



VIA EMAIL

July 23, 2020

Legislative & Planning Services
Department
Office of the Regional Clerk
1151 Bronte Road
Oakville ON L6M 3L1

City of Burlington, Kevin Arjoon
Town of Halton Hills, Suzanne Jones
Town of Milton, Meghan Reid
Town of Oakville, Vicki Tytaneck

Please be advised that at its meeting held Wednesday, July 15, 2020, the Council of the Regional Municipality of Halton adopted the following resolution:

RESOLUTION: MO-15-20 – Smoking and Vaping in Public Places By-Law

1. THAT By-Law No. 24-09 (Outdoor Smoking Prohibition By-Law) be repealed and replaced with an updated by-law as set out in Report No. MO-15-20 re: "Smoking and Vaping in Public Places By-Law" and that the Director of Legal Services be authorized to prepare such a by-law based on the draft by-law in Attachment # 1.
2. THAT upon its passage, the Regional Clerk forward a copy of the by-law together with Report No. MO-15-20 to the City of Burlington, Town of Halton Hills, Town of Milton and Town of Oakville with the request that each Council pass a resolution giving its consent to the by-law.

Enclosed please find a copy of Report No. MO-15-20 together with By-Law No. 40-20 for your information. Please request that your Council take the action noted in Recommendation #2.

If you have any questions please contact me at extension 7110 or the e-mail address below.

Sincerely,

A handwritten signature in blue ink, appearing to read "G. Milne", enclosed within a blue circular scribble.

Graham Milne
Regional Clerk
graham.milne@halton.ca



The Regional Municipality of Halton

Report To:	Regional Chair and Members of Regional Council
From:	Hamidah Meghani, Commissioner and Medical Officer of Health
Date:	July 15, 2020
Report No. - Re:	MO-15-20 – Smoking and Vaping in Public Places By-Law

RECOMMENDATION

1. THAT By-Law No. 24-09 (Outdoor Smoking Prohibition By-Law) be repealed and replaced with an updated by-law as set out in Report No. MO-15-20 re: "Smoking and Vaping in Public Places By-Law" and that the Director of Legal Services be authorized to prepare such a by-law based on the draft by-law in Attachment # 1.
2. THAT upon its passage, the Regional Clerk forward a copy of the by-law together with Report No. MO-15-20 to the City of Burlington, Town of Halton Hills, Town of Milton and Town of Oakville with the request that each Council pass a resolution giving its consent to the by-law.

REPORT

Executive Summary

- The Provincial government enacted the [Smoke-Free Ontario Act, 2017](#) (SFOA, 2017) on October 17, 2018. The Act prohibits the smoking of tobacco and cannabis and the use of electronic cigarettes in prescribed places.
- The Regional By-Law No. 24-09 prohibits the smoking of tobacco within nine meters from any entrance or exit of buildings owned or leased by The Regional Municipality of Halton or its local municipalities. The smoking of cannabis and the use of an electronic cigarette are not covered under this by-law.
- The proposed updated Regional by-law would restrict the smoking of tobacco and cannabis and the use of an electronic cigarette in public parks and public areas within nine metres from any entrance or exit of municipally owned or leased buildings and of child care centres.

Background

In 2009, Regional By-Law No. 24-09 was passed to prohibit the smoking of tobacco within nine meters from any entrance or exit of municipally owned or leased buildings. The smoking of cannabis and the use of an electronic cigarette are not covered under this by-law.

On October 17, 2018, the federal government legalized cannabis use, and in response, the provincial government enacted the *SFOA, 2017* on the same day. To protect workers and the public from second-hand smoke and vapour, the *SFOA, 2017* prohibits the smoking of tobacco and cannabis, and the use of electronic cigarettes in prescribed places and areas. Attachment #2 lists the places where the smoking of tobacco and cannabis and use of an electronic cigarette are prohibited under the *Smoke-Free Ontario Act, 2017* and *O. Reg 268/18*.

