

CITY OF SURREY

BY-LAW NO. 16694

Surrey Public Health Smoking Protection By-law

As amended by By-law No. 17849; 03/11/13; 19042, 12/19/16

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.....

- (a) WHEREAS it is desirable for the protection, promotion and preservation of health of the inhabitants of the City of Surrey for Council to regulate and prohibit smoking in the City;
- (b) AND WHEREAS Council has consulted with the medical health officer (Fraser Health) on this By-law and deposited a copy thereof with the Minister of Health Services.

Under its statutory powers, including Section 8(3)(i) of the *Community Charter*, S.B.C. 2003, c. 26 (the "Community Charter") and Public Health Bylaws Regulation, B.C. Reg. 42/2004, the Council of the City of Surrey enacts the following provisions:

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**SECTION 1
INTERPRETATION**

Title

- 1.1 This By-law may be cited as the "Surrey Public Health Smoking Protection By-law, 2008, No. 16694".

Definitions

- 1.2 In this By-law:

"activated e-cigarette" means an e-cigarette in which an e-substance is being vapourized;

"building" includes a structure;

"business" means a business, trade, profession, or other occupation for which a person must obtain a license under the Business License By-law;

"City" means the City of Surrey;

"common areas" include lobbies, foyers, stairwells, elevators, corridors, cloakrooms, washrooms, food fair seating areas and other public areas of a building;

"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 the business or use in a building or premises that includes the service of food or alcoholic drinks to customers or other persons for consumption on site;

"e-cigarette" means the following:

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

"e-substance" means a solid, liquid or gas that, on being heated, produces a vapour for use in an e-cigarette, regardless of whether the solid, liquid or gas contains nicotine;

"lot" means land designated as a separate and distinct parcel on a legally recorded subdivision plan or description filed in the records of the Land Title Office.

"premises" means a portion of a building in respect of which a person has exclusive possession;

"responsible person" means a person who owns, controls, manages, supervises or operates:

- (a) a business or other use which occupies all or substantially all of a building,
- (b) a business or other use which occupies premises,
- (c) common areas, or
- (d) a customer service area,

and, in respect of common areas, includes a strata corporation or cooperative association and also means a person who drives a vehicle for hire;

"smoke" or "smoking" means to inhale, exhale, burn or carry:

- (a) a lighted cigarette, cigar, pipe, hookah pipe or other lighted smoking equipment that burns tobacco or other weed or substances; or
- (b) an activated e-cigarette; and

"vehicle for hire" means a vehicle for hired defined in the City of Surrey Vehicle for Hire By-law, 1999, No. 13610.

Table of contents

- 1.3 The table of contents for this By-law is for convenient reference only, and is not for use in interpreting or enforcing this By-law.

Severability

1.4 A decision by a court that any part of this By-law is illegal, void or unenforceable severs that part from this By-law and is not to affect the balance of this By-law.

Duty of administration and enforcement

- 1.5 The intent of this By-law is to set standards in the general public interest, and not to impose a duty on the City or its employees to enforce its provisions and:
- (a) a failure to administer or enforce its provisions or the incomplete or inadequate administration or enforcement of its provisions is not give to rise to a cause of action in favour of any person; and
 - (b) the grant of any approval or permission or issuance of any permit is not a representation, warranty or statement of compliance with the By-law and the issuance thereof in error is not to give rise to a cause of action.

SECTION 2 HEALTH REGULATIONS

Ban on smoking

- 2.1 A person must not smoke:
- (a) in a building, except in:
 - (i) a dwelling unit or sleeping unit defined under Surrey Zoning By-law, 1993, No. 12000 including a dwelling unit in which an owner or occupier also carries on a business,
 - (ii) a hotel or motel room or suite designated for smoking by a responsible person, or
 - (iii) enclosed premises:
 - (A) that are not open to the public, and
 - (B) that are private clubs or smoking clubs, a purpose of which is to allow patrons, customers or other persons to smoke, and;
 - (b) in a vehicle for hire;
 - (c) on public transit, including a school bus, passenger bus, ferry or rapid transit;
 - (d) in an enclosed or partially enclosed shelter where people wait to board a vehicle for hire or public transit;

- (i) within seven and one-half metres of the perimeter of an enclosed or partially enclosed shelter where people wait to board a vehicle for hire or public transit;
- (ii) within seven and one-half metres of a bench where people wait to board public transit, measured from any point at the base of the bench;
- (iii) within seven and one-half metres of a pole indicating a stopping place for a public transit bus, measured from the base of the pole parallel to the roadway;.
- (e) in a vehicle when any other occupant of the vehicle is under the age of 19 years of age;
- (f) within seven and one-half metres measured on the ground from a point directly below any point of any opening into any building, including any door or window that opens or any air intake;
- (f.1) anywhere on the lot or within a building occupied by the Surrey Memorial Hospital or on a lot or within a building occupied by the Jim Pattison Outpatient Care and Surgery Centre, except in an area designated and posted for such purpose by the Fraser Health Authority and which complies with all other provisions of this By-law;
- (g) in a customer service area; or
- (h) within seven and one-half metres of the perimeter of a customer service area.

