THE REGIONAL MUNICIPALITY OF PEEL
BY-LAW NUMBER 49-2019

A By-law to prohibit Smoking and Vaping in Outdoor Public Places and Workplaces and to repeal By-law 20-2013.

WHEREAS, the Council of The Regional Municipality of Peel (the "Region") enacted By-law 20-2013 known as the Peel Outdoor Smoking By-law on February 14, 2013, to regulate the smoking of lighted tobacco within nine metres of playground areas, outdoor recreation facilities and within nine metres of entrances and exits to municipal buildings;

AND WHEREAS, Section 8 of the *Municipal Act, 2001*, c. 25, as amended ("*Municipal Act, 2001*") provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS, clause 6 of subsection 11(2) of the *Municipal Act, 2001* provides that upper tier municipalities have the authority to pass by-laws respecting health, safety and well-being of its persons;

AND WHEREAS, the Council of The Regional Municipality of Peel has the authority to pass a by-law to prohibit or regulate the smoking of tobacco or cannabis in public places and workplaces pursuant to Section 115(1) of the *Municipal Act, 2001*, and to define "public place" for purposes of such by-law;

AND WHEREAS, subsection 115(3) of the *Municipal Act, 2001* provides that a by-law passed under section 115 shall not apply to a highway;

AND WHEREAS, the *Smoke-Free Ontario Act, 2017*, S.O. 2017, c. 26, Schedule 3, ("SFOA, 2017") prohibits smoking and other uses of tobacco and cannabis in specified indoor public places and workplaces and certain outdoor public places;

AND WHEREAS, there is no known safe level of exposure to second-hand smoke;

AND WHEREAS, there is strong evidence supporting that most e-cigarettes contain and emit several potentially toxic substances in addition to nicotine, and e-cigarette use is consistently associated with an increased risk of smoking initiation and increased frequency and intensity of subsequent smoking among youth and young adults;

AND WHEREAS, the use of cannabis is associated with respiratory symptoms and bronchitis, and strong evidence shows that second-hand cannabis smoke contains many of the same cancer-causing chemicals as tobacco smoke;

AND WHEREAS, the Council of The Regional Municipality of Peel has deemed it desirable, for the health, safety and well-being of the persons of the Region, to prohibit or regulate smoking or vaping of any substance in outdoor public places and workplaces within the Region in accordance with the provisions of this By-law;

AND WHEREAS, Section 18 of the *SFOA, 2017* states that where there is a conflict between a provision in it and a provision of another act, regulation or municipal by-law that deals with a matter to which it applies, the provision that is more restrictive of the matter prevails.

NOW THEREFORE THE COUNCIL OF THE REGIONAL MUNICIPALITY OF PEEL ENACTS AS FOLLOWS:

1. DEFINITIONS

In the interpretation and application of this By-law, regard shall be had to the following guiding principles:

1.1 For the purpose of this By-law:

"Additional Places" means the place(s) set out in Schedule "A", where the governing body in charge of each place has approved its participation in this By-law.

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

"Conservation Area" means properties that are owned, managed or under the control of Credit Valley Conservation Authority and Toronto Regional Conservation Authority located within the Region;

"Council" means the Council of The Regional Municipality of Peel;

"Construction" includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, land clearing, earth moving, grading, excavating, trenching, digging, boring, drilling, blasting, or concreting, the installation of any machinery or plant, and any work or undertaking in connection with a project;

"Designated Smoking/Vaping Area" means an outdoor area where Smoking and/or Vaping are not prohibited;

"Employee" means a person who performs any work for or supplies any services to an Employer, with or without remuneration, or a person who receives any instruction or training in the activity, business, work, trade, occupation or profession of an Employer and includes a volunteer and a person who is self-employed;

"Employer" means an owner, operator, proprietor, manager, superintendent, overseer, receiver or trustee of an activity, business, work, trade, occupation, profession, project or undertaking who has control or direction of, or is directly or indirectly responsible for an Employee;

"Indoor Public Place" means the inside of any building or structure:

(a) That is covered by a roof and has more than two walls;

(b) To which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry; and

(c) That is not owned, managed or under control of a Municipality or is not an Outdoor Public Place.

"Indoor Workplace" means the inside of any building or structure:

(a) That is covered by a roof and has more than two walls;

(b) Where employees work or frequent during the course of their employment whether or not they are acting in the course of their employment at the time; and

(c) That is not owned, managed or under control of a Municipality.

