

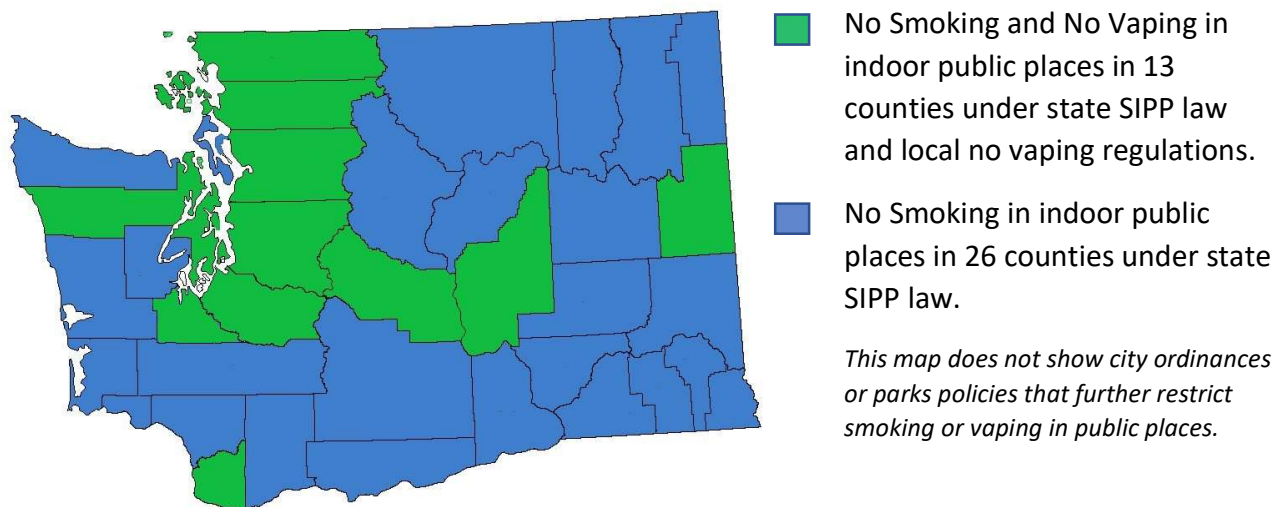


Policy Briefing

Local No Vaping in Public Places Regulations in Washington State

Washington's Smoking in Public Places law was passed by voter initiative in 2005 to prohibit smoking in indoor public places and places of employment (RCW 70.160, also known as SIPP). The statewide SIPP law is focused on smoking and does not address e-cigarettes and other vapor products.

Vaping is similarly prohibited in indoor public places in twelve Washington counties under local Board of Health regulations. On January 1, 2021, the list will grow to thirteen when Thurston County's regulation takes effect. Five of these county-wide regulations also restrict vapor product use in specific outdoor public places to protect children. 80% of Washington's residents live in these thirteen counties.



County-wide No Vaping Regulations, By the Numbers:

13 Board of Health vaping regulations passed since 2011. 7 regulations passed since the WA Vapor Products Law was enacted in 2016. 2 of the earlier laws were amended in 2016.

13 regulations prohibit vaping in indoor public places. Under state law, tastings must be allowed in licensed vapor product retail stores that are age-restricted per RCW 70.345.100.

12 regulations prohibit vaping in all places of employment. The regulation in Kittitas County prohibits vaping in public workplaces, but not private enclosed workplaces.

10 regulations prohibit vaping, other than customer tastings, in licensed vapor product retail stores. The WA Vapor Products Law specifically allows customer tastings in 21+ stores.

4 regulations prohibit vaping in outdoor public places where children congregate, in Jefferson, Pierce, Skagit, and Snohomish counties. Jefferson and Skagit's laws also prohibit smoking in these areas. Thurston County accomplishes similar protections through a 2018 local ordinance prohibiting smoking and vaping in county parks. Local regulations cannot more broadly prohibit vaping in all outdoor public places due to local preemption in RCW 70.345.210. Many municipalities across the state have city or parks policies that prohibit smoking in parks, and some also prohibit vaping.

