

This resource is to support local governments across British Columbia to create healthy and thriving places for all people.



Courtesy Paul Krueger

What you'll find in this resource:

- Information about youth vaping in B.C.
- Examples of local governments in B.C. using their regulatory authority to restrict youth access and exposure to vapour products
- Further reading and resources



Healthy People



Healthy Society



Healthy Environments

Youth Vaping Rates



Youth Vaping Rates in Canada

With the rising popularity of vaping, young people have gained access to these products, and rates of youth vaping are increasing rapidly. A Canadian study recently found that vapour product use in teenagers ages 16 to 19 increased from 29 per cent to 37 per cent between 2017 and 2018 (those who said they had ever used vapour products).¹ The rate of vapour product use in those who reported use in the last 30 days in that same age group increased from 8.4 per cent to 14.6 per cent between 2017 and 2018.¹ The same study found that smoking in this age group had not changed in the same time period.²

Youth Vaping Rates in British Columbia

A 2018 survey of B.C. youth grades 7 through 12 reported 18 per cent of students in this age group smoked tobacco,³ which is a decrease from 21 per cent in 2013.⁴ The survey indicated that 21 per cent of youth in the same age group had used vapour products with nicotine in the last 30 days and 19 per cent used vapour products without nicotine. These vaping rates are both higher than those reported for this age group in 2014–2015 (8 per cent) and in 2016–2017 (12.5 per cent).⁵

B.C.'s Vaping Action Plan

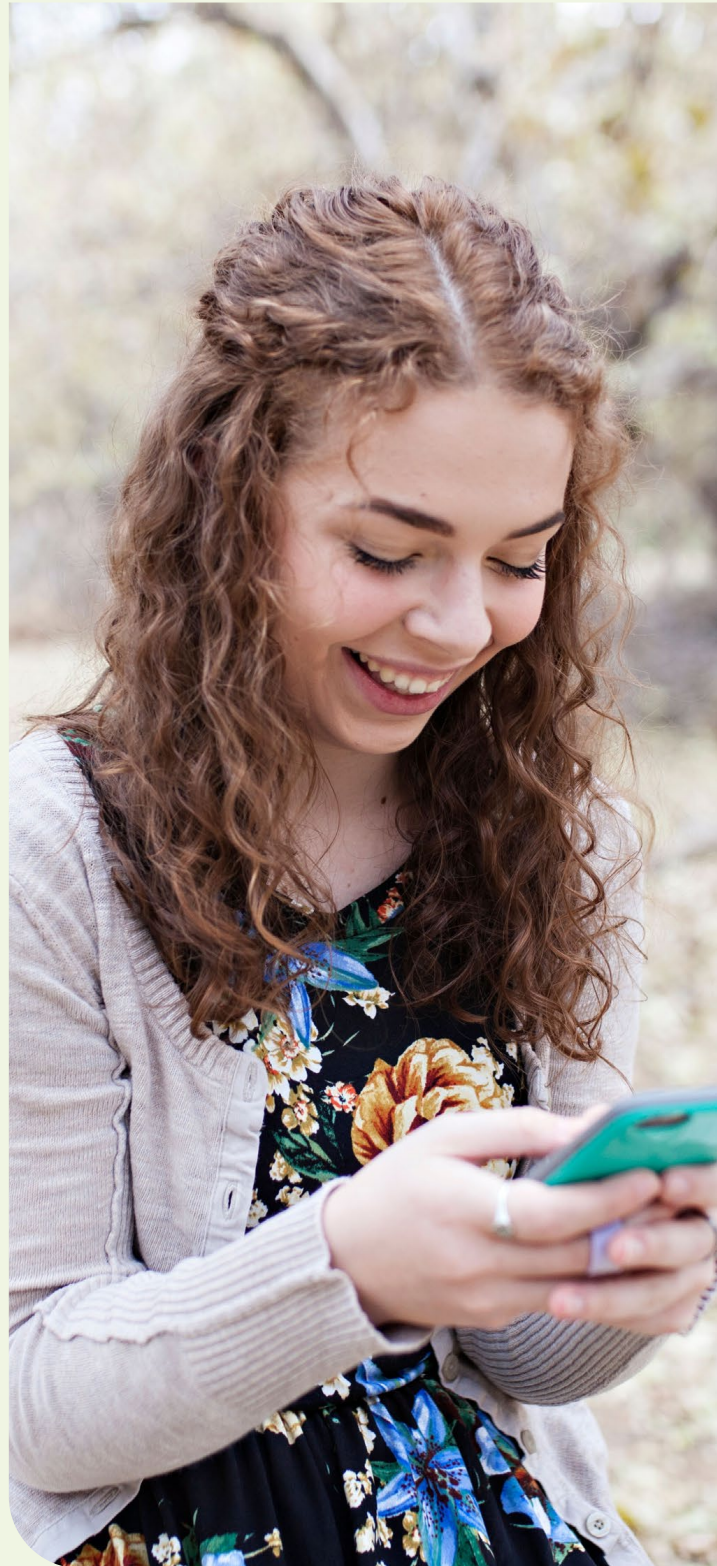
On November 14, 2019, the Province introduced a [10-point Action Plan](#) to protect young people from the harms of vaping and vapour products. [The plan was implemented on July 20, 2020 and all regulations were in force by September 15, 2020.](#) The plan strengthens the regulatory framework under the *Tobacco and Vapour Products Control Act* and has introduced new regulations under the *Public Health Act*. Measures included in the plan are the creation of youth advisory councils, the development of education materials for schools, and enhancements to QuitNow resources for youth wanting to quit vaping.

