

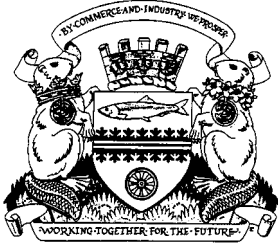
# THE CORPORATION OF THE CITY OF PORT COQUITLAM

## BYLAW NO. 3361

*A Bylaw for the purpose of regulating the places where people may smoke.*

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WHEREAS the approval of the Minister of Health is necessary for any bylaw adopted pursuant to Section 523 of the Local Government Act, R.S.B.C. 1996 Chapter 323;

AND WHEREAS Council has been advised that second hand tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars, and pipes, is a health hazard or discomfort for many inhabitants of the City of Port Coquitlam;

AND WHEREAS it is desirable for the protection, promotion and preservation of the health, safety and welfare of inhabitants of the City of Port Coquitlam to prohibit or regulate smoking, or both, in the City of Port Coquitlam to the extent provided herein;

*Therefore, the Municipal Council of The Corporation of the City of Port Coquitlam, in open meeting assembled, enacts as follows:*

**1. CITATION**

This Bylaw may be cited for all purposes as “Smoking Control Bylaw, 2002, No. 3361”.

**2. DEFINITIONS**

In this Bylaw:

**COUNCIL** means the Municipal Council of The Corporation of the City of Port Coquitlam;

**COMMERCIAL ESTABLISHMENT** means any place or premises where goods or services displayed, are offered for sale or rental, or sold or rented by retail or wholesale;

**COMMON PUBLIC AREA** means any part of a building or multiple residential dwelling that is generally open to and accessible by the public or generally available for common use by the occupants, including, but not limited to, hallways, foyers, stairways, elevators, escalators, laundry rooms, washrooms, and amenity areas;

**GAMING FACILITY** has the same meaning as in the *Gaming Control Act*, S.B.C. 2002, Chapter 14;

<b>HEALTH CARE FACILITY</b>	means any facility where medical or health services are being provided to individuals on a professional basis including, but not limited to community care facilities, mental health facilities, dental offices, medical offices, chiropractic offices, optometrist offices, and counselling centres or offices;
<b>LIQUOR OUTLET</b>	means a commercial establishment which is licenced under the <i>Liquor Control and Licensing Act</i> , R.S.B.C. 1996, Chapter 267 including, but not limited to, lounges, pubs, neighbourhood pubs, beer parlours, cabarets or private clubs, but not including an establishment that, has or is required to have, a Food Primary Licence under that Act;
<b>MALL</b>	means any public area which is totally enclosed and to which commercial establishments have access;
<b>MEDICAL HEALTH OFFICER</b>	is the Medical Health Officer, appointed for the City under the <i>Health Act</i> , R.S.B.C. 1996, Chapter 179;
<b>OWNER</b>	includes the registered owner or purchaser under an agreement for sale, mortgagee in possession, agent, tenant, and any person in charge or control of a building, premise, land, vehicle, machine, boat, conveyance, or chattel;
<b>PATIO</b>	means an outdoor area that is designed and constructed to minimally obstruct natural ventilation, prevent the accumulation of smoke and ensure the flow of air is to the outdoors and not to a non-smoking area.
<b>PERSONAL SERVICES ESTABLISHMENT</b>	means an establishment in which a person provides a service to or on the body of another person, including but not limited to, barber shops, beauty parlors, health spas, massage parlors, tattoo shops, saunas, and steam baths;
<b>PLACE OF EMPLOYMENT</b>	means any enclosed indoor place of work other than a workplace occupied solely by a sole proprietor or solely by the partners to a partnership;
<b>PLACE OF PUBLIC ASSEMBLY</b>	means a building or portion thereof used for the gathering together of persons for the purpose of deliberation, education, worship, entertainment, recreation, business, professional seminars or amusement;
<b>POST</b>	means the act of keeping continuously on display;
<b>PROPRIETOR</b>	means a person who owns, or who controls, governs, or directs the activity carried on within, a building, place, or

premises referred to in this Bylaw and includes the person in charge thereof;

