

COMMERCIAL TOBACCO-FREE RECREATIONAL AREAS

Sample Ordinances from Across the United States



A growing number of cities and counties are adopting or modifying commercial tobacco-free policies for recreational areas.¹ This resource serves as a general guide to municipalities considering such policies.

It presents various policy options and provides examples of commercial tobacco-free ordinances that have been enacted across the United States. Jurisdictions have varying levels of local authority, resources, and community preferences, and each community should consult with local attorneys familiar with the laws of their jurisdiction to understand the extent of their authority when considering any new ordinance. For those interested in comprehensive commercial tobacco-free outdoor policies, please refer to the Public Health Law Center's [model ordinance](#).



Commercial Tobacco-Free Recreational Area Policies Foster Health and Safety

Commercial tobacco use is one of the leading causes of preventable death. Tobacco-related disease and disorders due to cigarette smoking causes 20 percent of all deaths in the United States annually.² People who smoke have a three-fold increase in mortality when compared to those who have never smoked and secondhand smoke causes illness and death even among those who do not smoke.³ There is no safe level of exposure to secondhand smoke, which is smoke emitted from an actively burning or recently extinguished cigarette and the smoke exhaled by the person smoking the commercial tobacco product.⁴ This smoke contains toxic chemicals harmful to people's health, whether the exposure happens indoors or outdoors. Littered cigarette butts, e-cigarettes, and heated smoking devices present a poisoning hazard to children, pets, and wildlife, and leach toxic chemicals into the soil and groundwater.⁵ These improperly discarded tobacco product wastes are also among the culprits of human-caused wildfires.⁶

Since most people want to follow the law, the adoption of commercial tobacco-free policies tends to reduce the incidence of smoking and tobacco use in protected areas.⁷ When commercial tobacco use prohibitions are implemented in recreational areas, they can bring several benefits to the community, including —

- Improved air quality leading to better health outcomes for the residents in the community,
- Reduced tobacco product waste litter and associated cleanup costs, and
- Making smoking less publicly acceptable, which in turn encourages cessation and discourages initiation into the use of such highly addictive tobacco products, particularly by youth.

Legal Considerations

Commercial tobacco-free outdoor air policies have become increasingly common in recent years, and few have been challenged in court. When there have been legal challenges, courts have usually upheld them, finding that such laws are within the local government's authority to protect public health, safety, and welfare and that they are not preempted by statewide smoke-free laws.⁸

The Family Smoking Prevention and Tobacco Control Act of 2009 explicitly preserves the authority of states and localities to adopt stronger restrictions on commercial tobacco use.⁹ This federal law contains clear anti-preemption language to ensure states retain their ability to protect populations from exposure to commercial tobacco use. States can choose to pursue

an array of policy options, including comprehensive bans on commercial tobacco use in all outdoor recreational areas within the state. The scope of local government authority varies significantly across states, and even within states, depending on the foundational structure of the jurisdiction. Some localities have wide latitude to enact a vast array of policies, while others may be preempted from adopting certain policy aspects by their respective state legislatures.

The chart at the end of this resource presents a compilation of enacted commercial tobacco-free outdoor recreational area ordinances from different localities across the United States. These laws differ in their scope, the recreational areas protected, and the commercial tobacco product use restricted. Please note that this list is not meant to be exhaustive; instead, it aims to offer a diverse range of examples.

Policy Elements

Findings

Regardless of the scope or breadth of the policy a jurisdiction seeks to adopt, it is generally useful to include a findings section. Findings consist of brief statements of fact or statistics that explain the issue being addressed, support the need for the policy, and help clarify the policy's goal. While some jurisdictions may incorporate findings directly into the law, this practice is not widespread. However, even when not explicitly codified, findings can still become part of the legislative record if they are included as a supporting document or appendix when the proposed legislation is submitted to the governing body for review or as part of the public hearing process. If an ordinance is challenged in court, findings may be introduced as evidence of the factual determinations made by the legislative body when considering the ordinance. Courts usually defer to such legislative determinations on factual issues, which in turn often influence legal conclusions.

