

ORDINANCE NO. 1735

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, READOPTING CHAPTER 8.32 OF THE BONNEY LAKE MUNICIPAL CODE RELATING TO MISCELLANEOUS PUBLIC NUISANCES; PROHIBITING SMOKING, VAPING, TOBACCO OR CANNABIS USE IN OR NEAR ENTRANCES TO CITY FACILITIES; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, RCW 70.160.011 states that secondhand smoke is a known cause of other diseases including pneumonia, asthma, bronchitis, and heart disease; and

WHEREAS, the public are often exposed to secondhand smoke in the workplace, and are likely to develop chronic, potentially fatal diseases as a result of such exposure; and

WHEREAS, the Board of Health finds that the availability and use of vapor products continue to increase in popularity; and

WHEREAS, scientific research has shown that secondhand exposure to vapor product emissions, such as with electronic cigarettes, can expose people who are not vaping to health risks from nicotine, particulates, toxic organic chemicals and other compounds; and

WHEREAS, the City of Bonney Lake is committed to maintaining a safe and healthy work environment for all City staff and visitors; and

WHEREAS, the Bonney Lake City Council finds that the passage of this Ordinance supports and furthers the interest of public health, safety and welfare;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Recodification. Sections 2 of this Ordinance shall be codified as Chapter 8.32 of the Bonney Lake Municipal Code and entitled "Tobacco, Cannabis, and Vaping On City Property".

Section 2. General Provisions. Section 8.32 is hereby recodified to the Bonney Lake Municipal Code to read as follows:

Chapter 8.32 TOBACCO, CANNABIS, AND VAPING ON CITY PROPERTY

Sections:

8.32.010 Definitions.

8.32.020 Tobacco Use Prohibited.

8.32.030 Vape Products Use Prohibited.
8.32.040 Cannabis Use Prohibited.
8.32.050 Designated Smoking Area.
8.32.060 Posting Of Signs.
8.32.070 Enforcement.
8.32.080 Penalties.

8.32.010 Definitions.

These definitions are not intended to be used in interpretation of the city's Zoning Code or any other provisions of the Bonney Lake City Code except as used in this chapter. The following words and phrases, whenever used in this chapter, shall be construed as follows:

- A. City Facility means any property or structure owned or controlled by a city government, including both real property and personal property used for public services or other purposes. This encompasses parks, city buildings, and city vehicles.
- B. Employee means elected officials and personnel appointed to a position (regular, part time, seasonal, temporary, extra hire, volunteer, or project position) of service with the City.
- C. Public Place means any city facility or vehicle open to or used by the public or employees regardless of whether a fee is charged for admission.
- D. Reasonable Distance means a distance of twenty-five (25) feet in any direction from any doorway, window opening, crack, or vent of any area where smoking is prohibited under this chapter. Nothing in this definition shall limit or reduce the minimum smoking prohibition distance requirements for any publicly owned or utilized building or structure, subject to state or federal regulations.
- E. Smoke or smoking means inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other tobacco or plant product, or inhaling or exhaling aerosol or vapor from any electronic delivery device. Smoking includes being in possession of a lighted or heated cigar cigarette, pipe, or any other tobacco or plant product intended for inhalation, or an electronic delivery device that is turned on or otherwise activated.
- F. Tobacco. Any product containing, made, or derived from tobacco that is intended for human consumption, whether smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product including but not limited to cigarettes; cigars and other smoking tobacco; electronic delivery devices; and any other kinds and forms of tobacco.
- G. Vaping means the use of a cylindrical device which releases smokeless nicotine, heated vapor, flavorings, and other chemicals into the mouth and lungs when it is inhaled.

- H. Cannabis means the dried flowers, leaves, stems, and seeds of the cannabis plant, which can also be called marijuana, weed, pot, or bud.
- I. Oral Pouches means “smokeless” tobacco products that are sometimes referred to as a "lip pillow" or "upper decky" that are placed between the lip and gum, that contain nicotine powder.
- J. Visitor means any individuals including customers, clients, vendors, contractors, employees, or anyone entering the city facility.

8.32.020 Tobacco Use Prohibited.

- A. No person shall smoke in public places and places of employment (RCW 70.160.030).
- B. No person shall use oral pouches in public places and places of employment.
- C. Any individual smoking, inhaling, or ingesting tobacco products in violation of this chapter shall be subject to the penalties contained herein, except to the extent such penalties would conflict with state law.

8.32.030 Vape Products Use Prohibited.

- A. No person shall use vape products in public places. The Washington vapor products law explicitly provides local jurisdictions the authority to restrict the use of vapor products in indoor public places and in outdoor public areas where children congregate, such as schools, playgrounds, and parks (RCW 70.345.210).
- B. Although electronic cigarettes (vapers) are smokeless, they are nonetheless considered a health hazard. Electronic smoking devices produce an aerosol by heating a liquid that may contain nicotine, the addictive drug in regular cigarettes and other tobacco products, as well as flavoring and other chemicals that help to make the aerosol. Users inhale this aerosol into their lungs. Bystanders can also breathe in this aerosol when the user exhales into the air. Electronic smoking devices can be used to deliver marijuana and other drugs.
- C. Any individual using any vaping products in violation of this chapter shall be subject to the penalties contained herein, except to the extent such penalties would conflict with state law

8.32.040 Cannabis Use Prohibited.

- A. Per the Washington State Liquor and Cannabis Board public cannabis consumption is not allowed in public places. This includes prohibiting the use cannabis in any form, including but not limited to smoking, vaping, or eating.

