



THE DISTRICT OF NORTH VANCOUVER SMOKING REGULATION BYLAW

BYLAW 7792

Effective Date – May 15, 2010

CONSOLIDATED FOR CONVENIENCE ONLY

This is a consolidation of the bylaws below. The amending bylaws have been combined with the original bylaw for convenience only. This consolidation is not a legal document. Certified copies of the original bylaws should be consulted for all interpretations and applications of the bylaw on this subject.

Original Bylaw	Date of Adoption
Bylaw 7792	April 19 th , 2010
Amending Bylaw	Date of Adoption
Bylaw 8342	October 29, 2018
Bylaw 8409	November 25, 2019
Bylaw 8565	May 30, 2022

The bylaw numbers in the margin of this consolidation refer to the bylaws that amended the principal bylaw (Smoking Regulation Bylaw – Bylaw 7792). The number of any amending bylaw that has been repealed is not referred to in this consolidation.

The Corporation of the District of North Vancouver

Bylaw 7792

A bylaw to regulate smoking pursuant to section 8(3)(i) of the *Community Charter*

The purpose of this bylaw is to:

- A. Protect the public health, safety and general welfare by prohibiting smoking in public places and other places where other persons would be exposed to second-hand smoke;
- B. Ensure a cleaner and more hygienic environment for the District, its residents and its natural resources, including its beaches and parks;
- C. Strike a reasonable balance between the needs of persons who smoke and the needs of non-smokers, including children, to breathe smoke-free air, recognizing the threat to public health and the environment that smoking causes; and
- D. Recognize the rights of residents and visitors to the District to be free from unwelcome second-hand smoke.

The Council for The Corporation of the District of North Vancouver enacts as follows:

Title

1. This bylaw may be cited as “**Smoking Regulation Bylaw 7792, 2010**”.

Definitions

2. In this Bylaw:

“**Building**” means a structure fully or substantially enclosed with walls and/or roofs, and used for the shelter or accommodation of persons, animals, chattels or things or any combination thereof;

“**Business**” means a business, trade, profession, or other occupation for which a person must obtain a licence under the Business Licence Bylaw, 4567, as amended;

“**Bylaw Enforcement Officer**” means a delegate of the Medical Health Officer, an employee of the District whose duties include enforcement of the bylaws, or a Royal Canadian Mounted Police officer;

“**Cannabis**” 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 Criminal Code and other Acts*, 1st Sess, 42nd Parl, 2017) or as subsequently amended or adopted;

(8342)

“**Cannabis Retail Store**” has the meaning given to it in the Business Licence Bylaw 4567, 1974;

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“**Common Area**” includes, but is not limited to, lobbies, foyers, stairwells, elevators, corridors, cloakrooms, washrooms, food fair seating areas, and other public areas of a building;

“**District**” means the Corporation of the District of North Vancouver;

“ Dwelling Unit ” means a Dwelling Unit as defined in the Zoning Bylaw 3210, as amended;

“ Fire Chief ” means the person appointed as the Chief of the District Fire Department or an authorized designate;

(8409)

“ Highway ” means the area of every public right of way lying between two property lines title to which area is vested in the District and which is designated or intended for or used by the general public for the passage of vehicles or persons and means the area of every public right of way lying within any District Park title to which area is vested in the District and which is designated or intended for or used by the general public for the passage of vehicles;

(8409)

“ Outdoor Customer Service Area ” means a part of private or public property located immediately outside of a restaurant, retail food service, neighbourhood public house or licensed lounge whether partially enclosed or unenclosed, including a balcony, patio, yard, or sidewalk that is connected to or associated with a Business or use in a Building or Premises that includes the service of food or beverages, which may include alcoholic drinks, to customers or other persons for consumption on site;

“ Park ” means any real property owned, occupied or controlled by the District and used by the public for pleasure, recreation or other community purposes, including but not limited to dedicated parks, beaches, District-controlled water lots, forested recreation areas, conservation areas, Maplewood Farm, Lynn Canyon Ecology Centre, Murdo Frazer Pitch and Putt, and the Northlands Golf Course, but does not include any municipal land leased to a third party;

(8409)

“ Premises ” means a portion of a Building of which a person has exclusive possession;

“ Responsible Person ” means a person who owns, controls, manages, supervises, operates, or holds:

- (a) a Business or other use that occupies all or substantially all of a Building;
- (b) a Business or other use that occupies Premises;
- (c) an Outdoor Customer Service Area;
- (d) a Common Area;
- (e) a Vehicle For Hire; or
- (f) a permit for any outdoor public event or activity that the District has authorized by the issuance of a permit and to which this Bylaw applies,

and, in respect of a Common Area, includes a strata corporation or cooperative association;

“ Smoke ” or **“ Smoking ”** 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;

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“Trail” means any footpath or other pathway in a Park and includes footpaths and other pathways on Unopened Road Allowances whether inside or outside a Park;

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“Transit Shelter” means a partially enclosed Building or other structure the sole purpose of which is to provide shelter to persons waiting to board a public transit vehicle or a Vehicle for Hire;

“Transit Stop” means a sign-posted location where public transit vehicles or Vehicles for Hire stop to pick up riders, and distances from a Transit Stop shall be measured from the sign that identifies the Transit Stop location; and

“Unopened Road Allowance” means any dedicated highway that has not been opened and improved by the District or that has been closed by the District;

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“Vehicle for Hire” means a Vehicle for Hire as defined in the Taxicab Regulation Bylaw, 7313, as amended.

General Smoking Regulations

3. A person must not smoke:

(a) in a Building, except in:

- (i) a Dwelling Unit other than a Dwelling Unit in which a Business to which employees or the public are invited is carried on therein;
- (ii) a hotel or motel room or suite designated for Smoking by a Responsible Person;
- (iii) enclosed Premises:
 - (1) that are not open to the public, and
 - (2) where the only occupants are the owner or owners of the business carried on in the Premises;

(b) in a Vehicle for Hire;

(c) in any public transit vehicle, including a school bus, passenger bus, water taxi, or ferry;

(d) in or within 6 metres of a Building, Transit Stop or Transit Shelter where people wait to board a Vehicle for Hire or public transit vehicle, provided that, subject to the other provisions of this bylaw, a person may smoke in or within 6 metres of a Transit Shelter or within 6 metres of a Transit Stop if no other persons are present;

(e) in or within 6 metres of the perimeter of an Outdoor Customer Service Area;

(f) within 6 metres measured on the ground from a point directly below any opening into any Building including any door or window that opens or any air intake; or

(g) in any area which is the subject of a fire ban pronounced by the Fire Chief.

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- 3A. A person must not discard, throw, place or dispose of any lighted or extinguished cigarette, cigar, match, smoking or vaporizing equipment or other burning substance except into a garbage container or other container designed for such disposal.

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Smoking in Parks and other Municipal Property

4. A person must not smoke in or within 6 metres of:
- (a) children's play equipment or a playground, playing field (if other persons are present), beach, food concession, picnic area or skateboard park in a Park;
 - (b) any municipal property that is being used for any public event or activity that the District has authorized by the issuance of a permit;
 - (c) the grounds of any municipal Building used for public recreation;
 - (d) Lynn Valley Village or Maplewood Farm; or
 - (e) any Park, Trail or Unopened Road Allowance.

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Duties of Responsible Person and Sign Requirements

5. Except as permitted by subsection 3(a), a Responsible Person must not suffer or allow a person to smoke in:
- (a) a Building or Outdoor Customer Service Area;
 - (b) a Common Area or Premises;
 - (c) an area described in subsections 3(e) or (f), except to the extent that all or part of such area is not part of the parcel on which the Building or Outdoor Customer Service Area is situated and is not an area over which such Responsible Person has possession or control;
 - (d) a Vehicle For Hire; or
 - (e) a Cannabis Retail Store,

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in each case, that is owned, controlled, managed, supervised, operated or held by that Responsible Person.

