

# THE TOBACCO AND VAPOUR PRODUCTS CONTROL ACT AND LICENSED RESIDENTIAL CARE FACILITIES IN BC



## COMMUNITY CARE FACILITIES LICENSING PROGRAM & TOBACCO & VAPOUR PREVENTION AND CONTROL PROGRAM

Information shared in this INFOsheet provides considerations that will assist residential care facility employees in meeting legislative requirements regarding the use of tobacco and/or vapour products at licensed residential care facilities. The applicable legislation is the *Community Care and Assisted Living Act*, the Residential Care Regulation, the Capital Regional District - Clean Air Bylaw (applicable to the South Vancouver Island only), the *Tobacco and Vapour Products Control Act* and Regulation. Section 23 (1) of the Residential Care Regulation states:

### Smoking and use of vapour products

23 (1) A licensee must ensure that

- (a) no one other than a person in care smokes or uses tobacco, holds lighted tobacco, uses an e-cigarette or holds an activated e-cigarette while on the premises of a community care facility,
- (b) employees do not smoke or use tobacco, use an e-cigarette or hold an activated e-cigarette while supervising persons in care, and
- (c) if necessary for the safety of the person in care, a person in care who is smoking or using tobacco, using an e-cigarette or holding an activated e-cigarette is supervised.

Section 23(2) of the Residential Care Regulation further indicates that the definition of e-cigarette, activated e-cigarette and tobacco is the same as in the *Tobacco and Vapour Products Control Act*, as follows:

- **e-cigarette** means the following:
  - (a) a product or device, whether or not it resembles a cigarette, containing an electronic or battery-powered heating element capable of vapourizing an e-substance for inhalation or release into the air;
  - (b) a prescribed product or device similar in nature or use to a product or device described in paragraph (a);
- **Activated e-cigarette** means an e-cigarette in which an e-substance is being vapourized;
- **Tobacco** means tobacco leaves or products produced from tobacco in any form or for any use.

“Premises” is defined in the *Community Care and Assisted Living Act* and “means a building or structure and includes outside areas adjacent to the building or structure ordinarily used in the course of providing services.”

\*Operators of residential care facilities are free to designate any part of their building or outdoor spaces as smoke and vapour free at any time.\*

### OVER

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## **Use of Tobacco and Vapour Products at all licensed health authority contracted or health authority owned/operated residential care facilities:**

On September 1, 2016, the new *The Tobacco and Vapour Products Control Act* and Regulation came into effect. The following now applies to all licensed health authority contracted, owned and operated residential care facilities:

### **Outdoor use of tobacco and vapour products**

- Tobacco and vapour products cannot be used on the grounds of a licensed health authority contracted or owned/operated residential care facility unless the health board designates an area for the use of tobacco, vapour products, and/or both.
- If the health board designates an area of use for tobacco and or vapour products, the no smoking zone around doors, windows and air intakes of 6 metres must be followed. Due to the Clean Air Bylaw, in the Capital Regional District (CRD), the no smoking zone around doors, windows and air intakes of 7 metres for tobacco products must be adhered to and signage must be posted.
- In the CRD, as per the Clean Air Bylaw, no smoking of tobacco is to occur in any location where either food or both food and beverages are served and/or consumed [for example an outdoor patio area]. [http://www.viha.ca/mho/tobacco/clean\\_air\\_bylaw.htm](http://www.viha.ca/mho/tobacco/clean_air_bylaw.htm)

### **Indoor use of tobacco or vapour products**

- For locations within the CRD, no smoking of tobacco products is permitted by anyone inside the facility as per Clean Air Bylaw 3962.
- Outside of the CRD for tobacco products and with regard to the use of vapour products [region wide], only persons in care at a residential care facility can use tobacco and/or vapour products inside if there is a designated specially constructed room that meets the standards set by WorkSafeBC's Occupational Health and Safety Guidelines Part 4.
- Family and guests of residents, or employees and volunteers of these residential care facilities are not included in this definition and must not use tobacco or vapour products inside the facility.

## **Use of Tobacco and Vapour Products at all other licensed residential care facilities [group homes, privately owned/operated etc.]:**

- As per the Residential Care Regulation, no employees [including volunteers] are permitted to smoke or vape on the premise.
- Outdoor use vapour products by persons in care must abide by the 6 metre buffer zone requirement around doors, windows and air intakes.
- Outdoor used of tobacco products by persons in care must abide by the 7 metre buffer zone within the CRD and the 6 metres buffer zone outside of the CRD around doors, windows and air intakes.
- Outdoor use of tobacco or vapour products by persons in care must not be in an area that is substantially enclosed.
- For locations in the CRD, no smoking of tobacco products is permitted by anyone inside as per Clean Air Bylaw 3962.
- Outside of the CRD, only persons in care at a residential care facility can use tobacco or vapour products inside if there is a designated specially constructed room that meets the standards set by WorkSafeBC's Occupational Health and Safety Guidelines Part 4.
- Family and guests of residents, or employees and volunteers, of these residential care facilities are not included in this definition and must not use tobacco or vapour products inside the facility.