- B. Any individual smoking marijuana or using marijuana products in violation of this chapter shall be subject to the penalties contained herein, except to the extent such penalties would conflict with state law.

8.32.050 Designated Smoking Area.

- A. Per RCW 70.160.075, smoking is prohibited within a presumptively reasonable minimum distance from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited so as to ensure that no tobacco smoke or vapor enters the area through entrances, exits, open windows, or other means.
- B. Ashtrays may be provided at preferred smoking areas located outside areas of reasonable minimum distance of entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means.

8.32.060 Posting Of Signs.

- A. “No Smoking” signs with letters of not less than one (1) inch in height or the international “No Smoking” symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every public place. Alternative means of notification (individual place cards, etc.) may be employed, provided they are equivalent to the aforementioned signs in their effect.

8.32.070 Enforcement.

- A. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter.
- B. Except as otherwise provided, enforcement of this chapter is at the sole discretion of the City. Nothing in this chapter shall create a right of action in any person against the City or its agents to compel public enforcement of this chapter against private parties.

8.32.080 Penalties.

- A. Each instance of smoking in violation of this chapter shall constitute a separate violation.
- B. Unless otherwise designated elsewhere in this chapter, violations of any of the provisions of this chapter are proclaimed to be public nuisances. Those persons responsible for maintaining with knowledge such nuisance, or for committing a crime in any city facility, shall be subject to immediate ejection from the facility. Unless otherwise specifically set forth herein, a violator may also be charged with a class 3 civil infraction under Chapter 7.80 RCW. Repeating violations shall constitute class 1 civil infractions under Chapter 7.80 RCW.

Section 3. Severability. If any section, sentence clause, or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or unconstitutionality of any other section, sentence, clause or phrase of this Ordinance.

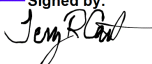
Section 4. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 5. Corrections. Upon the approval of the city attorney, the city clerk, and/or the code publisher is authorized to make any necessary technical corrections to this ordinance, including but not limited to the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto. Provided, however, that nothing in this section allows the city attorney, the city clerk, and/or the code publisher to change the intent of this Ordinance.

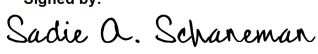
Section 6. Effective Date. This Ordinance shall be effective five days after publication as provided by law.

ADOPTED by the City Council of the City of Bonney Lake and attested by the City Clerk in authentication of such passage on this 13th day of May 2025.

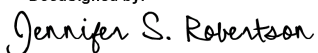
APPROVED by the Mayor on this 13th day of May 2025.

Signed by:

339AD7C13E9E492...
Terry Carter, Mayor

ATTEST/AUTHENTICATED:

Signed by:

075A05C52D794C6...
Sadie A. Schaneman, MMC, City Clerk

APPROVED AS TO FORM:

DocuSigned by:

3CCD924BC20444E...
Jennifer S. Robertson, City Attorney

AB 25-36
Passed: 5/13/2025
Valid: 5/27/2025
Published: 5/22/2025
Effective Date: 5/27/2025
This Ordinance totals <u>5</u> page(s)

City of Bonney Lake, Washington
City Council Agenda Bill (AB)

Agenda Item Type: Ordinance	Agenda Bill Number & Ordinance/Resolution/Motion Number: AB25-36/Ord. D25-36		
Department/Division Submitting: City Clerks Office	Presenter: Sadie Schaneman	City Strategic Goal Category: Public Safety Vision	

Agenda Subject: No Tobacco, Vaping, Or Cannabis Inside All City Facilities Or Within 25 Feet Of Building Entrances.

Full Title/Motion: An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Recodifying Chapter 8.32 Of The Bonney Lake Municipal Code From Miscellaneous Public Nuisances To No Smoking, Vaping, Or Tobacco In City Facilities; Providing For Severability And Corrections; And Establishing An Effective Date.

Administrative Recommendation: Approve

Short Background Summary (Use A Memo To Write A Full History): RCW 70.160 Prohibits Smoking In Public Places Or Places Of Employment And Chapter 9 Of The Tacoma-Pierce County Board Of Health Environmental Health Code Prohibits Use Of Vapor Products In An Indoor Public Place Or In Any Place Of Employment, Including Within 25 Feet Of Building Entrances. The City Is Wanting To Codify These Regulations For Enforcement.

Attachments: Ordinance D25-36, RCW 70.160, Environmental Code Chapter 9, WA State Second-Hand Smoke Prevention.

