



OAKVILLE

## REPORT

COMMUNITY SERVICES COMMITTEE

MEETING DATE: JUNE 17, 2019

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**FROM:** Municipal Enforcement Services

**DATE:** May 27, 2019

**SUBJECT:** **Review of Regulations Surrounding Vapour Product Businesses and Vapour Use in Park Areas - By-law 2019-065**

**LOCATION:** Town wide

**WARD:** Town wide

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### RECOMMENDATION:

1. That By-law 2019-065, a by-law to amend by-law 2013-013 (The Parks By-law), attached as Appendix A to the report from the Municipal Enforcement Services department, dated May 27, 2019 be passed.
2. That staff be directed to include the licensing and regulation of businesses selling vapour (vape, e-cigarette) products within the Town of Oakville as part of the Licensing By-law Housekeeping review, to be brought back to Council by the first quarter of 2020.

### KEY FACTS:

The following are key points for consideration with respect to this report:

- The *Smoke free Ontario Act, 2006* (SFOA) came into effect on May 31, 2006
  - Making all enclosed public and workspaces 100% smoke-free
  - Halton Region Health are responsible for enforcement of the SFOA
- On October 17, 2018 the *Smoke-Free Ontario Act, 2017* was passed replacing the previous SFOA
- The SFOA 2017 restricts the use of vaping products and cannabis anywhere smoking is prohibited and includes:
  - 9 meter perimeter around restaurant or bar patios
  - 20 meter perimeter around school property
  - 20 meter perimeter around children's playgrounds and publicly owned sporting areas
  - 20 meter perimeter around community recreational facility grounds
- Staff consulted with members of the Halton Region Health Department to discuss the regulatory changes made to the SFOA and current enforcement practices

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- The proposed amendment makes the parks by-law consistent with provincial regulations
- This change will be communicated to all sports groups using town recreational facilities and notice will be placed on the town website and monitors located in community centres
- A feasibility review of licensing vape product sales was also conducted and it was determined that regulations could be included in the upcoming licensing by-law housekeeping review – scheduled for the first quarter of 2020

**BACKGROUND:**

On Monday, February 25, 2019, Town Council approved the following recommendation:

**“That staff be requested to report back to the Community Services Committee by the end of the second quarter 2019 on the licensing and regulation of businesses selling vapour (vape, e-cigarette) products within the Town of Oakville and the prohibition of the use of vapour products in park areas where the smoking of tobacco products is prohibited as noted in Town of Oakville By-law 2013-013 Paragraph 11(d)”**

Since the parks by-law was last updated, there have been several changes with respect to the types of products available for inhaling/exhaling, and the methods being used to inhale and exhale these products (e.g., vaping). There has also been an increase in the variety of equipment or apparatuses used by individuals when engaging in these activities.

The SFOA, which was passed on May 31, 2006, banned smoking in all enclosed public spaces and workspaces (such as restaurants, bars, private clubs, work vehicles and offices), and imposed stricter regulations for the selling of tobacco to those under 19 years of age.

On February 23, 2015, Council passed by-law number 2015-017, a by-law to amend the parks by-law. The by-law included sections that prohibited smoking within twenty (20) meters of a playground, splash pad, basketball court, tennis court, sports field or any sporting area, spectator area adjacent to sporting area, area primarily used for the purpose of children’s recreation, or other place where children tend to congregate. This was due to changes to the SFOA that came into effect on January 1, 2015. The change made the by-law consistent with provincial regulations at the time.

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On October 17, 2018 recreational cannabis became legalized and the *Cannabis Statute Law Amendment Act, 2018* came into effect, which resulted in changes to the SFOA.

The SFOA 2017 makes it illegal to smoke tobacco, cannabis and to use an electronic cigarette/vape within all recreation facilities and within twenty (20) meters from the property lines. This Act also has a twenty (20) meter setback from all playgrounds and sporting areas including spectator areas. Further restrictions on places where smoking, vaping and cannabis use are prohibited include:

- 9-meter perimeter around restaurant or bar patios
- 20-meter perimeter around school property
- 20-meter perimeter around children's playgrounds and publicly owned sporting areas
- 20-meter perimeter around community recreational facility grounds

This report recommends that Council approve an amendment to the parks by-law 2013-013 so it is consistent with provincial legislation with respect to prohibited vaping and cannabis use anywhere smoking is prohibited. In addition, provides a process to further add licensing businesses who sell vaping products to the licensing by-law.