"Inhalant-type Device" means a vaporizer, including but not limited to an electronic cigarette, a waterpipe, or a vaporizing device of any other name, that may contain a power source and/or heating element designed to heat a substance and produce a vapour intended to be inhaled by the user of the device, whether or not the vapour contains nicotine;

"Long-Term Care Home" has the same definition as contained in the *Long-Term Care Homes Act, 2007*, S.O. 2007, c.8 or any subsequent legislation;

"Medical Officer of Health" means the Medical Officer of Health governing the geographical territory governed by The Regional Municipality of Peel, duly appointed under the *Heath Protection and Promotion Act,* R.S.O. 1990, c. H.7, as amended;

"Municipality" means the lower tier municipalities in the Region, including: The Corporation of the City of Brampton, The Corporation of the City of Mississauga, The Corporation of the Town of Caledon; or the upper tier municipality, The Regional Municipality of Peel; and "Municipal" has a corresponding meaning;

"Officer" means:

(a) A Provincial Offences Officer of a Municipality or other person appointed by or under the authority of a Municipal by-law to enforce Municipal by-laws; or

(b) A public health inspector acting under the direction of the Medical Officer of Health; or

(c) A Police Officer employed by the police service of the Region, the Ontario Provincial Police or the Royal Canadian Mounted Police; or

(d) An officer, employee or agent of any Municipality or of any local board of any Municipality whose responsibilities include the enforcement of a by-law, a statute or a regulation under a statute, while in the discharge of his or her duties;

"Outdoor", used on its own or within another definition in this By-law, means any open space which is outside of a facility, building, structure, or premise including any temporary building, structure or part thereof, whether covered by a roof or not. Structures with a roof or that have partial walls are considered to be outdoor;

"Outdoor Construction Site" is any Outdoor land, premise, location or thing at, upon, in or where Construction is occurring;

"Outdoor Public Place" means an Outdoor area that is designed, designated or delineated for the use of sports or activities, used for public recreation, or fitted with play equipment or exercise equipment, including but not limited to privately owned Outdoor areas, including parks, parklands, parkettes, trails and paths, playground area(s), community gardens, sports fields, playing fields and benches, sidelines and warm up areas, spectator areas, and splash pads, wading pools, swimming pools, or other bodies of water, beaches including any adjacent bodies of water, or adjacent property including those parts covered by water, including any lane, walkway or public parking area and vehicle located on that property or leading thereto, or any property being used for an outdoor special event, and swings, slides, climbing apparatus, sandboxes or skateboard ramps, including any surrounding natural or man-made safety surface;

"Outdoor Municipal Property" means any Outdoor area of a building, facility or structure owned, managed or under the control of the Municipality, including but not limited to municipal offices, transit facilities, community centres, recreation facilities, libraries, museums, art galleries, fire halls, paramedic stations and police stations, community gardens, public washrooms, concession stands, parks, parkettes, trails, paths, walkways, playground areas, swings, slides, climbing apparatus, sandboxes or skateboard ramps, including any surrounding natural or man-made safety surface, and splash pads, wading pools, swimming pools, or other bodies of water, beaches including any adjacent bodies of water, or adjacent property including those parts covered by water, a golf course, or a Region or Peel Housing Corporation multi-unit residential building, including a walkway or public parking area and vehicle located on that property or leading thereto, or any property being used for an outdoor special event, with the exception of a Designated Smoking/Vaping Area on the property of a Long-Term Care Home or Shelter that is not located within nine meters of the buildings or structures on the property;

"Proprietor" means the owner, operator or person in charge;

"Public Place" means any property to which the public has access as of right or by invitation, express or implied, regardless of whether it is owned by a public or private entity;

"Shelter" means a supervised residential facility, owned or operated by the Region, or under contract to the Region for provision of services funded by or through the Region, which provides short-term or emergency accommodations or associated support services;

"Smoking" includes the smoking or holding of lighted Tobacco, lighted Cannabis or any substance used for smoking and "Smoke" has a corresponding meaning;

"Tobacco" means tobacco, in whatever manner it may be used or consumed, and in any processed or unprocessed form, and includes any product made in whole or in part of tobacco and/or tobacco leaves, including but not limited to, pipe tobacco, waterpipe tobacco, cigarettes, cigars, and cigarillos;

"Vaping" means the inhaling or exhaling of vapour from an Inhalant-type Device of any substance, or the holding of an activated Inhalant-Type Device, and "Vape" has a corresponding meaning;

2. PROHIBITIONS

In the interpretation and application of this By-law, regard shall be had to the following guiding principles:

2.1 No person shall Smoke or Vape, regardless whether or not a notice is posted that Smoking or Vaping is prohibited, in the following places:

(a) Outdoor Public Place;

(b) Outdoor Municipal Property; or

(c) Outdoor Construction Site.