BUDGET INFORMATION

Budgeted Amount: **Current Balance:** **Expenditure Amount Needed:** **Budgeted Balance Difference:**

Budget Explanation:

COMMITTEE, BOARD & COMMISSION REVIEW

Public Hearing Date: **Name Of Committee/Commission Public Hearing Was Done At:**

Date & Name Of Committee/ Commission Meeting	Return To Committee/ Commission/Board	Council Workshop Discussion	Consent Agenda	Council Full Issues
Date: Name:	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes
Date: Name:	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes
Date: Name:	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes

Hearing Examiner Review:

Preparer sent affected Department Director(s) copy of AB

☒ Administrative Services ☒ Court ☒ Executive
☒ Finance ☒ Police ☒ Public Services

COUNCIL ACTION

Workshop Date(s): 05/06/2025

Public Hearing Date(s):

Meeting Date(s): 05/13/2025

Tabled To:

APPROVALS

Department Director:
Chuck McEwen

Mayor:
Terry Carter

Date Reviewed By City Attorney (if applicable):
4/22/2025

Chapter 70.160 RCW

SMOKING IN PUBLIC PLACES

(Formerly: Washington clean indoor air act)

Sections

- 70.160.011** Findings—Intent—2006 c 2 (Initiative Measure No. 901).
- 70.160.020** Definitions.
- 70.160.030** Smoking prohibited in public places or places of employment.
- 70.160.050** Owners, lessees to post signs prohibiting smoking.
- 70.160.060** Intent of chapter as applied to certain private workplaces.
- 70.160.070** Intentional violation of chapter—Removing, defacing, or destroying required sign—Fine—Notice of infraction—Exceptions—Violations of RCW **70.160.050**—Fine—Enforcement.
- 70.160.075** Smoking prohibited within twenty-five feet of public places or places of employment—Application to modify presumptively reasonable minimum distance.
- 70.160.080** Local regulations authorized.
- 70.160.100** Penalty assessed under this chapter paid to jurisdiction bringing action.

NOTES:

*Smoking in municipal transit vehicle, unlawful conduct: RCW **9.91.025**.*

RCW 70.160.011

Findings—Intent—2006 c 2 (Initiative Measure No. 901).

The people of the state of Washington recognize that exposure to secondhand smoke is known to cause cancer in humans. Secondhand smoke is a known cause of other diseases including pneumonia, asthma, bronchitis, and heart disease. Citizens are often exposed to secondhand smoke in the workplace, and are likely to develop chronic, potentially fatal diseases as a result of such exposure. In order to protect the health and welfare of all citizens, including workers in their places of employment, it is necessary to prohibit smoking in public places and workplaces.

[**2006 c 2 s 1** (Initiative Measure No. 901, approved November 8, 2005).]

NOTES:

Captions not law—2006 c 2 (Initiative Measure No. 901): "Captions used in this act are not any part of the law." [**2006 c 2 s 8** (Initiative Measure No. 901, approved November 8, 2005).]

RCW 70.160.020

Definitions.

As used in this chapter, the following terms have the meanings indicated unless the context clearly indicates otherwise.

(1) "Smoke" or "smoking" means the carrying or smoking of any kind of lighted pipe, cigar, cigarette, or any other lighted smoking equipment.

(2) "Public place" means that portion of any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the state of Washington, or other public entity, and regardless of whether a fee is charged for admission, and includes a presumptively reasonable minimum distance, as set forth in RCW 70.160.075, of twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. A public place does not include a private residence unless the private residence is used to provide licensed child care, foster care, adult care, or other similar social service care on the premises.

Public places include, but are not limited to: Schools, elevators, public conveyances or transportation facilities, museums, concert halls, theaters, auditoriums, exhibition halls, indoor sports arenas, hospitals, nursing homes, health care facilities or clinics, enclosed shopping centers, retail stores, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, state legislative chambers and immediately adjacent hallways, public restrooms, libraries, restaurants, waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, casinos, reception areas, and no less than seventy-five percent of the sleeping quarters within a hotel or motel that are rented to guests. A public place does not include a private residence. This chapter is not intended to restrict smoking in private facilities which are occasionally open to the public except upon the occasions when the facility is open to the public.

(3) "Place of employment" means any area under the control of a public or private employer which employees are required to pass through during the course of employment, including, but not limited to: Entrances and exits to the places of employment, and including a presumptively reasonable minimum distance, as set forth in RCW 70.160.075, of twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited; work areas; restrooms; conference and classrooms; break rooms and cafeterias; and other common areas. A private residence or home-based business, unless used to provide licensed child care, foster care, adult care, or other similar social service care on the premises, is not a place of employment.

[2006 c 2 s 2 (Initiative Measure No. 901, approved November 8, 2005); 1985 c 236 s 2.]

NOTES:

Captions not law—2006 c 2 (Initiative Measure No. 901): See note following RCW 70.160.011.

RCW 70.160.030

Smoking prohibited in public places or places of employment.

No person may smoke in a public place or in any place of employment.

[2006 c 2 s 3 (Initiative Measure No. 901, approved November 8, 2005); 1985 c 236 s 3.]

NOTES:

RCW 70.160.050

Owners, lessees to post signs prohibiting smoking.

