

THE REGIONAL MUNICIPALITY OF NIAGARA

**(CONSOLIDATED) BY-LAW NO. 112-2-13**

A REGIONAL BY-LAW TO PROTECT CHILDREN AND VULNERABLE PERSONS  
FROM EXPOSURE TO OUTDOOR SECOND-HAND SMOKE **AND VAPING**

**WHEREAS** subsection 115(1) of the *Municipal Act, 2001*, S.O. 2001, c.25 as amended provides that a municipality may prohibit or regulate the smoking of tobacco **or cannabis** in public places;

**AND WHEREAS** the *Smoke-Free Ontario Act, 2017*, S.O. 2017, c. 26 as amended prohibits smoking tobacco or cannabis and vaping (use electronic cigarette), but Regional By-Law No. 112-2013 only prohibits smoking tobacco;

**AND WHEREAS** it has been determined that smoking and second-hand tobacco **and cannabis** smoke is a health hazard or discomfort for individuals residing in or visiting The Regional Municipality of Niagara (hereinafter, "Niagara Region");

**AND WHEREAS** smoke-free policy interventions are effective mechanisms to reduce exposure to tobacco smoke, prevent initiation of smoking, encourage cessation of smoking, support recent quitters, and contribute to the denormalization of ~~tobacco~~-uses **smoking**;

**AND WHEREAS** Niagara Region therefore wishes to prohibit tobacco **and cannabis** smoking **and vaping (use electronic cigarette)** in outdoor public places for the health of the public generally, and particularly for the benefit of young persons, and to improve the environmental and social conditions in public places;

**AND WHEREAS** Section 115(5) of the said Act provides that a by-law passed under subsection 115(1) shall not come into force unless,

- (a) a majority of all votes on the Council of the upper-tier municipality are cast in its favour;
- (b) a majority of the Councils of all the lower-tier municipalities forming part of the upper-tier municipality for municipal purposes have passed resolutions giving their consent to the by-law; and
- (c) the total number of electors in the lower-tier municipalities that have passed resolutions under clause (b) form a majority of all the electors in the upper-tier municipality.

**NOW THEREFORE** BE IT RESOLVED THAT the Council of The Regional Municipality of Niagara enacts as follows:

## DEFINITIONS AND INTERPRETATION

1. (1) The following definitions shall be used in interpreting and applying this by-law:

"**authorized person**" means an individual designated or authorized by Niagara Region or an area municipality whose duties include, without limitation, tobacco, **cannabis or electronic cigarette** control or the monitoring of regional or municipal property for the purpose of addressing unauthorized activities;

"**area municipality**" means any one of the municipalities of the Town of Fort Erie, Town of Grimsby, Town of Lincoln, City of Niagara Falls, Town of Niagara-on-the-Lake, Town of Pelham, City of Port Colborne, City of St. Catharines, City of Thorold, Township of Wainfleet, City of Weiland and the Township of West Lincoln.

"**outdoor public place**" means any property owned, leased or controlled by the Niagara Region or any area municipality, including without limitation parks, playgrounds, sports or playing fields, arenas, recreational centres, bus shelters, splash pads, pools and any area that is within a nine-metre radius of an entrance to or exit from a building located on any property owned, leased or controlled by the Niagara Region or any area municipality, whether or not a "No Smoking" or "**No Vaping**" sign is posted, but does not include the following:

- a. highways;
- b. road allowances abutting a regional or municipal property;
- c. municipal sidewalks, save and except for that portion of any municipal sidewalk that is within a nine-metre radius of any entrance to or exit from a building located on any property owned, leased or controlled by the Niagara Region or any area municipality;
- d. parking lots or any area designated for the parking of motor vehicles;
- e. beaches;
- f. walking or hiking trails;
- g. rights-of-way; and
- h. residential dwellings owned, operated or subsidized by Niagara Regional Housing or an area municipality;

"**smoke**" or "**smoking**" includes the holding of tobacco or **cannabis** or other lighted smoking material or equipment while the product is alight or emitting smoke;

"**tobacco**" includes pipe tobacco, water-pipe tobacco, cigarettes, cigars, cigarillos or any similar product made with or containing tobacco;

**“cannabis” has the same meaning as in subsection 2 (1) of the *Cannabis Act* (Canada); (“cannabis”)**

**“electronic cigarette” has the same meaning as in subsection 1 (1) of the *Smoke-Free Ontario Act, 2017***

## **PROHIBITION**

- 2.(1) No person shall smoke tobacco **or cannabis, or vape (use electronic cigarette)** upon or within an outdoor public place.
- 2.(2) The prohibition in section 2.(1) above applies whether or not a "No Smoking" or **“No Vaping”** sign of any format or content is posted.
- 2.(3) No person shall remove a sign posted under this section while the prohibition remains in force.
- 2.(4) No person shall hinder or obstruct an authorized person lawfully carrying out the enforcement of this by-law.

## **OFFENCE and SET FINE**

- 3.(1) Any person who contravenes a provision of this by-law is guilty of an offence and, upon conviction, is liable to a set fine of \$250.00.

## **ENFORCEMENT**

- 4.(1) The provisions of this by-law respecting smoking in an outdoor public place shall be enforced by any authorized person as designated by the Niagara Region or an area municipality.

## **CONFLICTS**

- 5.(1) If a provision of this by-law conflicts with an Act or a regulation or another by-law, the provision that is the most restrictive of smoking shall prevail.

## **SEVERABILITY**

- 6.(1) If any section or part of this by-law are found by any Court of competent jurisdiction to be invalid, such section or part shall be deemed to be severable and all other sections of this by-law shall remain valid and enforceable.

**Bill 112**  
**ENACTMENT**

7.(1) This by-law shall come into force on the day that it is approved in accordance with section 115(5) of the *Municipal Act, 2001*, S.O. 2001, C.25 **as amended**.

**EFFECTIVE BY-LAW DATE**

8. This by-law shall come into force on the date specified by the Regional Clerk as the date when the following have been achieved:
- a) A majority of the Councils of all of the lower-tier municipalities forming part of The Regional Municipality of Niagara have passed resolutions giving consent to this by-law: and
  - b) The total number of electors in the lower-tier municipalities that have passed resolutions under clause (a) above form a majority of all the electors in The Regional Municipality of Niagara.

THE REGIONAL MUNICIPALITY OF NIAGARA

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*Original Signed By:*

\_\_\_\_\_  
(James Bradley, Regional Chair)

*Original Signed By:*

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(, Regional Clerk)