In Ontario, municipalities are granted authority under section 11 of the [Municipal Act, 2001](#) to enact by-laws respecting the health, safety and well-being of individuals within its jurisdiction. Section 115 of the [Municipal Act, 2001](#) permits municipalities to prohibit or regulate the smoking of tobacco or cannabis in public places and workplaces.

In June of 2019, Regional Council received Report No. MO-12-19, which advised that staff were exploring options to update Regional By-law No. 24-09 to include the smoking of cannabis, the use of an electronic cigarette and the use of a waterpipe in prescribed areas.

Pursuant to Section 115 of the *Municipal Act, 2001*, a triple majority is required for a Regional by-law passed under this section to come into force. This means that a majority of all votes on Regional Council must be cast in its favour and that a majority of the local Councils representing a majority of the Region's electors must pass resolutions consenting to the by-law.

Discussion

Public Health staff used an evidence-informed approach when considering recommended inclusions for the updated Regional by-law. This consisted of an evidence review and an environmental scan of other municipal by-laws in Ontario.

Findings from the evidence review indicate that second-hand smoke exposure in outdoor settings can be just as harmful as second-hand smoke exposure in indoor settings. Second-hand smoke produced from cannabis is considered as harmful to a non-smoker as cigarette smoke. Smoke from non-tobacco ('herbal shisha') waterpipes contains carbon monoxide, ultrafine particles, heavy metals and aldehydes. Report Nos. MO-05-19, MO-35-19 and MO-05-20 provided information on the health risks of electronic cigarette and tobacco use and the adverse health effects of second-hand vapour and second-hand smoke exposure.

An environmental scan of municipal by-laws in Ontario found 103 municipal by-laws which exceeded the provisions in the *SFOA, 2017*. Several more municipalities have passed by-laws to address tobacco, cannabis, electronic cigarette and waterpipe use within their municipalities since the environmental scan was completed.

Staff consulted with Conservation Halton and Credit Valley Conservation Authority (CVC) regarding their possible inclusion in the Regional by-law. Conservation Halton recently updated its smoking policy to include the smoking of cannabis, the use of electronic cigarettes and the use of waterpipes and at this time did not want to be included. CVC currently has a policy that prohibits the smoking of cannabis on any CVC owned/managed land unless a medical certificate for its use is provided. Over the 2019-2020 operating seasons, CVC will be reviewing by-laws and policies of partner municipalities, consulting with stakeholders and will bring forward an updated smoking policy to the CVC Board for approval in summer of 2020.

Public Health staff met with representatives from the four local municipalities to discuss recommended inclusions for the updated Regional by-law. A survey was provided to each municipal representative with a request to coordinate internal consultations to determine the level of municipal support for the following recommendations:

- prohibiting the smoking of cannabis, the use of an electronic cigarette, and the use of a waterpipe in public parks and public areas within nine metres from any entrance or exit of child care centres
- prohibiting waterpipe use in an enclosed workplace or public place
- appointing municipal law enforcement officers to enforce the Regional by-law

There was support among the four local municipalities for an expanded Regional by-law to address electronic cigarettes, cannabis and waterpipe use and there was general support for the prohibition of the use of these products in public parks and public areas within nine metres of a child care centre as well as waterpipe use in enclosed workplaces/public places.

Public health staff enforce the existing Regional By-law No. 24-09. The preference of the local municipalities is for the enforcement of the new proposed by-law to remain with public health staff. The draft by-law provides flexibility should the local municipalities choose to be included in the future.

While there was support for the prohibition of waterpipe use in an enclosed workplace and public place, consultation with waterpipe establishment owners identified a need to better understand the impacts of enacting a waterpipe by-law. A report outlining the impacts and recommended approach will be presented to Regional Council for consideration at a later date.

