

**Response Summary**  
**CLK-C 39-2019**  
**Amendments to By-law No. 112-2013**  
**A by-law to protect vulnerable people from second-hand smoke**  
**PHD 2-2019 Revised**  
**Minute Item 6.2, PHSSC 1-2019, January 8, 2019**

<b>Municipality</b>	<b>Dated</b>	<b>Response</b>	<b>Population</b>	<b>Eligible Electors</b>
*as of the 2018 Municipal Election			<b>447,888</b>	<b>326,684</b>
<a href="#">Fort Erie</a>	2019-02-12	Consents to the amendments	30,710	23,460
Grimsby			27,314	20,398
<a href="#">Lincoln</a>	2019-04-17	Consents to the amendments	23,787	16,974
<a href="#">Niagara Falls</a>	2019-03-27	Consents to the amendments	88,071	60,892
<a href="#">Niagara-on-the-Lake</a>	2019-02-14	Consents to the amendments	17,511	14,237
<a href="#">Pelham</a>	2019-02-08	Refer to staff to review and report back	0	0
<a href="#">Pelham</a>	2019-02-21	Consents to the amendments	17,110	13,910
Port Colborne			18,306	15,208
<a href="#">St. Catharines</a>	2019-03-19	Consents to the amendments	133,113	92,133
<a href="#">Thorold</a>	2019-02-21	Consents to the amendments	18,801	14,471
<a href="#">Wainfleet</a>	2019-02-19	Consents to the amendments	6,372	5,786
<a href="#">Welland</a>	2019-02-13	Consents to the amendments	52,293	37,879
<a href="#">West Lincoln</a>	2019-01-29	Consents to the amendments	14,500	11,336
<b>Overall Total</b>			<b>402,268</b>	<b>291,078</b>
<b>Percentage</b>			<b>89.8%</b>	<b>89.1%</b>
<a href="#">Thorold</a>	2019-02-21	Triple majority of area municipalities achieved	<b>157,297</b>	<b>121,079</b>
			<b>35.11%</b>	<b>37.06%</b>
<a href="#">St. Catharines</a>	2019-03-19	Triple majority of eligible electors achieved	<b>290,410</b>	<b>213,212</b>
			<b>64.83%</b>	<b>65.26%</b>



**Administration**

Office of the Regional Clerk

1815 Sir Isaac Brock Way, PO Box 1042, Thorold, ON L2V 4T7

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January 23, 2019

**AREA MUNICIPAL CLERKS**

**SENT ELECTRONICALLY**

**Re: Notice of Passing of By-law to Amend By-law 112-2013 Being a By-law to Protect Children and Vulnerable Persons from Exposure to Outdoor Second-Hand Smoke - Triple Majority Requirement  
PHD 02-2019, January 8, 2019**

Regional Council, at its meeting of January 17, 2019, approved the following recommendation of its Public Health and Social Services Committee:

1. That By-law No. 112-2013 **BE UPDATED** to harmonize with the Smoke Free Ontario Act to include vaping and cannabis, as an interim measure for consistency, with an appropriate sunset clause;
2. That staff **BE DIRECTED** to consult with the Local Area Municipalities (LAMs) and the public to build a consensus on an updated regional by-law to protect children and vulnerable persons from exposure to outdoor second-hand smoke;
3. That staff **BE DIRECTED** to report back to PHSSC in a timely manner on the learnings from this consultation with the recommended next steps.

By-law No. 2019-07 was subsequently passed; however, the by-law is not valid until triple majority status is achieved.

Pursuant to Section 115(5) of the *Municipal Act, 2001*, 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.

Section 219(5) of the *Municipal Act, 2001* defines “elector” as a person whose name appears on the voters’ list, as amended up until the close of voting on voting day, for the last regular election preceding the coming into force of the by-law.

The number of electors as defined above for each area municipality is set out below. In the event your number is incorrect, please advise me as soon as possible.

Local Area Municipality	Population	Eligible Electors
Fort Erie	30,710	23,460
Grimsby	27,314	20,398
Lincoln	23,787	16,974
Niagara Falls	88,071	60,892
Niagara-on-the-Lake	17,511	14,237
Pelham	17,110	13,910
Port Colborne	18,306	15,208
St. Catharines	133,113	92,133
Thorold	18,801	14,471
Wainfleet	6,372	5,786
Welland	52,293	37,879
West Lincoln	14,500	11,336
<b>Total for Region</b>	<b>447,888</b>	<b>326,684</b>

\*as of the 2018 Municipal Election

We respectfully request that you place this matter before your Council at your earliest opportunity to consider a resolution consenting to the by-law and advise accordingly of the action taken by your Council.

