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Date: 12/14/2020 1:06:21 PM

Subject: Memo: RTS 013504 - Exploring a More Robust Policy Framework Relating to the Sale and Promotion of Vaping Products

Attachments: DBL\_ More Robust Policy Framework Relating to the Sale and Promotion of Vaping Products.pdf

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Dear Mayor and Council,

We are providing the attached memo in response to the November 6, 2019 motion that directed staff to explore various regulatory measures and actions as a step toward the establishment of a robust policy framework relating to the sale and promotion of vaping products in Vancouver.

As you will recall, in February 2020, we provided an update on the work underway and confirmed that new provincial vaping regulations were anticipated in spring 2020 that would address many areas of the motion. Since the Council motion was brought forward, the federal and provincial governments have introduced a suite of regulations to address the sale, access, and appeal of vape products to youth. In particular, the Province introduced significant measures in July 2020 as part of its vaping action plan focused on protecting youth from the harms of vaping including tighter retail controls and stringent new requirements for businesses on the sale, advertising and display of vapour products.

As a result, given the new provincial vaping regulations provide a robust policy framework to address the sale and promotion of vaping products, staff recommend that a similar policy framework is not required at the municipal level and would create regulatory overlap without material benefit to the public.

The memo also includes details on our consultation with Vancouver Coastal Health, Vancouver School Board and Vancouver Park Board through which we identified initiatives these organizations have underway or planned and where there are opportunities for partnerships. For example, staff have partnered with Vancouver Coastal Health to enhance compliance with vaping regulations through an Information Sharing Agreement that will allow both parties to share information on vape retailer non-compliance and to coordinate and strengthen enforcement activities.

Please do not hesitate to contact me you have any questions.

Best,  
Paul

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604.873.7666



*The City of Vancouver acknowledges that it is situated on the unceded traditional territories of the Musqueam, Squamish, and Tsleil-Waututh peoples.*

## MEMORANDUM

December 11, 2020

TO: Mayor and Council

CC: Sadhu Johnston, City Manager  
Paul Mochrie, Deputy City Manager  
Karen Levitt, Deputy City Manager  
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Gail Pickard, Acting Civic Engagement and Communications Director  
Rosemary Hagiwara, Acting City Clerk  
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Sandra Singh, General Manager, Arts, Culture and Community Services  
Grant Murray, Assistant Director, Legal Services  
Donnie Rosa, General Manager, Vancouver Park Board

FROM: Jessie Adcock  
General Manager, Development, Buildings and Licensing

SUBJECT: Exploring a More Robust Policy Framework Relating to the Sale and Promotion of Vaping Products - Report Back on RTS 013504

This memo responds to Council's November 6, 2019 motion that directed staff to explore various regulatory measures and actions as a step toward the establishment of a robust policy framework relating to the sale and promotion of vaping products in Vancouver.

In February 2020, staff sent a memo to Council to provide an update on the approach and work underway. The memo indicated new provincial vaping regulations were anticipated to be implemented in spring 2020 that would address many areas of the motion and that an inter-departmental staff working group was considering how current City policies could be strengthened to complement the new provincial regulations as well as federal regulations.

Since that time, the Province introduced significant measures in July 2020 as part of its vaping action plan focused on protecting youth from the harms of vaping including tighter retail controls and stringent new requirements for businesses on the sale, advertising and display of vapour products under both the *Public Health Act* and the *Tobacco and Vapour Products Control Act*.

As a result, staff are recommending that given the new provincial vaping regulations provide a robust policy framework to address the sale and promotion of vaping products, a similar policy framework is not required at the municipal level as it would create regulatory overlap.

As set out in the following memo, staff completed a jurisdictional scan of federal, provincial and municipal vaping regulations, reviewed City by-laws, policies and programs in relation to vaping and consulted with Vancouver Coastal Health (VCH), Vancouver School Board (VSB) and Vancouver Park Board to offer support and to identify partnerships for any initiatives they have underway or planned in relation to vaping.

Staff also reached out to other BC municipalities to build a collaborative and coordinated effort to address vaping through the Federation of Canadian Municipalities and the Union of BC Municipalities.

The memo provides details on the rationale behind the proposed approach and a summary of next steps.

## **A. Jurisdictional Scan**

The federal and provincial governments are responsible for the regulation of the sale, advertising and marketing of tobacco and vapour products through the *Tobacco and Vaping Products Act* (Canada), *Tobacco and Vapour Products Control Act* (BC), *Public Health Act* (BC), *Tobacco and Vapour Products Control Regulation* and the new *E-Substances Regulation* (BC).

### **i. New Federal regulations**

In July 2020, the federal government introduced several new measures under the *Tobacco and Vaping Products Act* to restrict the promotion of vaping products to youth.<sup>1</sup>

The regulations prohibit the promotion of vaping products by means of advertising done in a manner that allows the advertising to be seen or heard by young persons. Advertising in places such as recreational facilities, public transit facilities, broadcast media, in publications, including those online, are prohibited, if the ads can be seen or heard by anyone under eighteen years of age. Other measures introduced include:

- Limiting youth exposure to promotion of vaping products at points of sale
- Requiring a health warning statement on all ads for vaping products
- Enhanced vaping compliance and enforcement actions

The federal regulations are not meant to conflict with provincial regulations. They are in place in the event provinces do not already have their own measures in place.