Local Board of Health Authority On Vaping and Vapor Products

Restricting smoking and vaping in indoor and outdoor public places to the greatest extent possible is the most protective public health approach and sends the message to youth that smoking and vaping are not safe. State law ([RCW 70.05](#)) provides local Boards of Health with county-wide authority to “preserve, promote and improve public health”. Local health boards are typically comprised of elected county councilmembers. Some boards include city councilmembers and/or appointed health professionals.

Local authority to regulate vaping and vapor products is delineated by preemption in Washington’s 2016 Vapor Products Law ([RCW 70.345](#)). Local Boards of Health, cities, and counties cannot license or regulate the sales or promotion of vapor products, other than general business licenses and taxes. For vaping, the WA Vapor Products Law explicitly states that local jurisdictions may regulate the use of vapor products in indoor public places and in outdoor public places where children congregate. However, customer product tastings in 21+ vapor product retail stores must be allowed under state law. For smoking, the WA SIPP law ([RCW 70.160](#)) allows local jurisdictions to enact more restrictive smoking regulations in both indoor and outdoor places. Local regulation enforcement is almost entirely complaint based and focused on business practices.

Crafting of local vapor product regulations is impacted by differences in how state law regulates tobacco products, vapor products, and marijuana products, and related differences in local preemption between these product areas. Federal regulations do not preempt state and local authority to restrict smoking or vaping in public places. For some other local regulatory actions, federal regulations of the Food & Drug Administration on tobacco products, such as the [Deeming Rule](#) that applies to electronic nicotine delivery systems (aka vapor products), must be considered as those regulations sometimes supersede or preempt state and local regulations.

How Local Regulations Regulate Vaping in Licensed Vapor Product Retail Stores

WA’s Vapor Products Law allows for customer product tastings in licensed stores selling vapor products that exclude underage youth (now under age 21 as of January 2020). Such tastings would typically only occur in a store dedicated to the sale of vapor products, or smoke and vape products, because other retailers such as grocery stores or mini marts would not want to exclude minors. State law also stipulates that customers must either taste a non-nicotine product or explicitly consent to tasting a nicotine product, and retailers must provide a disposable mouthpiece tip if the retailer’s device is used ([RCW 70.345.100](#)). FDA regulations prohibit any free samples of nicotine products, but a nicotine tasting could be offered for a charge. The WA Vapor Products Law does not apply to marijuana products, including THC products used for vaping. Tobacco and marijuana retailers cannot offer any tastings.

10 of the 13 local regulations in WA prohibit vaping by employees or customers in licensed vapor product retail stores, other than customer tastings. This also most closely mirrors the SIPP law’s restrictions on smoking in all indoor public places and places of employment. These prohibitions intend to help protect anyone who enters a vape store, including non-smokers and non-vapers, from exposure to nicotine and toxic chemicals in aerosolized vapor, and to reduce vapor impinging on neighboring businesses or residences. They also prohibit a vaping lounge situation. These regulations are in Clark, Jefferson, King, Kittitas, Pierce, Skagit, Snohomish, Spokane, Thurston, and Whatcom counties. 3 other local regulations – in Grant, Kitsap, and San Juan - allow vaping in vapor product retail stores.

The attached table provides additional details on these local policies.