2.2 No person shall Smoke or Vape within nine meters, regardless whether or not a notice is posted that Smoking or Vaping is prohibited, of any:

(a) Indoor Public Place; or

(b) Indoor Workplace.

2.3 No person shall Smoke or Vape in a private dwelling when it is being used as an Indoor Workplace.

2.4 No person shall remove, cover up or alter any no smoking or no vaping sign which has been posted.

2.5 No person shall Smoke or Vape in Additional Places as defined and set out in Schedule "A" to this By-law on the date there specified.

3. PROPRIETOR OBLIGATIONS

3.1 Every Proprietor of an Indoor Public Place or Indoor Workplace shall:

(a) Prohibit Smoking and Vaping in an area within nine metres surrounding an Indoor Public Place or Indoor Workplace, except that part of the nine metres which is located on a highway;

(b) Post "No Smoking/Vaping" signs in the format set out in Schedule "B" conspicuously on their premises to indicate the prohibition in s. 2.2; and

(c) Prohibit ashtrays and like paraphernalia in areas where Smoking/Vaping is prohibited.

4. EMPLOYER OBLIGATIONS

4.1 Every Employer shall, with respect to an Outdoor Public Place or an Outdoor Construction Site:

(a) Give notice to Employees that Smoking and Vaping are prohibited;

(b) Post "No Smoking/Vaping" signs in the format set out in Schedule "B" conspicuously on their premises to indicate the prohibition in s. 2.1; and

(c) Ensure no person is Smoking or Vaping in prohibited areas.

4.2 Every Employer shall, with respect to an Indoor Public Place or an Indoor Workplace:

(a) Give notice to Employees that Smoking and Vaping are prohibited within nine metres surrounding an Indoor Public Place or Indoor Workplace;

(b) Post "No Smoking/Vaping" signs in the format set out in Schedule "B" conspicuously on their premises to indicate the prohibition in s. 2.2; and

(c) Ensure no person is Smoking or Vaping in prohibited areas.

5. APPLICABILITY

5.1 This By-law does not apply to privately-owned property that is primarily a private dwelling, but does apply when the private dwelling is being used as a Food Premise, as defined in *O. Reg. 493/17: Food Premises* to the *Health Protection and Promotion Act, R.S.O. 1990, c. H.7,* and to any private dwelling when it is being used as an Indoor Workplace or Outdoor Public Place, including but not limited to a premise being used for home child care, whether licensed or unlicensed, including as defined in the *Child Care and Early Years Act, 2014, S.O. 2014, c. 11, Sched. 1.*

5.2 This By-law does not apply to any highway.

5.3 This By-law does not apply to the use of tobacco in the places Smoking or Vaping are otherwise not permitted under this By-law, if the activity is carried out for traditional Indigenous cultural or spiritual purposes.

5.4 This By-law does not apply to the uncovered patios established by the Royal Canadian Legion – Ontario Provincial Command before

November 18, 2013.

5.5 This By-law does not apply to Outdoor areas of privately-owned golf courses beyond the nine-metre setback applicable to an Indoor Public Place.

6. POWER OF ENTRY AND INSPECTION

6.1 An Officer may enter and inspect all buildings, structures, land or parts thereof that are subject to this By-law at any reasonable time for the purpose of determining whether there is compliance with this By-law.

6.2 Despite s. 6.1, an Officer shall not exercise a power to enter a private dwelling which is used, at times, as an Indoor Workplace at a time when it is being used as a private dwelling.

6.3 An Officer exercising a power of entry may:

- (a) Require the production for inspection of documents or things relevant to the inspection;
- (b) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) Require information from any person concerning a matter related to the inspection; and
- (d) Alone or in conjunction with a person who, in the Officer's opinion, possesses special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

7. ENFORCEMENT AND OBSTRUCTION

1.1 Where any person contravenes any provision of this By-law, an Officer may direct such person to comply with this By-law. Every person so directed shall comply with such direction without undue delay.

7.2 Where an Officer has reasonable grounds to believe that an offence has been committed by a person, the Officer may require the name, address and proof of identity of that person, and the person shall supply the required information.

7.3 No person shall hinder, obstruct or interfere with an Officer lawfully conducting an inspection or carrying out a power or duty under this By-law. A refusal of consent to enter or to remain in a room or place actually used as a private dwelling does not constitute hindering or obstructing unless the Officer is acting under a warrant.