Enforcement of ban on smoking

- 2.2 Except as permitted by section 2.1, a responsible person must not suffer or allow a person to smoke in:
- (a) a building or customer service area;
 - (b) premises or common areas;
 - (c) an area described in section 2.1(f) or (h); or
 - (d) in a vehicle for hire.

Signs banning smoking

- 2.3 A responsible person must display or ensure the display of a sign at all times:
- (a) at each entrance to a building or customer service area or to premises or in a vehicle for hire where section 2.1 prohibits smoking, stating:

"THIS IS A SMOKE FREE ENVIRONMENT – NO SMOKING"

and the words

"MAXIMUM FINE \$2,000.00"

- (b) on each exterior wall of a building where section 2.1 prohibits smoking, stating:

"SMOKING IS PROHIBITED WITHIN SEVEN AND ONE-HALF METRES OF OPENINGS INTO THIS BUILDING INCLUDING DOORS AND WINDOWS THAT OPEN AND ANY AIR INTAKE."

Sign requirements

2.4 All signs referred to in section 2.3 must:

- (a) display the international symbol to designate "No Smoking" or, in areas where smoking is permissible, the international symbol to designate "Smoking Permitted" which symbol must occupy at least 25% of the size of the sign;
- (b) consist of at least two contrasting colours, except that if the lettering is on a clear panel, then the lettering must contrast to the colour of the background;
- (c) be at least 30 cm by 15 cm;
- (d) be clearly visible; and
- (e) consist of lettering, whether upper case or lower case, that is not less than the following heights based upon the following maximum viewing distances in direct line of sight:

<u>Viewing Distance</u>	<u>Letter Height</u>
Up to 3 m	1 cm
Up to 6 m	2 cms
Up to 12 m	4 cms

Conditions of signs

- 2.5 A person must not remove, alter, conceal, deface or destroy any sign required under this By-law.

SECTION 3 OFFENCES AND PENALTIES AND ENFORCEMENT

Notice of violation

- 3.1 An inspector or official of the City, or a by-law enforcement officer, may give notice to any person ordering or directing that person to:

- (a) discontinue or refrain from proceeding with any work or using or occupying any land or building or doing anything that contravenes this By-law; or
- (b) carry out any work or do anything to bring any land or building into conformity with this By-law;

within the time specified in such notice.

Service of notice

3.2 An inspector or official of the City, or a by-law enforcement officer, may serve a notice under this By-law:

- (a) by making it by registered post to an owner who is the addressee of the notice at the address of the owner shown on the real property assessment roll prepared pursuant to the *Assessment Act*;
- (b) by handing it to the person who is the addressee of the notice; or
- (c) if the notice refers to real property, by posting it on the real property.

Offences under By-law

3.3 A person who:

- (a) violates any provision of this By-law or does any act or thing which violates any provision of this By-law or suffers or allows any other person to do any act or thing which violates any provision of this By-law;
- (b) neglects to do or refrains from doing anything required to be done by any provision of this By-law; or
- (c) fails to comply or suffers or allows any other person to fail to comply, with an order, direction, or notice given under any provision of this By-law;

is guilty of an offence against this By-law and liable to the penalties imposed under this Section 3. A person may be subject to the penalties imposed under clause (a) or (b) regardless of whether the person has been given a prior notice under Section 3.1.

Fine for offence

3.4 Every person who commits an offence against this By-law is punishable on conviction by a fine of not less than \$100.00 and not more than \$2,000.00 for each offence, except that a person who commits an offence under section 3.3(c) of this By-law is liable to a fine of not less than \$500.00 for each offence.

Continuing offences

3.5 Where an offence is a continuing offence, each day that the offence is continued shall constitute a separate and distinct offence.

**SECTION 4
REPEAL AND ENACTMENT**

Repeal

4.1 This By-law repeals Surrey Smoking Regulation By-law, 1996, No. 12993, as amended.

Force and effect

4.2 This By-law comes into force and takes effect on July 31, 2008 except Sections 2.1(g) and (h) which are to come into force and take effect on January 1, 2009.

PASSED THREE READINGS on the 16th day of June, 2008.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 14th day of July, 2008.

_____ MAYOR

_____ CLERK