



The Corporation of the Town of LaSalle

Date	March 18, 2019	Report No:	CL-10-19
Directed To:	Mayor and Members of Council	Attachments:	Appendix "A" Notice of Intent-Potential Measures to Reduce the Impact of Vaping Products Advertising on Youth. Appendix "B" Relevant Legislation Appendix "C" Smoking By-law
Department:	Council Services	Policy References:	
Prepared By:	Agatha Robertson, Director of Council Services and Clerk		
Subject:	Vaping Products- Advertising		

RECOMMENDATION:

That the report of the Director of Council Services/ Clerk dated March 18, 2019 (CL-10-19) regarding Vaping Products –Advertising BE RECEIVED for information.

REPORT:

Currently in Ontario there are two pieces of legislation that speak to the advertising of Vaping products. At the provincial level, the guiding legislation is the *Smoke-Free Ontario Act 2017* in terms of display and promotion of these products however the federal government does have some regulatory authority as well through the *Tobacco and Vaping Products Act 2018*. The Health Unit is currently responsible for enforcing these two pieces of legislation.

Health Canada is proposing new restrictions on advertising vaping products and e-cigarettes to minors, citing concerns about the products' rising popularity among teens.

The proposed regulations, which have yet to be finalized, restrict advertising where youth might see it. This means not allowing advertisements at points of sale where youth are allowed access — including online. It would also remove ads from public places like malls, billboards and public transit. Ads for vaping products wouldn't be allowed within 30 minutes of any television or radio show aimed at children or youth, and wouldn't be allowed in any publications, including social media platforms, that are aimed at youth. (attached as Appendix "A")


The comment period to provide feedback ended March 22, 2019. There will be further opportunities to provide comments throughout the federal regulatory process. Comments received will be used to develop proposed regulations to limit vaping product promotion.

For Councils review I have attached the specific sections of the legislation that speaks to the advertisement and promotion of vaping and e-cigarettes. (attached as Appendix "B").


In a review of municipalities across Ontario I have not found any municipality at this time that has prepared a by-law that restricts advertisement of Vaping products.

Council on July 14, 2015 adopted By-law 7775" BEING A BY- LAW TO PROHIBIT SMOKING WITHIN TOWN OF LASALLE OWNED PARKS, FACILITIES, PLAYGROUNDS AND SPORTS FIELDS", this By-law also includes e-cigarettes as well. (attached as Appendix "C")

Submitted to Council for Information.

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Agatha Robertson - Director of Council Services/Clerk

Reviewed by:							
CAO 	Finance	Council Services	Public Works	DSI	Culture & Rec	Fire	



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Notice of Intent – Potential Measures to Reduce the Impact of Vaping Products Advertising on Youth and Non-users of Tobacco Products

Tobacco and Vaping Products Act

Notice of Intent - Potential Measures to Reduce the Impact of Vaping Products Advertising on Youth and Non-users of Tobacco Products

This notice offers interested parties the opportunity to provide comments on regulatory measures under consideration to reduce the impact of vaping product advertising on youth and non-users of tobacco products under the authority of the *Tobacco and Vaping Products Act (TVPA)*.

Background

Tobacco use is the leading preventable cause of disease and premature death in Canada. It is a known or probable cause of more than 40 debilitating and often fatal diseases of the lungs,

non-tobacco users: 1) there is substantial evidence that e-cigarette (a type of vaping product) use results in symptoms of dependence, and 2) there is substantial evidence that e-cigarette use increases risk of ever using combustible tobacco cigarettes among youth and young adults.

The *Canadian Student Tobacco, Alcohol and Drugs Survey (CSTADS)* results from 2016-2017 indicate that 15% of students in grades 10-12 (Secondary IV and V in Quebec) used a vaping product in the past 30 days, up from 9% in 2014-15. This represents a 64% increase, or roughly 30% per year. Preliminary results from the *International Tobacco Control Youth Tobacco and Vaping Survey* suggest that there has been an increase in the proportion of 16- to 19- year old Canadians who have tried vaping in the last 30 days between September 2017 and September 2018. It appears that the rate of youth uptake is rapidly accelerating. Similar observations were noted in the United States, where the use of vaping products in the past 30 days rose from 12% in 2017 to 21% in 2018 (a 78% increase) among high school students.

