

**CITY OF VANCOUVER
BRITISH COLUMBIA**

HEALTH BY-LAW NO. 9535

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BY-LAW NO. 9535

A By-law to provide for the care, promotion, and protection of the health of inhabitants

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

SECTION 1 INTERPRETATION

Name of By-law

1.1 The name of this By-law, for citation, is the "Health By-law".

Definitions

1.2 In this By-law:

"building" includes a structure;

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

"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 a 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;

"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 lighted cigarette, cigar, pipe, hookah pipe, or other lighted smoking equipment that burns tobacco or other weed or substance; and

“vehicle for hire” means a vehicle for hire defined in the Vehicles for Hire By-law.

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.

Schedules

1.4 The schedules attached to this By-law form part of this By-law.

Severability

1.5 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

1.6 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 certain behaviours

2.1 A person must not expectorate, urinate, or defecate on or in any street or other public place, except in a location in a public building or facility provided specifically for such purpose.

Ban on smoking

2.2 A person must not smoke:

- (a) in a building, except in:
 - (i) a dwelling unit or sleeping unit defined under the Zoning and Development By-law 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,
 - (B) that are not private clubs or smoking clubs, a purpose of which is to allow patrons, customers, or other persons to smoke, and
 - (C) where the only occupants are the owner or owners of the business carried on in the premises;
 - (iv) premises inside a smoking room where the primary trade or business carried on is the custom-blending of tobaccos or the sale of tobaccos, pipes, cigars or smokers' sundries, and where such smoking room and such business in such premises existed on the date of enactment of this By-law, and
 - (v) a hookah parlour where the only trade or business carried on is the smoking by patrons of flavoured tobacco from a communal hookah, being a single or multi-stemmed water pipe device for smoking, operating by water filtration and indirect heat, placed at each table, and where such hookah parlour existed on the date of enactment of this By-law;

- (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;
- (e) within six 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) in a customer service area; or
- (g) within six metres of the perimeter of a customer service area

Enforcement of ban on smoking

2.3 Except as permitted by section 2.2, 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 2.2(e) or (g) except to the extent that all or part of such area is not part of the parcel on which the building or customer service area is situate and is not an area over which such responsible person has possession or control; or
- (d) in a vehicle for hire.

Signs banning smoking

2.4 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 2.2 prohibits smoking, stating:

THIS IS A SMOKE FREE ENVIRONMENT- NO SMOKING; and
- (b) on each exterior wall of a building, where section 2.2 prohibits smoking, stating:

SMOKING IS PROHIBITED WITHIN SIX METRES OF OPENINGS INTO THIS BUILDING INCLUDING DOORS AND WINDOWS THAT OPEN AND ANY AIR INTAKE.

Sign requirements

2.5 All signs referred to in section 2.4 must:

- (a) include the text “City of Vancouver Health By-law” 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”, which 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;
- (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:

<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

Condition of signs

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

Ban on pesticides

2.7 A person must not apply, or suffer or allow the application of, a pesticide:

- (a) that is a registered control product under the Pest Control Products Act (Canada); and
- (b) that persons use directly or indirectly to control, destroy, attract, or repel a pest,

being:

- (i) an animal, plant, or other organism that is directly or indirectly injurious, noxious, or troublesome, or
- (ii) an injurious, noxious, or troublesome condition or organic function of an animal, plant, or other organism,

or to mitigate or prevent any injurious, noxious, or troublesome effects of a pest.

Exception to ban on pesticides

2.8 Despite section 2.7, a person may apply, or suffer or allow the application of, a pesticide:

- (a) to disinfect swimming pools, whirlpools, spas, or wading pools;
- (b) to purify water intended for the use of human beings or animals;
- (c) within an enclosed building, being an area closed in by a roof or ceiling and walls with appropriate openings for ingress or egress equipped with doors which are kept closed except when actually in use for ingress or egress;
- (d) to control termites;
- (e) to control or destroy a health hazard;
- (f) to control or destroy pests which have caused infestation to property, being the presence of pests in numbers or under conditions which involve an immediate or potential risk of substantial loss or damage;
- (g) to exterminate or repel rodents;
- (h) as a wood preservative;
- (i) as an insecticide bait enclosed by the manufacturer in a plastic or metal container made in a way that prevents or minimizes access to the bait by human beings and pets;
- (j) as an insect repellent for personal use; or
- (k) that contains only one or more of the active ingredients set out in Schedule A to 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 mailing 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.

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 Bylaw is liable to a fine of not less than \$500.00 for each offence.

Fine for continuing offence

3.5 Every person who commits an offence of a continuing nature against this By-law is liable to a fine not exceeding \$50.00 for each day such offence continues.

**SECTION 4
REPEAL AND ENACTMENT**

Repeal

4.1 This By-law repeals By-law No. 6580.

Force and effect

4.2 This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this 2nd day of October, 2007



Mayor



City Clerk

**SCHEDULE A
PERMITTED PESTICIDES**

acetic acid	material preservatives
animal repellents except thiram	methoprene
anti-fouling paints	mineral oils for insect and mite control
antisapstain wood preservatives	n-octyl bicycloheptene dicarboximide
asphalt solids (pruning paints)	naphthalene for fabric protection
bacillus thuringiensis kurstaki (Btk)	paradichlorobenzene for fabric protection
bactericides used in petroleum products	pesticides in aerosol containers
boron compounds	pesticides registered under the Pest Control Products Act (Canada) for application to pets
boron compounds with up to 5% copper for insect control and wood preservation	piperonyl butoxide
capsaicin	plant growth regulators
Cleansers	polybutene bird repellents
corn gluten meal	pyrethrins
d-phenothryn	resmethrin
d-trans-allethrin, also referred to as d-cis, trans allethrin	rotenone
Deodorizers	silica aerogel, also referred to as silica gel, amorphous silica and amorphous silica gel
fatty acids	silicon dioxide, also referred to as "diatomaceous earth"
ferric phosphate	slimicides
ferrous sulphate	soaps
hard surface disinfectants	sulphur, including lime sulphur, sulphide sulphur and calcium polysulphide
insect bait stations	surfactants
insect pheromones	swimming pool algicides and bactericides
insect repellents	tetramethrin
laundry additives	wood preservatives