**RECEPTION AREA** means the public space used in connection with an office or establishment for the receiving or greeting of customers, clients, or other persons dealing with that office or establishment;

**RESTAURANT** means a food service establishment in which prepared food is served to the public in exchange for money or services, or any place to which the public has access for the purpose of purchasing food for human consumption on or off the premises, including an establishment that has or is required to have, a Food Primary Licence under the *Liquor Control and Licensing Act*, R.S.B.C. 1996, Chapter 267;

**SERVICE LINE** means an indoor line of two or more persons awaiting services of any kind, regardless of whether or not such services involves the exchange of money, including, but not limited to, sales, provision of information, transactions, or advice, and transfer of money or goods;

**SERVICE COUNTER** includes the area within three (3) metres of the counter;

**SMOKE or SMOKING** means the inhaling, exhaling, burning, or carrying of a lighted cigarette, cigar, pipe, or other lighted smoking equipment, burning tobacco, or any other weed or substance, but does not include smoking by actors as part of a stage or theatrical performance;

### 3. **SMOKING RESTRICTIONS**

3.1 No person shall smoke:

- a. in a common public area;
- b. in a taxi cab, limousine, or vehicle for hire, except with the consent of all of the passengers and the driver;
- c. in a public transportation facility or vehicle, including but not limited to, a school bus, a public bus, the “West Coast Express”, a transit shelter, or a waiting room relating to any form of transportation;
- d. in any part of a commercial establishment;
- e. in any place of employment;
- f. in a place of public assembly;

- g.** in any personal services establishment;
- h.** in a mall;
- i.** in a hotel or motel room designated by the proprietor as non-smoking;
- j.** in a building or vehicle owned or operated by the City of Port Coquitlam;
- k.** in a health care facility;
- l.** in any service line;
- m.** at a service counter;
- n.** in a restaurant; or
- o.** in a gaming facility.

**3.2** No proprietor of a building, place or premises or operator of a vehicle shall permit a person to smoke in that building, place or premises or vehicle contrary to the provisions of this Bylaw.

**3.3** Despite Section 3.1, smoking is permitted on a patio, provided the proprietor of the patio restricts access to the patio to persons 19 years of age or older.

## **SIGNS**

**4.1** The proprietor of a building in which smoking is prohibited under this Bylaw shall post a sign in proximity to the front entrance indicating “NO SMOKING IN THIS BUILDING” and the words “MAXIMUM FINE \$2,000.00.”

**4.2** In every area where smoking is prohibited under this Bylaw, the proprietor shall post a sufficient number of signs, as prescribed in Section 4.4(b) prominently displayed so as to be clearly visible from all points to which the prohibition applies.

**4.3** A proprietor shall not permit smoking on a patio unless the proprietor has first posted a sufficient number of signs, as prescribed in Section 4.4(b), prominently displayed so as to be clearly visible from all points on the patio.

**4.4** All signs required pursuant to this Bylaw shall conform to the following conditions and specifications:

- a.** For the purposes of this Section “letter height” means the actual height of the letter regardless of whether it is a capital or lower case letter.
- b.** Required signs shall:
  - i** where smoking is not permitted, carry the text “NO SMOKING” in capital or lower case letters or a combination thereof;

- ii where smoking is permitted, carry the text “SMOKING IN THIS AREA ONLY” in capital or lower case letters or a combination thereof;
- iii consist of two contrasting colours, or if the lettering is to be applied directly to a surface or to be mounted on a clear panel, the lettering shall contrast to the background colour; and
- iv contain lettering the size of which shall be not less than the following height based upon the maximum viewing distance in direct line of sight for:

	<u>Viewing Distance</u>		<u>Letter Height</u>
(a)	Up to 3 m (10')	-	1.27 cms (0.5 in.)
(b)	Up to 6.1 m (20')	-	5.1 cms (2 in.)
(c)	Up to 12.2 m (40')	-	7.6 cms (3 in.)
(d)	Up to 24.4 m (80')	-	10.2 cms (4 in.)
(e)	Up to 48.8 m (160')	-	15.2 cms (6 in.)
(f)	Up to 73.1 m (240')	-	20.3 cms (8 in.)