Owners, or in the case of a leased or rented space the lessee or other person in charge, of a place regulated under this chapter shall prohibit smoking in public places and places of employment and shall post signs prohibiting smoking as appropriate under this chapter. Signs shall be posted conspicuously at each building entrance. In the case of retail stores and retail service establishments, signs shall be posted conspicuously at each entrance and in prominent locations throughout the place.

[2006 c 2 s 4 (Initiative Measure No. 901, approved November 8, 2005); 1985 c 236 s 5.]

NOTES:

Captions not law—2006 c 2 (Initiative Measure No. 901): See note following RCW 70.160.011.

RCW 70.160.060

Intent of chapter as applied to certain private workplaces.

This chapter is not intended to regulate smoking in a private enclosed workplace, within a public place, even though such workplace may be visited by nonsmokers, excepting places in which smoking is prohibited by the chief of the Washington state patrol, through the director of fire protection, or by other law, ordinance, or regulation.

[1995 c 369 s 60; 1986 c 266 s 121; 1985 c 236 s 6.]

NOTES:

Effective date—1995 c 369: See note following RCW 43.43.930.

Severability—1986 c 266: See note following RCW 38.52.005.

RCW 70.160.070

Intentional violation of chapter—Removing, defacing, or destroying required sign— Fine—Notice of infraction—Exceptions—Violations of RCW 70.160.050—Fine— Enforcement.

(1) Any person intentionally violating this chapter by smoking in a public place or place of employment, or any person removing, defacing, or destroying a sign required by this chapter, is subject to a civil fine of up

to one hundred dollars. Any person passing by or through a public place while on a public sidewalk or public right-of-way has not intentionally violated this chapter. Local law enforcement agencies shall enforce this section by issuing a notice of infraction to be assessed in the same manner as traffic infractions. The provisions contained in chapter 46.63 RCW for the disposition of traffic infractions apply to the disposition of infractions for violation of this subsection except as follows:

(a) The provisions in chapter 46.63 RCW relating to the provision of records to the department of licensing in accordance with RCW 46.20.270 are not applicable to this chapter; and

(b) The provisions in chapter 46.63 RCW relating to the imposition of sanctions against a person's driver's license or vehicle license are not applicable to this chapter.

The form for the notice of infraction for a violation of this subsection shall be prescribed by rule of the supreme court.

(2) When violations of RCW 70.160.050 occur, a warning shall first be given to the owner or other person in charge. Any subsequent violation is subject to a civil fine of up to one hundred dollars. Each day upon which a violation occurs or is permitted to continue constitutes a separate violation.

(3) Local health departments shall enforce RCW 70.160.050 regarding the duties of owners or persons in control of public places and places of employment by either of the following actions:

(a) Serving notice requiring the correction of any violation; or

(b) Calling upon the city or town attorney or county prosecutor or local health department attorney to maintain an action for an injunction to enforce RCW 70.160.050, to correct a violation, and to assess and recover a civil penalty for the violation.

[2006 c 2 s 5 (Initiative Measure No. 901, approved November 8, 2005); 1985 c 236 s 7.]

NOTES:

Captions not law—2006 c 2 (Initiative Measure No. 901): See note following RCW 70.160.011.

RCW 70.160.075

Smoking prohibited within twenty-five feet of public places or places of employment— Application to modify presumptively reasonable minimum distance.

Smoking is prohibited within a presumptively reasonable minimum distance of twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means. Owners, operators, managers, employers, or other persons who own or control a public place or place of employment may seek to rebut the presumption that twenty-five feet is a reasonable minimum distance by making application to the director of the local health department or district in which the public place or place of employment is located. The presumption will be rebutted if the applicant can show by clear and convincing evidence that, given the unique circumstances presented by the location of entrances, exits, windows that open, ventilation intakes, or other factors, smoke will not infiltrate or reach the entrances, exits, open windows, or ventilation intakes or enter into such public place or place of employment and, therefore, the public health and safety will be adequately protected by a lesser distance.

[2006 c 2 s 6 (Initiative Measure No. 901, approved November 8, 2005).]

NOTES:

RCW 70.160.080**Local regulations authorized.**

Local fire departments or fire districts and local health departments may adopt regulations as required to implement this chapter.

[1985 c 236 s 9.]

RCW 70.160.100**Penalty assessed under this chapter paid to jurisdiction bringing action.**

Any penalty assessed and recovered in an action brought under this chapter shall be paid to the city or county bringing the action.

[1985 c 236 s 8.]

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ENVIRONMENTAL HEALTH CODE

Chapter 9

Restrictions on the Use of Vapor Products

Adopted by Tacoma-Pierce County Board of Health on July 6, 2016, Revised June 1, 2022

1 **SECTION 1: Title**
2

3 This Chapter 9 may be cited and referred to, and shall be known as, the “Restrictions on, the
4 Use, of Vapor Products Regulations.”
5