Definitions

The definitions of key terms used in an ordinance play a crucial role in outlining its scope and applicability. Clearly and comprehensively defined terms promote compliance by reducing ambiguity for those affected by the ordinance and providing clear guidance to those tasked with enforcement. Alphabetizing the definitions further enhances readability. Jurisdictions have the option to adopt definitions from their existing ordinances or state law. Depending on their local authority, jurisdictions may choose more comprehensive definitions than those provided at the state level. At a minimum, the following terms should be clearly defined: "recreational area," "smoke/smoking," and "tobacco product."¹⁰ For one example of defined terms, see the Public Health Law Center's [*Smoke- and Tobacco-Free Outdoor Areas Model Ordinance*](#).



Protected Areas

Localities need to determine which outdoor recreational areas will be protected by a commercial tobacco-free outdoor recreational area ordinance, whether to include buffer zones, and whether to add any exceptions. Communities will be most protected from the deleterious effects of tobacco smoke exposure with a comprehensive policy that covers all outdoor recreational areas, whether publicly or privately owned, with significant buffer zones and no exceptions. For example, protected areas could include, but not be limited to: parks, playgrounds, sport courts and fields, hiking trails, walking and running paths, biking paths, aquatic areas, beaches, boardwalks, marinas, amusement parks, zoos and aquariums, skateboard parks, skiing grounds, roller and ice-skating rinks, amphitheaters, fairgrounds, concert venues, and more. A buffer zone around protected areas further decreases exposure to secondhand smoke that may waft into the protected area even in the absence of windy conditions. Buffer zones are also helpful for enforcement by making policy violations easier to identify.

Jurisdictions unable to adopt such comprehensive policies at present may consider alternative approaches. The selection of outdoor areas to be protected will depend on the community's priorities, available resources, and the extent of local authority. For example,

some jurisdictions may lack the authority to prohibit commercial tobacco use in privately-owned or operated recreational areas.¹¹ In such cases, the jurisdiction may opt to clarify that private owners or operators of outdoor recreational areas have the right to prohibit the use of commercial tobacco on their premises. Some localities prohibit smoking only in certain types of recreational areas, such as areas geared for children (i.e., playgrounds or grounds used for youth sports). Others may prohibit outdoor smoking beyond recreational areas but exclude sidewalks, parking lots, or explicitly-named venues. Alternatively, a jurisdiction may choose to adopt a narrower definition of the term “recreational areas.” When deciding which areas to exempt from commercial tobacco-free protections, decision-makers could consider how congregating tobacco use in those areas will impact the people who use, work, or live near those exempted spaces. The potential accumulation of tobacco product litter on nearby soil, waterways, and storm drains is another important factor to consider.

Some jurisdictions protect areas only during certain times, such as prohibiting smoking in recreational areas only when youth sporting events are taking place. The benefits of such time-based protections are likely minimal, as it leaves recreational area users of all ages exposed to secondhand smoke when the protected event is not taking place. Moreover, such policies are unlikely to effectively reduce the presence of commercial tobacco product litter. Furthermore, event-based regulations create difficulties for compliance and enforcement due to a lack of policy uniformity.

Prohibited Conduct or Product Use

Commercial tobacco-free outdoor recreational area policies can also vary in the range of prohibited conduct and product use. However, a comprehensive prohibition on commercial tobacco product use offers several significant advantages. First, it provides the greatest protection for the health of both the community’s people and the environment. Second, with the constant emergence of new commercial tobacco products, a comprehensive prohibition simplifies compliance and enforcement efforts. It spares those tasked with ensuring compliance from the burden of determining whether each novel product is prohibited or not. To ensure that all tobacco product use is prohibited, a clear and comprehensive definition of the terms “smoking” and “tobacco product” is essential. The tobacco product definition should encompass all commercial products containing tobacco or nicotine, including synthetic nicotine. In addition to explicitly including existing products like cigarettes, cigars, smokeless tobacco, and e-cigarettes, the tobacco product definition could be crafted to anticipate and capture novel products that the industry might create in the future.

