

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