Health Canada is very concerned that the recent introduction of vaping products with high nicotine content and the reported marked increase in youth experimentation and uptake of vaping are threatening Canada's hard earned gains in tobacco control. Stricter regulatory measures are needed to protect youth and non-users of tobacco products from inducements to use vaping products. An objective of the TVPA with respect to vaping products is to "prevent vaping product use from leading to the use of tobacco products by

conditions. As well, catalogues or pamphlets that provide information on the brands of vaping products available would be allowed at any point of sale, provided that they are not publicly displayed and are only made available to an adult customer upon request. These restrictions would not apply at points of sale where youth do not have access (e.g. a vape shop that does not allow youth on its premises or on its website), as long as the advertising material cannot be seen from the outside of these places.

2. **Public Places:** Vaping product advertisements (e.g. signs) would not be permitted in certain public places where youth have access such as shopping malls; recreation, arts and cultural facilities; parks; in public transit vehicles and stations; billboards and other outdoor physical supports for commercial advertising.
3. **Broadcast Media:** Vaping product advertisements would not be permitted in broadcast media during or adjacent to (within 30 minutes before or after) all children's and youth-oriented programming at all times of day and night and on all channels.
4. **Publications:** Advertisements of vaping products would not be permitted in children's and youth-oriented publications. This would include electronic publications such as websites and social media platforms.

Another measure under consideration is to restrict the visual content of advertisements to only text and illustrations or images of the vaping product or its package.

Where the advertisement only has an audio content, the applicable health warning would have to be read.

C. Other forms of retail promotion

Health Canada is considering measures to restrict the display of vaping products at points of sale. Such restrictions would not apply at points of sale where youth do not have access (e.g. a vape shop that does not allow youth on its premises or that blocks access to its website to youth), as long as the products cannot be seen from the outside of these places.

Submitting comments

Canada is a Party to the World Health Organization Framework Convention on Tobacco Control. Article 5.3 of the Convention requires that Parties, in setting and implementing their public health policies with respect to tobacco control, to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law. Therefore, the Government of Canada takes measures to limit interactions with the tobacco industry to only those necessary to effectively regulate the industry and the products it sells.

0301A, 150 Tunney`s Pasture Driveway, Ottawa, Ontario K1A 0K9 or
in electronic format (Microsoft Word or Adobe Acrobat) to
hc.pregs.sc@canada.ca

James Van Loon

Director General

Tobacco Control Directorate

Controlled Substances and Cannabis Branch

This Notice of intent is also published in *Canada Gazette, Part I*.

Date modified:

2019-02-26

Smoke-free Ontario Act, 2017

Display, etc., of vapour products

4.1 (1) No person shall, in any place where vapour products are sold or offered for sale, display or permit the display of vapour products in any manner that would permit a consumer to view or handle the product before purchasing it, except in accordance with the regulations, if any. 2018, c. 12, Sched. 4, s. 3.

Promotion

(2) No person shall promote vapour products, except in accordance with the regulations, if any,

- (a) in any place where vapour products are sold or offered for sale; or
- (b) in any manner, if the promotion is visible from outside a place in which vapour products are sold or offered for sale. 2018, c. 12, Sched. 4, s. 3.

Section Amendments with date in force (d/m/y)

Display, etc., of prescribed products and substances

4.2 (1) No person shall, in any place where a prescribed product or substance is sold or offered for sale, display or permit the display of a prescribed product or substance in any manner that would permit a consumer to view or handle the product before purchasing it, except in accordance with the regulations, if any. 2018, c. 12, Sched. 4, s. 3.

Promotion

(2) No person shall promote a prescribed product or substance, except in accordance with the regulations, if any,

- (a) in any place where a prescribed product or substance is sold or offered for sale;
or
- (b) in any manner, if the promotion is visible from outside a place in which a prescribed product or substance is sold or offered for sale. 2018, c. 12, Sched. 4, s. 3.