### **ii. New Provincial regulations**

In July 2020, the Province enacted the new *E-Substance Regulation* and made amendments to existing regulations as part of its vaping action plan to strengthen the regulatory framework around youth vaping.<sup>2</sup>

The *E-Substance Regulation* distinguishes between two types of sales premises in which vapour products may be sold:

1. **Age-Restricted Sales Premises** – where minors (those under 19 years of age) are not permitted to enter. Age-restricted stores include specialized vapour product stores.

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<sup>1</sup> Source: Health Canada <https://www.canada.ca/en/health-canada/news/2020/07/final-vaping-products-promotion-regulations-vppr.html>

<sup>2</sup> Source: Government of BC [https://news.gov.bc.ca/files/2020.07.20\\_SummaryVaping\\_Regs.pdf](https://news.gov.bc.ca/files/2020.07.20_SummaryVaping_Regs.pdf)

2. All-ages sales premises – where minors (those under 19 years of age) are permitted to enter. These sales premises include gas stations, convenience stores, and any other retail establishment, where youth are permitted.

The new measures include stringent new restrictions on the content, flavour, packaging, advertising and sale of vapour products in British Columbia. The most notable measures include:

- Flavoured vapour products which are attractive to youth can only be sold in age-restricted sales premises such as specialized vape stores where minors are not permitted to enter.
- Only vapour products that taste or smell of tobacco may be sold at all-ages sales premises such as gas stations and convenience stores where minors can enter. No other flavours are allowed.
- Vapour products cannot be advertised in any place, inside or outside, where minors are permitted. This includes all forms of advertising that can be seen, accessed or heard by a minor.
- At age-restricted sales premises, businesses may continue to advertise within their business as long as minors cannot see or hear promotional materials from outside of the business.
- All retailers are prohibited from selling non-nicotine or nicotine-cannabis blended vapour products.
- Restrictions on the amount of nicotine in vapour pods and liquid up to a maximum of 20mg/ml, and requirements for retailers to sell only those vapour products that are plainly packaged and have labels with health warnings.
- New notification requirements. Business owners must notify the Ministry of Health of their intent to sell vapour products by submitting a, “Notice of Intent to sell E-Substances” form to the Ministry of Health. Businesses are also required to submit product, manufacturing and sales reports.

### ***iii. Municipalities***

Notwithstanding various provincial and federal regulations prohibiting the sale of vapour products to youth as well as restrictions on the sale, display and advertising of these products designed to limit youth exposure; municipalities have limited powers and jurisdiction to regulate vaping and limited enforcement resources.

Staff conducted a jurisdictional scan of several Metro Vancouver municipalities (Burnaby, Surrey, Richmond, Delta, and Coquitlam) to determine what regulations these cities have in place in relation to vaping. Findings suggest that they all largely rely on higher levels of government for regulation and there is no consistent approach to regulate the sale, display and advertising of vape products.

For example, the City of Burnaby does not have a bylaw to regulate consumption that restricts or bans where smoking and vaping can occur.

The City of Surrey has provisions in its Business Licence By-law similar to the City of Vancouver (outlined in Section B of this memo) that restrict the sale, display and advertisement of vapour products.

In October 2019, the City of Richmond adopted a general policy to oppose the placement of vaping product advertising on sites and property that they own or have sufficient control over, including transit shelters, benches, and other street furniture.

The City of Delta adopted a similar policy in November 2019 prohibiting advertising of vaping products on Delta property, including reader boards, bus shelters and street furniture.

In November 2019, The City of Coquitlam amended its Business Licence By-law to prohibit the windows of tobacco or vapour product stores to be darkened, frosted or otherwise obscured. The intent of this amendment was to increase visibility of customers and employees as a public safety measure in these premises and in order to address the concern that extensive window frosting may be increasing youth interest in or attention to tobacco and/or vapour product businesses.

## **B. Review of City of Vancouver bylaws, policies and programs in relation to vaping**

### ***i. Business License By-law***

In the City's License By-law, there are two sections that can be used to enforce against businesses that sell vape products. Section 4.12 states that every licence holder must comply with all federal and provincial laws, including municipal by-laws and section 14.1 has provisions on the selling, displaying and advertising of electronic cigarettes and similar devices as referenced below:

#### License By-law Section 14.1: Electronic Cigarettes and Similar Devices

- 1) The provisions of this section apply to all persons carrying on the business of dealing in, supplying, selling, offering to sell or distributing electronic cigarettes.
- 2) No person shall deal in, supply, sell, offer to sell or distribute electronic cigarettes to a minor.
- 3) No person shall display electronic cigarettes in any manner by which the devices may reasonably be seen or accessed by a minor who is outside or inside the business.
- 4) No person shall advertise or promote the use of electronic cigarettes in any manner by which the advertising may reasonably be seen or heard by a minor who is outside or inside the business.

The Chief Licence Inspector may also establish terms and conditions that must be met for obtaining, continuing to hold, or renewing a licence, including conditions related to the protection of minors including but not limited to conditions regarding signage and patron identification.