A copy of Report PHD 02-2019 *REVISED* and By-law No.2019-07 are enclosed for your information.

Thanking you in advance for your assistance and should you require anything further, please do not hesitate to contact me.

Yours truly,

A handwritten signature in dark ink, appearing to read 'Ann Marie' followed by a stylized flourish.

Ann-Marie Norio  
Regional Clerk

CLK-C 2019-39

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**Subject:** Outdoor Second-hand Smoking By-law Amendment – **REVISED**

**Report to:** Public Health and Social Services Committee

**Report date:** Tuesday, January 8, 2019

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## Recommendations

1. ***That By-law No. 112-2013 BE UPDATED to harmonize with the Smoke Free Ontario Act to include vaping and cannabis, as an interim measure for consistency, with an appropriate sunset clause;***
2. That staff **BE DIRECTED** to consult with the Local Area Municipalities (LAMs) on revisions to By-law No. 112-2013 ***and the public to build a consensus on an updated*** regional by-law to protect children and vulnerable persons from exposure to outdoor second-hand smoke as follows; and
  - a) ~~Addition of cannabis and e-cigarettes to substances prohibited from use in public outdoor spaces.~~
  - b) ~~Addition to the list of prohibited places of use including nine metres from any public building entrance and/or exit.~~
3. That staff **BE DIRECTED** to report back to PHSSC in a timely manner on the learnings from this consultation with the recommended next steps.

## Key Facts

- The Province of Ontario passed the *Smoke-Free Ontario Act, 2017 (SFOA)*, which prohibits spaces where individuals can smoke or vape. Changes to this legislation expand beyond tobacco to include cannabis and all vaping products.
- Niagara's By-Law No. 112-2013 aims to protect children and vulnerable persons from exposure to outdoor second-hand tobacco smoke, which does not address the second-hand smoke exposure to cannabis or second-hand vapour exposure from ***electronic*** e-cigarettes through outdoor spaces.
- Local data suggests support in Niagara to harmonize the Regional By-law with SFOA by including vaping and cannabis, in addition to tobacco, ~~as well as support for restrictions around entrances and exits.~~ ***as an interim measure to ensure consistency and avoid confusion***
- Consultation internally, across Regional departments is important, ~~as well as consultation with the LAMs~~ ***and the public, is important to assess support to develop the next version of the Regional By-law, by consensus across all municipalities.***

## **Financial Considerations**

The Ministry of Health and Long Term Care (MOHLTC) provides multiple funding sources to support the Smoke-Free Ontario strategy at 100% with the approved budget of \$668,600 for 2018. This funding supports five FTE Tobacco Control Officers (TCO) responsible for the promotion, education, enforcement of the *SFOA* and Niagara Region's By-law 112-2013.

The province has announced that it will provide \$40 million over two years to help municipalities with costs related to the legalization of cannabis.<sup>1</sup> In the first phase, \$15 million is to be disbursed in early January 2019, this has been allocated for each municipality. The allocation of these funds to Public Health will be determined once funding amounts have been finalized.

NRPH & ES received 281 complaints, requests and inquiries related to tobacco, cannabis and e-cigarette products in 2018. Of these calls, 82 were complaints related to use of tobacco products being used in places thought to be prohibited places. NRPH & ES has requested funding from MOHLTC to support increased staff time related to cannabis enforcement and prevention work. At the time of writing this report there has been no response to the funding request.

## **Analysis**

### **SFOA, 2017 Updates**

The *SFOA* restricts tobacco sale, supply and places of use; changes to the *SFOA* now include cannabis and vaping products in those restrictions.