The Province's regulations distinguish between two categories of retailers: (1) retailers accessible to all ages (such as convenience stores, grocery stores); and (2) retailers that are age restricted to 19 years and older that have strict age verification processes (such as a specialized vapour product stores).

All-age retailers (such as convenience stores, grocery stores) are restricted to selling only tobacco flavoured vapour products. This allows nicotine vapour products to be available to adult smokers where tobacco products are sold in the same location. Age-restricted retailers do not have any flavour restrictions but may comply with federal flavour restrictions. No vapour product can imply an association in name with confectionary, dessert, soft drinks or energy drinks. Non-nicotine or non-cannabis e-substances are not permitted for sale in B.C.

There are further restrictions for consideration regarding what retailers can sell, such as limiting nicotine content to a maximum of 20mg/ml, requiring plain packaging that must include health warnings and information on ingredients, and restricting the advertising of vapour products in areas where youth have access.

As part of this Action Plan, effective January 1, 2020, the Province also increased sales tax from 7 per cent to 20 per cent on vapour products.



The Role of Local Governments in Vaping Regulation

The [Local Government Act](#) and the [Community Charter](#) provide three key tools that local governments can apply to restrict youth exposure to vaping and access to vapour products: (1) Vaping in public places; (2) Municipal business regulation; and (3) Zoning.

Vaping in Public Places

Local governments can reduce youth exposure to vaping by placing vaping restrictions in outdoor areas youth tend to frequent and setting additional restrictions on vaping in public places under their existing powers to establish bylaws.^{6,7} Specifically, local governments have authority to create vape-free areas such as parks, playgrounds and sports fields, and can increase the buffer zone size for vape-free areas.

Under the provincial [Tobacco and Vapour Products Control Act](#), smoking and vaping are not allowed in the following public places:

- Any building, structure, vehicle or any other place that is fully or substantially enclosed
- A place where the public is ordinarily invited or permitted access, either expressly or by implication
- A workplace
- The common areas of an apartment building, condominium and dormitory
- Transit shelters
- A public patio
- Areas within six metres of a doorway, window or air intake of a place described above; or
- With the exception of designated smoking areas, approved by the local health board.

Local governments may consider updating the definition of smoking in current smoking bylaws to include vaping and vapour products.

The examples below show how local governments have amended their smoking bylaws to include vaping and placed additional restrictions on vaping in public places.

Example: City of New Westminster Smoking Control Bylaw No. 6263, 1995

The City of New Westminster has adopted a bylaw with additional restrictions. In their [Smoking Bylaw](#) the city bans smoking and vaping on patios serving beverages or food and requires a buffer within 7.5 metres of any opening to any building (door, window that opens, air intake). The bylaw extends that buffer to within 15 metres of any “sports field, skate park, playground, lacrosse box, lawn bowling green, stadium, picnic area, water park, wading pool, swimming pool or off-leash dog area within a City park.” The bylaw defines smoking as “inhaling, exhaling, burning, vapourizing or carrying of a lighted cigar, cigarette, pipe or lighted smoking or electronic vaping equipment of tobacco or any other weed, plant or e-substance.”



