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19-006 (BOH07034(n))
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Ward: City Wide

Bill No. 164

CITY OF HAMILTON
BY-LAW NO. 19-164

**To Amend By-law No. 11-080, being a By-law to Prohibit Smoking within City
Parks and Recreation Properties**

WHEREAS the *Municipal Act, 2001*, and particularly sections 9, 10, and 115, authorizes the City of Hamilton to pass by-laws respecting these matters; and,

WHEREAS Council deems it advisable to update By-law No. 11-080 to address the use of cannabis, vaping and the *Smoke-Free Ontario Act, 2017*, which repealed and replaced the *Smoke-Free Ontario Act, 1994*.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Subsection 1(1) of By-law No. 11-080 is amended by adding the following:
 - (a.1) “cannabis” has the same meaning as in subsection 2(1) of the *Cannabis Act* (Canada);
 - (i) “vaporizer” means an inhalant-type device or electronic cigarette, regardless of the name of the device, that contains a power source and heating element designed to heat a substance and produce a vapour intended to be inhaled by the user of the device directly through the mouth, whether or not the vapour contains nicotine, cannabis, cannabis extract or any other intoxicating substance.
2. Subsection 1(1) of By-law No. 11-080 is amended by deleting clause (f) and adding the following:
 - (f) “smoke” includes the inhaling or holding of a lighted substance, joint, cigar, cigarette, pipe, water-pipe or any other lighted smoking equipment, and “smoking” has a corresponding meaning.
3. Subsection 1(1) of By-law No. 11-080 is amended by deleting clause (h) and adding the following:
 - (h) “vape” means inhaling or exhaling vapour from a vaporizer or holding an activated vaporizer, and “vaping” has a corresponding meaning.
4. Subsection 1(4) of By-law No. 11-080 is deleted and the following substituted:

- 1.(4) The provisions of this By-law apply even where the City grants a permit to or enters into an agreement with a person, corporation or organization for the exclusive use of all or part of a park or recreation property.
5. Section 2 is amended by adding the underlined text as follows:
 2. No person shall:
 - (a) smoke or vape tobacco or cannabis or any other substance on recreation property;
 - (b) fail to leave recreation property after authorized staff has given the person notice or direction to leave for smoking or vaping tobacco or cannabis or any other substance on recreation property; or,
 - (c) enter or use recreation property after authorized staff have prohibited the persons entry or use for smoking or vaping tobacco or cannabis or any other substance on recreation property.
6. Section 3 is amended by adding the underlined text as follows:
 3. The prohibitions in section 2 above apply whether or not a "No Smoking/No Vaping" sign of any format or content is posted.
7. Section 8 is deleted and the following substituted:
 8. Subject to section 19 of the *Smoke-Free Ontario Act, 2017* (the "Act"), in the event of a conflict between the provisions of this By-law and the Act or a regulation passed under the Act, the provision that is more restrictive of the matter to which this By-law applies prevails.
8. This By-law shall come into force on July 1, 2019.

PASSED this 12th day of July, 2019.

F. Eisenberger
Mayor

J. Pilon
Acting City Clerk