Enforcement of retailers that sell vape devices and products is conducted by Property-Use Inspectors (PUIs) and is complaint driven. There is a spectrum of enforcement options available if escalation is required for persistent non-compliance with the License By-law. These options include PUI site visits to educate and inform operators of the by-law requirements; warning letters; licence orders and licence suspensions; Municipal Ticket Informations for operating without a business licence or failure to comply with a licence condition; injunctions; long-form prosecutions; and council business licence hearings to decide on revocation of their licence.

#### *Monitoring business that sell vape products*

While there are provisions in the License By-law to regulate businesses that sell vape products, there is currently no specific business licence category to indicate that a business is selling vape products. Like businesses that sell tobacco products, they are licensed as retail stores depending on the goods and services being sold. As a result, the City does not currently have a mechanism through licensing to proactively track and inspect businesses selling vape products.

In considering whether to create a business licence category specific to vape retailers with the purpose of having an accurate database of stores selling these products, staff consulted with VCH, the health authority responsible for the region's Tobacco and Vapour Products Enforcement Program.



VCH is the authority responsible for enforcing the Province's vaping regulations and ensuring vapour product retailers are in compliance. VCH uses a combination of education, monitoring activities and enforcement. Enforcement includes warnings and various penalties such as provincial violation tickets, long-form prosecution, and administrative penalties if non-compliance continues.

In 2016, VCH started conducting site visits citywide to establish a database of locations selling tobacco and vapour products. Through ongoing site visits, VCH has been able to create a full list of retailers selling vape products in Vancouver and is able to track and monitor these businesses as part of their enforcement program which includes sending minor test shoppers into stores to determine if businesses sell products to them.

As of October 19, 2020, there were 215 all-age sales premises and 53 age-restricted sales premises in Vancouver selling vape products that fall under VCH's Tobacco and Vapour Products Enforcement Program.

At the request of the City, VCH has provided staff with its database of retailers in Vancouver that sell vape products including all age-restricted sales premises (specialized vape stores) where flavoured vape products can be sold and all-ages sales premises (convenience stores, gas stations) where only tobacco-flavoured vape products can be sold.

In addition, as of September 15, 2020, new provincial regulations require businesses to notify the Ministry of Health of their intent to sell vape products and this information is being shared with health authorities including VCH. This provides both VCH and the City with an accurate and complete list of retailers in Vancouver who sell vape products. The list is updated every time a new retailer submits a Notice of Intent or an existing retailer opens another location.

Given the new provincial reporting requirements, and the City now having access to VCH's database of vape retailers, staff do not see a need to create a new business licence category.

### *Information Sharing Agreement*

The City and VCH are also working together to develop an Information Sharing Agreement, to share information on vape retailers, to identify any operating in violation of provincial regulations and to coordinate and strengthen enforcement activities against non-compliant operators. The intent of the Information Sharing Agreement is for VCH to share their enforcement activities on vape retailers in violation of provincial regulations with the City so that Property-Use Inspectors can commence any appropriate enforcement action. An Information Sharing Agreement is not needed for VCH to share their database of vape retailers operating in Vancouver.

Bolstering enforcement efforts will create an incentive for businesses to comply with federal, provincial and municipal regulations.

### ***ii. Distancing/proximity to youth facilities***

As part of the motion, staff were requested to report back with recommendations and options for Council's consideration related to measures to limit proximity of vape retailers to schools, youth-oriented facilities, and other recreation facilities, parks, and libraries frequented by youth.

In response, staff reviewed provincial and federal vaping regulations focused on protecting youth, as well as the City's ability to work with VCH in monitoring and enforcing against non-compliant vape retailers.

The impact of mandating minimum distancing requirements between vape retailers and facilities where youth typically congregate was considered within the context of the reinforced provincial regulatory framework and assessment of existing retailers in the city. This analysis concluded

that requiring physical separation measures would have limited influence based on the following considerations:

1. The Province's strengthened regulatory framework around youth vaping prohibits the sale of flavoured vapour products to minors, while ensuring unrestricted access to all vapour products for adults as a means of harm-reduction. Flavoured e-substances that are especially attractive, yet particularly harmful, to youth are permitted for sale only in "age-restricted" retail stores inaccessible to minors. Retail stores accessible to youth under 19 years of age (i.e. gas stations, convenience stores) are permitted to sell only E-substances that taste or smell of tobacco. Minors are not allowed to enter "age-restricted" retailers, and "all-age" retailers are required to check customer ID before allowing access.
2. A minimum distancing requirement between vape retailers and youth-frequented facilities/land uses would apply only to new stores selling vapour products. The existing 268 vape retailers in the City, including those located close to schools and other youth-frequented facilities, would be deemed legally non-conforming. Furthermore, new provincial reporting requirements ask that all new stores notify the Ministry of Health of their intent to sell vape products. These new vape retailers are automatically entered into VCH's Tobacco and Vapour Products Enforcement Program and routinely inspected and monitored to ensure compliance with all Provincial regulations.
3. There are various options for enforcement by VCH and the City against problem retailers not complying with the License By-law, including those consistently disobeying customer age restrictions. This enforcement will be further supported through the Information Sharing Agreement between VCH and the City referenced above. This agreement will allow the sharing of information on vape retailers and the coordination of enforcement activities against non-compliant retailers. The agreement will help to quickly identify retailers operating in violation of municipal and provincial regulations, and will target store owners/operators who sell vape products to minors or permit minors to access an age-restricted premises.