As a result of the consultation, the following is included in the proposed Regional by-law:

- The smoking of tobacco and cannabis and the use of electronic cigarettes would be prohibited in the following places:
 - Public areas within nine metres from any entrance or exit of municipally owned or leased buildings
 - Public areas within nine metres from any entrance or exit of child care centres
 - Public parks (public parks would include land owned by a municipality that is designed or used for public recreation including, but not limited to, parklands, parkettes, trails, playgrounds, sports fields, playing fields, beaches and dog parks, and includes any lane and walkway leading thereto, any parking lots connected thereto, and any spectator or player seating areas)
- Enforcement will be conducted by public health inspectors, with an option for the local municipalities to appoint their staff as enforcement officers under the by-law.

As outlined in the draft by-law, included as Attachment #1, there is a requirement for the posting of prescribed signage throughout all public parks and at all entrances or exits of child care centres and Regional or municipally owned or leased buildings. Initial costs for signage is estimated to be \$40,000, which will be covered by the Region. Replacement signage will also be provided by the Region.

Non-compliance with the by-law will be investigated on a complaint basis. A progressive enforcement approach to achieve compliance will be used by public health inspectors. Progressive enforcement includes the use of education, warnings and graduated charging options to reflect the frequency and severity of the level of non-compliance.

Conclusion

By including additional products and prohibited places in the updated Regional by-law, Halton residents will be further protected from the harms of smoking and vaping.

FINANCIAL/PROGRAM IMPLICATIONS

The cost for staff resources to enforce the proposed by-law and signage costs will be accommodated within the approved 2020 Budget and Business Plan.

Respectfully submitted,



Matthew Ruf
Director, Healthy Environments &
Communicable Disease



Hamidah Meghani, MD
Commissioner and Medical Officer of Health

Approved by



Jane MacCaskill
Chief Administrative Officer

If you have any questions on the content of this report,
please contact:

Matthew Ruf

Tel. # 7508

Attachments: Attachment #1 - Draft By-Law No. XX-20
Attachment #2 - Places where smoking of tobacco, cannabis and use of an electronic
cigarettes are prohibited

THE REGIONAL MUNICIPALITY OF HALTON

BY-LAW NO. XX-20

A BY-LAW TO PROHIBIT SMOKING AND VAPING IN PUBLIC PLACES WITHIN THE REGIONAL MUNICIPALITY OF HALTON AND TO REPEAL BY-LAW NO. 24-09.

WHEREAS subsection 11(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25 (the *Municipal Act*), authorizes Regional Council to pass by-laws respecting the health, safety and well-being of persons;

AND WHEREAS subsection 115(1) of the *Municipal Act* authorizes a municipality to prohibit or regulate the smoking of tobacco or cannabis in public places and workplaces;

AND WHEREAS Regional Council in its capacity as the Region's Board of Health has a duty under the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7 to protect the public from exposure to second-hand smoke.

NOW THEREFORE THE COUNCIL OF THE REGIONAL MUNICIPALITY OF HALTON HEREBY ENACTS AS FOLLOWS:

1.0 DEFINITIONS

In this By-law:

- (a) "ashtray" means a receptacle or similar equipment for tobacco and/or cannabis ashes and for cigarette and cigar butts;
- (b) "cannabis" has the same definition as in section 2(1) of the *Cannabis Act*, S.C. 2018, c. 16;
- (c) "child care centre" means a child care centre within the meaning of the *Child Care and Early Years Act, 2014*, S.O. 2014, c. 11, Sched. 1, and for greater certainty does not include home child care or in-home services as defined in that Act;
- (d) "electronic cigarette" means a vaporizer or inhalant-type device, whether called an electronic cigarette or any other name, that contains a power source and heating element designed to heat a substance and produce a vapour intended to be inhaled by the user of the device directly through the mouth, whether or not the vapour contains nicotine;
- (e) "Enforcement Officer" means a public health inspector acting under the direction of the Medical Officer of Health for the Region or a person appointed by any Local Municipality for the purpose of enforcing the provisions of this By-law;
- (f) i. "entrance or exit", in connection with a municipally owned or leased building, means any entrance or exit used by the public and/or staff to enter or exit the building, but in the case of a building leased only in part by the Municipality

means only such entrance or exit used exclusively for the purpose of entering into or exiting from the premises leased by the Municipality and not for the purpose of entering into or exiting from premises leased by any other tenant(s) or premises used in common with any other tenant(s); “entrance or exit” also means any external serving window of a municipally owned building, or part thereof, which is used as a concession stand;