Jurisdictions may choose to exclude certain types of tobacco products or make exceptions for specific uses. For example, some communities choose to make exceptions for hookah



use based on their community preferences or may leave out smokeless tobacco from the prohibition. However, it is important to note that smoking hookah and exposure to secondhand smoke from hookah pose similar risks as other combustible commercial tobacco products.¹² Similarly, smokeless tobacco contains potent carcinogens and can lead to cancer of the mouth, esophagus, and pancreas, in addition to posing a risk of nicotine poisoning for children.¹³ Therefore, localities will want to carefully assess the impact of any exclusions or exemptions on the health and air quality goals of their commercial tobacco-free outdoor policies.

Sacred Tobacco

Exempting the use of traditional, ceremonial, and sacred tobacco from the policy is considered a best practice, as it has been a long-standing practice in some tribal communities for hundreds of years.¹⁴ Unlike commercial tobacco use, sacred tobacco is approached with respect, moderation, and purposeful awareness, mainly for cultural and spiritual purposes, and is typically not inhaled. In contrast, commercial tobacco is mass-produced by companies for recreational and social use, often containing thousands of added chemicals and being addictive.¹⁵ For more information about this topic, please visit keepitsacred.org.

Compliance Options

Achieving compliance with commercial tobacco-free outdoor recreational areas policies is important because there is no safe level of exposure to secondhand smoke from commercial tobacco, even in outdoor settings. Compliance measures should protect the public from such exposure while recognizing that punitive measures might not effectively assist individuals struggling with tobacco addiction to quit the use of commercial tobacco. Instead, counseling, education, and access to cessation treatment and resources are the most effective ways to help individuals dealing with nicotine addiction. For more information on equitable enforcement, please visit [Tobacco-Control-Enforcement-for-Racial-Equity](#).

People tend to comply with tobacco-free policies when they are aware of their existence, making these policies largely self-enforcing when they are proactively introduced. To enhance compliance, the jurisdiction should conduct public education campaigns to inform the public and local businesses about the policy before and during its implementation. Additionally, community compliance can be more successful if the following measures are taken into account:

- The policy is clearly stated and easy to understand.
- Boundaries and recreational areas covered by the policy are clearly identified.
- Prohibited products and conduct are explicitly defined.
- Tobacco use cessation support and resources are available and accessible in the jurisdiction.
- Active steps are taken to communicate the policy to all affected parties, including:
 - Strategically placing signage that states the policy, penalty, and local quit line number.
 - Removing ashtrays that may send contradictory messages.
 - Conducting public education campaigns that raise awareness about the risks of exposure and the benefits of creating commercial tobacco-free areas.

Localities often rely on their police departments to enforce commercial tobacco control policies. However, significant equity concerns arise when behaviors resulting from addiction are met with criminal penalties, such as misdemeanors, petty misdemeanors, or infractions. The criminal process can lead to probation or parole violations, summons resulting in a criminal record or warrant, and other adverse effects on a person's interaction with the justice system. As a result, these criminal sanctions may jeopardize access to housing, benefits, education, and employment, potentially exacerbating addiction rather than promoting cessation. Communities of color, which have long been targets of the tobacco industry's aggressive marketing practices, are more likely to experience the downsides of disparate policing. Therefore, we discourage

the use of criminal sanctions for violations of commercial tobacco use prohibitions. Instead, we recommend prioritizing enforcement by civil public employees, such as recreational area staff, before involving law enforcement. For privately controlled areas, it is more effective to place primary responsibility for ensuring compliance on property owners or operators, with appropriate civil penalties for failure to reasonably enforce the policy whenever possible.

