

Model Municipal Ordinance Language

Prohibition on the Use of Tobacco Products, Tobacco Substitutes, and Cannabis Products Near Public Schools and Child Care facilities

§1. Purpose

The purpose of this ordinance is to protect the public health, safety, and welfare of the community, pursuant to authority granted to the [name of municipality] by 24 V.S.A. § 2291(14) and 18 V.S.A. § 1746, by prohibiting the use of all tobacco, tobacco substitute, and cannabis products on public sidewalks adjacent to public schools and child care facilities.

§2. Definitions

- (a) “**Tobacco Products**” include cigarettes, little cigars, roll-your-own tobacco, snuff, cigars, new smokeless tobacco, and other tobacco products as defined in 32 V.S.A. § 7702.
- (b) “**Tobacco Substitute Products**” are products, including electronic cigarettes or other electronic or battery-powered devices, that contain or are designed to deliver nicotine or other substances into the body through the inhalation of vapor and that have not been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes as defined by 7 V.S.A. § 1001(8). Products that have been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes shall not be considered tobacco substitutes.
- (c) “**Cannabis products**” include any product made fully or in part from the cannabis plant (*Cannabis sativa* L.) as defined in 7 V.S.A. § 831 or natural or synthetic material with the intent to simulate cannabis with >.3% THC content.
- (d) “**Public school**” means an elementary school or secondary school operated by a school district, as defined in 16 V.S.A. § 11.
- (e) “**Child care facility**” means any place where the owner or operator is licensed or registered by the State for child care under 33 V.S.A. chapter 35.

§3. Activity Prohibited

The use of all tobacco, tobacco substitute, and cannabis products is prohibited on public sidewalks located within 25 feet of the lot line of a property owned by a public school or child care facility.

§4. Posting of Signage

The public school or child care facility shall post and maintain signs that are visible from public sidewalks regulated by this ordinance, notifying the public of the prohibition against the use of all tobacco, tobacco substitute, and cannabis products (including vaping devices). These signs shall be placed so as to inform but not detract from the designated smoke-free areas. There shall be at least one sign at each vehicular and pedestrian point of entry to or exit from the property.

§5. Enforcement

- (a) Use of cannabis products in violation of this ordinance shall result in the penalties specified in 18 V.S.A. § 4230, 4230a, 4230b, and 4230j.
- (b) Use of tobacco or tobacco substitute products in violation of this ordinance by individuals who are underage (under 21 years old) will result in the penalties specified in 7 V.S.A. §1005.
- (b) Use of tobacco or tobacco substitute products in violation of this ordinance by persons 21 years of age or older shall incur the following penalties:
 - (1) First offenses shall result in a verbal warning and a request to either cease using the product or leave the designated smoke-free area.
 - (2) The second offense shall result in a written warning and a request to cease using the product and leave the designated smoke-free area, or be issued a Notice of Trespass Order.
 - (3) The third and subsequent violations of this ordinance shall result in a ticket being issued. Any person convicted of a violation of this ordinance shall be subject to a civil penalty, the fine of which shall be no less than fifty dollars (\$50.00) and no more than two hundred dollars (\$200.00).
- (c) All law enforcement officials duly authorized to issue civil violation complaints are authorized to issue complaints for violations of this ordinance.

Passed and adopted by the [municipal board name] of the [name of municipality], State of Vermont on this [day, month, year].