### **SFOA Prohibited Place Examples**

- Enclosed public places
- Enclosed work places
- Condos, apartment buildings and university/college residents
  - Application: Common areas
- Playgrounds
  - Application: Perimeter plus 20 metres
- Sports fields
  - Application: Patio plus 20 metres
- Restaurant bar patios
  - Application: Patio plus nine metres

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<sup>1</sup> Fedeli, V. Ontario Cannabis Legalization Implementation Fund — Heads of Council Letter [Internet]. Toronto, ON: Ministry of Finance; 2018 [cited 2018 Dec 10]. Available from: <https://www.fin.gov.on.ca/en/budget/oclif/>

- Hospitals, psychiatric facilities, community health facilities
  - Application: Grounds of facility
- Child care Centre
  - Application: Grounds of facility

## Niagara's By-Law No. 112-2013

### Tobacco

In 2012, NRPH & ES conducted public consultations and found that 88% of the 1,907 Niagara residents surveyed supported a by-law restricting smoking in outdoor public settings.<sup>2</sup> In order to protect the public from second-hand exposure to outdoor smoke, Niagara passed By-law No. 112-2013, which prohibits smoking tobacco on the grounds of all municipal and regional properties, parks, playground, sports fields, splash pads, outdoor pools, arenas and bus shelters. The by-law has a strong focus on protecting children and youth, and this includes denormalization. Also, those who wish to quit find that fewer visual cues and denormalization of smoking is helpful.

Strengthening local by-laws to reduce second-hand exposure to tobacco in outdoor spaces, has been ranked as a highly impactful policy change to protect the public from tobacco smoke.<sup>3</sup> ~~Prohibiting tobacco and cannabis smoke and vaping of any product within nine metres of public entrances and exits will be a consideration during consultations.~~

Beyond tobacco, the *SFOA* now prohibits the use of cannabis and e-cigarettes in public spaces. The benefits of aligning the By-law No. 112-2013 with the *SFOA* by the inclusion of cannabis and e-cigarettes are:

1. Protecting individuals, especially children and vulnerable populations from second-hand smoke exposure
2. Preventing the normalization of tobacco, cannabis, e-cigarette use amongst youth
3. Creating supportive environments for individuals that are motivated to quit or cut back from use of tobacco, cannabis or e-cigarettes

### Cannabis

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<sup>2</sup> Smoke-Free Outdoor Spaces Public Consultation Report, Niagara Region Public Health [Summer 2012]

<sup>3</sup> Smoke-Free Ontario Scientific Advisory Committee. Evidence to Guide Action: Comprehensive tobacco control in Ontario [Internet]. Toronto, ON: Public Health Ontario [cited 2018 Dec 10]. Available from: <https://www.publichealthontario.ca/en/BrowseByTopic/ChronicDiseasesAndInjuries/Pages/smoke-free-ontario.aspx>

Cannabis has been criminalized in Canada since 1923, yet prior to legalization 46.4% of adults in Niagara indicated that they have used cannabis at least once in their lifetime and 12.2% used cannabis in the past 12 months.<sup>4</sup> Within Niagara's secondary schools 35% have used cannabis in the past 12 months and 23% have used cannabis in the past 4 weeks.<sup>5</sup> The Canadian Cannabis Survey (2018) included 12,958 respondents and found the most common form of consumption of cannabis was through smoking (89%), followed by edibles (42%), and e-cigarettes (26%).<sup>6</sup> Research has found that second-hand exposure to cannabis smoke and tobacco smoke have similar chemical composition.<sup>7, 8</sup> Holitzki et. al recommend an alignment in tobacco and cannabis policy by prohibiting outdoor spaces where products can be used.<sup>9</sup> *Including cannabis as a prohibited drug to smoke or vape into the amended by-law will be a consideration during consultations.*

## E-cigarettes

Electronic Cigarettes are known as e-cigarettes, e-cigs or vapes, and typically include a rechargeable battery, a heating element, and an e-juice containing chemical ingredients, which forms a vapour when inhaled. E-cigarettes do not contain tobacco but generally contain nicotine, which may lead to addiction in those who vape but aren't smokers. E-cigarettes contain more than 80 compounds, such as particles, metals, nitrosamines, carbonyls, and flavourings.<sup>10</sup> While the long-term health effects from e-cigarette use are still unknown, some research indicates that use can lead to lung damage, and short-term health effects can include increased heart rate, increased blood pressure, increased airway resistance, decreased airway conductance.<sup>11</sup> In Niagara, 25% of secondary students have used an e-cigarette in the past 12 months.<sup>12</sup> The Ontario Student Drug Use and Health Survey found that 61% of secondary students believe there is no risk from regular e-cigarette use.<sup>13</sup> ~~Including e-cigarettes as~~

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<sup>4</sup> Canadian Community Health Survey [2015-2016]

<sup>5</sup> Ontario Student Drug Use and Health Survey, Centre for Addiction and Mental Health [2015]

<sup>6</sup> Canadian Cannabis Survey 2018 Summary. Government of Canada. [cited 2018 Dec 10]. Available from: <https://www.canada.ca/en/services/health/publications/drugs-health-products/canadian-cannabis-survey-2018-summary.html>

<sup>7</sup> Maertens RM, White PA, Williams A, et al. A global toxicogenomic analysis investigating the mechanistic differences between tobacco and marijuana smoke condensates in vitro. *Toxicology* 2013;308:60-73.

