

Tobacco-Free County Grounds in Minnesota

Frequently Asked Questions

Are local governments able to enact policies restricting tobacco use?

Yes. Cities and counties have broad authority to adopt policies that promote or protect public health – particularly in regard to their own properties.¹ Neither state nor federal laws prohibit local governments from regulating the use of tobacco outdoors.

If smokeless tobacco only harms the user, why prohibit the use of all forms of tobacco? Why not implement a smoke-free policy instead?

A tobacco-free policy improves health outcomes for everyone - ALL employees and visitors, those that smoker or chew and those who work or access municipal services around them.

Why not create designated areas where people can still use tobacco on the grounds?

One of the goals of any comprehensive policy is to help people quit. But, allowing tobacco use anywhere on the grounds is contrary to this objective. Designated areas allow for continued exposure to secondhand smoke that can drift across the grounds (as well as through open windows, air intakes and the like) and can also be a big contributor of litter. Designated smoking areas (as well as distance setbacks from doorways) are difficult to enforce and are frequently violated.

Won't our employees and visitors just go smoke on neighboring properties?

Not necessarily. Employers will typically ask employees to be respectful of their neighbors when the policy is announced. As most government employees are courteous and law-abiding, this has generally not been a problem.

How are tobacco-free municipal grounds policies enforced?

Tobacco-free policies are largely self-enforced. A good policy addresses enforcement, including education, communication and cessation resources. Compliance with these policies is largely community driven tobacco-free environments have largely become the social norm. Most municipalities with tobacco-free policies have not experienced widespread enforcement problems.

How do cities and counties communicate their policies?

Though signage. Municipalities with tobacco-free grounds policies post signs on their grounds to announce the policy. Signage is particularly critical in locations that have high visitor traffic, such as the city hall or county library. Signs allow for community and self-enforcement, empowering everyone using the municipal grounds to remind violators about the policy. Signs also help eliminate the need for any law enforcement presence.

In addition to signs, communities notify employees and visitors through print materials (such as letters confirming appointments), local media, newsletters, policy reminder cards, and announcement at community events.

Besides health, are there any other benefits?

A tobacco-free policy reduces litter and the costs associated with cleanup. In Minnesota, smoking-related debris accounted for 62% of total debris during a 2005 lakeshore and beach cleanup.² Cigarette filters are toxic, contain many harmful chemicals that can leach to the environment, and are not biodegradable.

¹ A.G. Op. 62b (May 4, 2000) - <https://www.ag.state.mn.us/Resources/opinions/62b-20000504.pdf>

Should a tobacco-free municipal grounds policy include electronic cigarettes?

Yes, a comprehensive tobacco-free grounds policy will also prohibit the use of electronic cigarettes. Electronic cigarettes are unregulated, untested devices that sustain nicotine dependence the same way that “traditional” tobacco products do. Electronic cigarettes can actually increase nicotine intake and addiction and may lead people to try other tobacco products – products known to cause disease and lead to premature death. Prohibiting the use of electronic cigarettes prevents the renormalizing of tobacco use and the possible effects of passive vaping, especially for those with asthma, children and the elderly.

Some of our employees are members of/represented by a union. Do we need to negotiate a tobacco-free workplace policy? How do we include or engage union leadership in the policy process?

Yes, it is important, and sometimes mandatory, to work with union representatives when adopting a tobacco-free policy.

When employees are represented by a union, a tobacco-free policy may need to be implemented through collective bargaining.³ Unions and management generally must negotiate the “terms and conditions of employment.” However, many or most a collective bargaining agreement (CBA) will also contain a “management rights” clause which allows the employer to change or add a policy on its own and without negotiating with the union if the change or addition fits within the authority preserved by that clause. Whether a tobacco-free grounds policy must be negotiated will ultimately come down to a number of local factors (such as contract language, past practices, etc.). Either way, it is important to involve union leadership in any discussions or preparations regarding the implementation of a tobacco-free grounds policy to ensure the proper steps are taken.⁴

Employers can engage labor unions around the shared goal of providing a safe and healthful working environment for all employees through the implementation of a tobacco-free policy.

Don't tobacco-free grounds policies infringe upon the rights of tobacco-users?

No. There is no guaranteed “right” to use tobacco. Tobacco users are not a protected class. Tobacco-free policies are not a form of discrimination.⁵

² The Ocean Conservancy. (2006). *International Coastal Cleanup 2005 Minnesota Summary Report*. [Online]. Available: <http://www.coastalcleanup.org>.

³ *Tobacco-Free Work Plan: A Legal Review of Tobacco Policies*, a guide developed by the American Lung Association of Ohio, the Ohio Department of Health / Healthy Ohioans, the Ohio Tobacco Prevention Foundation and the Tobacco Public Policy Center at Capital University Law School <http://charmeck.org/mecklenburg/county/healthdepartment/wtw/resource%20library/legalreviewtobacco.pdf>

⁴ http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-workplace-2008_0.pdf

⁵ http://publichealthlawcenter.org/sites/default/files/resources/tclc-syn-constitution-2008_0.pdf