

Proposed By-law Amendments

1. Amend the Smoking By-law by adding a section that defines the scope and applicability of the By-law, as follows:

Scope and Applicability

- (1) This By-law applies to all property within the jurisdiction of the City of Vaughan with the exception of any property containing one or more dwellings.
- (2) This By-law does not apply to any person who is entitled to possess cannabis pursuant to a medical document issued pursuant to the *Access to Cannabis for Medical Purposes Regulation, SOR/2016-230* or its successor legislation or regulation.

2. Amend the Smoking By-law by replacing the following definitions in the current Smoking By-law:

“Designated Area” means an area identified as such at a *City*-owned facility where *Smoking* is permitted.

“Officer” means any person appointed by Council as a Municipal Law Enforcement Officer, and a Police Officer appointed by York Regional Police Service, the Ontario Provincial Police or the Royal Canadian Mounted Police.

“Smoke” means the holding of a lighted *Tobacco* or *Cannabis* product, or the holding of an activated *Electronic Cigarette*.

3. Add the following definitions to the Smoking By-law:

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

“Electronic Cigarette” has the same meaning as subsection 1(1) of the *Smoke-Free Ontario Act, 2017*.

“Facility” refers to any building or structure.

“Off-Leash Park” means a designated area, separated from other areas by an enclosure, for the purpose of allowing off-leash dogs.

“Park” means land and land covered by water and all portions thereof owned by or made available by lease, agreement, or otherwise to the municipality, that is or hereafter may be established, dedicated, set apart or made available for use as

public open space or golf course, and that has been or hereafter may be placed under the (jurisdiction) of the *City* including any and all buildings, structures, facilities, erections, and improvements located in or on such land, save and except where such land is governed by other by-laws of the municipality;

“Tobacco” includes any product that contains tobacco.

4. Amend sections 2 and 3 of the current Smoking By-law, which establish the prohibitions for smoking on *City*-owned property, by replacing it with one section and the following wording:
 - (1) No person shall *Smoke* inside any *City*-owned Facility.
 - (2) No person shall *Smoke* within 20 metres of the perimeter of any *City*-owned Facility, including its grounds, but not including any *Parks*.
 - (3) Where a *City*-owned Facility forms part of a *Park*, subsection (2) shall only apply to the Facility.
 - (4) Despite subsection (2), the prohibition of *Smoking* does not apply to property that belongs to or comprises part of a private dwelling or to any public sidewalk.
 - (5) Despite subsection (2), *Smoking* is permitted in *Designated Areas* of *City*-owned Facilities, which shall not be within 9 metres of any *Public Entrance* or openable window.
 - (6) Despite subsection (5), the *Smoking* of *Cannabis* is prohibited anywhere on the grounds of the *City*-owned Facilities listed in Schedule 1 of this By-law.
 - (7) Despite subsection (3), no person shall *Smoke* or in any manner discard of any substance used for *Smoking*, unless it is done in a receptacle intended for that purpose, within 9 metres of an *Off-Leash Park*.
 - (8) No person shall *Smoke* within 20 metres of any *City*-owned wading pool, splash pad, skating rink, skate park, sports field, playground, tennis court or basketball court, including any spectator area of such places.
 - (9) No person shall *Smoke* within 20 metres of any school site or private school, as defined in the *Education Act, 1990*.
 - (10) No person shall *Smoke* within 9 metres of the *Public Entrance* or any openable window of any child care centre, as defined in the *Child Care and Early Years Act, 2014* or within 20 metres of any playground under the care and control of any child care centre.

5. Amend the Smoking By-law by eliminating Schedule A.
6. Amend the Smoking By-law by replacing sections 4, 5 and 6 of the current By-law, which provide for enforcement, with the following sections:

Enforcement

- (1) The provisions of this By-law may be enforced by an *Officer*.
- (2) An *Officer* who has reasonable grounds to believe that a person has contravened any provision of this By-law may require such person to provide his or her identification and any other particulars reasonably required to issue a penalty notice or file a Summons.
- (3) Any information provided to the Officer under subsection (2) is presumed to be correct and accurate, and is admissible in any proceeding.
- (4) Failure to provide identification or correct and accurate particulars when requested by an *Officer*, under subsection (2), shall constitute obstruction of the *Officer* under this By-law.
- (5) Officers are authorized, where there are reasonable grounds to believe an offence under this By-law has taken place or for the purposes of an inspection, to:
 - (a) enter, at any reasonable time, onto any property, other than a dwelling unit unless authorized by the occupier of such dwelling unit or under the authority of a warrant issued by a court of competent jurisdiction;
 - (b) require any person to produce for inspection any substance, equipment, documents, or other things relevant to the alleged offence or inspection;
 - (c) alone or in conjunction with persons possessing special or expert knowledge, make examinations, take tests, obtain samples, and/or make audio, video and/or photographic records relevant to the alleged offence or inspection;
 - (d) require information from any person concerning the alleged offence or inspection.

Offences

- (1) Any person who contravenes or fails to comply with any provision of this By-law is guilty of an offence.

(2) No person shall hinder or obstruct, or attempt to hinder or obstruct, an *Officer* who is exercising a power or performing a duty under this By-law.

7. Amend the Smoking By-law by replacing the section 7 of the current By-law, which sets out offences and penalties, with the following:

Penalties

(1) Every person who is convicted of an offence under this By-law is liable to a fine as provided for in the *Provincial Offences Act, 1990*.

(2) Despite subsection (1), an Officer may issue an administrative monetary penalty of \$100.

(3) Penalty notices indicating a contravention of this By-law shall be issued in accordance with the Administrative Monetary Penalties By-law.

(4) In the event that a Summons is issued by the Officer, a person who is found guilty of the offence described therein shall be subject to the following penalties:

(i) Upon a first conviction, a fine of not less than \$100 and not more than \$500;

(ii) Upon a second or subsequent conviction, a fine of not less than \$500 and not more than \$1,000;

(iii) Upon conviction of multiple offences, for each offence, a fine of not less than \$100 and not more than \$1,000.

8. Amend the Smoking By-law by adding the following section:

Collection of Unpaid Penalties and Fines

(1) Where a fine is in default, the City may proceed with civil enforcement against the person upon whom the administrative monetary penalty or fine has been imposed.

9. Amend the Smoking By-law by adding the following section:

Severability

(1) If any provision or part of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the By-law, or its

application in other circumstances, shall not be affected and shall continue to be in full force and effect.

10. Amend the Smoking By-law by adding Schedule 1, which shall list the following City-owned Facilities:

Vaughan City Hall	2141 Major MacKenzie Drive West
Vaughan Joint Operations Centre	2800 Rutherford Road
All Vaughan Public Libraries	Various locations

*Any Other City Owned/Operated Property as identified from time to time

11. Amend Parks By-law 134-95, as amended, by adding the following section:

10.1 Smoking

While in any *Park*, unless otherwise provided for in this By-law, no person shall *Smoke*, except in accordance with the provisions of the Smoking By-law.

12. Amend the Parks By-law 134-95, as amended, by adding the definitions for “Smoke”, “Tobacco”, “Cannabis”, and “Electronic Cigarette” as per above.
13. Any other consequential amendments of related by-laws as required.