The Province's new restrictions on the sale of flavoured vapes in tandem with a municipal/VCH coordinated approach to enforcement increases protections for youth against vaping. This is further supported through federal and provincial amendments to vaping regulations that provide greater control over the sale and advertising of vape products. Given these recent developments and the little effect physical separation would have on existing retailers, staff are not recommending the implementation of a distancing requirement. City staff together with VCH will continue to protect youth by monitoring non-compliant vape retailers and will act accordingly to address any future issues should they arise.

### ***iii. Advertising***

As part of the motion, staff were also requested to report back with recommendations and options for Council's consideration related to measures to ban advertisements for vaping products on sites and properties the City owns and/or has sufficient control over.

Engineering staff identified transit shelters; map stands/standalone ad panels; automated public toilets (APTs); sandwich boards; and billboards as assets on City land that display advertising and which are regulated through the Canadian Code of Advertising Standards (CCAS).

Staff reviewed existing provincial and federal regulations on vape advertising as well as the CCAS criteria for acceptable advertising in Canada. Staff found that the Province's Tobacco and Vapour Products Control Regulation includes adequate advertising regulation, and that no further regulation of vapour product advertising is needed.

The Province's Tobacco and Vapour Products Control Regulation includes the following section:



#### *4.301: Limits on advertising vapour products*

*A manufacturer, distributor, wholesaler, retailer, or a person acting on behalf of any of them must not advertise a vapour product in any place, whether inside or outside, by any means that may be seen, accessed or heard by a minor.*

Engineering staff concluded that the provincial advertising regulations ban advertisements for vaping products wherever minors can see or hear them, including City-owned and controlled assets, such as transit shelters and other street furniture. As a result, no further regulations are needed.

#### **iv. Sponsorship Policy**

The City's Sponsorship Policy provides a consistent, City-wide approach to accepting sponsorships for City events, programs, services and non-real estate assets.

Securing sponsorships must be approached in a manner that protects the reputation, integrity and aesthetic standards of the City and its assets. In addition, sponsorship must align with the City brand, events, programs, services and assets, and sponsors must ensure its marketing is appropriate for the citizens of Vancouver.

Within that context, Council requested for staff to report back with recommendations and options for changes to the City's sponsorship policy as it pertains to tobacco products to include vape products as ineligible sponsors.

In reviewing the Sponsorship Policy staff found that vaping could be addressed by the City Manager in accordance with the following sections:

- 6.2. Any person or party that engages in the following business is ineligible to be a Sponsor:
- a. manufacturing of armaments and weapons, or
  - b. producing and selling pornography, or illegal sexual services, or
  - c. any other categories as reasonably determined by the City Manager.

6.4. Sponsorship involving products and services that may be considered harmful to the health of the target audience will require explicit approval by the City Manager.

Staff recommend using the current provisions of the Sponsorship Policy to exclude vape manufacturers and retailers from being sponsors.

Moreover, the intent of Section 6.4 is to broadly capture industries such as liquor, tobacco, and gaming where the City Manager is asked to consider a sponsorship involving industries that may be considered harmful to the health of the target audience. The decision of Council to not mention specific industries explicitly came following a Council debate on May 28, 2019 which resulted in the nuanced and balanced wording and delegation of authority to the City Manager.

#### **C. Consultation with stakeholders**

As directed by Council, staff conducted outreach with Vancouver Park Board, Vancouver School Board (VSB) and Vancouver Coastal Health (VCH) to offer support for any initiatives these organizations may undertake or be undertaking in relation to vaping and vape products. Staff were also directed to report back to Council on these initiatives with the intention of identifying potential partnerships.

### **i. Vancouver Park Board**

Staff met with Vancouver Park Board staff in February and November 2020. Several vaping-related initiatives were highlighted as areas that Vancouver Park Board plans to explore in the future. These include:

- As part of a comprehensive review of the Parks Control By-law, conducting a review of the Park Board Smoking Regulation By-law to potentially expand the definition of smoke and smoking to include vapour smoke and vapour products (i.e. e-cigarettes).
- Jurisdictional scan of other municipalities, BC Parks and National Parks' policies to deal with "new technologies" such as e-cigarettes, e-bikes and drones in park space to inform future policies and regulations for these items.
- Updating its Sponsorship Policy and Special Events Framework have been identified as priorities in the Park Board's 2021 Service Plan. Park Board will use these initiatives to better align with the City as it pertains to vaping by leveraging language and principles from the City's Sponsorship Policy to Park's Sponsorship Policy and ensuring consistency across policy and processes for special events as it relates to vaping.

City staff have offered to support Park Board staff in the updating of their Sponsorship Policy and Special Events Framework.

### **ii. Vancouver School Board (VSB)**

Staff met with the manager of the Supporting and Connecting Youth (SACY) Program at VSB in February and November to get a better understanding of the resources and supports available to youth through schools and initiatives underway or planned in the future related to vaping.

SACY is substance-use health promotion initiative that engages Vancouver parents, teachers, students, administrators and the greater community to strengthen school-based alcohol and drug prevention and early-intervention programs and policies. The program also provides education about the health risks associated with vaping and collaborates with multiple agencies, including Vancouver Coastal Health, BC Lung Association, McCreary Centre Society and Students for Sensible Drug Policy.