Local Regulations Prohibiting Vaping in Public Places in Washington State

Local Board of Health Jurisdiction <i>in alphabetical order</i>	Vaping Prohibited in:			Exceptions for Vapor Product Retail Outlets, If Any Tastings must be allowed in 21+ age-restricted vapor product stores under the WA Vapor Products law (RCW 70.345.100).	“No Vaping” Signs Required
	Indoor Public Places	Places of Employment	Outdoor Public Places Where Children Congregate		
Clark Chapter 24.20 effective June 1, 2015	✓	✓		“Sampling” allowed in vapor product-only stores with independent ventilation.	✓
Grant Ordinance 2014-2 effective Jan.1, 2015	✓	✓		Vaping allowed in vapor product-only stores that exclude minors under age 18.	
Jefferson revised Chapter 8.60 effective Sept. 19, 2019	✓	✓	✓ also prohibits smoking in same areas	Tastings allowed per state law.	✓
King Title 19.12 effective Jan. 2011	✓	✓		No stated exceptions. Tastings allowed per state law.	
Kitsap Ordinance 2016-01 effective June 7, 2016	✓	✓		Vaping allowed in vapor product stores (no age restriction).	✓
Kittitas Chapter 8.24 effective Aug. 18, 2016	✓	✓ private work-places not included		Tastings allowed in vapor product stores that exclude minors (age not defined). If vapor products are <51% of retailer’s business, tastings must be in a separate enclosed area of the store.	✓
Pierce Chapter 9 effective July 6, 2016 after amendment; originally enacted June 2011.	✓	✓	✓	Tastings allowed per state law if retailer meets specific ventilation requirements, does not encourage non-smokers to taste, provides hygienic nicotine-free tastings at no cost, restricts to max 3 customers tasting at a time, does not allow employees to taste or vape, and provides no seating or entertainment encouraging lounging. Implementation of tastings restrictions are suspended pending resolution of a lawsuit focused on ventilation requirements.	✓
San Juan Chapter 8.28 effective Jan. 1, 2016	✓	✓		Vaping allowed in vapor product-only stores that exclude minors under age 18.	

Local Board of Health Jurisdiction <i>in alphabetical order</i>	Vaping Prohibited in:			Exceptions for Vapor Product Retail Outlets, If Any Tastings must be allowed in 21+ age-restricted vapor product stores under the WA Vapor Products law (RCW 70.345.100).	“No Vaping” Signs Required
	Indoor Public Places	Places of Employment	Outdoor Public Places Where Children Congregate		
Skagit Title 12, Chapter 51 effective July 22, 2019	✓	✓	✓ also prohibits smoking in same areas	Tastings allowed per state law, provided retailer does not otherwise allow vaping.	✓
Snohomish Chapter 2.75 effective July 14, 2016 after amendment; originally enacted Dec. 2015	✓	✓	✓	Tastings allowed per state law.	✓
Spokane Resolution 16-01 effective July 1, 2016	✓	✓		Tastings allowed per state law.	✓
Thurston Article VIII (Ordinance H-08-2020) effective Jan. 1, 2021	✓	✓	prohibits smoking & vaping in playgrounds and outside schools and childcare facilities; a separate ordinance prohibits smoking & vaping in all county parks.	Tastings allowed per state law.	✓
Whatcom Chapter 24.14 effective Nov. 11, 2016	✓	✓		Tastings allowed per state law, provided retailer does not otherwise allow vaping.	✓

All 13 regulations prohibit vaping within 25 feet of entrances, exits, windows, and ventilation intakes of the indoor places where vaping is prohibited. 11 of the 13 jurisdictions (Grant and San Juan are the exceptions) have also adopted WA’s Smoking in Public Places law (RCW 70.160) and have local enforcement authority.

This table is intended as a summary of key policy components, see each regulation for key details. This summary table is updated and expanded from a version created in June 2017, and updated in 2019, for the WA Department of Health’s Tobacco & Vapor Product Prevention & Control Program.

Margaret Shield, Principal of Community Environmental Health Strategies, is a public health and environmental consultant with more than 14 years of experience working on local and state policy initiatives. Since 2015, Margaret has worked with local health departments to develop five No Vaping in Public Places laws in Snohomish, Whatcom, Skagit, Jefferson, and Thurston counties. She has consulted with other agencies on their local policy options and legislative drafting and conducted a study of local vapor product regulations for the WA Department of Health in 2017. Utilizing her background in health sciences and as a scientific review administrator for California’s Tobacco Related Disease Research Program, she applies an evidence-based approach to policy, systems, and environmental change for tobacco prevention.