- ii. “entrance or exit”, in connection with a child care centre, means any entrance or exit used by the children attending the child care centre and/or their parents or guardians to enter or exit the building, but in the case of a building used only in part by the child care centre means only such entrance or exit that is either (a) used only to access the child care centre and no other part of the building or (b) designated by signage as an entrance or exit intended to access the child care centre;
- (g) “Local Municipality” means the Corporation of the City of Burlington, the Town of Oakville, the Town of Milton or the Town of Halton Hills;
- (h) “Municipality” means the Region or a Local Municipality;
- (i) “municipally owned or leased building” means any building owned or leased, in whole or in part, by a Municipality and includes, but is not limited to, municipal offices, community centres, libraries, indoor swimming pools, arenas, museums, art galleries, public washrooms, recreational centres, police stations, fire halls and ambulance stations, but does not include a building used by or for the purposes of the Halton Community Housing Corporation; and “municipally owned building” and “municipally leased building” shall have corresponding meanings;
- (j) “operator”, in connection with a child care centre, means a person who has control or management of the child care centre;
- (k) “public park” means land owned by a Municipality that is designed or used for public recreation including, but not limited to, parklands, parkettes, trails, playgrounds, sports fields, playing fields, beaches and dog parks, and includes any lane and walkway leading thereto, any parking lots connected thereto, and any spectator or player seating areas;
- (l) “Region” means The Regional Municipality of Halton;
- (m) “Regional Council” means the Council of the Region;
- (n) “Smoke-Free Ontario Act, 2017” means the *Smoke-Free Ontario Act, 2017*, S.O. 2017, c. 26, Sched. 3;
- (o) “use”, with respect to electronic cigarettes, includes any of the following:
 - i. inhaling vapour from an electronic cigarette,

- ii. exhaling vapour from an electronic cigarette,
- iii. holding an activated electronic cigarette;

(p) “vape” means to use an electronic cigarette; and “vaping” has a corresponding meaning.

2.0 INTERPRETATION AND SCOPE

2.1 In the event of a conflict between any provisions of this By-law and the Smoke-Free Ontario Act, 2017, the provision that is more restrictive prevails, subject to subsection 18 of the Smoke-Free Ontario Act, 2017.

2.2 Any reference in this By-law to any statutes, regulations or by-laws shall be deemed to be a reference to such statutes, regulations or by-laws, as amended, restated or replaced from time to time.

3.0 PROHIBITIONS

3.1 No person shall smoke or hold lighted tobacco, smoke or hold lighted cannabis, or use an electronic cigarette in the following places:

- (a) within nine (9) metres from any entrance or exit of a municipally owned or leased building,
- (b) within nine (9) metres from any entrance or exit of a child care centre,
- (c) in a public park.

3.2 The application of section 3.1 is not affected by the absence or presence of signage referred to in sections 4.1 and 4.2.

4.0 SIGNS

4.1 Each Municipality shall ensure that no smoking/no vaping signs are posted in a conspicuous manner and not obstructed from view on or immediately next to every entrance or exit of each of its municipally owned and leased buildings and throughout each public park, and that such signs be in sufficient numbers and in locations to clearly identify the prohibition set out in section 3.1.

4.2 Each operator of a child care centre shall ensure that no smoking/no vaping signs are posted in a conspicuous manner and not obstructed from view on or immediately next to every entrance or exit of its child care centre, and that such signs be in sufficient numbers and in locations to clearly identify the prohibition set out in section 3.1.