6. A Responsible Person must display a sign at all times:
- (a) at each entrance to a Building, Outdoor Customer Service Area or Premises, or in a Vehicle For Hire, where section 3 prohibits Smoking, stating:

"THIS IS A SMOKE FREE ENVIRONMENT – NO SMOKING";
 - (b) on each exterior wall of a Building, where section 3 prohibits Smoking, stating:

“SMOKING IS PROHIBITED WITHIN 6 METRES OF OPENINGS INTO THIS BUILDING INCLUDING DOORS AND WINDOWS THAT OPEN AND ANY AIR INTAKE”;

- (c) in an Outdoor Customer Service Area, clearly visible from each table or placed on each table, stating:

“THIS OUTDOOR CUSTOMER SERVICE AREA IS A SMOKE FREE ENVIRONMENT – NO SMOKING”; or

- (d) on the exterior wall, Building, fence, railing or other structure indicating the boundary of an Outdoor Customer Service Area, stating:

“SMOKING IS PROHIBITED WITHIN 6 METRES OF OUTDOOR CUSTOMER SERVICE AREA”

- (e) on any advertisement or poster promoting a public event on District property for which the District has authorized by a permit, stating:

“THIS IS A SMOKE FREE EVENT”.

7. All signs referred to in section 6, except 6(e), must:

- (a) include the text “Bylaw 7792” in letters not less than one quarter of the height of all other letters on the sign;
- (b) display the international symbol to designate “No Smoking”, or, in areas where smoking is permissible, the international symbol to designate “Smoking Permitted”, provided that in each case the symbol must occupy at least 25% of the size of the sign;
- (c) 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;
- (d) be at least 30 cm by 15 cm in size (or, with respect to subsection 6(c) of this Bylaw, if a sign is placed on a table, it must be at least 10 cm by 5 cm in size);
- (e) be clearly visible; and
- (f) except for the text specified in subsection (a), 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:

Viewing Distance	Letter Height
Up to 3 metres	1 centimetre
Up to 6 metres	2 centimetres
Up to 12 metres	4 centimetres

Condition of Signs

8. A person must not remove, alter, conceal, deface or destroy any sign required under this bylaw.

Power to Inspect

- 9. A Bylaw Enforcement Officer has the right of entry and may enter at all reasonable hours onto any land or into any Building to which this bylaw applies in order to ascertain whether the provisions of this bylaw are being complied with.

Obstruction

- 10. A person must not interfere with, delay, obstruct or impede a Bylaw Enforcement Officer or designate or other person lawfully authorized to enforce this bylaw in the performance of duties under this bylaw.

Offences and Penalties

- 11. (a) A person who:
 - i. contravenes a provision of this bylaw;
 - ii. causes, consents to, allows or permits an act or thing to be done contrary to this bylaw;
 - iii. neglects or refrains from doing anything required by a provision of this bylaw; or
 - iv. fails to comply with any order, direction or notice given under this bylaw,
commits an offence and is subject to the penalties imposed by this bylaw and the *Offence Act*.
(b) Each instance that a contravention of a provision of this bylaw occurs and each day that a contravention occurs or continues shall constitute a separate offence.
(c) A person found guilty of an offence under this bylaw is subject to a fine or not less than \$1,000.00 and not more than \$50,000.00 for every instance that an offence occurs or each day that it occurs or continues, plus the costs of prosecution.

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Enforcement by Ticket

- 12. This bylaw is designated pursuant to section 264 of the *Community Charter* as a bylaw that may be enforced by means of a ticket in the form prescribed.

Bylaw Enforcement Officers

- 13. Bylaw Enforcement Officers are designated to enforce this bylaw by means of a ticket pursuant to section 264 of the *Community Charter*.

Ticketing

- 14. The words or expressions listed below in the "Designated Expression" column are authorized to be used on a ticket issued pursuant to section 264 of the *Community Charter* to designate an offence against the respective section of this bylaw appearing opposite in the "Section" column. The amounts appearing in the "Fine" column below are the fines set pursuant to section 264 of the *Community Charter* for contravention of the respective section of this bylaw appearing opposite in the "Section" column.

Section	Designated Expression	Fine
3	Smoking where prohibited	\$100
3	Smoking where prohibited – subsequent offence	\$200
3A	Throw extinguished cigarette	\$100

3A	Throw lit cigarette	\$300
4	Smoking where prohibited in a park	\$100
4	Smoking where prohibited in a park – subsequent offence	\$200
5	Responsible person allow smoking where prohibited	\$200
6	Responsible person fail to display sign	\$200
8	Person remove or deface sign	\$100
10	Obstruction	\$200

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Severability

15. If any section, subsection or clause of this bylaw is for any reason held to be invalid by the decision of a court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this bylaw.

Repeal

16. Smoking Regulation Bylaw 6858 is repealed.

Effective Date

17. This bylaw comes into force May 15, 2010.