<sup>8</sup> Maertens RM, White PA, Rickert W, et al. The genotoxicity of mainstream and sidestream marijuana and tobacco smoke condensates. *Chem Res Toxicol* 2009;22:1406-14.

<sup>9</sup> Holitzki, H., Dowsett, L.E., Spackman, E., Noseworthy, T., Clement, T., Health effects of exposure to second- and third-hand marijuana smoke: A systematic review [Internet] *Canadian Medical Association Journal Open*, 2017: Oct-Dec, 5(4): E814-E822. [cited 2018 Dec 10]. Available from: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5741419/>

<sup>10</sup> Tobacco and Public Health: From Theory to Practice, E-Cigarettes Module [Internet], Toronto, ON, Ontario Tobacco Research Unit [cited Dec 11]. Available from: <https://tobaccocourse.otru.org/course/>

<sup>11</sup> Tobacco and Public Health: From Theory to Practice, E-Cigarettes Module [Internet], Toronto, ON, Ontario Tobacco Research Unit [cited Dec 11]. Available from: <https://tobaccocourse.otru.org/course/>

<sup>12</sup> Ontario Student Drug Use and Health Survey, Centre for Addiction and Mental Health [2015]

<sup>13</sup> Ontario Student Drug Use and Health Survey, Centre for Addiction and Mental Health [2015]



~~a prohibited product into the amended by-law will be a consideration during consultations.~~

In By-law No. 112-2013, tobacco use is more restricted than the public places outlined in the provincial SFOA. Outside of the established buffer zones in the SFOA, individuals could be fined for use of tobacco, but not for cannabis or e-cigarettes at those same locations. **As an interim measure, harmonizing the By-law No. 112-2013 with the SFOA is important to ensure consistency and avoid confusion.** By enhancing By-law No. 112-2013, NRPH & ES is aiming to align it with the provincial legislation to ~~include cannabis and e-cigarettes.~~

### **Proposed Municipal Consultation**

In preparation for cannabis legislation, NRPH & ES has been meeting with the municipal partners through their by-law, park/recreation and planning staff. Area Chief Administrative Officers have been notified of the proposed amendments, and meetings with each of the local area municipalities **discussed next steps and support harmonizing now, with a sunset clause, with a consensus approach moving forward. An initial meeting is** are being planned for **late January/early February.** During these meetings, NRPH & ES will learn whether the municipalities want to

**~~1. Continue with the status quo~~**

~~By-law 112-2013 includes only tobacco within the mandate with the SFOA restricting use of tobacco, cannabis and e-cigarettes, despite the confusion in the application and messaging between the pieces of legislation.~~

**~~2. Amend By-law No. 112-2013 to align products with the SFOA~~**

~~Include the substances of cannabis and e-cigarettes to apply to the same places that are currently covered by the by-law.~~

**~~3. Amend By-law No. 112-2013 to align products with the SFOA and add in restrictions related to public entrances and exits~~**

~~Include the substances of cannabis and e-cigarettes to apply to nine metres from all public entrances/exits.~~

**~~4. Amend By-law No. 112-2013 to align products with the SFOA and expand the prohibited places of use~~**

~~Include the substances of cannabis and e-cigarettes to tobacco, and add additional places (i.e. nine metres from all public entrances, beaches, trails).~~

~~Once we have this information, we propose that we return to PHSSC to provide recommended next steps. If there is support for updating the by-law we will bring the proposed amendments to Council.~~

## Alternatives Reviewed

Consideration was given to **not harmonizing, and just embarking on the** a larger public consultation process. We recommend that we first assess whether there is agreement on harmonizing and updating the by-law as outlined, as it is likely that a large public consultation beyond municipal and regional meetings is not warranted for the two recommended changes. **for this simplification of the bylaw.**

## Relationship to Council Strategic Priorities

This work supports Doing Business Differently by proposing that Niagara continue to aim for simplicity and consistency while remaining among the leaders in Ontario in its smoke-free policies.