6 **SECTION 2: Authority and Purpose**
7

- 8 A. Tacoma-Pierce County Board of Health (Board of Health) enacts the regulations in this
9 Chapter under the general authority of Article 11, §11 of the Washington Constitution and
10 RCW 70.05.060 and the specific authority set forth in RCW 70.160.080 and Chapter 70.345
11 RCW.
12
13 B. The purpose of these regulations is to provide for and promote the health, safety, and
14 welfare of the general public, and not to create or otherwise establish or designate any
15 particular class or group of persons who will or should be especially protected or benefited
16 by this Chapter. The provisions of this Chapter shall be liberally construed for the
17 accomplishment of its purposes.
18
19 C. These regulations supplement but do not replace the regulations enacted by the state of
20 Washington and enforced by the Liquor and Cannabis Board regarding the licensure and
21 regulation of vapor product promotions and sales at retail or the regulations adopted by
22 the Food and Drug Administration.
23
24 D. It is the specific intent of this Chapter to place the obligation of complying with its
25 requirements upon the owner of each establishment within its scope, and no provision
26 nor term used in this title is intended to impose any duty whatsoever upon the Board of
27 Health, Tacoma-Pierce County Health Department (Health Department), or any of its
28 officers or employees, for whom the implementation or enforcement of this Chapter shall
29 be discretionary and not mandatory.
30
31 E. Nothing contained in this Chapter is intended to be nor shall be construed to create or form
32 the basis for any liability on the part of the Board of Health, the Health Department, or any
33 of its officers or employees, for any injury or damage resulting from the failure of any
34 person subject to this Chapter to comply with this Chapter, or by reason or in consequence
35 of any act or omission in connection with the implementation or enforcement of this
36 Chapter of the part of the Board of Health, the Health Department, or its officers or
37 employees.
38

39 **SECTION 3: Findings**
40

41 The Board of Health finds that the availability and use of vapor products continue to increase in
42 popularity, especially in our youth. Recent policies have made strides in combating these increases
43 such as raising the age of tobacco use to 21 years of age. These are great achievements, although
44 vapor product use among our youth continues to be alarmingly high.

Vapor products appeal to youth due to their high technology design and availability in Youth-friendly flavors. They also present a substantial risk of nicotine addiction and resultant harm to public health and safety.

The inhalation of nicotine causes adverse effects on adolescent brain development. When exposed to heat, nicotine solutions used in vapor products can generate a range of chemical byproducts that may have adverse health consequences when inhaled. The specific chemistry of the liquid nicotine solutions used in vapor products is not standardized and neither manufacturers nor retailers are required to disclose the chemical contents of the solutions. Consumers, therefore, have no way of determining exactly what substances they are inhaling or what the health consequences of such inhalation might be.

E-cigarette or vaping use-associated lung injury (EVALI) is a severe lung illness identified in 2019. The United States Centers for Disease Control and Prevention has identified Vitamin E acetate as the primary, but not the only cause for EVALI. There are many other substances and product sources in vaping materials that continue to be investigated.

Access to vapor products is particularly problematic with respect to teenagers. The U.S. Surgeon General declared vaping an epidemic among our youth in 2018. In 2018, Washington State Healthy Youth Data, found that 8 percent of Pierce County 12th graders said they had smoked cigarettes in the past 30 days. But nearly 30 percent said they had vaped—an increase from 18 percent in 2016

E-cigarettes continue to be the most commonly used tobacco product among high school and middle school students. Youth perceive them to be less harmful than using traditional tobacco. Youth who would never try traditional cigarettes report trying vapor products.

The Board of Health also recognizes the potential harm of vapor product emissions. Scientific research has shown that secondhand exposure to vapor product emissions, such as with electronic cigarettes, can expose people who are not vaping to health risks from nicotine, particulates, toxic organic chemicals and other compounds.

The use of vapor products in public places and places of employment could also increase social acceptance of vaping, provide models for unhealthy behavior, and complicate enforcement of state and local laws governing the vaping of tobacco products in public places.

Such statistics underscore the urgent need for the strengthening of a comprehensive regulatory framework governing youth access to such products and to protect the general public from the effects of vapor emissions.

SECTION 4: Definitions

1 As used in this Chapter, the following terms have the meanings indicated unless the context
2 clearly indicates otherwise.

3
4 A. "Employee" means any individual who is employed by an employer in return for the
5 payment of direct or indirect monetary wages or profit, any individual who volunteers
6 services to an employer for no monetary compensation, or any individual who performs
7 work or renders services, for any period, at the direction of an owner, lessee or other
8 person in charge of a place that is subject to the provisions of this Chapter.

9
10 B. "Employer" means any person, sole proprietorship, partnership, corporation, association,
11 nonprofit organization, or other entity that pays another person direct or indirect monetary
12 wages or profit in consideration for such other person's providing services on the premises
13 of the employer, or who otherwise directs another person to perform work or render
14 services on the premises of the employer. "Employer" shall also mean the owner(s) of a
15 sole proprietorship, partnership, corporation, association, nonprofit organization, or other
16 business entity.

17
18 C. "Indoor public place" means the interior portion of any building or vehicle used by and
19 open to the public, regardless if the building or vehicle is owned in whole or in part by
20 private persons or entities, the state of Washington, or other public entity, and regardless
21 of whether a fee is charged for admission, and includes a presumptively reasonable
22 minimum distance of twenty-five feet from entrances, exits, windows that open and
23 ventilation intakes that serve an enclosed area where vaping is prohibited. A public place
24 does not include a private residence unless the private residence is used to provide
25 permitted childcare, foster care, adult care, or other similar social service care on the
26 premises.