A New Westminster bylaw bans smoking and vaping within 15 metres of many outdoor areas such as sports fields, skate parks, and playgrounds.
Image: Province of BC

The Role of Local Governments in Vaping Regulation

Example: District of Lake Country Smoking Bylaw No. 954, 2016

The District of Lake Country has a bylaw in place that also contains additional restrictions. [The bylaw](#) bans smoking and vaping in any public space, any park, sports field or common area, and prohibits smoking and vaping within 7.5 metres of transit stops, outdoor customer service areas (such as patios) and any building doorways, air intakes or open windows. The bylaw specifies that these restrictions do not apply to the use of tobacco in a traditional Indigenous cultural ceremony. Smoking is defined to include “hookah pipe, electronic cigarette or other smoking equipment that burns or vapourizes tobacco, marijuana or any other substance.”



Municipal Business Regulation

Municipalities have the authority under the [Community Charter](#) to regulate businesses and may issue business licences. There is currently no provincial licensing specific to the retail of vapour products, such as there is with tobacco, cannabis or liquor. Municipalities may place additional restrictions, such as added security requirements, on vapour product stores through their business regulation authority.

The provincial [Tobacco and Vapour Products Control Act Regulation](#) provides restrictions on the sale, display and promotion of vapour products within retail locations. Federal rules for advertising of vapour products can be found in the [Tobacco and Vaping Products Act](#).

Currently, both the provincial and federal governments are proposing new regulations to expand restrictions on advertising and promotion of vapour products to include all places to which youth could be exposed to seeing or hearing vapour product advertisements. The proposed provincial regulations intend to strengthen restrictions regarding public advertisements so that children and youth are not exposed to

messaging and advertising when riding the bus or waiting at bus stops, from billboards as they are travelling in their communities, and while spending time in community parks or shopping malls. Restrictions will also apply to advertising and messaging of flavoured vapour products.

The proposed regulations also address retailers who are authorized to sell vapour products. These retailers may be permitted to engage in some advertising within a retail establishment. However, there will be restrictions to ensure advertising is not visible to children and youth.

Signs

Local governments have the authority to regulate where advertising signs, including sandwich boards, can be placed in order to protect youth. Note that local governments do not have the authority to regulate sign content.

For example, a local government may restrict the placement of sandwich board signs around park entrances during events that youth might frequent. In addition to not having the authority to regulate specific wording on signs, local governments cannot restrict signage by business type (i.e., restricting only signs advertising vapour products), as this would inherently regulate sign content.

The Role of Local Governments in Vaping Regulation

Zoning

Zoning authority is another tool local governments can use to protect the health of youth. Local governments can use zoning to control the locations where retailers can sell vapour products. Through their broad zoning powers, local governments can regulate land uses, including the location of vapour product stores in their jurisdiction. This may include requiring minimum distances between different uses, such as vape stores and schools, daycare centres or certain outdoor areas.

Legal Non-Conforming Uses

Note that if amendments to zoning bylaws are made in areas where vapour product stores already legally exist, those businesses may be able to continue to operate under the rules of non-conforming uses.⁸