7.4 A copy of any written or recorded material related to an investigation, examination, test or inquiry and purporting to be certified by an Officer is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original.

8. CONTINUATION, REPETITION PROHIBITED BY ORDER

8.1 Where a person has been convicted of an offence under this By-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may, in addition to any penalty imposed on the person convicted, issue an order:

- (a) Prohibiting the continuation or repetition of the offence by the person convicted; and
- (b) Requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

9. FINES

9.1 Every person who is guilty of an offence under this By-law shall, upon conviction, be liable to a fine of not more than $5,000, as provided in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, s. 61.

9.2 Set fines for an offence under this By-law are established in Schedule "C" to this By-law or as otherwise specified by the Regional Senior Justice of the Ontario Court of Justice pursuant to the *Provincial Offences Act*.

10. COLLECTION OF UNPAID FINES

10.1 Where a fine is in default, a Municipality may proceed with civil enforcement against the person upon whom the fine has been imposed, pursuant to the *Provincial Offences Act*.

10.2 A Municipality may make a request to the treasurer of a local Municipality to add any part of a fine that is in default to the tax roll for any property in that local Municipality owned by the person who has been convicted, upon which addition all of the registered owners shall be responsible for paying the fine, and the Municipality shall collect the fine amount with any applicable costs in the same manner as municipal taxes.

11. SEVERABILITY

11.1 Should any section, sections or parts of this By-law be declared by a court of competent jurisdiction to be illegal or beyond the power of the Council to enact, such section or sections or parts shall be deemed to be severable from this By-law and all remaining sections or parts of this By-law shall be deemed to be separate and independent from same and to be properly enacted and of full force and effect.

12. CONFLICT

12.1 If any provision of this By-law conflicts with other legislation, regulation or another by-law, the provision that is the most preventive or prohibitive regarding Smoking or Vaping, so as to benefit the health of the public, shall prevail.

13. INTERPRETATION

12.1 The provisions of Part VI of the *Legislation Act, 2006*, S.O. 2006, c.21, Schedule F shall apply to this By-law.

14. EFFECTIVE DATE

12.1 With the exception of Schedule "C", which shall come into force on the day the set fines for which it provides are approved or specified by the Regional Senior Justice of the Ontario Court of Justice pursuant to the *Provincial Offences Act,* this By-law shall come into force no sooner than November 1st, 2019 AND once:

- (a) It has been passed by a majority of all votes on Council; and
- (b) The majority of the councils in the lower tier municipalities of Mississauga, Brampton and Caledon pass resolutions consenting to the By-law; and
- (c) The total number of electors in the lower tier municipalities of Mississauga, Brampton and Caledon that pass resolutions consenting to the By-law under clause (b) form a majority of all electors in The Regional Municipality of Peel.

15. SHORT TITLE

15.1 The short title of this by-law is the "Peel Outdoor No Smoking or Vaping By-law."

And further, that By-law 20-2013 be repealed.

READ THREE TIMES AND PASSED IN OPEN COUNCIL this 12th day of September, 2019.

K. Lockyer	**N. Iannicca**
Regional Clerk	Regional Chair

Schedule A: Additional Places Prohibitions

No person shall Smoke or Vape in the following Additional Places:

- (a) A Conservation Area located within the Region, on the date participation in this By-law is approved by the specific Conservation Authority which own, manages or controls it;
- (b) The campuses or properties of a post-secondary institution which are located within the Region, on the date the participation in this By-law is approved by it.

Schedule B: Signage Requirements

1. Outdoor Public Place and Outdoor Construction Site:

Where a No Smoking/Vaping sign is required to be posted pursuant to Section 4.1, the sign shall:

1.1
- (a) Be identical to Sign A illustrated in Schedule B;
- (b) Consist of black and red as illustrated in Schedule B;
- (c) Be no smaller than 8.5 by 11 inches in size; and
- (d) Be posted in English and any other language the Medical Officer of Health may decide.

1.2 Where an Employer or Proprietor is required to post a No Smoking/Vaping sign pursuant to Section 4.1, the Employer or Proprietor may:

- (a) Contact the Region of Peel to order a metal sign at cost;
- (b) Contact the Region of Peel to order a decal sign at cost; or
- (c) Print the sign illustrated in Schedule B in accordance with the requirements set out in section 1.1.