4.3 The signs required pursuant to sections 4.1 and 4.2 shall be provided to the Local Municipalities and to operators of child care centres by the Region and the costs of producing the signs shall be the Region's responsibility. Each Local Municipality and each operator of a child care centre shall be responsible for advising the Region of the number of signs it requires.

4.4 The owner of a municipally leased building or building used in whole or in part for the purpose of a child care centre shall permit the Municipality or the operator of the child care centre, as applicable, to post the signs required pursuant to section 4.1 or 4.2.

4.5 No person shall remove, cover up, mutilate, deface or alter any sign required to be posted pursuant to section 4.1 or 4.2.

5.0 ASHTRAYS

5.1 The owner of any building to which this By-law applies or of a public park shall ensure that ashtrays are not available for use within any area where the smoking or holding of lighted tobacco or lighted cannabis is prohibited pursuant to section 3.1.

6.0 EXCEPTIONS

6.1 This By-law does not apply to any portion of a highway as defined in the Municipal Act or to any private property other than private property which:

- (a) is owned by the owner of a building to which this By-law applies, and
- (b) constitutes the area within nine (9) metres from any entrance or exit of such building to which this By-law applies, provided that such area is not directly adjacent to a doorway that leads to premises leased by any other tenant(s) or premises used in common with any other tenant(s) of the same building.

7.0 LISTS OF PREMISES TO WHICH THIS BY-LAW APPLIES

7.1 No later than sixty (60) days after this By-law comes into force and effect, the Clerk of each Local Municipality shall provide to the Medical Officer of Health for the Region a list of all buildings owned or leased, in whole or in part, by the Local Municipality and a list of public parks.

8.0 INSPECTIONS AND ENFORCEMENT

8.1 The provision of this By-law may be enforced by Enforcement Officers.

8.2 Enforcement Officers may inspect public parks, any entrance or exit of a municipally owned or leased building or child care centre and the area surrounding any such entrance or exit for the purpose of determining if the provisions of this By-law are being complied with.

9.0 OBSTRUCTION AND FALSE STATEMENT PROHIBITED

9.1 No person shall hinder or obstruct an Enforcement Officer who is acting pursuant to the authority of this By-law.

9.2 No person shall knowingly produce a false document or make a false or misleading statement to an Enforcement Officer who is acting pursuant to the authority of this By-law.

10.0 EVIDENCE

10.1 In a prosecution pursuant to this By-law, a justice presiding over the proceeding may infer that any substance or thing in question is tobacco within the meaning of this By-law from the fact that a witness describes it as tobacco or by a name that is commonly applied to tobacco.

10.2 In a prosecution pursuant to this By-law, a justice presiding over the proceeding may infer that any substance or thing in question is cannabis within the meaning of this By-law from the fact that a witness describes it as cannabis or by a name that is commonly applied to cannabis.

10.3 In a prosecution pursuant to this By-law, a justice presiding over the proceeding may infer that any substance or thing in question is an electronic cigarette within the meaning of this By-law from the fact that a witness describes it as an electronic cigarette or by a name that is commonly applied to an electronic cigarette.

11.0 OFFENCES AND PENALTIES

11.1 Any person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine in accordance with the *Provincial Offences Act*, R.S.O. 1990, c. P.33.

12.0 EFFECTIVE DATE

12.1 This By-law comes into force and effect on the date which is ninety (90) days after the date on which the Clerk of the Region has received certified copies

of resolutions giving consent to this By-law passed by the councils of three of the Local Municipalities.

12.2 By-law No. 24-09 shall be repealed on the date this by-law comes into force and effect.

13.0 HEADINGS FOR REFERENCE ONLY

13.1 The headings inserted in this By-law are for convenience of reference only and shall not affect the construction or interpretation of this By-law.

14.0 SEVERABILITY

14.1 If, for any reason, any provision of this By-law is held invalid, it is hereby declared to be the intention of Council that all the remainder of this By-law shall continue in full force and effect until repealed, re-enacted or amended, in whole or in part, or dealt with in any other way.