- v. include in the text at the bottom of each sign, the wording:

“City of Port Coquitlam Smoking Control Bylaw, 2002, No. 3361”, in letters not less than 1.3 cms (1/2 in.) in height for signs with letter size of 2.5 cms (1 in.) and not less than 1/4 of the height of the letter on all other sizes of letters.

- c. Notwithstanding the provisions of Section 4.4, the following graphic symbol may be used to indicate “no smoking” areas:



and the following graphic symbol may be used to indicate “SMOKING” areas:



- d. Each symbol in Section 4.4 shall include the text “City of Port Coquitlam Smoking Control Bylaw, 2002, No. 3361,” in letters and figures at least

5% of the diameter of the circle and introductory stroke in red with a cigarette, letters and figures in black.

- e. With respect to the graphic symbols, the diameter of the circle referred to in Section 4.4(c) shall be not less than the number of centimetres (inches) prescribed below, based upon the maximum viewing distance and direct line of sight, as follows:

	<u>Viewing Distance</u>		<u>Size Diameter</u>
(i)	Up to 3 m (10')	-	10.5 cms (4 in.)
(ii)	Up to 6.1 m (20')	-	15.2 cms (6 in.)
(iii)	Up to 12.2 m (40')	-	20.3 cms (8 in.)
(iv)	Up to 24.4 m (80')	-	30.6 cms (12 in.)
(v)	Up to 48.8 m (160')	-	40.6 cms (16 in.)
(vi)	Up to 73.1 m (240')	-	61.0 cms (24 in.)

- f. Notwithstanding that the symbol in Section 4.4(c) is a cigarette, it shall be deemed to include a lighted cigar, cigarette, pipe, or other lighted smoking equipment.

4.5 No person shall remove, alter, conceal, deface, or destroy any sign posted pursuant to this Bylaw.

## 5. EXCEPTIONS

5.1 This Bylaw does not regulate smoking in a private home or in a liquor outlet.

## 6. SENIOR GOVERNMENT SMOKING REGULATIONS

6.1 Readers of this Bylaw are advised that smoking in Commercial Establishments, Liquor Outlets and Restaurants may be governed by Provincial and Federal Regulations.

## 7. OFFENCES AND PENALTY

7.1 Any person who contravenes the provisions of this Bylaw is guilty of an offence and, on summary conviction, is liable to a fine not exceeding \$2,000.00.

7.2 Each day that a violation of this Bylaw occurs constitutes a separate offence.

## 8. VALIDITY

8.1 If any part of this Bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder which shall continue in full force and effect and be construed as if the Bylaw had been adopted without such invalid portions.

## 9. ENFORCEMENT

**9.1** The Medical Health Officers, Royal Canadian Mounted Police, Fire Department Officers, and Bylaw Enforcement Officers, having jurisdiction in the City of Port Coquitlam may enter any premises in the City of Port Coquitlam at any reasonable time for the purpose of determining compliance with and enforcing this Bylaw.

**10. REPEAL**

**10.1** City of Port Coquitlam Smoking Control Bylaw, 1996, No. 3062, and all amendments thereto, are hereby repealed.

**11. EFFECTIVE DATE**

**11.1** This Bylaw shall come into force and take effect upon final adoption thereof.

*Read a first time by the Municipal Council this 9<sup>th</sup> day of September, 2002.*

*Read a second time by the Municipal Council this 9<sup>th</sup> day of September, 2002.*

*Read a third time by the Municipal Council this 9<sup>th</sup> day of September, 2002.*

*Repealed first three readings by the Municipal Council this 25<sup>th</sup> day of November, 2002.*

*Read a first time by the Municipal Council this 25<sup>th</sup> day of November, 2002.*

*Read a second time by the Municipal Council this 25<sup>th</sup> day of November, 2002.*

*Read a third time by the Municipal Council this 25<sup>th</sup> day of November, 2002.*

*Received the approval of the Minister of Health this 20<sup>th</sup> day of December, 2002.*

*Reconsidered, finally passed and adopted by the Municipal Council of the Corporation of the City of Port Coquitlam this 13<sup>th</sup> day of January, 2003.*

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*Mayor*

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*City Clerk*