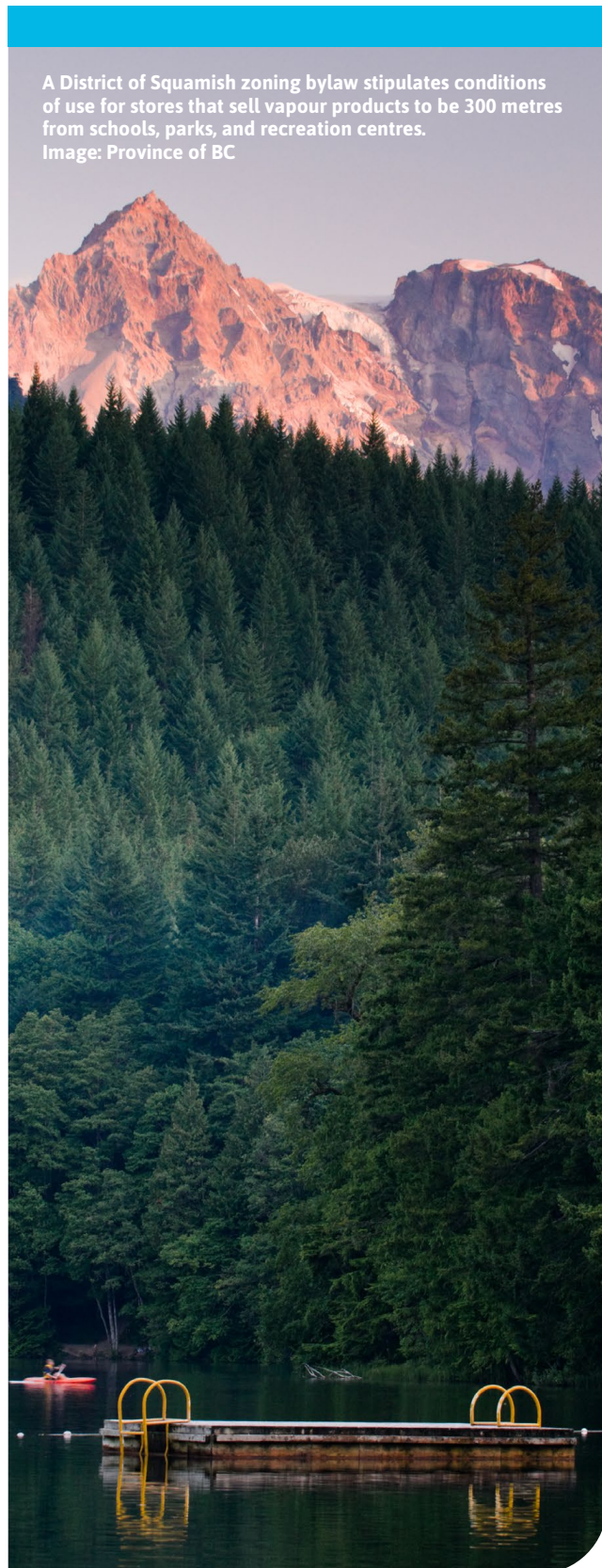
The example below illustrates how a local government has used its zoning powers to reduce youth access to vapour products.

Example: District of Squamish Zoning Bylaw, Amendment No. 2567, 2017

The District of Squamish [zoning bylaw](#) defines “tobacconist” to include the primary or accessory retail sale of vapour products.

The zoning bylaw stipulates conditions of use for tobacconists that include a minimum distance requirement of 300 metres in all zones from various locations including schools, parks and recreation centres, and it also restricts the location of tobacconists on parcels of land with frontage on certain streets.

A District of Squamish zoning bylaw stipulates conditions of use for stores that sell vapour products to be 300 metres from schools, parks, and recreation centres.
Image: Province of BC



Resources

Ministry of Municipal Affairs & Housing

Telephone: 1-800-663-7867

Email: EnquiryBC@gov.bc.ca

Website: <https://www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/ministries/municipal-affairs-housing>

BC Local Government Act (LGA)

http://www.bclaws.ca/civix/document/id/complete/statreg/r15001_00

BC Community Charter (CC)

http://www.bclaws.ca/civix/document/id/complete/statreg/03026_00

BC Provincial Government's Proposed Vaping Regulation News Release

<https://news.gov.bc.ca/releases/2020HLTH0038-001324>
<https://news.gov.bc.ca/releases/2019HLTH0118-002192>

Current BC Provincial Government Tobacco and Vapour Products Control Act

<https://www2.gov.bc.ca/gov/content/health/keeping-bc-healthy-safe/tobacco-vapour/legislation>
http://www.bclaws.ca/civix/document/id/complete/statreg/96451_01

Tobacco and Vapour Free Places under the BC Provincial Tobacco and Vapour Products Control Act

<https://www2.gov.bc.ca/gov/content/health/keeping-bc-healthy-safe/tobacco-vapour/requirements-under-tobacco-vapour-product-control-act-regulation/tobacco-vapour-free-places>

Information for Vapour Product Retailers Under the Tobacco and Vapour Control Act Regulation

