS LICENCE BYLAW AND BYLAW NOTICE  
ENFORCEMENT BYLAW TO REGULATE SMOKING IN BUSINESS PREMISES**

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Fraser Health enforces the Provincial Tobacco and Vapour Products Control Act and regulations that restricts smoking or vaping tobacco in indoor public places and workplaces. This Provincial legislation does not control the smoking or vaping of non-tobacco products.

The proposed amendments to the Burnaby Business Licence Bylaw 2017 (Schedule F) Smoking Regulations will restrict the smoking or vaping of non-tobacco products. This requirement protects the public from the adverse health effects of second hand smoke from smoking products such as hookah or shisha.

Fraser Health fully endorses the proposed amendment contained in Schedule F of the above named bylaw that will regulate smoking of non-tobacco products.

Sincerely,

A handwritten signature in black ink, appearing to read "Gordon Stewart", written over a horizontal line.

Gordon Stewart  
Manager - Health Protection  
Burnaby/New Westminster

GS/hc

cc Dr. Amir Bharmal, Medical Health Officer, by email

cc Ms. Oonagh Tyson, Director of Health Protection, by email

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Fraser Health Authority  
Health Protection

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## **Attachment 2**

November 4, 2020

Dave Critchley - Director  
City of Burnaby - Public Safety and Community Services  
4949 Canada Way  
Burnaby, BC V5G 1M2

Dear Mr. Critchley

**Re: Harmful effects of smoking any substance in business premises**

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As the Medical Health Officer for Burnaby, I commend the City of Burnaby for considering bylaw amendments to go beyond the minimum requirements set by British Columbia's Tobacco and Vapour Products Control Act and associated Regulation. The proposed bylaw amendments for regulating smoking in customer service areas and regulating tobacco and non-tobacco products will help create more consistent smoking control requirements across municipalities in Metro Vancouver. Increasing consistency of municipal bylaws for controlling smoking will help reduce the overall harm from smoking substances and exposure to secondhand smoke and other by-products resulting from the burning/heating of smoking substances.

Inhalation of all combusted materials is harmful to lung health, and in most instances result in other harmful health effects. This is due to the toxins and carcinogens that are released regardless of the source – whether it is burning wood, tobacco, cannabis, or hookah (in the case of hookah, charcoal is combusted to heat the herbal or tobacco product). Outlined below are the health impacts towards people who smoke or vape and people around them (e.g., workers and other patrons), from the inhalation of different substances.

### **Tobacco**

Tobacco use has a significant impact on mortality, morbidity and disability. In 2015, in BC, over 6,500 deaths were caused by smoking, which is more than deaths from alcohol, falls, drugs, and suicide or motor vehicle accidents.<sup>1</sup> As a major risk factor for a number of chronic diseases, tobacco use leads to hospitalization and has a large impact on healthcare expenses. In 2013, the economic burden of tobacco use in BC exceeded \$2 billion.<sup>2</sup>

Smoking harms nearly every organ of the body.<sup>3</sup> Smoking tobacco remains the leading cause of preventable death and has negative health impacts on people of all ages. Serious health problems resulting from smoking tobacco includes chronic obstructive pulmonary disease (emphysema, chronic





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bronchitis and asthmatic bronchitis), cardiovascular disease (heart attack, angina peripheral vascular disease, and stroke) as well as lung and other types of cancer.<sup>4</sup>

Second-hand smoke exposure poses health risks as well. It has been causally linked to cancer, respiratory and cardiovascular diseases, and to adverse effects on the health of infants and children.<sup>5</sup> Scientific evidence indicates that there is no safe level of exposure to second-hand smoke.<sup>5</sup>

### **Cannabis**

While there are potential therapeutic uses for cannabis, it is important to understand the potential harmful effects of using cannabis, especially when smoked. The chemical delta-9-tetrahydrocannabinol (THC) affects how the brain and body respond to cannabis, and for this reason is used by some for therapeutic purposes.<sup>6</sup>