Some localities may consider using monetary administrative penalties for individual violations of commercial tobacco use prohibitions as a way to recover enforcement costs. However, these penalties carry the same risks of discriminatory enforcement and can create similar financial hardships for individuals as mentioned above. Alternative enforcement methods can be more productive, such as asking the person using commercial tobacco to comply or to leave the premises, or requiring them to sign up for cessation services or quit line calls. Ultimately, most individuals are willing to abide by the law and are less likely to violate the policy if they are well-informed about its existence, purpose, and scope. Educating the public about the policy is a critical way to achieve compliance.

Complementary Policies

Communities where commercial tobacco products are widely available may encounter challenges in achieving compliance with commercial tobacco-free outdoor recreational area policies, requiring more public resources for enforcement. To increase the likelihood of success, consider adopting policies that limit access to commercial tobacco products. These policies may include:

- Sales restrictions of some or all commercial tobacco products.¹⁶
- Density limitations for commercial tobacco retailers, especially in neighborhoods traditionally targeted by the commercial tobacco industry's marketing practices.¹⁷
- Location restrictions for commercial tobacco retailers, ensuring they are not situated within walking distance of schools, playgrounds, or other youth-oriented recreational areas or venues.
- Requiring establishments that sell tobacco products to obtain tobacco retailer licenses, which can in turn facilitate and fund enforcement of commercial tobacco control laws.
- Requiring retailers to properly dispose of their commercial tobacco product waste or restricting sales of products that the jurisdiction is ill-equipped to manage when they become waste.
- Implementing or expanding indoor smoke-free air policies for businesses and multiunit housing.

By implementing these policies, communities can take significant strides in protecting public health and mitigating the impact of commercial tobacco on residents.

Other Considerations for Localities

State legislatures possess broad authority to restrict the use or sale of commercial tobacco products. Importantly, no federal preemption prevents the implementation of tobacco point-of-sale policies, such as those described above. However, jurisdictions should be sure to seek guidance from local counsel to determine if they have the necessary grant of authority from their state government to enact such policies. In addition, localities should inquire about any state laws that may preempt local governments from adopting more stringent commercial tobacco control measures and determine the extent of any preemption. For more information on the commercial tobacco industry's efforts to curtail the authority of local governments to enact commercial tobacco control policies, refer to our analysis of the [preemption doctrine in commercial tobacco control](#).

Examples of Ordinances Across the U.S.

This chart presents select examples of U.S. cities and counties that have implemented restrictions on the use of commercial tobacco products in parks and recreational areas. The Public Health Law Center encourages the following best practices in commercial tobacco-free policies: (1) covering the entire jurisdiction, (2) prohibiting the use of all commercial tobacco products (i.e., all combustible tobacco, smokeless tobacco, and e-cigarettes), (3) making exceptions only for ceremonial or sacred tobacco use by tribal communities, and (4) adopting equitable enforcement methods, considering the highly addictive nature of nicotine.

The chart arranges the jurisdictions in alphabetical order by state, highlighting variations among policies in each of these four areas. The chart also provides links to each jurisdiction's laws. Policy aspects that are considered best practice are coded with a green checkmark (✓), while policy options not recommended are coded with a red cross mark (✗).

A state or local government considering whether to adopt any language from the following policies should ensure that the language is appropriate, practical, and legal for its jurisdiction. Please note that the Public Health Law Center does not endorse or recommend any of the following ordinance examples in their entirety. These examples are included solely to illustrate how various jurisdictions regulate the use of commercial tobacco products in recreational areas. This chart is not exhaustive and does not claim to encompass every best policy in the nation. For further information about commercial tobacco-free recreational area policies in your community, please do not hesitate to reach out to the Public Health Law Center.