Initiatives that VSB has underway or planned include:

- In April 2020, the VSB passed a *Notice of Motion – Vaping* that directed the Superintendent of Schools to:
  - complete a District wide school Signage Audit (smoking/vaporizers);
  - ensure 'no smoking' signage is prominently displayed at all District facilities; and
  - that this signage clearly prohibits the use of vaporizers and e-cigarettes and provides information and support for addiction
- The Manager of SACY indicated the following actions regarding vaping are provided by SACY:
  - Creating and implementing classroom education tools on vaping.
  - Incorporating vaping education into SACY-led classroom dialogue sessions
  - Providing one-on-one support for students who vape.
  - Partnering and providing input to VCH to create a vaping infographic.
  - Working closely with VCH's Tobacco Reduction Program to provide tobacco and vaping cessation programs and information for public health nurses in elementary schools.
  - Prior to COVID-19, SACY held school assemblies on vaping for students and parents.
  - Offering focus groups sessions at high schools to seek student input and perspectives on vaping issues

- A survey was done of school administrators, teachers and parents on youth vaping completed by 200 people to help inform the creation of an information pamphlet on vaping.
- Being on the steering committee of a McCreary Centre Society initiative to study youth vaping during COVID-19. The initiative involves conducting surveys of youth on vaping during the pandemic. McCreary Centre Society is a non-government, not-for-profit committed to improving the health of BC youth through research, evaluation and community based projects.

Some initiatives have been delayed or paused due to the pandemic. However, staff from the City and VSB's SACY Program have committed to continue the dialogue so when future initiatives are being planned there is an opportunity to work together.

### **iii. Vancouver Coastal Health**

Staff held several meetings with VCH including staff from Health Protection, the Tobacco and Vapour Products Enforcement Program and the Tobacco and Vapour Products Reduction Program. The following initiatives were highlighted as planned or underway related to vaping:

#### **VCH Tobacco and Vapour Products Reduction Program**

- Promoting and using the VCH Comprehensive School Health (CSH) Vaping Action Guide "Reducing Harms Associated with Vaping in a School Setting." (CSH is a framework based on four areas – School Policies, Community Partnerships, Physical and Social Environments, Teaching and Learning).
- Providing (pre-pandemic) in-person tobacco and vaping prevention presentations and training to schools/community (i.e. youth, staff, parents). Due to the pandemic, the program is adapting in-person presentation format to virtual presentations in order to meet the needs of schools.
- Developing (in process) children/youth vaping prevention resources (i.e. games such as Kahoot) and promoting them along with other available resources to schools.
- Developing, in collaboration with BC Lung Association and Fraser Health Authority, a vaping prevention/cessation toolkit for secondary schools (grades 8-12). Same partners developed a vaping prevention toolkit<sup>3</sup> for elementary schools (grades 5-7) in 2019.
- Developing a resource for educators/counsellors to assist youth who vape (a partnership with VSB/VCH's Supporting and Connecting Youth (SACY))<sup>4</sup> (pending approval).
- Piloting a vaping prevention video contest with youth from a Vancouver neighbourhood house.
- Promoting importance of lung health related to COVID/smoking/vaping through messaging at BC Centre for Disease Control
- Planning to promote tobacco and vaping cessation as well as general lung health during the annual National Non-Smoking Week (January 17- 23, 2021)

#### **VCH Tobacco Enforcement:**

- Creating an online training module for tobacco and vape enforcement staff.

In addition to the above initiatives, the City and VCH staff meet monthly as a Healthy City sub-committee and discuss a range of topics that fall under the Healthy City Strategy including new and emerging issues. This committee has been identified as an area where the City and VCH

<sup>3</sup> Source: [bc.lung.ca/how-we-can-help/vaping/vaping-prevention-toolkit](https://bc.lung.ca/how-we-can-help/vaping/vaping-prevention-toolkit)

<sup>4</sup> Source:

[https://www.vsb.bc.ca/Student\\_Support/Safe\\_Caring/SACY\\_Substance\\_Use\\_Health\\_Promotion/Pages/default.aspx](https://www.vsb.bc.ca/Student_Support/Safe_Caring/SACY_Substance_Use_Health_Promotion/Pages/default.aspx)

can work together and share ideas regarding vaping policies and regulations to help inform decisions.

The City has also partnered with VCH on an Information Sharing Agreement (referenced earlier in this memo), to share information on vape retailers, to identify any operating in violation of provincial regulations and to coordinate and strengthen enforcement activities.

#### **D. Outreach**

##### ***i. Outreach to health ministers***

As part of the motion, Council directed the Mayor to write to the provincial Minister of Health in support of a ban on flavoured vaping products, as well as calling on the province to bring in tighter retail controls on vaping products, to set tougher penalties for non-compliance, and to develop educational tools to stop students from vaping in the first place. Council directed the Mayor to write to the Prime Minister of Canada and the federal Minister responsible for the *Tobacco and Vaping Products Act* urging them to amend the Act and all relevant regulations to restrict the advertisement of vape products as is the case with limits to advertising tobacco products.

The letters sent by the Mayor can be viewed in Appendix A.