## Other Pertinent Reports

- PHD 01-2019 – Cannabis Legalization
- [PHD 13-2018 – Comprehensive Tobacco Control Report](#)
- [PHD 07-2018 – Cannabis Legalization](#)
- [PHD 01-2018 – Smoke-Free Ontario Modernization](#)
- [PHD 04-2017 - Ontario Student Drug Use and Health Survey Results](#)
- [PHD 09-2016 Revised - Cannabis Regulation and Control](#)

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### Prepared by:

Diana Teng  
Manager, Chronic Disease and Injury  
Prevention  
Public Health and Emergency Services

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### Recommended by:

M. Mustafa Hirji, MD MPH RCPC  
Acting Medical Officer of Health  
Public Health and Emergency Services

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### Submitted by:

Ron Trip, P.Eng.  
Acting, Chief Administrative Officer

*This report was prepared in consultation with Renata Faber, Manager, Chronic Disease and Injury Prevention, David Lorenzo, Associate Director, Chronic Disease and Injury Prevention and reviewed by Dr. Feller, Associate Medical Office of Health.*

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 112-2013

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

**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 in public places;

**AND WHEREAS** it has been determined that smoking and second-hand tobacco 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 use;

**AND WHEREAS** Niagara Region therefore wishes to prohibit tobacco smoking 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 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 Welland 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” 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 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;

## **PROHIBITION**

- 2.(1) No person shall smoke tobacco upon or within an outdoor public place.
- 2.(2) The prohibition in section 2.(1) above applies whether or not a “No Smoking” 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.

## **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.

**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.

**PASSED**, a majority of the members of the Regional Council assenting hereto, this 10<sup>th</sup> day of October, 2013.

THE REGIONAL MUNICIPALITY OF NIAGARA

*Original Signed By:*

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(Gary Burroughs, Regional Chair)

*Original Signed By:*

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(Janet Pilon, Regional Clerk)

~~Bill 112~~

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:

Bill 112

## 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;



Bill 112

**“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

*Original Signed By:*

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

*Original Signed By:*

\_\_\_\_\_  
(, Regional Clerk)

## THE REGIONAL MUNICIPALITY OF NIAGARA

## BY-LAW NO. 2019-07

A BY-LAW TO AMEND BY-LAW 112-2013 BEING A BY-LAW TO PROTECT CHILDREN AND VULNERABLE PERSONS FROM EXPOSURE TO OUTDOOR SECOND-HAND SMOKE

---

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

WHEREAS subsection 11(2) of the Act provides The Regional Municipality of Niagara (hereinafter, "Niagara Region") broad authority to govern the health, safety and well-being of persons;

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

WHEREAS pursuant to subsection 115(10) of the Act if there is a conflict between a by-law passed by a municipality and the provisions of any other statute or regulation of Ontario, the provision that is most restrictive of smoking of tobacco or cannabis prevails;

WHEREAS it has been determined that smoking, second-hand tobacco and cannabis smoke and vaping are health hazards and a discomfort for individuals residing in or visiting Niagara Region;

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 smoking;

WHEREAS Niagara Region therefore wishes to prohibit tobacco and cannabis smoking and vaping (use of electronic cigarettes) 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 the Council of The Regional Municipality of Niagara enacts as follows:

1. That the following definitions are added to subsection 1(1) of By-law 112-2013 in alphabetical order within the context of all definitions currently contained in said by-law:
  - “cannabis” has the same meaning as in subsection 1 (1) of the Smoke-Free Ontario Act, 2017”
  - “electronic cigarette” has the same meaning as in subsection 1 (1) of the Smoke-Free Ontario Act, 2017”
  - “use” with respect to electronic cigarettes includes any of the following:
    - (a) Inhaling vapour from an electronic cigarette;
    - (b) Exhaling vapour from an electronic cigarette;
    - (c) Hold an activated electronic cigarette;
  - “vape” means to use an electronic cigarette;
2. The definition of “smoke or smoking” contained in subsection 1(1) of By-law 112-2013 shall have the words “or cannabis” added following the word “tobacco” and prior to the word “or”.
3. Section 2(1) of By-law 112-2013 shall be amended by adding after the word “tobacco” and prior to the word “upon” the following words:
  - “or cannabis or vape”
4. The invalidity or unenforceability of a provision of this by-law or part of a provision of this by-law shall not negate the effectiveness or validity of the remaining provisions or parts thereof of this by-law.
5. 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.
6. The amendments to By-law 112-2013 effected by sections one to three of this by-law shall cease to be effective one year from the date this by-law comes into force pursuant to section 5 thereof provided:
- a. On and after the date upon which sections one to three of this by-law cease to be effective, the provisions of By-law 112-2013 excepting the specific amendments described by this by-law shall remain in force as if this By-law had not been enacted;
  - b. And section 6 of this by-law shall not invalidate any proceedings regarding contraventions of section 2(1) of By-law 112-2013, as amended by this by-law, occurring during the period when the amendments remained in effect notwithstanding that the prosecution and conviction may occur after the date upon which sections one to three of this by-law cease to be effective .
7. That this by-law was passed by the Council for Niagara Region as of the 17<sup>th</sup> day of January 2019.