15.0 SHORT TITLE

15.1 The short title of this By-law is the "Halton Region Smoking/Vaping By-law".

READ and PASSED this ____ day of _____, 2020.

REGIONAL CHAIR

REGIONAL CLERK

Report No. MO-XX-XX

Under the *Smoke-Free Ontario Act, 2017* and *O. Reg 268/18*, places where the smoking of tobacco and cannabis and use of an electronic cigarette are prohibited include:

- Enclosed public places or workplaces
- Outdoor grounds of schools, and all public places within 20 metres of these grounds
- Indoor common areas in condos, apartment buildings and university/college residences
- Child care centres or where an early years program is provided
- Places where home child care is provided
- Reserved seating areas at outdoor sports and entertainment locations
- Outdoor grounds of hospitals (public/private) and psychiatric facilities
- Nine metres from the entrance or exit of hospitals (public/private), psychiatric facilities, long-term care homes, independent health facilities
- Outdoor grounds of certain provincially-owned office buildings
- Restaurant/bar patios and public areas within nine metres (excluding certain veterans' organizations)
- Children's playgrounds and public areas within 20 metres
- Publicly owned sporting areas, spectator areas adjacent to sporting areas and public areas within 20 metres
- Sheltered outdoor areas with a roof and more than two walls which the public or employees frequent, or are invited to (e.g. bus shelter)
- Outdoor grounds of community recreational facilities, and public areas within 20 metres of those grounds
- Vehicles or boats that are being driven or is at risk of being put in motion (cannabis only)
- Motor vehicles when a person under the age of 16 is present (smoking of tobacco and use of an electronic cigarette)

THE REGIONAL MUNICIPALITY OF HALTON

BY-LAW NO. 40-20

A BY-LAW TO PROHIBIT SMOKING AND VAPING IN PUBLIC PLACES WITHIN THE REGIONAL MUNICIPALITY OF HALTON AND TO REPEAL BY-LAW NO. 24-09.

WHEREAS subsection 11(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25 (the *Municipal Act*), authorizes Regional Council to pass by-laws respecting the health, safety and well-being of persons;

AND WHEREAS subsection 115(1) of the *Municipal Act* authorizes a municipality to prohibit or regulate the smoking of tobacco or cannabis in public places and workplaces;

AND WHEREAS Regional Council in its capacity as the Region's Board of Health has a duty under the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7, to protect the public from exposure to second-hand smoke.

NOW THEREFORE THE COUNCIL OF THE REGIONAL MUNICIPALITY OF HALTON HEREBY ENACTS AS FOLLOWS:

1.0 DEFINITIONS

1.1 In this By-law:

- (a) "ashtray" means a receptacle or similar equipment for tobacco and/or cannabis ashes and for cigarette and cigar butts;
- (b) "cannabis" has the same definition as in section 2(1) of the *Cannabis Act*, S.C. 2018, c. 16;
- (c) "child care centre" means a child care centre within the meaning of the *Child Care and Early Years Act, 2014*, S.O. 2014, c. 11, Sched. 1, and for greater certainty does not include home child care or in-home services as defined in that Act;
- (d) "electronic cigarette" means a vaporizer or inhalant-type device, whether called an electronic cigarette or any other name, that contains a power source and heating element designed to heat a substance and produce a vapour intended to be inhaled by the user of the device directly through the mouth, whether or not the vapour contains nicotine;
- (e) "Enforcement Officer" means a public health inspector acting under the direction of the Medical Officer of Health for the Region or a

person appointed by any Local Municipality for the purpose of enforcing the provisions of this By-law;

