

THE CORPORATION OF THE DISTRICT OF BURNABY

BYLAW NO. 8771

A BYLAW to further the care, protection, promotion and preservation of the health of the inhabitants of Burnaby by regulating the places where smoking is permitted

1. This Bylaw may be cited as BURNABY SMOKING REGULATION BYLAW 1987.

2. In this Bylaw, unless the context otherwise requires,
 - (a) "health care facility" means any premises where medical or health services are provided to persons on a professional basis including, without limiting the generality of the foregoing, community care facilities, extended care facilities, medical or dental offices, chiropractic offices, optometrists' offices and any similar facility;

 - (b) "office workplace" means any enclosed area except a reception area of a building or portion thereof intended for occupancy by business entities which will provide primarily the clerical, professional or business services of the business entity, or which will provide primarily clerical, professional or business services to other business entities or to the public, and includes office spaces in office buildings, health care facilities, libraries, museums, hospitals, and retail premises;

- (c) "personal service establishment" means a place or premises in which a person provides a service to or on the body of another person and includes, but is not limited to, a barber shop, beauty parlour, health spa, tattoo shop and tanning salon;
- (d) "place of public assembly" means a shopping mall or any building or structure or portion thereof used for the gathering together of persons for the purpose of education, worship, entertainment, recreation, business or amusement but does not include a restaurant, a private social function or a reception area;
- (e) "private social function" means a special social event for which an entire room or hall has been reserved and at which attendance is limited to people who have been invited or designated by the sponsor, but does not include an event that is held primarily for the purpose of business, sales or education;
- (f) "reception area" means the public space of an office or other establishment used for the receiving or greeting of customers, clients or other persons dealing with the office or establishment;
- (g) "restaurant" means
 - (a) those food premises, permanent or temporary, fixed or moveable, in which food is prepared or similarly made ready for eating, or
 - (b) any eating or drinking establishment where drink or prepared food is served to the public,

including any coffee shop, cafeteria, short-order cafe, luncheonette, grill, tea room, sandwich shop, soda fountain, bar, tavern, pub, beer parlour, cocktail lounge, dining room, night club, catering kitchen, industrial feeding establishment, commissary, concession or other similar place;

(h) "retail establishment" means a building or part of a building, booth, stall or place where goods are exposed or offered for sale by retail but does not include a restaurant or a place where the primary trade or business carried on is the custom blending of tobaccos or the sale of tobaccos, cigars, pipes and smokers' sundries;

(i) "service line" means an indoor line of two or more persons awaiting service of any kind including, but not limited to, the provision of information or advice, sales or transactions, whether or not the service involves the exchange of money;

(j) "smoke" or "smoking" includes the carrying of a lighted cigar, cigarette, pipe or other lighted smoking equipment;

(k) "smoking area" means an area designated by the proprietor in which smoking is permitted;

3. (1) No person shall smoke

(a) in any part of a retail establishment that is generally open to and used by the public;

- (b) in an elevator, escalator, inside stairway or washroom that is generally open to and used by the public;
- (c) in a school bus, public bus or sky train or in a public transit waiting room;
- (d) in a taxi, except with the consent of all passengers and the driver;
- (e) in or near a service line.

(2) The proprietor of every retail establishment shall display in a conspicuous place so as to be visible to persons at the entrance to the establishment a sign bearing the text "NO SMOKING" that complies with the sign specifications set forth in section 6.

(3) The proprietor of premises that contain an elevator, escalator, stairway, washroom or service line where smoking is not permitted shall display signs bearing the text "NO SMOKING" that are clearly visible to persons using the areas when smoking is not permitted.

4. (1) No person shall smoke, except in a smoking area,

- (a) in a hospital or health care facility;
- (b) in an area being used as a place of public assembly; or
- (c) in a reception area.

(2) The proprietor of a hospital or health care facility may designate smoking areas.

(3) The proprietor of a place being used as an area of public assembly may designate as a smoking area not more than fifty percent of the total floor area, but the following places shall not be designated as smoking areas nor included in the calculation of total floor area, namely,

(a) the seating areas in theatres, motion picture theatres, lecture halls, classrooms, concert halls, auditoriums, gymnasiums, swimming pools, indoor sporting areas, libraries, museums and art galleries;

(b) any part of a school building frequented by students, except between the hours of 5 p.m. and 8 a.m. on school days.