Avondale, AZ

All products covered?	Covered locations	Exempted locations	Penalty	🔗
<p>✔ Yes</p>	<p>Parks, public open space, aquatic facilities, stake parks, trails, cemeteries, and all surrounding parking areas, if the city has an interest in the property and it is open to the public</p>	<p>None</p>	<p>Citation</p> <p>✔ Park permit revocation</p>	<p>Avondale Code of Ordinances Sec. 17-5(a)(26)</p>

Manhattan Beach, CA Also bans sales of commercial tobacco products

All products covered?	Covered locations	Exempted locations	Penalty	🔗
<p>✘ No</p> <p>Smokeless tobacco not covered</p>	<p>✔ City-owned or -operated recreational facilities and specifically named places</p>	<p>None</p>	<p>Infraction (fine amount unspecified; CA has a maximum of \$250 for infractions)</p>	<p>Manhattan Beach Code of Ordinances sec. 12.48.056</p>

<p>✘ No</p> <p>Smokeless tobacco not covered</p>	<p>Beach and Municipal Pier</p>	<p>✘ Strand walkway; parking lots</p>	<p>Infraction with graduated fines starting at \$50 for the first violation</p>	<p>Manhattan Beach Code of Ordinances sec. 12.08.320</p>
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Rohnert Park, CA

All products covered?	Covered locations	Exempted locations	Penalty	🔗
<p>✘ No</p> <p>Smokeless tobacco not covered</p>	<p>✔ Publicly or privately owned unenclosed recreational areas</p> <p>✔ 25 feet buffer zone</p>	<p>✘ Public streets, alleyways, and sidewalks only when walking through</p>	<p>Infraction and graduated fines, not to exceed \$100 for the first violation</p> <p>✘ Three or more violations in a 12-month period become a misdemeanor; public nuisance remedies</p>	<p>Rohnert Park, California Code of Ordinances Sec. 8.32.050(B)(7)</p>

San Francisco, CA

All products covered?	Covered locations	Exempted locations	Penalty	🔗
<p>✘ No</p> <p>Smokeless tobacco not covered</p>	<p>✔ Recreational outdoor areas open to the public that are under the jurisdiction of any City department</p>	<p>Commercial piers</p> <p>✘ Playgrounds and tot lots (regulated by the State)</p>	<p>Infraction with graduated fines starting at \$100 for the first violation</p>	<p>San Francisco Health Code section 1009.81</p>

Sonoma County, CA

All products covered?	Covered locations	Exempted locations	Penalty	🔗
<p>✘ No</p> <p>Smokeless tobacco not covered</p>	<p>✔ Recreational areas of the unincorporated county</p> <p>✔ 25 feet buffer zone</p>	<p>Designated smoking areas</p>	<p>Infraction with graduated fines starting at \$100</p>	<p>Sonoma County Code of Ordinances Sec. 32-6</p>

Vallejo, CA

All products covered?	Covered locations	Exempted locations	Penalty	🔗
<p>✘ No</p> <p>Smokeless tobacco not covered</p>	<p>✔ Publicly or privately owned recreational areas, and within a reasonable distance therefrom</p>	<p>✔ Use of traditional sacred tobacco as part of an indigenous practice or a lawfully recognized religious or cultural practice</p>	<p>✘ Infraction with graduated fines not to exceed \$100, or 5 days of community service for the first violation</p>	<p>Vallejo Municipal Code sec. 7.68.060(A)(1)</p>

Brush, CO

All products covered?	Covered locations	Exempted locations	Penalty	🔗
<p>✔ Yes</p>	<p>✔ City-owned outdoor public places</p>	<p>One specific campground and one specific golf course</p>	<p>✘ Infraction and fine (code violations carry fines up to \$2,600 and/or incarceration up to 364 days); nuisance declaration</p>	<p>Brush Municipal Code Sec. 10.2-50</p>

County of Maui, HI

All products covered?	Covered locations	Exempted locations	Penalty	🔗
<p>✔ Yes</p>	<p>✔ Any county owned and operated park or recreational facility</p>	<p>None</p>	<p>✘ Fine up to \$500</p>	<p>County of Maui Code of Ordinances Sec. 13.04A.070(A)(9)</p>

Garden City, KS

All products covered?	Covered locations	Exempted locations	Penalty	🔗
<p>✔ Yes</p>	<p>City parks, playgrounds, outdoor courts, amphitheaters, swimming facilities or skate parks</p>	<p>None</p>	<p>Ordinance infraction with graduated fines, starting at \$100 per the Uniform Public Offense Code For Kansas Cities</p>	<p>Garden City Code of Ordinances sec. 62-2(u)(b)</p>