THE REGIONAL MUNICIPALITY OF NIAGARA

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James Bradley, Regional Chair

---

Ann-Marie Norio, Regional Clerk

Passed: <date>



## Community Services

### Legislative Services

February 12, 2019  
File #120203

Sent via Email: [ann-marie.norio@niagararegion.ca](mailto:ann-marie.norio@niagararegion.ca)

Ann-Marie Norio, Regional Clerk  
Niagara Region  
1815 Sir Issac Brock Way, P.O. Box 1042  
Thorold, ON L2V 4T7

Dear Ms. Norio:

**Re: Protect Children and Vulnerable Persons from Exposure to Outdoor Second-Hand Smoke – Triple Majority Requirement By-law**

The Municipal Council of the Town of Fort Erie at its meeting of February 11, 2019 received and supported the motion passed by Regional Council on January 17, 2019 requesting local area municipality's consultation to build a consensus on an updated by-law:

**That:** The Council of The Corporation of the Town of Fort Erie consents to the passage of By-law No. 2019-07 passed by The Regional Municipality of Niagara, being a by-law to Amend By-law No. 112-2013 to Protect Children and Vulnerable Persons from Exposure to Outdoor Second-Hand Smoke.

Trusting this information will be of assistance to you.

Yours very truly,

Carol Schofield, Dipl.M.A.  
Manager, Legislative Services/Clerk  
[cschofield@forterie.ca](mailto:cschofield@forterie.ca)

CS:dlk

cc: Niagara Local Area Municipalities *Sent via email*



4800 SOUTH SERVICE RD  
BEAMSVILLE, ON L0R 1B1  
905-563-8205

April 17, 2019

SENT VIA EMAIL

Region of Niagara  
1815 Sir Isaac Brock Way  
P.O. Box 1042  
Thorold, ON L2V 4T7

Attention: Ann-Marie Norio, Regional Clerk

**RE: PROTECT CHILDREN AND VULNERABLE PERSONS FROM EXPOSURE TO  
OUTDOOR SECOND-HAND SMOKE – TRIPLE MAJORITY REQUIREMENT  
BY-LAW**

The Council for the Corporation of the Town of Lincoln at its meeting on April 15, 2019 received and supported the motion passed by Regional Council on January 17, 2019 requesting local area municipality's consultation to build a consensus on an updated by-law:

**THAT THE COUNCIL OF THE TOWN OF LINCOLN consents to the  
passage of By-law No. 2019-07 passed by The Regional  
Municipality of Niagara, being a by-law to amend By-law 112-2013  
to Protect Children and Vulnerable Persons from Exposure to  
Outdoor Second-Hand Smoke.**

Regards,

Julie Kirkelos  
Town Clerk  
[jkirkelos@lincoln.ca](mailto:jkirkelos@lincoln.ca)

cc: Local Area Municipal Clerks, sent via email



March 27, 2019

Niagara Region  
1815 Sir Isaac Brock Way  
P.O. Box 1042  
Thorold, ON L2V 4T7

Ms. Ann-Marie Norio:

**Sent via E-mail**

**Re: Niagara Region – Amended Smoking By-law**

Please be advised that City Council at its meeting of March 19, 2019 passed the following motion:

**Ordered on the motion of Councillor Kerrio, seconded by Councillor Ioannoni that Council pass a resolution giving their consent to the passing of the Region's amended Smoking By-law.**

I trust that this information will be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Matson".