##### ***ii. Outreach to other BC municipalities***

Council also directed staff to reach out to other B.C. communities where there is concern about the impacts of vaping and vaping products and to signal and offer the City of Vancouver's support for a coordinated Federation of Canadian Municipalities (FCM) and Union of British Columbia Municipalities effort for outreach to Health Canada and the Province.

In November 2020, staff from Licensing and Community Standards attended an Intergovernmental-Relations Peer Network Meeting hosted by the City of Vancouver. The meeting was attended by participants from the cities of Richmond, New Westminster and Delta, and West Vancouver as well as representatives from TransLink, Metro Vancouver, Vancouver Airport Authority, SFU and UBC. The group meets regularly to discuss public policy issues and to share information and ideas on what their organizations are doing. At the meeting, the group discussed the impacts of vaping and vaping products and the new federal and provincial regulations.

Some of the key takeaways from the discussion were that the new federal and provincial regulations strengthen the regulatory framework to curb youth exposure to vaping. Though local governments are not without tools to complement these regulations, they are very limited, and the federal and provincial governments hold most of the regulatory and enforcement powers on vaping. It was also noted that while the federal and provincial regulations provide a strong framework to protect youth from the harms associated with vaping, there needs to be a continued conversation on how all levels of government can work together to refine and strengthen policies and enforcement mechanisms.

##### ***iii. Outreach to FCM and UBCM***

On November 30, 2020, the Chief Licence Inspector sent letters to FCM and UBCM calling on Health Canada and the Province to collaborate with local governments and to continue the conversation on how all levels of government can work together to refine and strengthen policies and enforcement mechanisms to protect youth from the harms associated with vaping. The letters sent by the Chief Licence Inspector can be viewed in Appendix B.

## E. Conclusion

Since the Council motion was brought forward, the federal and provincial governments have introduced a suite of regulations to address the sale, access, and appeal of vape products to youth.

Together, these regulations strengthen the regulatory framework to curb youth exposure to vaping. Therefore, staff are recommending that given the new federal and provincial vaping regulations provide a robust policy framework to prohibit or otherwise restrict the sale, access and appeal of vaping products, a similar policy framework is not required at the municipal level as it would create regulatory overlap.

Though the City of Vancouver is not without tools to complement these regulations, they are limited, and the federal and provincial government hold most of the regulatory and enforcement powers on vaping.

The City of Vancouver's role with respect to vaping is primarily limited to regulating consumption, through by-laws that restrict or ban where smoking and vaping can occur. The City of Vancouver can also address compliance of vape retailers through the License By-law, by ensuring they are following the terms and conditions of their licence, including compliance with all federal and provincial laws.

Staff have partnered with Vancouver Coastal Health to enhance compliance with vaping regulations through an Information Sharing Agreement that will allow both parties to share information on vape retailer non-compliance, to coordinate and strengthen enforcement activities. Bolstering enforcement efforts creates an incentive for businesses to comply with federal, provincial and municipal regulations.

Please do not hesitate to reach out with any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jessie Adcock".

Jessie Adcock  
General Manager, Development, Buildings and Licensing  
604.873.7160 | [jessie.adcock@vancouver.ca](mailto:jessie.adcock@vancouver.ca)

## Appendix A

### Letter from Mayor to Prime Minister and Federal Minister of Health



**MAYOR KENNEDY STEWART**

December 04, 2019

The Right Honourable Justin Trudeau, P.C., M.P.  
Prime Minister of Canada  
Office of the Prime Minister  
80 Wellington Street  
Ottawa, Ontario K1A 0A2

The Honourable Patty Hajdu, P.C., M.P.  
Minister of Health  
House of Commons  
Ottawa, Ontario, K1A 0A6

Dear Prime Minister Trudeau and Minister Hajdu:

On behalf of Vancouver City Council, I am writing to urge you to amend the federal Tobacco and Vaping Products Act (the Act) and all relevant regulations to prohibit the advertising of vape products, similar to the restrictions on tobacco advertising.

As it is currently written, the Act distinguishes between “tobacco” and “vape” products and specifically allows for advertising vape products as long as the advertisements meet criteria stipulated in legislation and regulations. These regulations have resulted in our regional transportation authority being unable to prohibit vape advertisements at bus stops and within public transit (buses, rapid transit, and sea buses) that meet legal and regulatory requirements.

As you know, the risks of using vape products have been identified as potentially life-threatening, with higher incidence of illness, and very recently, fatalities, among youth. Vaping and vape products have been associated with reported cases of severe pulmonary illness and a number of deaths in the United States, and Health Canada has advised Canadians who use vaping products to monitor themselves for symptoms of pulmonary illness (e.g., cough, shortness of breath, chest pain) and to seek medical attention promptly, if they have concerns about their health. Health officials in British Columbia have also expressed their concerns and warnings regarding vape products.

At its regular meeting on November 6, 2019, Vancouver City Council instructed staff to explore various regulatory measures and actions within the City’s jurisdictional powers to ban advertisements for vaping products on sites and properties the City owns and/or has sufficient control over. More recently, on November 14, 2019, the Government of British Columbia released its plan to restrict access to vaping products, flavours, nicotine content, packaging and advertising and intends to increase taxes on vape products, to protect youth from risks associated with vaping.