Lenexa, KS

All products covered?	Covered locations	Exempted locations	Penalty	🔗
<p>✘ No</p> <p>Smokeless tobacco not covered</p>	<p>✔ City-owned outdoor courts, amphitheaters, park shelters, playground areas, swimming pool facilities, public event spectator areas</p> <p>✔ 15 feet buffer zone</p>	<p>None</p>	<p>Infraction with graduated fines, starting at \$100</p>	<p>Lenexa City Code Section 3-5-F-3(G)</p>

City of Boston, MA

All products covered?	Covered locations	Exempted locations	Penalty	🔗
<p>✘ No</p> <p>Smokeless tobacco not covered</p>	<p>✔ Parks and other public places under the control of the Parks and Recreation Commission</p>	<p>None</p>	<p>✘ \$250 fine per violation; enforced through non-criminal disposition or criminal complaint</p>	<p>7-4.14 Smoking Prohibited in Parks. (amlegal.com)</p>

Medford, MA

All products covered?	Covered locations	Exempted locations	Penalty	
<p>✘ No</p> <p>Smokeless tobacco not covered</p>	<p>✔ Parks, commons, playgrounds, and outdoor recreational areas</p>	<p>Areas designated by board of park commissioner; as part of religious ceremonies, as part of a theatrical production if smoking is crucial part of it</p>	<p>Graduated fines starting at \$100</p>	<p>@</p> <p>Medford Code of Ordinances Sec. 58-43</p>

Ogunquit, ME

All products covered?	Covered locations	Exempted locations	Penalty	
<p>✘ No</p> <p>Smokeless tobacco not covered; unclear if e-cigarettes are covered</p>	<p>Town beaches</p>	<p>None</p>	<p>✔ Verbal warning first, \$50 fine if no compliance after warning</p>	<p>@</p> <p>Ogunquit Town Code Sec. § 147-21</p>

Byron Township, MI

All products covered?	Covered locations	Exempted locations	Penalty	
<p>✔ Yes</p>	<p>✔ All recreational areas owned, leased, used or controlled by the township</p>	<p>✔ Tobacco use as part of Native American spiritual or cultural ceremony if approval received prior to ceremony</p>	<p>✔ Asked to comply, then subject to ejection</p> <p>Township staff subject to disciplinary action</p>	<p>@</p> <p>Byron Township Code of Ordinances Sec. 28-46.5</p>

Spring Park, MN

All products covered?	Covered locations	Exempted locations	Penalty	
<p>✔ Yes</p>	<p>✔ City-owned parks and facilities</p>	<p>✘ Designated areas; streets, easements, and sidewalks adjacent or within city parks</p>	<p>✔ Asked to comply and/or leave</p>	<p>@</p> <p>Spring Park Code of Ordinances sec. 37-3</p>

Raleigh, NC

All products covered?	Covered locations	Exempted locations	Penalty	
<p>✘ No</p> <p>Smokeless tobacco not covered</p>	<p>✔ All city parks and greenways and associated structures</p>	<p>✘ Automobile parking areas of the parks and greenways</p>	<p>Infraction and fine up to \$50</p>	<p>Raleigh Code of Ordinances Sec. 13-3016(b)</p>

Concord, NH

All products covered?	Covered locations	Exempted locations	Penalty	
<p>✔ Yes</p>	<p>Listed city parks</p>	<p>✘ Public plazas, municipal golf course; designated areas of some listed parks</p>	<p>✔ Revocation of permits for park permit holders</p>	<p>Concord, New Hampshire Code of Ordinances Sec. 6-1-4</p>

Broken Bow, OK

All products covered?	Covered locations	Exempted locations	Penalty	
<p>✔ Yes</p>	<p>✔ All municipal property, indoor or outdoor, including park and recreational areas</p>	<p>None</p>	<p>Citation and fine between \$10 and \$100</p>	<p>Broken Bow Code of Ordinances Sec. 20-2</p>