Bill Matson  
City Clerk



**Department of Corporate Services**

1593 Four Mile Creek Road

P.O. Box 100, Virgil, ON L0S 1T0

905-468-3266 • Fax: 905-468-2959

[www.notl.org](http://www.notl.org)

February 14, 2019

***SENT ELECTRONICALLY***

Regional Municipality of Niagara  
1815 Sir Issac Brock Way, PO Box 1042  
Thorold ON L2V 4T7

Attention: Ann-Marie Norio, Regional Clerk

Dear Ms. Norio:

**RE: By-law 112-2013 - Protect Children and Vulnerable Persons from Exposure to Outdoor Second-Hand Smoke**

Please be advised the Council of The Corporation of the Town of Niagara-on-the-Lake, at its regular meeting held on February 11, 2019 approved the following resolution:

WHEREAS Niagara Regional Council, at its meeting of January 17, 2019, approved that By-law No. 112-2013 be updated to harmonize with the Smoke Free Ontario Act to include vaping and cannabis, as an interim measure for consistency, with an appropriate sunset clause; and that Niagara Region staff be directed to consult with the Local Area Municipalities (LAMs) and the public to build a consensus on an updated regional by-law to protect children and vulnerable persons from exposure to outdoor second-hand smoke;

AND WHEREAS Niagara Region's By-Law No. 112-2013 aims to protect children and vulnerable persons from exposure to outdoor second-hand tobacco smoke, and does not currently address the second-hand smoke exposure to cannabis or second-hand vapour exposure from electronic e-cigarettes through outdoor spaces;

And WHEREAS Pursuant to Section 115(5) of the Municipal Act, 2001, 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 Corporation of the Town of Niagara-on-the-Lake hereby endorse Niagara Region By-law 2019-07 and proposed revisions to Niagara Region By-law 112-2013.

If you have any questions or require further information please contact our office at 905-468-3266.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Peter Todd', with a stylized flourish extending to the right.

Peter Todd, Town Clerk



February 21, 2019

Niagara Region  
Office of the Regional Clerk  
1815 Sir Isaac Brock Way  
PO Box 1042  
Thorold, Ontario  
L2V 4T7

Attention: Ann-Marie Norio, Regional Clerk

Dear Ms. Norio:

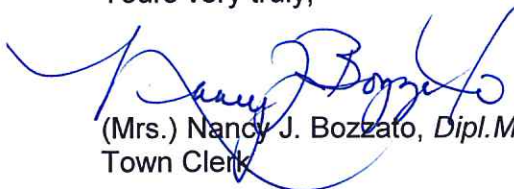
**Regional By-law 2019-07 Outdoor Second-Hand Smoke**

At their regular meeting of February 19<sup>th</sup>, 2019, Council of the Town of Pelham endorsed the following:

**BE IT RESOLVED THAT the Council for The Corporation of the Town of Pelham hereby consents to the passage of By-law No. 2019-07, passed by The Regional Municipality of Niagara, being a by-law to Amend By-law No. 112-2013 to Protect Children and Vulnerable Persons from Exposure to Outdoor Second-Hand Smoke.**

On behalf of Council, thank you for your correspondence.

Yours very truly,



(Mrs.) Nancy J. Bozzato, *Dipl.M.M., AMCT*  
Town Clerk

/hw

From the Clerk's Department





March 19, 2019

Ann-Marie Norio  
Regional Clerk Niagara Region  
1815 Sir Isaac Brock Way, P.O. Box 1042 Thorold, ON  
L2V 4T7

Sent via email to [Ann-Marie.Norio@niagararegion.ca](mailto:Ann-Marie.Norio@niagararegion.ca)

**Re:** By-law 112-2013

Dear Ms. Norio,

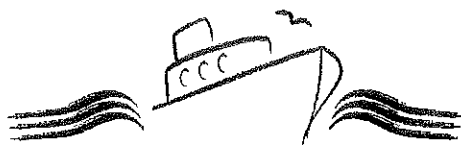
Please be advised that at its meeting held on March 18, 2019, St. Catharines City Council approved the following motion:

That the Council of the City of St. Catharines consents to amend  
By-law 112-2013 being a By-law to protect children and vulnerable  
persons from exposure to outdoor second-hand smoke.

If you have any questions, please contact the Office of the City Clerk at extension 1524.

A handwritten signature in blue ink, appearing to read "Bonnie Nistico-Dunk".

Bonnie Nistico-Dunk, City Clerk  
Legal and Clerks Services, Office of the City Clerk  
:kn

**Thorold**

Where Ships Climb The Mountain...