Vancouver City Council urgently requests that, given the serious health issues associated with vaping, Health Canada immediately puts in place regulatory measures to reduce youth uptake of vaping products, including restricting advertising which we know influences youth and non-users of tobacco products.

Sincerely,

A handwritten signature in blue ink, appearing to read "K. Stewart", with a large, sweeping flourish extending to the right.

Kennedy Stewart  
Mayor, City of Vancouver





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MAYOR KENNEDY STEWART

December 04, 2019

Mr. Adrian Dix  
Minister of Health  
Room 337 Parliament Buildings  
Victoria, BC V8V 1X4

Dear Minister Dix:

**Re: Support of a Ban on Flavoured Vaping Products and Tighter Retail Controls on Vaping.**

On behalf of Vancouver City Council, I would like to thank the provincial government for its November 14, 2019 acknowledgement that vaping is a public health hazard under the public health act and for announcing 10 new measures and regulations the provincial government will undertake to curb the growing trend of vaping among youths.

The City appreciates the recent provincial commitment to regulate the sale of flavoured vaping products only allowing them to be sold in adult vaping stores, and for committing to educate young people on the serious health impacts from vaping. I am writing you to call for support for an overall ban on flavoured vaping products and for tougher penalties for non-compliance of retail regulations.

As your government knows, vaping is associated with a variety of short term health issues including coughing, sneezing, exacerbation in asthma symptoms and increased heart rate. Recently, in the wake of reported cases of severe pulmonary illness and a number of deaths associated with the use of vaping products in the United States, Health Canada advised Canadians who use vaping products to monitor themselves for symptoms of pulmonary illness and to seek medical attention promptly if they have concerns about their health.

The addictive nature and negative health impacts of vaping have recently been highlighted closer to home. On Wednesday, October 16, 2019, Dr. Bonnie Henry, B.C.'s provincial health officer, confirmed the first probable case of a vaping-related illness in B.C. and noted that several other investigations were underway that may also meet the case definition of probable or confirmed vaping-related illness in the near future. Dr. Henry has also stated that vaping "is quickly emerging as a significant public health issue, and is creating a new generation of young people who are addicted to nicotine. Additionally, Vancouver Coastal Health has reported seeing "the classic signs of nicotine addiction in young people who vape".

Now is the time for government to support bans on nicotine products, namely flavoured products that may attract youth. I strongly encourage you to support a ban on flavoured vaping products which may be attractive to young people, to bring in tighter retail controls on vaping products, and to set tougher penalties for non-compliance.

604-673-7621 [kennedy.stewart@vancouver.ca](mailto:kennedy.stewart@vancouver.ca)

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City of Vancouver, Office of the Mayor, 453 West 12th Avenue, Vancouver, British Columbia, Canada V5Y 1V4



I hope that we can rely on your government's support in this public health matter. Together these actions will improve the health of people who currently use vaping products and will minimize the number of young people being tempted by easily accessible flavoured vaping products.

Sincerely,

A handwritten signature in blue ink, appearing to read "K. Stewart", with a large, stylized flourish extending to the right.

Kennedy Stewart  
Mayor, City of Vancouver

## Appendix B

### Letter from Chief Licence Inspector to FCM



DEVELOPMENT BUILDINGS & LICENSING  
Licensing and Community Standards

November 30, 2020

Daniel Rubinstein, Director, Policy and Research  
Federation of Canadian Municipalities  
24 Clarence Street  
Ottawa, Ontario  
K1N 5P3

By email: [drubinstein@fcm.ca](mailto:drubinstein@fcm.ca)

Dear Daniel Rubinstein:

**RE: City of Vancouver Motion: Exploring a More Robust Policy Framework Relating to the Sale and Promotion of Vaping Products**

I am writing this letter to signal and offer the City of Vancouver's support for a coordinated Federation of Canadian Municipalities (FCM) effort to call on Health Canada and Government of British Columbia to continue the dialogue about public policy and regulations related to vaping among youth, along with appropriate enforcement strategies and resources. Vancouver City Council would like to see all levels of government work together to identify future opportunities to further refine policies that protect youth from the harms associated with vaping, as outlined in their November 6, 2019 [motion](#) "Exploring a More Robust Policy Framework Relating to the Sale and Promotion of Vaping Products."

Since the motion was brought forward, we are pleased to see the federal and provincial governments have introduced the following robust suite of regulations to address the sale, access, and appeal of vape products to youth.

In July 2020, the federal government announced its Vaping Products Promotion Regulations, which set out measures to further restrict the promotion of vaping products to youth under the *Tobacco and Vaping Products Act (TVPA)*. The regulations prohibit promotion of vaping products by means of advertising where they can be seen or heard by youth; limit youth exposure to promotion of vaping products at points of sale; require health warning statements on all ads for vaping products; and enhance vaping compliance and enforcement actions.

In British Columbia, the Province introduced significant measures as part of its vaping action plan including the enactment in July 2020 of the new E-Substances Regulation under the *Public Health Act*. New measures include tighter retail controls including restrictions on the content, flavour, display, packaging, advertising and sale of vapour products and stringent new reporting requirements for businesses.