Apart from the effects on mood and cognition that are well documented, the long-term effects of smoking cannabis on the body are similar to the effects of smoking tobacco on lung health. These include bronchitis, lung infections, chronic cough, and increased mucus buildup in the throat.<sup>6</sup>

Smoking of cannabis by people who also smoke tobacco is of particular concern, as there is evidence that tobacco and cannabis act together to increase the risk of respiratory issues and chronic obstructive pulmonary disease (COPD).<sup>7</sup> Second-hand cannabis smoke contains many of the same toxins and chemicals found in directly inhaled cannabis smoke.<sup>8</sup> Though more research on the health effects of second-hand cannabis smoke is needed, the Canadian Lung Association remains concerned about the potential harmful effects – especially among children and youth.

### **Hookah**

Hookah refers to waterpipes used to smoke heated herbal or tobacco mixtures called shisha.<sup>9</sup> Hookah users often perceive it to be less harmful than smoking cigarettes, but studies show that the smoke contains many of the same toxic components found in cigarette smoke.<sup>9</sup>

Cigarette smoke contains carbon monoxide (CO) which contributes to cardiovascular disease, polycyclic aromatic hydrocarbons (PAH) that cause cancer, and volatile aldehydes (VA) that cause lung disease. With the exception of the different nicotine levels between two popular brands of shisha – one tobacco-based and the other tobacco-free, one study found similar concentrations of CO, PAH, and VA in the smoke of the two shisha products. Compared to cigarettes, the same toxins were generally found to be at higher concentrations in the smoke from the two shisha products than cigarette smoke.<sup>10</sup> High levels of PAH residues can also originate from the burning of coal or coconut-shell based products.<sup>11</sup> Furthermore, the cytotoxic effects of electronically heated shisha smoke are significant, and indicate that neither tobacco or charcoal are needed in order for cytotoxic effects to occur.<sup>12</sup>

Short-term hookah use is associated with acute health effects, which include increased heart rate and blood pressure, reduced pulmonary function, and carbon monoxide intoxication.<sup>13</sup> Long-term effects





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include impaired pulmonary function, chronic obstructive pulmonary disease, esophageal cancer and gastric cancer.<sup>13</sup> Like cigarette smoking, hookah use has also been linked to adverse health effects such as lung, bladder and oral cancers and heart disease.<sup>14</sup>

Another concern is that while a typical cigarette requires about 8 to 10 puffs,<sup>15</sup> an hour-long hookah session may involve 100 to 200 puffs,<sup>16</sup> potentially exposing the user to more smoke and toxic components over a greater period of time.<sup>15,17</sup>

Given the COVID-19 pandemic it should be noted that the air, hose, and water bowl of the water-pipe apparatus can be a potential source for transmission of pathogenic agents. Transmission of tuberculosis, meningitis, hepatitis and herpes among water-pipe smoking individuals has been documented.<sup>18,19</sup>

#### **Vapour Products**

The use of vapour products or 'vaping' is an emerging trend. First introduced for smoking cessation, these devices have rapidly become a lifestyle consumer product, particularly among youth. Vaping is the act of inhaling and exhaling an aerosol produced by a vaping product, such as an electronic cigarette. Unlike smoking tobacco, vaping does not require burning, but rather, the device heats a liquid into a vapour, which is turned into an aerosol.

The evidence of long-term effects of vapour products is emerging. The evidence suggests that e-cigarette vapour can affect respiratory airway function resulting in cough and asthma symptoms, particularly among adolescents.<sup>20</sup> In addition, nicotine exposure presents significant health concerns for youth and pregnant women. During adolescence nicotine exposure can cause addiction and harm the developing adolescent brain.<sup>21</sup> In pregnancy, nicotine can cross the placenta and contribute to substantial adverse health outcomes in infants.<sup>21,22</sup>

#### **Smoking control policies**

The proposed bylaw amendments will help regulate where tobacco and non-tobacco products may be smoked to prevent and limit exposure to bystanders and workers from secondhand smoke.