<https://www2.gov.bc.ca/gov/content/health/keeping-bc-healthy-safe/tobacco-vapour/requirements-under-tobacco-vapour-product-control-act-regulation/information-vapour-product-retailers>

Government of Canada Tobacco and Vaping Products Act

<https://www.canada.ca/en/health-canada/services/smoking-tobacco/vaping/product-safety-regulation.html>

Links to bylaw examples provided in the text of this resource:

City of New Westminster Smoking Control Bylaw

https://www.newwestcity.ca/database/files/library/6263_Smoking_Control.pdf

District of Lake Country Smoking Bylaw

<https://lakecountry.civicweb.net/filepro/documents/958?preview=57380>

Squamish Zoning Bylaw

<https://squamish.civicweb.net/filepro/documents/68132?preview=162928>

References

1. Hammond, D., Reid, J.L., Rynard, V., Fong, G.T., Cummings, K.M., et al. (2019). Prevalence of vaping and smoking adolescents in Canada, England, and the United States: repeat national cross sectional surveys. *British Medical Journal*. 2019;365:12-19.
2. Hammond, D., Reid, J.L., Rynard, V., Fong, G.T., Cummings, K.M., et al. (2019). Prevalence of vaping and smoking among adolescents in Canada, England, and the United States: repeat national cross sectional surveys. *British Medical Journal*. 2019;365:doi:10.1136/bmj.l2219, published 20 June 2019. <https://www.bmj.com/content/bmj/suppl/2020/07/10/bmj.m2579.DC1/correction1798.www.pdf>
3. Smith, A., Forsyth, K., Poon, C., Peled, M., Saewyc, E., & McCreary Centre Society (2019). *Balance and connection in BC: The health and well-being of our youth*. Vancouver, BC: McCreary Centre Society. https://www.mcs.bc.ca/pdf/balance_and_connection.pdf
4. Smith, A., Stewart, D., Poon, C., Peled, M., Saewyc, E., & McCreary Centre Society (2014). *From Hastings Street to Haida Gwaii: Provincial results of the 2013 BC Adolescent Health Survey*. Vancouver, BC: McCreary Centre Society. https://www.mcs.bc.ca/pdf/From_Hastings_Street_To_Haida_Gwaii.pdf
5. Thompson-Haile, A., Burkhalter, R., Mackenzie, A., Wild, T.C., & Cooke, M. (2018). *Provincial Patterns and Trends in E-Cigarette use from the Canadian Student Tobacco, Alcohol and Drugs Survey (CSTADS): British Columbia*. Waterloo, ON: Propel Centre for Population Health Impact, University of Waterloo. https://uwaterloo.ca/canadian-student-tobacco-alcohol-drugs-survey/sites/ca.canadian-student-tobacco-alcohol-drugs-survey/files/uploads/files/kt18_ecig_factsheet_bc_final_0.pdf
6. Community Charter, SBC 2003, c 26, s 8. *Fundamental Powers*, https://www.bclaws.ca/civix/document/id/complete/statreg/03026_00
7. Local Government Act, RSBC 2015, c 1, s 227. *Bylaw procedures: application of Community Charter and s 228 Bylaw adoption at same meeting as third reading*. <https://www.canlii.org/en/bc/laws/stat/rsbc-2015-c-1/latest/rsbc-2015-c-1.html>
8. Local Government Act, RSBC 2015, c 1, s 528. *Non-conforming uses: authority to continue use*. <https://www.canlii.org/en/bc/laws/stat/rsbc-2015-c-1/latest/rsbc-2015-c-1.html>



More Information

Want support or to learn more about improving health and well-being in your community?

Health authorities can support local governments by providing advice and expertise, resources for local government staff and elected officials to develop healthy public policy, community health profiles, and opportunities to work together on joint healthy living actions. You may already have relationships with your health authority. If not, up-to-date contact information for your local health authority lead is available at www.planh.ca.

Acknowledgments

PlanH is a partnership between BC Healthy Communities Society and the British Columbia Ministry of Health. PlanH creates healthier communities by supporting partnerships across sectors, providing learning opportunities, resources, and consultation, and facilitating leading-edge practices and collaborative local action.

This guide was produced by BC Healthy Communities Society. The BC Ministry of Municipal Affairs and Housing provided valuable interpretation of the regulatory authorities of local governments discussed in this resource.

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