(f) i) "entrance or exit", in connection with a municipally owned or leased building, means any entrance or exit used by the public and/or staff to enter or exit the building, but in the case of a building leased only in part by the Municipality means only such entrance or exit used exclusively for the purpose of entering into or exiting from the premises leased by the Municipality and not for the purpose of entering into or exiting from premises leased by any other tenant(s) or premises used in common with any other tenant(s); "entrance or exit" also means any external serving window of a municipally owned building, or part thereof, which is used as a concession stand;

ii) "entrance or exit", in connection with a child care centre, means any entrance or exit used by the children attending the child care centre and/or their parents or guardians to enter or exit the building, but in the case of a building used only in part by the child care centre means only such entrance or exit that is either (a) used only to access the child care centre and no other part of the building or (b) designated by signage as an entrance or exit intended to access the child care centre;

(g) "Local Municipality" means the Corporation of the City of Burlington, the Town of Oakville, the Town of Milton or the Town of Halton Hills;

(h) "Municipality" means the Region or a Local Municipality;

(i) "municipally owned or leased building" means any building owned or leased, in whole or in part, by a Municipality and includes, but is not limited to, municipal offices, community centres, libraries, indoor swimming pools, arenas, museums, art galleries, public washrooms, recreational centres, police stations, fire halls and ambulance stations, but does not include a building used by or for the purposes of the Halton Community Housing Corporation; and "municipally owned building" and "municipally leased building" shall have corresponding meanings;

(j) "operator", in connection with a child care centre, means a person who has control or management of the child care centre;

(k) "public park" means land owned by a Municipality that is designed or used for public recreation including, but not limited to, parklands, parkettes, trails, playgrounds, sports fields, playing fields, beaches and dog parks, and includes any lane and walkway leading

thereto, any parking lots connected thereto, and any spectator or player seating areas;

(l) "Region" means The Regional Municipality of Halton;

(m) "Regional Council" means the Council of the Region;

(n) "Smoke-Free Ontario Act, 2017" means the *Smoke-Free Ontario Act, 2017*, S.O. 2017, c. 26, Sched. 3;

(o) "use", with respect to electronic cigarettes, includes any of the following:

- i) inhaling vapour from an electronic cigarette,
- ii) exhaling vapour from an electronic cigarette,
- iii) holding an activated electronic cigarette;

(p) "vape" means to use an electronic cigarette; and "vaping" has a corresponding meaning.

2.0 INTERPRETATION AND SCOPE

2.1 In the event of a conflict between any provisions of this By-law and the Smoke-Free Ontario Act, 2017, the provision that is more restrictive prevails, subject to subsection 18 of the Smoke-Free Ontario Act, 2017.

2.2 Any reference in this By-law to any statutes, regulations or by-laws shall be deemed to be a reference to such statutes, regulations or by-laws, as amended, restated or replaced from time to time.

3.0 PROHIBITIONS

3.1 No person shall smoke or hold lighted tobacco, smoke or hold lighted cannabis, or use an electronic cigarette in the following places:

- (a) within nine (9) metres from any entrance or exit of a municipally owned or leased building,
- (b) within nine (9) metres from any entrance or exit of a child care centre,
- (c) in a public park.

3.2 The application of section 3.1 is not affected by the absence or presence of signage referred to in sections 4.1 and 4.2.

4.0 SIGNS

- 4.1 Each Municipality shall ensure that no smoking/no vaping signs are posted in a conspicuous manner and not obstructed from view on or immediately next to every entrance or exit of each of its municipally owned and leased buildings and throughout each public park, and that such signs be in sufficient numbers and in locations to clearly identify the prohibition set out in section 3.1.
- 4.2 Each operator of a child care centre shall ensure that no smoking/no vaping signs are posted in a conspicuous manner and not obstructed from view on or immediately next to every entrance or exit of its child care centre, and that such signs be in sufficient numbers and in locations to clearly identify the prohibition set out in section 3.1.
- 4.3 The signs required pursuant to sections 4.1 and 4.2 shall be provided to the Local Municipalities and to operators of child care centres by the Region and the costs of producing the signs shall be the Region's responsibility. Each Local Municipality and each operator of a child care centre shall be responsible for advising the Region of the number of signs it requires.
- 4.4 The owner of a municipally leased building or building used in whole or in part for the purpose of a child care centre shall permit the Municipality or the operator of the child care centre, as applicable, to post the signs required pursuant to section 4.1 or 4.2.
- 4.5 No person shall remove, cover up, mutilate, deface or alter any sign required to be posted pursuant to section 4.1 or 4.2.

