THE REGIONAL MUNICIPALITY OF PEEL

BY-LAW NUMBER 30-2016

A by-law to regulate waterpipe smoking in the Regional Municipality of Peel.

WHEREAS, waterpipe smoking has been associated with various disease and poor health outcomes, including lung cancer, negative pregnancy outcomes, poor oral health, dental disease, respiratory illness and impaired lung function linked to tobacco waterpipe formulations, and carbon monoxide exposure and reduced lung capacity linked to non-tobacco formulations;

AND WHEREAS, waterpipe smoking, in general, negatively affects indoor air quality for indicators including carbon monoxide and particulate matter, which are closely related to potential impacts on human health;

AND WHEREAS, subsection 11(2) of the Municipal Act, 2001, S.O. 2001, c. 25, provides that upper tier municipalities have the authority to pass by-laws respecting the health, safety and well-being of persons;

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

AND WHEREAS, it is desirable for the health, safety and well-being of the inhabitants of Peel Region to prohibit the use of waterpipes in enclosed public places, enclosed workplaces, and other specified areas within Peel Region to protect individuals from conditions hazardous to human health;

NOW THEREFORE, the Council of the Regional Corporation enacts as follows:

DEFINITIONS

1. That in this By-law:

“Employee” means a person who performs any work for, or supplies any service to, an employer, or a person who receives any instruction or training in the activity, business, work, trade, occupation or profession of an employer;

“Employer” includes 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, the employment of a person in it;

“Enclosed Public Place” means the inside of any place, building or structure, or vehicle or conveyance or a part of any of them,

(a) That is covered by a roof; and

(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.

"Enclosed Workplace" means the inside of any place, building or structure or vehicle or conveyance or a part of any of them,
(a) That is covered by a roof; and
(b) That employees work in or frequent during the course of their employment whether or not they are acting in the course of their employment at the time.

"Highway" means a highway as defined in the Municipal Act, 2001, S.O. 2001, c. 25

"Medical Officer of Health" means the Medical Officer of Health for the Regional Municipality of Peel, duly appointed under the Heath Protection and Promotion Act, R.S.O. 1990, c. H.7, as amended;

"Officer" means a Provincial Offences Officer or a public health inspector, acting under the direction of the Medical Officer of Health;

"Person" means an individual or a corporation;

"Playground" means an area where the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry, that is primarily used for the purposes of children's recreation, and is equipped with children's play equipment including but not limited to slides, swings, climbing apparatuses, splash pads, wading pools, or sand boxes.

"Proprietor" means the person, governing body or agency which controls, governs or directs activity carried on within an Enclosed Public Place, Enclosed Workplace, or other area specified by this By-law and includes the person who is actually in charge thereof;

"Restaurant or Bar Patio" means an area where the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry, or that is worked in or frequented by employees during the course of their employment, whether or not they are acting in the course of their employment at the time, and where food or drink is served or sold or offered for consumption, or that is part of or operated in conjunction with an area where food or drink is served or sold or offered.

"Roof" means a physical barrier of any size, whether temporary or permanent, that covers an area or place or any part of an area or place, and that is capable of excluding rain or impeding airflow, or both;

"School" means the lands or premises included in the definition of a school under the Education Act, R.S.O. 1990, c. E.2 or the building or the grounds surrounding the building of a private school as defined in the Education Act, where the private school is the sole occupant of the premises, or the grounds annexed to a private school as defined in the Education Act, where the private school is not the sole occupant of the premises.

"Spectator Area" means an area with tiered seating or benches;

"Smoke" or "Smoking" includes the use or carrying of any lighted or heated Waterpipe as well as the fumes or byproducts of heating or combustion associated with Waterpipe use.

"Sporting Area" means an area where the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry, used primarily for the purposes of sports including, but without being limited to soccer, football, basketball, tennis, baseball, softball, cricket, skating, beach volleyball, running, swimming, or skateboarding.

"Waterpipe" means any lighted or heated smoking equipment used to burn or heat tobacco or a non-tobacco substance or a combination thereof, with which the vapor or smoke may be passed through a water basin before inhalation.

PROHIBITIONS

2. That no person shall Smoke a Waterpipe in:

(a) an Enclosed Public Place;
(b) an Enclosed Workplace;
(c) a Restaurant or Bar Patio;
(d) a Playground;
(e) a Sporting Area;
(f) a Spectator Area adjacent to a Sporting Area;
(g) a School; or
(h) any area under public ownership that is within 20 metres of any point on the perimeter of a Playground, Sporting Area or Spectator Area adjacent to a Sporting Area.

3. That the prohibitions in this By-law shall apply whether or not a notice is posted that Waterpipe Smoking is prohibited;

4. That no Person shall provide or supply a Waterpipe for use in an area where Smoking a Waterpipe is prohibited by this By-law;

5. That no Proprietor, Employer, or Employee shall permit the Smoking of a Waterpipe in an Enclosed Public Place, Enclosed Workplace, or Restaurant or Bar Patio;

EXEMPTIONS

6. That this By-law does not apply to a Highway including a pedestrian sidewalk adjacent to a Highway, but does apply to public transportation vehicles and taxicabs on a Highway;

7. That this By-law does not apply to the portion of a premises used primarily as a private dwelling;

ENFORCEMENT

8. That 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 delay;

9. That 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;

INSPECTIONS

10. That an Officer may enter and inspect all buildings, structures or parts thereof that are subject to this By-law at any reasonable time for the purposes of determining whether there is compliance with this By-law;

11. That for the purposes of an inspection under this By-law, an Officer 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 possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

OBSTRUCTION

12. That no Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer lawfully carrying out a power, duty or direction under this By-law;

OFFENCES

13. That every Person other than a corporation who contravenes any provision of this By-law, is guilty of an offence and on conviction is liable, for every day or part thereof upon which such offence occurs or continues, to a fine of not more than $10,000 for a first offence; and not more than $25,000 for any subsequent conviction;

14. That every corporation which contravenes any provision of this By-law, is guilty of an offence and on conviction is liable, for every day or part thereof upon which such offence occurs or continues, to a fine of not more than $50,000 for a first offence and not more than $100,000 for any subsequent conviction;

15. That without limiting any other section of this By-law, every Person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine in accordance with the *Provincial Offences Act,* R.S.O. 1990, c. P.33;

16. That if any Person is in contravention of any provision of this By-law, and the contravention has not been corrected, the contravention of the provision shall be

deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected;

17. That for the purposes of this By-law, subsequent conviction means a conviction for an offence which occurs after the date of conviction for an earlier offence under this By-law;

18. That where any Person contravenes any provision of this By-law, such person shall be responsible for all costs incurred by the Region directly related to the contravention;

SEVERABILITY

19. That if any section or sections of this By-law, or parts thereof are found by any court of competent jurisdiction to be illegal or beyond the power of Regional Council to enact, such section or sections or parts thereof 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 therefrom and to be properly enacted and to be of full force and effect;

CONFLICT

20. That in the event of a conflict between any provision of this By-law and any applicable Act or regulation, the provision that is the most restrictive prevails;

EFFECTIVE DATE

21. That this By-law shall come into force and take effect on November 1, 2016, provided that the conditions in subsection 115(5) of the *Municipal Act, 2001*, S.O. 2001, c. 25 have been satisfied;

SHORT TITLE

22. That the short title of this By-law is the “Peel Waterpipe Smoking By-law”.

READ THREE TIMES AND PASSED IN OPEN COUNCIL this 28th day of April, 2016.

F. Dale	*K. Lockyer*
Regional Clerk	Regional Chair