Miami, OK

All products covered?	Covered locations	Exempted locations	Penalty	
<p>✔ Yes</p>	<p>✔ Municipal property, indoor or outdoor, including parks, arenas and other recreational areas and including personal vehicles</p>	<p>None</p>	<p>Fine up to \$100</p>	<p>Miami Code of Ordinances Sec. 13-221</p>

Tulsa, OK

All products covered?	Covered locations	Exempted locations	Penalty	
<p>✔ Yes</p>	<p>✔ All municipal property, indoor or outdoor, including park and recreational areas</p>	<p>✘ Streets and sidewalks</p>	<p>Citation and fine between \$10 and \$100</p>	<p>Tulsa Code of Ordinances Sec. 2208</p>

Cranston, RI

All products covered?	Covered locations	Exempted locations	Penalty	
✔ Yes	✔ Athletic and recreational facilities	None	Fine of up to \$100	@ <u>Cranston Code of Ordinances Sec. 8.44.010</u>

West Warwick, RI

All products covered?	Covered locations	Exempted locations	Penalty	
✔ Yes	✔ Town-owned public parks and outdoor recreational areas/facilities	✘ Public sidewalks, streets and property leased by the town	Graduated fines and community service, starting at \$5 and 5 hours of community service	@ <u>West Warwick Code of Ordinances Sec. 12-10(d)(1)</u>

Mauldin, SC

All products covered?	Covered locations	Exempted locations	Penalty	
✔ Yes	✔ Any park or recreational facility owned or leased by the city	Designated areas	✘ Misdemeanor and fine between \$10 and \$25	@ <u>Mauldin Code of Ordinances Sec. 18-39</u>


New Braunfels, TX

All products covered?	Covered locations	Exempted locations	Penalty	
✔ Yes	Outdoor city-owned youth athletic fields, skate park, playgrounds, or playground equipment, off-leash dog park ✔ 50 feet buffer (does not apply to dog park)	None	✘ Fine up to \$500	@ <u>New Braunfels Code of Ordinances Sec. 86-4(j), (s)</u>

Waco, TX

All products covered?	Covered locations	Exempted locations	Penalty	
<p>✘ No</p> <p>Smokeless tobacco not covered</p>	<p>Parkland, city owned athletic fields, the zoo, nature preserves, golf courses, swimming pools, and playgrounds, public events held on city property and used for city purposes</p>	<p>Designated areas of listed parks, some during approved special events only; certain areas of golf courses</p>	<p>Graduated fine starting at \$50</p>	<p><u>Waco, Texas Code of Ordinances Sec. 16-121</u></p>

Ashland, WI

All products covered?	Covered locations	Exempted locations	Penalty	
<p>✔ Yes</p>	<p>✔ City-owned or operated outdoor recreational areas</p>	<p>✔ Native American use of ceremonial or sacred tobacco</p>	<p>✔ Reminder to comply, then ejection</p> <p>✘ May be subject to penalty of \$100-\$500</p>	<p><u>Ashland Municipal Code sec. 463.09(e)</u></p>

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Endnotes

- 1 The Public Health Law Center recognizes that traditional tobacco and commercial tobacco are different in the ways they are planted, grown, harvested, and used. Traditional tobacco is and has been used in sacred ways by Indigenous communities and tribes for centuries. In contrast, commercial tobacco is manufactured with chemical additives for recreational use and profit, resulting in disease and death. For more information, visit <https://keepitsacred.itcmi.org>. When the word “tobacco” is used throughout this resource, a commercial context is implied and intended.
- 2 *Tobacco Related Mortality*, CTRS. FOR DISEASE CONTROL AND PREVENTION (2020), https://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/tobacco_related_mortality/index.htm.
- 3 U.S. DEP’T OF HEALTH AND HUM SERVS., THE HEALTH CONSEQUENCES OF INVOLUNTARY EXPOSURE TO TOBACCO SMOKE (2006), <https://www.cdc.gov/tobacco/sgr/2006>.