27
28 "Indoor public place" includes, but is not limited to, schools, elevators, public conveyances
29 or transportation facilities, museums, concert halls, theaters, auditoriums, exhibition halls,
30 indoor sports arenas, hospitals, nursing homes, health care facilities or clinics, enclosed
31 shopping centers, retail stores, retail service establishments, financial institutions,
32 educational facilities, ticket areas, public hearing facilities, state legislative chambers and
33 immediately adjacent hallways, public restrooms, libraries,

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35 restaurants, waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, casinos,
36 reception areas, vape shops and lounges, hookah lounges and no less than seventy-five
37 percent of the sleeping quarters within a hotel or motel that are rented to guests. "Public
38 place" does not include a private residence. This Chapter is not intended to restrict vaping
39 in private facilities that are occasionally open to the public except upon the occasions when
40 the facility is open to the public.

41
42 D. "Open to the public" means explicitly or implicitly authorizing or inviting entry or use by the
43 public. Factors relevant to the determination of whether a portion of a building or an
44 affiliated outdoor eating or drinking area, other than a private residence, is "open to the

public" include, but are not limited to:

1. Whether the owner, lessee or person in charge permits or invites entry by individuals other than employees who perform work or persons who meet selective, restrictive and limited criteria for entry;
2. Whether the owner, lessee or person in charge directs, authorizes, or otherwise engages in advertising or promotion to the public to encourage occupancy or use;
3. Whether signage is present indicating that the building, a portion thereof, or an affiliated outdoor area is open to the public; or
4. Whether the owner, lessee or person in charge also owns, operates, or leases a retail business that is open to the public, the retail business is in the same building where vaping occurs and the area where vaping occurs is open to the customers of the retail business.

E. "Outdoor public place" means a social space that is open and accessible to the public but located outside of buildings.

F. "Place of employment" means any area under the control of a public or private employer which employees are required to pass through during the course of employment, including, but not limited to, entrances and exits to the places of employment, and including a presumptively reasonable minimum distance of twenty-five feet from entrances, exits, windows that open and ventilation intakes that serve an enclosed area where vaping is prohibited, work areas, restrooms, conference and classrooms, break rooms and cafeterias and other common areas. A private residence or home-based business, unless used to provide permitted childcare, foster care, adult care, or other similar social service care on the premises, is not a "place of employment."

G. "Retail Outlet" means each place of business from which vapor products are sold to customers.

H. "Tasting" means to try or taste a vapor product in a retail outlet where entry is restricted to persons eighteen years of age or older.

I. "Vape" or "Vaping" means consuming, inhaling or tasting of any kind of vapor product.

J. "Vapor product" means any approved or unapproved product, including:

1. Any combustible or heated product that may contain nicotine and employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size that can be used to produce vapor or aerosol from a solution or other substance.
2. Any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container that may contain nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

3. Does not include any product that meets the definition of marijuana, useable marijuana, marijuana concentrates, marijuana-infused products, cigarette or tobacco products.
4. Includes unapproved nicotine delivery product including products containing or delivering nicotine intended or expected for human consumption or any part of such a product, that is not a cigarette, as defined by RCW 82.24.010, or a tobacco product, as defined by RCW 82.26.010, and that has not been approved or otherwise certified for sale by the United States Food and Drug Administration as a tobacco use cessation products, or for other medical purposes.

SECTION 5: Use of Vapor Products in Public Places and Places of Employment -When Prohibited

- A. No person may use vapor products in an indoor public place or in any place of employment; Provided, however the use of vapor products is permitted for tasting and sampling in indoor areas of retailer outlets.
- B. No person may use vapor products in any outdoor public place where children congregate. This includes, but is not limited to, real property that is under the control of childcare facilities or schools, playgrounds, parks, beaches, athletic fields, and stadiums.

SECTION 6: Owners, Lessees to Post Signs Prohibiting Vaping

Owners, or in the case of a leased or rented space the lessee or other person in charge, of a place regulated under this Chapter shall prohibit the vaping of products in public places and places of employment and shall post signs prohibiting the use of vapor products as appropriate under this Chapter. Signs shall be posted conspicuously at each building entrance. Retail outlets regulated under this Chapter shall post signs in accordance with the requirements of RCW 70.345.070.

SECTION 7: Application to Modify Presumptively Reasonable Minimum Distance

- A. Owners, operators, managers, employers or other persons who own or control an indoor public place or place of employment may apply for a Variance or Waiver, pursuant to Chapter 1, Section 14 of the Environmental Health Code, to rebut the presumption that 25 feet is a reasonable minimum distance. The presumption will be rebutted if the applicant can show by clear and convincing evidence that, given the unique circumstances presented by the location of entrances, exits, windows that open, ventilation intakes or other factors, vapor will not infiltrate or reach the entrances, exits, open windows or ventilation intakes or enter into the public place or place of employment and, therefore, the public health and safety will be adequately protected by a lesser distance.
- B. All persons seeking to modify the presumptively reasonable 25-foot distance shall use the application form provided by the Health Department. An application shall not be complete unless accompanied by the applicable fee in the most recent Environmental Health Program Fee Schedule approved by the Board of Health.