2. Indoor Public Place or Indoor Workplace

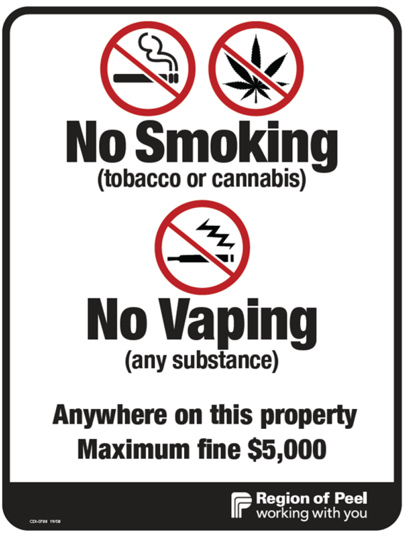
2.1 Where a No Smoking/Vaping sign is required to be posted pursuant to Section 3 or 4.2, the sign shall:

- (a) Be identical to Sign B illustrated in Schedule B;
- (b) Consist of black and red as illustrated in Schedule B;
- (c) Be 8.5 by 11 inches in size; and
- (d) Be posted in English and any other language the Medical Officer of Health may decide.

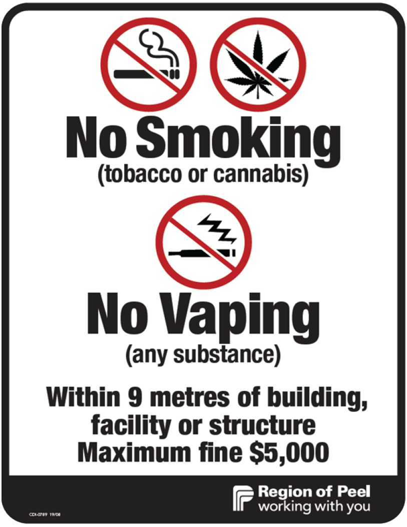
2.2 Where an Employer or Proprietor is required to post a No Smoking/Vaping sign pursuant to Section 3 or 4.2, the Employer or Proprietor may:

- (a) Contact the Region of Peel to order a metal sign at cost;
- (b) Contact the Region of Peel to order a decal sign at cost; or
- (c) Print the sign illustrated in Schedule B in accordance with the requirements set out in section 2.1.

Sign A – Outdoor Public Place and Outdoor Construction Site (PNG file)



Sign B – Indoor Public Place and Indoor Workplace (PNG file)



Schedule C: Set Fines

Item	Column 1 Short Form Wording	Column 2 Provision creating or defining Offence	Column 3 Set Fine
1	Smoke or Vape in an Outdoor Public Place	2.1(a)	$250
2	Smoke or Vape in an Outdoor Municipal Property	2.1(b)	$250
3	Smoke or Vape in an Outdoor Construction Site	2.1(c)	$250
4	Smoke or Vape within nine meters of an Indoor Public Place	2.2(a)	$250
5	Smoke or Vape within nine meters of an Indoor Workplace	2.2(b)	$250
6	Smoke or Vape in a private dwelling while used as an Indoor Workplace	2.3	$250
7	Remove, cover up or alter any posted sign	2.4	$250
8	Smoke or Vape in Additional Places	2.5	$250
9	Proprietor Failed to prohibit persons from Smoking or Vaping within nine meters of an Indoor Public Place	3.1(a)	$300
10	Proprietor Failed to prohibit persons from Smoking or Vaping within nine meters of an Indoor Workplace	3.1(a)	$300
11	Proprietor Failed to post "No Smoking/Vaping" signs about s. 2.2	3.1(b)	$300
12	Proprietor Failed to prohibit ashtrays and like paraphernalia in No Smoking/Vaping areas	3.1(c)	$300
13	Employer Failed to post "No Smoking/Vaping" signs about s. 2.1	4.1(b)	$300
14	Employer Failed to prohibit Smoking and Vaping in an Outdoor Public Place	4.1(c)	$300
15	Employer Failed to prohibit Smoking and Vaping in an Outdoor Construction Site	4.1(c)	$300
16	Employer Failed to post "No Smoking/Vaping" signs about s. 2.2	4.2(b)	
17	Employer Failed to prohibit Smoking and Vaping within nine metres of an Indoor Public Place	4.2(c)	$300
18	Employer Failed to prohibit Smoking and Vaping within nine metres of an Indoor Workplace	4.2(c)	$300
19	Failed to comply with direction of Officer	7.1	$250
20	Failed to provide a name, address and proof of identity to Officer	7.2	$250
21	Obstruct Officer in execution of duties	7.3	$250

NOTE: The general penalty provisions for the offences listed above are sections 8, 9 and10 of By-law 49-2019, a certified copy of which has been filed.

⮌ Return to by-laws listing