5.0 ASHTRAYS

- 5.1 The owner of any building to which this By-law applies or of a public park shall ensure that ashtrays are not available for use within any area where the smoking or holding of lighted tobacco or lighted cannabis is prohibited pursuant to section 3.1.

6.0 EXCEPTIONS

- 6.1 This By-law does not apply to any portion of a highway as defined in the Municipal Act or to any private property other than private property which:

- (a) is owned by the owner of a building to which this By-law applies, and
- (b) constitutes the area within nine (9) metres from any entrance or exit of such building to which this By-law applies, provided that such area is not directly adjacent to a doorway that leads to premises leased by any other tenant(s) or premises used in common with any other tenant(s) of the same building.

7.0 LISTS OF PREMISES TO WHICH THIS BY-LAW APPLIES

- 7.1 No later than sixty (60) days after this By-law comes into force and effect, the Clerk of each Local Municipality shall provide to the Medical Officer of Health for the Region a list of all buildings owned or leased, in whole or in part, by the Local Municipality and a list of public parks.

8.0 INSPECTIONS AND ENFORCEMENT

- 8.1 The provision of this By-law may be enforced by Enforcement Officers.
- 8.2 Enforcement Officers may inspect public parks, any entrance or exit of a municipally owned or leased building or child care centre and the area surrounding any such entrance or exit for the purpose of determining if the provisions of this By-law are being complied with.

9.0 OBSTRUCTION AND FALSE STATEMENT PROHIBITED

- 9.1 No person shall hinder or obstruct an Enforcement Officer who is acting pursuant to the authority of this By-law.
- 9.2 No person shall knowingly produce a false document or make a false or misleading statement to an Enforcement Officer who is acting pursuant to the authority of this By-law.

10.0 EVIDENCE

- 10.1 In a prosecution pursuant to this By-law, a justice presiding over the proceeding may infer that any substance or thing in question is tobacco within the meaning of this By-law from the fact that a witness describes it as tobacco or by a name that is commonly applied to tobacco.

10.2 In a prosecution pursuant to this By-law, a justice presiding over the proceeding may infer that any substance or thing in question is cannabis within the meaning of this By-law from the fact that a witness describes it as cannabis or by a name that is commonly applied to cannabis.

10.3 In a prosecution pursuant to this By-law, a justice presiding over the proceeding may infer that any substance or thing in question is an electronic cigarette within the meaning of this By-law from the fact that a witness describes it as an electronic cigarette or by a name that is commonly applied to an electronic cigarette.

11.0 OFFENCES AND PENALTIES

11.1 Any person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine in accordance with the *Provincial Offences Act*, R.S.O. 1990, c. P.33.

12.0 EFFECTIVE DATE AND REPEAL

12.1 This By-law comes into force and effect on the date which is ninety (90) days after the date on which the Clerk of the Region has received certified copies of resolutions giving consent to this By-law passed by the councils of three of the Local Municipalities.

12.2 By-law No. 24-09 shall be repealed on the date this by-law comes into force and effect.

13.0 HEADINGS FOR REFERENCE ONLY

13.1 The headings inserted in this By-law are for convenience of reference only and shall not affect the construction or interpretation of this By-law.

14.0 SEVERABILITY

14.1 If, for any reason, any provision of this By-law is held invalid, it is hereby declared to be the intention of Council that all the remainder of this By-law shall continue in full force and effect until repealed, re-enacted or amended, in whole or in part, or dealt with in any other way.

15.0 SHORT TITLE

15.1 The short title of this By-law is the "Halton Region Smoking/Vaping By-law".

READ and PASSED this 15th day of July, 2020.



REGIONAL CHAIR

REGIONAL CLERK

Report: MO-15-20