(4) The proprietor of an office or other establishment may designate as a smoking area not more than fifty percent of the reception area.

(5) The proprietor of any premises that contain a smoking area designated pursuant to this section shall display signs that clearly identify the smoking area.

5. (1) No person shall smoke in a personal service establishment, restaurant, pool hall or bowling alley, except in a smoking area, unless the proprietor of the premises has designated the entire premises a smoking area.

(2) The proprietor of every personal service establishment, restaurant, pool hall or bowling alley shall display in a

conspicuous place so as to be clearly visible to persons at the entrance of the premises a sign that complies with the sign specifications set forth in section 6 and bears one of the following texts:

- (a) "NO SMOKING" accompanied by the international symbol for "no smoking";
- (b) "NO NON-SMOKING AREAS" accompanied by the international symbol that smoking is permitted;
- (c) "NO SMOKING EXCEPT IN DESIGNATED AREAS" accompanied by the international symbol for "no smoking".

(3) Where the proprietor of a restaurant designates a non-smoking area, that area shall contain not less than twenty-five percent of the total seating capacity.

6. Signs required to comply with the sign specifications set forth in this section shall:

- (a) be approximately 6" x 12" in size;
- (b) be composed of black lettering on a white background;
- (c) contain the required text printed in capital letters that are 1" in height, accompanied by a 5" diameter international symbol to designate "No Smoking" or the symbol that smoking is permitted, whichever is appropriate;
- (d) contain the following text in 1/4" print: BURNABY
BYLAW 8771 MAXIMUM FINE \$2,000.

7. (1) Every employer who operates an office workplace shall within three months of the adoption of this Bylaw, adopt, implement and maintain a written Smoking Policy that shall contain, at a minimum, the following provisions and requirements:

(a) any non-smoking employee may object to his or her employer about smoke in his or her workplace. Using already available means of ventilation or separation or partition of office space, the employer shall attempt to reach a reasonable accommodation, insofar as possible, between the preferences of non-smoking and smoking employees. However, an employer is not required by this Bylaw to make any expenditures or structural changes to accommodate the preferences of non-smoking or smoking employees;

(b) if an accommodation which is satisfactory to all affected non-smoking employees cannot be reached in any given office workplace, the preferences of non-smoking employees shall prevail and the employer shall prohibit smoking in that office workplace. Where the employer prohibits smoking in an office workplace, the area in which smoking is prohibited shall be clearly marked with signs.

(2) The Smoking Policy shall be announced to all employees working in office workplaces within three months of the adoption of this Bylaw and shall be posted conspicuously in all workplaces under the employer's jurisdiction.

(3) This Bylaw does not regulate smoking in a:

- (a) private home which may serve as an office workplace;
- (b) office workplace occupied exclusively by smokers even though such an office workplace may be visited by non-smokers, excepting places in which smoking is prohibited by other sections of this Bylaw, the fire commissioner, or by any other law, bylaw or regulation; and
- (c) private social function.

8. The Chief Public Health Inspector or his delegate may enter any premises at any reasonable time for the purpose of determining whether the requirements of this Bylaw are met.

9. Every person who contravenes a provision of this Bylaw is guilty of an offence and, on summary conviction, is liable to a fine of not more than two thousand dollars.

10. Sections 11 and 12 of Burnaby Fire Services Bylaw 1983 are repealed.

11. This Bylaw shall come into force three months after it is adopted.

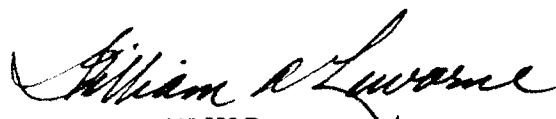

Read a first time this 13th day of JULY 1987

Read a second time this 27th day of JULY 1987

Read a third time this 27th day of JULY 1987

Received the approval of the Minister of Health
this 21st day of SEPTEMBER 1987

RECONSIDERED AND ADOPTED THIS 5th day of OCTOBER 1987


MAYOR

CLERK