February 21, 2019

Office of the Regional Clerk  
Niagara Region  
1815 Sir Isaac Brock Way, P.O. Box 1044  
Thorold, ON L2V 4Y6

[Ann-Marie.Norio@niagararegion.ca](mailto:Ann-Marie.Norio@niagararegion.ca)

Attention: Ann-Marie Norio, Regional Clerk

Dear Ms. Norio:

**Re: Notice of Passing of By-law to Amend By-law 112-2013 Being a By-law to Protect Children and Vulnerable Persons from Exposure to Outdoor Second-Hand Smoke – Triple Majority Requirement**

Please be advised Thorold City Council, at its February 5, 2019 meeting, adopted the following resolution:

That the Council of The Corporation of the City of Thorold consents to the passage of By-law No. 2019-07 passed by the Regional Municipality of Niagara, being a by-law to amend By-law No. 112-2013 to protect children and vulnerable persons from exposure to outdoor second-hand smoke, be received and supported.

**CARRIED**

Yours truly,

Donna Delvecchio,  
City Clerk

DD:cd

ec: M. Dilwaria, Chief Administrative Officer

---

**City of Thorold**

P.O. Box 1044, 3540 Schmon Parkway, Thorold, Ontario L2V 4A7

[www.thorold.com](http://www.thorold.com)

Tel: 905-227-6613



# Township of Wainfleet

*"Wainfleet - find your country side!"*

February 19, 2019

Office of the Regional Clerk  
1815 Sir Isaac Brock Way, P.O. Box 1042  
Thorold, ON L2V 4T7

## SENT ELECTRONICALLY

Re: Notice of Passing of By-law to Amend By-law 112-2013 Being a By-law to Protect Children and Vulnerable Persons from Exposure to Outdoor Second-Hand Smoke – Triple Majority Requirement

Dear Ann-Marie,

Please be advised that Council for the Township of Wainfleet passed the following resolution at their Regular Meeting of Council held February 12, 2019:

**"THAT** the Council for the Township of Wainfleet consents to the passage of By-law No. 2019-07 of the Regional Municipality of Niagara, being a by-law to amend By-law No 112-2013 being a By-law to protect children and vulnerable persons from exposure to outdoor second-hand smoke."

If you have any questions regarding the contents of this letter, please contact the undersigned.

Regards,

Meredith Ciuffetelli  
Deputy Clerk  
[mciuffetelli@wainfleet.ca](mailto:mciuffetelli@wainfleet.ca)  
905-899-3463 ext. 275



**City of Welland**  
**Legislative Services**  
Office of the City Clerk  
60 East Main Street, Welland, ON L3B 3X4  
**Phone:** 905-735-1700 Ext. 2280 | **Fax:** 905-732-1919  
**Email:** clerk@welland.ca | www.welland.ca

February 13, 2019

**File No. 08-36**

SENT VIA EMAIL

Niagara Region  
1815 Sir Isaac Brock Way  
P.O. Box 1042  
Thorold, ON L2V 4T7

Attention: Ann-Marie Norio, Regional Clerk

Dear Ms. Ann-Marie Norio:

**Re: February 5, 2019 – WELLAND CITY COUNCIL**

At its meeting of February 5, 2019, Welland City Council passed the following motion:

**“THAT THE COUNCIL OF THE CITY OF WELLAND consents to amend  
By-law 112-2013 being a By-law to protect children and vulnerable  
persons from exposure to outdoor second-hand smoke.”**

Yours truly,

Tara Stephens  
City Clerk

TS:cap

c.c.: Local Area Municipal Clerks, sent via email



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**CLERK'S DEPARTMENT**

January 29, 2018

Ann-Marie Norio, Regional Clerk  
Niagara Region  
1815 Sir Isaac Brock Way  
Thorold, ON  
L2V 4T7

Dear Ms. Norio,

Re: Amend By-law 112-2013 – Protect Children and Vulnerable Persons from Exposure to Outdoor Second-Hand Smoke – Triple Majority Requirement – Report PHD 02-2019 (January 8, 2019)

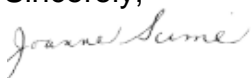
This is to confirm that on Monday, January 28, 2018, West Lincoln Township Council adopted the following resolution:

**Resolution:**

That, the Council of the Corporation of the Township of West Lincoln consents to Regional Municipality of Niagara amending By-law No. 112-2013, being a By-law to protect children and vulnerable persons from exposure to outdoor second-hand smoke, in order to harmonize with the Smoke Free Ontario Act to include vaping and cannabis.

If you require further information or clarification do not hesitate to contact me.

Sincerely,



Joanne Scime  
Clerk

cc. Dr. M. Hirji, Medical Officer of Health  
Dr. Andrea feller, Associate Medical Officer of Health