- 4 Andrea A. Licht, et al., *Secondhand Smoke Exposure Levels in Outdoor Hospitality Venues: A Qualitative and Quantitative Review of the Research Literature*, 22 TOBACCO CONTROL 172 (2012), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3803107/>.
- 5 Elli Slaughter, et al., *Toxicity of Cigarette Butts, and Their Chemical Components, To Marine and Freshwater Fish*, 20 TOBACCO CONTROL i25 (2011), https://tobaccocontrol.bmj.com/content/20/Suppl_1/i25; Yogi H. Hendlin, *Alert: Public Health Implications of Electronic Cigarette Waste*, 108 AM. J. PUBLIC HEALTH 1489 (2018); Marc Buetel, et al., *A Review of Environmental Pollution from the Use and Disposal of Cigarettes and Electronic Cigarettes: Contaminants, Sources, and Impacts*, 13 SUSTAINABILITY 23 (2021), <https://www.mdpi.com/2071-1050/13/23/12994>.
- 6 U.S. Nat'l Park Serv., *Wildfire Causes and Evaluations*, <https://www.nps.gov/articles/wildfire-causes-and-evaluation.htm> (2023).
- 7 Xisca Sureda, et al., *Secondhand Tobacco Smoke Exposure in Open and Semi-Open Settings: A Systematic Review*, 121 ENVIRON. HEALTH PERSP. 766 (2013), <https://pubmed.ncbi.nlm.nih.gov/23651671>.
- 8 See, e.g., *Gallagher v. Clayton*, 699 F.3d 1013 (8th Cir. 2012) (upholding the City of Clayton's ordinance prohibiting smoking on any city-owned or -leased property, including buildings, grounds, parks and playgrounds, which a city resident had challenged on constitutional grounds, asserting that "the health threat of secondhand smoke from outdoor tobacco use is *de minimis*," and that the city lacked a sufficient rationale for prohibiting it), <http://media.ca8.uscourts.gov/opndir/12/11/113880P.pdf>.
- 9 Family Smoking Prevention and Tobacco Control Act, Pub. L. No. 111-31, 123 Stat. 1776 (2009), <https://www.congress.gov/bill/111th-congress/house-bill/1256>.
- 10 Tobacco products covered typically include all combustible tobacco, smokeless tobacco, and e-cigarettes.
- 11 For example, Wisconsin limits local authority to restrict outdoor commercial tobacco use to "only public property under the jurisdiction of" the local government. WIS. STAT. § 101.123(4m).
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- 16 MANHATTAN BEACH, CA., CODE § 4.118 (2021), https://library.municode.com/ca/manhattan_beach/codes/code_of_ordinances?nodeId=TIT4PUWEMOCO_CH4.118PRRESATOPRELSMDE
- 17 See, e.g., Robert G. Robinson et al., *A Report of the Tobacco Policy Research Group on Marketing and Promotions Targeted at African Americans, Latinos, and Women*, 1 TOBACCO CONTROL S24-S30, https://tobaccocontrol.bmj.com/content/1/Suppl_1/S24 (1992); Monique E. Muggli et al., *Targeting of Asian Americans and Pacific Islanders by the Tobacco Industry: Results from the Minnesota Tobacco Document Depository*, 11 TOBACCO CONTROL 201-09 (2002); Lauren K. Lempert & Stanton A. Glantz, *Tobacco Industry Promotional Strategies Targeting American Indians/Alaska Natives and Exploiting Tribal Sovereignty*, 21 NICOTINE & TOBACCO RESEARCH 940 (2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6588391/pdf/nty048.pdf>; Lisbeth Iglesias-Rios & Mark Parascandola, *A Historical Review of R.J. Reynolds' Strategies for Marketing Tobacco to Hispanics in the United States*, 103 AM. J. PUBLIC HEALTH e15 (2013), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3698830>.