SECTION 8: Enforcement

Except as provided below, the health officer or designee is authorized to enforce this Chapter in accordance with the provisions of Chapter 1 of the Environmental Health Code and consistent with the following subsections.

- A. The health officer or designee shall have the same right of entry as set forth in Chapter 1, Section 15 of the Environmental Health Code to assure compliance with and enforce these regulations.
- B. The Health Department may work with the Liquor and Cannabis Board to conduct inspections to assure compliance.
- C. The Health Department may impose the following administrative civil penalties if the Health Department determines a violation of any section of this Chapter.
 1. A monetary penalty of up to \$200 for the first violation within any 3-year period;
 2. A monetary penalty of up to \$600 for the second violation within any 3-year period;
 3. A monetary penalty of up to \$1,000 for the third violation within any 3-year period; and
 4. A monetary penalty of up to \$2,000 for the fourth and any subsequent violations within any 3-year period.
- D. Penalties may be appealed pursuant to Chapter 1 of the Environmental Health Code. The health officer may reduce or waive penalties applied under this Chapter if the elements of proof are inadequate or if there are mitigating circumstances.

SECTION 9: Inspections and Fees

The health officer is authorized to charge a fee for any re-inspection of a place regulated under this Chapter when an initial inspection results in the finding of a violation and the re-inspection also results in the finding of a violation. The re-inspection fees shall be as set forth in the most recent Environmental Health Program Fee Schedule approved by the Board of Health. The obligation to pay inspection and re-inspection fees is in addition to any civil penalties that may be levied pursuant to Section 8, above.

SECTION 10: Applicability

This Chapter applies to the use and tasting of vapor products and to the extent not preempted by state or federal law, including, but not limited to, the regulation of those products by the United States Food and Drug Administration.

SECTION 11: Waivers or Variances

Requests for waivers or variances from the regulations set forth in the Chapter 9 shall be governed by Chapter 1, Section 14 (Variance or Waiver) of the Environmental Health Code, as now or

hereafter amended.

SECTION12: Severability

The provisions of this Chapter are hereby declared to be separate and severable. If any section, sentence, clause or phrase of this Chapter should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of constitutionality of any other section, sentence, clause, or phrase of this Chapter.

Commercial Tobacco Prevention Program*

Strategic Plan GOAL 4: A Washington State with vastly reduced second-hand vape emissions and smoke

The Washington State Vapor Products Law (RCW 70.345)

E-cigarettes and other vapor products were largely unregulated at the state or federal levels until 2016. In May of 2016, the U.S. Food and Drug Administration (FDA) finalized its Deeming Rule to regulate electronic nicotine delivery systems (ENDS) as tobacco products under the Tobacco Control Act. The Washington State Vapor Products Law, RCW 70.345, was passed by Washington State legislature and took effect in June 2016 to regulate sales of vapor products to reduce youth access and establish a licensing system for vapor product retailers and distributors.

The Washington vapor products law explicitly provides local jurisdictions the authority to restrict the use of vapor products in indoor public places and in outdoor public areas where children congregate, such as schools, playgrounds, and parks (RCW 70.345.210).

Prior to the state law and the federal rule, several local boards of health in Washington had enacted policies to restrict the use of vapor products in public places, similar to prohibitions on smoking in public places (Figure 1). These policies also regulated the sale of vapor products to restrict youth access. At that time, there was no regulation of e-cigarettes at the state or federal levels, beyond a prohibition on sales to minors in Washington that was enacted in 2013 (RCW 26.28.080). When the Washington Vapor Products Law took effect in 2016, it preempted local enforcement of these provisions (RCW 70.345.210). As a result, the Boards of Health for Pierce and Snohomish counties have amended their regulations to reflect changes under the state law by removing sections pertaining to regulating sales of vapor products.

Currently, local boards of health in 13 of Washington's 39 counties have acted to pass regulations on vaping in public places under their authority to protect public health (RCW 70.05) (Figure 2). All of these regulations also restrict vaping in places of employment. In general, these regulations prohibit use of vapor products in the same places where smoking is prohibited under Washington's Smoking in Public Places Law (RCW 70.160) (Figure 2 and Table 1, other side), which has

FIGURE 2: County Level Regulations

This map does not show municipalities with no vaping policies.