The City of Vancouver role with respect to vaping is primarily limited to regulating consumption, through by-laws that restrict or ban where smoking and vaping can occur.

City of Vancouver, Development, Buildings & Licensing  
515 W. 10<sup>th</sup> Avenue  
Vancouver, British Columbia V5Z 4A8 Canada  
604-873-7000  
[vancouver.ca](http://vancouver.ca)





The City of Vancouver can also address compliance through the License By-law, by ensuring that vaping-related businesses are following the terms and conditions of their licence, including compliance with all federal and provincial laws.

The new federal and provincial regulations strengthen the regulatory framework to curb youth exposure to vaping. Though local governments are not without tools to complement these regulations, they are very limited, and the federal and provincial governments hold most of the regulatory and enforcement powers on vaping.

Bolstering enforcement efforts creates an incentive for businesses and members of the public to comply with federal, provincial and municipal regulations. Given that local governments have limited powers and jurisdiction to protect youth from access, sale and appeal of vape products, including limited resources for enforcement, we look forward to working together with all levels of government to complement and strengthen our efforts to address vaping.

One recent example of this type of collaboration at the City of Vancouver is a newly created partnership between the Licensing and Community Standards Division and Vancouver Coastal Health Authority to enhance compliance with vaping regulations. The health authority and the City are working together to develop an Information Sharing Agreement, to share information on vape retailers, to identify any operating in violation of provincial regulations and to coordinate enforcement activities.

We are seeking support from FCM to call on Health Canada and Government of British Columbia to collaborate with local governments and to continue the conversation on how all levels of government can work together to refine and strengthen policies and enforcement mechanisms to protect youth from the harms associated with vaping.

Should you wish to discuss this further, please contact me at your earliest convenience.

Yours truly,



Kathryn Holm, P.Eng.  
Chief Licence Inspector  
604.873.7545  
[Kathryn.Holm@vancouver.ca](mailto:Kathryn.Holm@vancouver.ca)



November 30, 2020

Jared Wright, Director of Advocacy and Government Relations  
Union of British Columbia Municipalities  
525 Government Street, Victoria, BC  
V8V 0A8

By email: [jwright@ubcm.ca](mailto:jwright@ubcm.ca)

Dear Jared Wright:

**RE: City of Vancouver Motion: Exploring a More Robust Policy Framework Relating to the Sale and Promotion of Vaping Products**

I am writing this letter to signal and offer the City of Vancouver's support for a coordinated Union of British Columbia Municipalities (UBCM) effort to call on Health Canada and Government of British Columbia to continue the dialogue about public policy and regulations related to vaping among youth, along with appropriate enforcement strategies and resources. Vancouver City Council would like to see all levels of government work together to identify future opportunities to further refine policies that protect youth from the harms associated with vaping, as outlined in their November 6, 2019 [motion](#) "Exploring a More Robust Policy Framework Relating to the Sale and Promotion of Vaping Products."

In addition, advocacy efforts to senior governments from other local governments regarding e-cigarettes and vaping were brought forward through two [resolutions](#) at the 2019 UBCM annual convention. Resolution B59 requested that the Province enact strict regulations for marketing and selling e-cigarettes and vaping products to youth. Resolution B173 was more general in nature and called on senior governments to limit the sale of vaping products while creating new legal enforcements. Resolution B59 passed and was forwarded to the Province for response, and as such, it becomes the policy position of all 189 local governments, and eight First Nations UBCM members.

Since the City motion and local government resolutions were brought forward, we are pleased to see the federal and provincial governments have introduced the following robust suite of regulations to address the sale, access, and appeal of vape products to youth.

In July 2020, the federal government announced its Vaping Products Promotion Regulations, which set out measures to further restrict the promotion of vaping products to youth under the *Tobacco and Vaping Products Act (TVPA)*. The regulations prohibit promotion of vaping products by means of advertising where they can be seen or heard by youth; limit youth exposure to promotion of vaping products at points of sale; require health warning statements on all ads for vaping products; and enhance vaping compliance and enforcement actions.

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under the *Public Health Act*. New measures include tighter retail controls including restrictions on the content, flavour, display, packaging, advertising and sale of vapour products and stringent new reporting requirements for businesses.

The City of Vancouver's role with respect to vaping is primarily limited to regulating consumption, through by-laws that restrict or ban where smoking and vaping can occur.

The City of Vancouver can also address compliance through the License By-law, by ensuring that vaping-related businesses are following the terms and conditions of their licence, including compliance with all federal and provincial laws.

The new federal and provincial regulations strengthen the regulatory framework to curb youth exposure to vaping. Though local governments are not without tools to complement these regulations, they are very limited, and the federal and provincial governments hold most of the regulatory and enforcement powers on vaping.

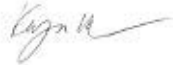
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We are seeking support from UBCM to call on Health Canada and Government of British Columbia to collaborate with local governments and to continue the conversation on how all levels of government can work together to refine and strengthen policies and enforcement mechanisms to protect youth from the harms associated with vaping.

Should you wish to discuss this further, please contact me at your earliest convenience.

Yours truly,



Kathryn Holm, P.Eng.  
Chief Licence Inspector  
604.873.7545  
[Kathryn.Holm@vancouver.ca](mailto:Kathryn.Holm@vancouver.ca)