Tobacco and Vaping Products Act, 2018

Vaping Products

Marginal note:Advertising appealing to young persons

30.1 No person shall promote a vaping product, a vaping product-related brand element or a thing that displays a vaping product-related brand element by means of advertising if there are reasonable grounds to believe that the advertising could be appealing to young persons.

- 2018, c. 9, s. 36.

Marginal note:Lifestyle advertising

30.2 No person shall promote a vaping product, a vaping product-related brand element or a thing that displays a vaping product-related brand element by means of lifestyle advertising.

- 2018, c. 9, s. 36.

Marginal note:Testimonials or endorsements

- **30.21 (1)** No person shall promote a vaping product through a testimonial or an endorsement, however displayed or communicated, including by means of the packaging.

- **Marginal note:Depiction of person**

(2) For the purposes of subsection (1), the depiction of a person, character or animal, whether real or fictional, is considered to be a testimonial for, or an endorsement of, the product.

- 2018, c. 9, s. 37.

Marginal note:Sponsorship promotion

- **30.3 (1)** No person shall promote a vaping product-related brand element or the name of a vaping product manufacturer in a manner that is likely to create an association between the brand element or the name and a person, entity, event, activity or permanent facility.

- **Marginal note:**

- **Promotional material**

(2) No person shall use, directly or indirectly, a vaping product-related brand element or the name of a vaping product manufacturer in the promotional material related to a person, entity, event, activity or permanent facility.

- 2018, c. 9, s. 36.

Marginal note:Name of facility

THE CORPORATION OF THE TOWN OF LASALLE

BY-LAW NUMBER 7775

BEING A BY-LAW TO PROHIBIT SMOKING WITHIN TOWN OF LASALLE
OWNED PARKS, FACILITIES, PLAYGROUNDS AND SPORTS FIELDS

WHEREAS Section 115 of the *Municipal Act, S.O. 2001, c.25*, as amended authorizes the Council of a local municipality to pass a by-law prohibiting or regulating the smoking of tobacco in public spaces within the municipality;

AND WHEREAS it has been determined that environmental tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars and pipes), also known as second hand smoke, is a health hazard and a discomfort for inhabitants of the Town of LaSalle;

NOW THEREFORE, the Council of the Corporation of the Town of LaSalle hereby enacts as follows:

Definitions:

1. In this by-law:

- a) **"Council"** means the Council for the Corporation of the Town of LaSalle;
- b) **"Designated Smoking Area"** means a space located on municipally owned or leased property which has been designated by the Town of LaSalle with signage and smoking disposal equipment to permit smoking away from areas where persons congregate or travel;
- c) **"Municipality"** means the Corporation of the Town of LaSalle;
- d) **"Municipal Building"** means any building or structure, owned, leased, controlled or used by the Town for municipal purposes;
- e) **"Officer"** means a person employed by the Windsor Essex Health Unit who has been appointed to enforce the *Smoke Free Ontario Act, S.O. 1994, c. 10* and such persons are hereby appointed as by-law enforcement officers of the Municipality for this purpose;
- f) **"Public Place"** means the places as described in Schedule A attached hereto and forming part of this by-law, whether or not a "No Smoking" sign is posted;
- g) **"Smoking"** means the carrying of a lighted cigar, cigarette, e-cigarette, pipe or any other lighted or heated equipment used to smoke or vaporize any tobacco or non-tobacco product;
- h) **"Use of Smokeless Tobacco"** shall mean the use of chew, plugs, snus or snuff.

Prohibition:

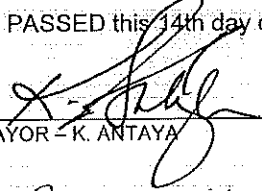
- 2. No person shall engage in Smoking or use of Smokeless Tobacco in any Public Place.

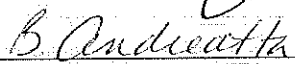
Read a first and second time and FINALLY PASSED this 14th day of July, 2015.

1st reading – July 14, 2015

2nd reading – July 14, 2015

3rd reading – July 14, 2015


MAYOR – K. ANTAYA


CLERK – B. ANDREATTA