In light of the significant health impacts from the smoking and vaping of substances, additional smoking control policies could complement the proposed bylaw amendments by limiting access to tobacco and other smoking products to help reduce smoking/vaping behavior. Additional smoking control policies to consider include limiting the proximity of tobacco and vapour product retailers to places where youth congregate, and limiting the density of tobacco and vapour product retailers in the city. Higher tobacco retailer density has been shown to be associated with greater smoking rates and tobacco sales among youth, and greater relapse rates during quit attempts.<sup>23</sup> Another policy approach is to introduce licensing fees for tobacco and vapour product retailers, these fees are charged in addition to the required business license fee. This practice has been implemented in



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municipalities in Alberta and Ontario with annual licensing fees ranging from \$40-\$1100. Revenue generated from the fees could be earmarked for health promotion activities, specifically youth tobacco and vapour product cessation programs and services.

**Recommendation**

- Based on the evidence of the health impacts of smoking of any substance, I support the amendment of the Burnaby Business License Bylaw 2017 to include regulation of smoking in business premises.
- I also recommend the City consider other smoking control policies to promote cessation, prevent cessation and to reduce second-hand exposure.

Please feel free to contact me if you have any question or require further information.

Dr. Aamir Bharmal, MD MPH CCFP FRCPC  
Medical Health Officer – New Westminster and Burnaby  
Medical Director, Communicable Disease and Harm Reduction  
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[aamir.bharmal@fraserhealth.ca](mailto:aamir.bharmal@fraserhealth.ca)





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Item .....	
Meeting.....	2021 May 10
Council REPORT	

**TO:** ACTING CITY MANAGER **DATE:** 2021 April 29

**FROM:** DIRECTOR PARKS, RECREATION & CULTURAL SERVICES **FILE:**  
DIRECTOR PLANNING & BUILDING *Reference:*  
DIRECTOR PUBLIC SAFETY &  
COMMUNITY SERVICES

**SUBJECT: REGULATION OF SMOKING IN BURNABY**

**PURPOSE:** To seek Council authority to bring forward a report on a broader approach to regulating smoking in Burnaby.

#### RECOMMENDATION:

1. **THAT** Council direct staff to bring forward a report on a broader approach to regulating smoking in Burnaby.
2. **THAT** *Burnaby Business Licence Bylaw 2017, Amendment Bylaw No. 2, 2020 (Bylaw #14220) and Burnaby Bylaw Notice Enforcement Bylaw 2009, Amendment No. 2, 2020 (Bylaw #14221)* be repealed concurrently with the implementation of the broader smoking regulations.

### REPORT

#### 1.0 BACKGROUND

City staff have received several directions in respect to implementing smoking regulations in Burnaby. At its 2019 June 11 meeting, the City's Parks, Recreation and Culture Commission referred the following Notice of Motion to staff:

**THAT** smoking of all substances be banned in City of Burnaby parks.

Following receipt of a report addressing the above Motion, the Commission further approved the following Recommendations:

**THAT** staff be authorized to pursue the preparation of a further report outlining specific bylaw text amendments to the Burnaby Parks Regulation Bylaw 1979, Bylaw #7331, to include a ban on smoking and vaping of all substances in City of Burnaby parks, as outlined in this report.

To: *Acting City Manager*  
From: *Director Parks, Recreation & Cultural Services*  
*Director Planning & Building*  
*Director Public Safety and Community Services*  
Re: *Regulation of Smoking in Burnaby*  
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**THAT** Council authorize staff to examine the feasibility and advisability of extending the ban on smoking and vaping of all substances to all public places in the City of Burnaby.

At its 2019 September 16 Open meeting, Council amended the second Recommendation from the Parks, Recreation and Culture Commission and adopted the following resolution:

**THAT** Council authorize staff to examine the feasibility and advisability of extending the ban on smoking and vaping of all substances to all public places owned, controlled or operated by the City of Burnaby.