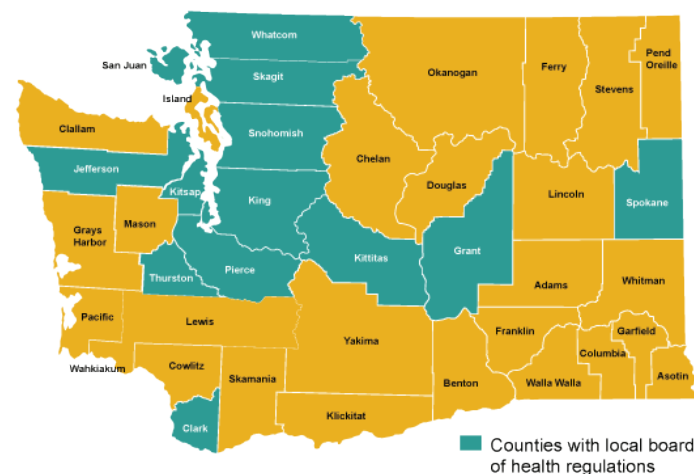
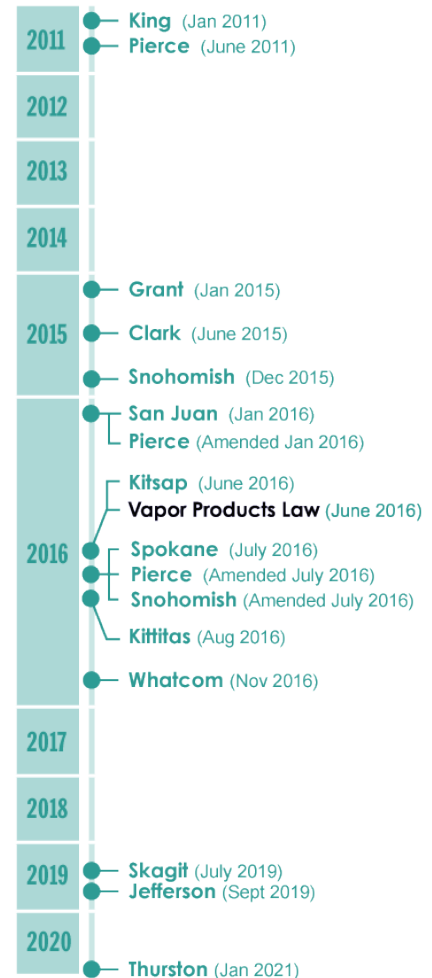


FIGURE 1: Local Health Board Regulations Timeline (Dates listed are effect dates.)



been in effect since 2005. Five of the local regulations also prohibit vaping in outdoor places where children congregate. About 79 percent of Washington residents live in areas where use of vapor products is prohibited in public places under local board of health regulations.

Despite significant progress in the enactment of local prohibitions on vaping in public places, about a quarter of Washington State's population are potentially exposed to secondhand vape emissions in public places. The Washington State Department of Health Commercial Tobacco Prevention Program continues to work with partners across the state to create tobacco and vape free environments that protect individuals and the public from exposure to vape emissions.

*Commercial tobacco includes any product that contains tobacco and/or nicotine, such as cigarettes, cigars, electronic cigarettes, hookah, pipes, smokeless tobacco, heated tobacco, and other oral nicotine products. Commercial tobacco does not include FDA approved nicotine replacement therapies.

***Table 1: Overview of Local Board of Health Regulations on Use of Vapor Products**

County Jurisdiction In order of most recent effect or amendment date	Vaping Prohibited in			"No Vaping" Signs Required	Vaping in Vapor Product Retail Outlets Local regulations in addition to state law's "tastings" allowance in licensed retail outlets that exclude minors and meet other specific requirements.
	Indoor Public Places	Places of Employment	Outdoor Public Places Where Children Congregate		
King Title 19.12 Effective January 2011	✓	✓			
Grant Ordinance 2014-2 Effective January 1, 2015	✓	✓			Vaping allowed in vapor product only stores that exclude minors.
Clark Chapter 24.20 Effective June 1, 2015	✓	✓		✓	Sampling allowed in vapor product only stores with independent ventilation.
San Juan Chapter 8.2 Effective January 1, 2016	✓	✓			Vaping allowed in vapor product only stores that exclude minors.
Kitsap Ordinance 2016-01 Effective June 7, 2016	✓	✓		✓	Indoor use of vapor products in licensed retail outlets as allowed under state law.
Spokane Resolution 16-01 Effective July 1, 2016	✓	✓		✓	Indoor use of vapor products in licensed retail outlets as allowed under state law.
Pierce Chapter 9 Amended July 6, 2016. Implementation suspended pending outcome of legal proceedings (Enacted June 2011, first amended January 2016)	✓	✓	✓	✓	
Snohomish Chapter 14 Amended July 14, 2016 (Enacted December 2015)	✓	✓	✓	✓	
Kittitas Chapter 8.24 Effective August 18, 2016	✓	✓		✓	If vapor products constitute less than 51 percent of retailer's business, tastings may only be offered in a separate enclosed area of the business.
Whatcom Chapter 24.14 Effective November 11, 2016	✓	✓		✓	Tastings allowed under state law, provided retailer does not allow customers or employees to consume vapor products.
Skagit Title 12, Chapter 51 Effective July 22, 2019	✓	✓	✓ Smoking is prohibited in same areas.		Tastings allowed per state law, provided retailer does not otherwise allow vaping.
Jefferson Ordinance 8.60 (revised) Effective September 19, 2019	✓	✓	✓ Smoking is prohibited in same areas.	✓	
Thurston Ordinance H-08-2020 Effective January 1, 2021	✓	✓	✓	✓	Tastings allowed per state law.

* This table is a high-level summary of these specific policies. Please consult each ordinance individually for additional details.



DOH 340-323 December 2020

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