#### **COMMENT/OPTIONS:**

The parks by-law prohibits smoking within town parks and recreation facilities. The by-law currently applies only to smoking tobacco on town owned parks and recreational properties. SFOA 2017, which prohibits smoking of tobacco, cannabis and vaping any substance, already applies to some of the locations covered by the parks by-law. Amending the by-law to incorporate smoking of cannabis and vaping would create a uniform approach in all parks and recreational properties in Oakville.

Other municipalities that have incorporated smoking of cannabis and vaping into outdoor recreational spaces by-laws include: Barrie, Brant, Durham Region (Whitby, Oshawa), Gananoque, Guelph, Hamilton, Huron County, Kingston, Markham, Norfolk County, Niagara, Orillia, Ottawa, Peterborough, Prince Edward County, Richmond Hill, Selwyn, Tecumseh, Windsor, and others. In addition, the following municipalities are currently considering an amendment to outdoor recreational by-laws, Woodstock, Peel Region, and Quinte West.

#### **Enforcement**

Enforcement will remain with the Halton Region Health Department. They currently have 12 inspectors who proactively inspect schools and stores and two inspectors who enforce *Smoke-Free Ontario Act* complaints including parks and restaurants.

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Occasional enforcement from town municipal enforcement officers while they are engaged in duties within town parks (i.e. enforcing dogs off leash, dumping, park encroachment issues) can also be expected.

### **Licensing Options for businesses selling vapour products**

The goal of licensing is to address issues related to public health and safety, consumer protection, nuisance control and the general well-being of persons. Staff are recommending that an amendment to include a licensing category for businesses selling vapour products and an update to the Tobacconist licensing category be included in the upcoming housekeeping review of the licensing by-law. This will allow staff the time required to consult with the Health Department, stakeholders and members of the public. In addition, staff and Council will be able to consider this issue in a more holistic manner with the rest of the licensing by-law.

Optional licensing requirements may include

- Applicant must provide proof of completion of the online Smoke-Free Ontario Tobacco vendor training test or the e-cigarette vendor training test upon initial licence application and renewal
- Make SFOA convictions a violation of the licence
- Implement “three strikes, you’re out” (permanent licence revocation) approach if a business owner is convicted of multiple SFOA offences
- A ban on the sale of tobacco on municipal property

### **Summary**

A restriction on smoking tobacco, cannabis and vaping in public parks and trails will promote a healthy community lifestyle. Benefits can include

- Protect people from being exposed to harmful effects of second-hand smoke
- Help smokers reduce or consider quitting altogether
- Reduce the visibility of smoking making it less socially acceptable to children and youth
- Reduce litter and related cleanup costs
- Decreases negative role modeling for children
- Decrease the chance of a fire

The proposed changes will make the Parks By-law consistent with provincial regulations specifically the SFOA, 2017.

This change will be communicated to all sports groups using town indoor and outdoor facilities and notice will be placed on the town website and monitors located in community centres to advise the public of the change.

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**CONSIDERATIONS:**

**(A) PUBLIC**

Notice of this report was provided to all active Residents Associations. An advertisement was placed in the Oakville Beaver on June 13, 2019 and on the town's website notifying residents of the proposed by-law.

**(B) FINANCIAL**

There would be costs associated with upgrading the current signage to reflect the changes noted in this report. The costs can be accommodated within the Parks and Open Space approved 2019 operating budget.

**(C) IMPACT ON OTHER DEPARTMENTS & USERS**

There is no impact on other departments at this time.

**(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS**

This report addresses the corporate strategic goal to:

- continuously improve our programs and services
- be accountable in everything we do
- have accessible programs/services
- be the most livable town in Canada

**(E) COMMUNITY SUSTAINABILITY**

This further restriction on prohibiting cannabis and vaping in Town of Oakville parks and recreational facilities is a Health Issue. The social and cultural pillars of sustainability are addressed and is consistent with the Region of Halton and the Province of Ontario's objectives of the Smoke-Free Ontario Act.

**APPENDICES:**

Appendix A – By-law 2019-065 a by-law to amend by-law 2013-013

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