In addition to these Council directions, the following bylaws were adopted at the 2021 January 25 Council meeting to implement and enforce regulation of smoking in business premises: *Burnaby Business Licence Bylaw 2017, Amendment Bylaw No. 2, 2020* (Bylaw #14220) and *Burnaby Bylaw Notice Enforcement Bylaw 2009, Amendment No. 2, 2020* (Bylaw #14221). These two bylaws are scheduled to come into force on 2022 January 01.

The above directions and bylaws address similar and overlapping issues. The purpose of this report is to seek Council direction for staff to bring forward a broader approach to regulating smoking in the City which addresses the scope of the above directions and Bylaws #14220 and #14221.

## **2.0 POLICY SECTION**

The subject matter of this report is in alignment with the Corporate Strategic Plan Goals of:

### **A Healthy Community**

- Healthy life – Encourage opportunities for healthy living and well-being
- Healthy environment – Enhance our environmental health, resilience and sustainability

## **3.0 DISCUSSION**

City staff have been working on the various directions from Council and Parks, Recreation and Culture Commission in respect to regulating smoking in City parks and public places.

Specifically, the directions from Council and Parks, Recreation and Culture Commission to staff are as follows:

**To:** *Acting City Manager*  
**From:** *Director Parks, Recreation & Cultural Services*  
*Director Planning & Building*  
*Director Public Safety and Community Services*  
**Re:** *Regulation of Smoking in Burnaby*  
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- preparation of a further report outlining specific bylaw text amendments to the Burnaby Parks Regulation Bylaw 1979 to include a ban on smoking and vaping of all substances in City of Burnaby parks; and
- examine the feasibility and advisability of extending the ban on smoking and vaping of all substances to all public places owned, controlled or operated by the City.

In addition to these directions, Council has already adopted bylaws to regulate and enforce smoking in business premises (Bylaws #14220 and #14221). Bylaw #14220 amends *Burnaby Business Licence Bylaw 2017* to prohibit smoking of tobacco, cannabis, other weed or any substance within the enclosed parts of a business premises as well as partially enclosed or unenclosed customer service areas where food or beverage are served for onsite consumption. Bylaw #14221 amends *Burnaby Bylaw Notice Enforcement Bylaw 2009* to authorize the issuance of violation penalties for non-compliance with the smoking in business premises regulations. Although these bylaws were adopted at the 2021 January 25 Open Council meeting, the regulations and penalties do not come into effect until 2022 January 01.

In staff's review of the Council and Commission directions and the scope of Bylaws #14220 and #14221, similar and overlapping policy and regulatory issues were identified. As such, staff recommend bringing forward a comprehensive approach to regulating smoking in Burnaby and seeks Council authority to do so.

In place of separate bylaw approaches, staff are proposing to address smoking regulation by way of a comprehensive set of policies and regulations which address:

- smoking and vaping of all substances in City parks;
- which public places owned, controlled or operated by the City would be the subject of smoking and vaping regulations;
- what smoking and vaping regulations will apply to business premises; and
- appropriate education and enforcement mechanisms.

The report would outline the components of the comprehensive policies and bylaw regulations for Council's consideration. Furthermore, staff recommend that concurrently with the implementation of the broader approach to regulating smoking in the City, Council repeal Bylaws #14220 and #14221 as these bylaws would be redundant to the more comprehensive policies and bylaw regulations.



To: Acting City Manager  
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#### 4.0 CONCLUSION

Given the overlapping issues to be addressed by staff in responding to Council and Parks, Recreation and Culture Commission's directions in respect to regulating smoking in the City, staff are seeking Council authority to bring forward a report outlining a more comprehensive set of smoking policies and regulations for the City. Since Bylaws #14220 and #14221 would be rendered redundant as a result of the proposed broader approach, staff further recommend that Council repeal Bylaws #14220 and #14221 when the broader regulatory bylaws are brought forward.



Dave Ellenwood  
DIRECTOR PARKS,  
RECREATION & CULTURAL SERVICES



for: Ed Kozak  
DIRECTOR PLANNING & BUILDING



Dave Critchley  
DIRECTOR PUBLIC SAFETY  
& COMMUNITY SERVICES

Copied to: Director Corporate Services  
City Solicitor