

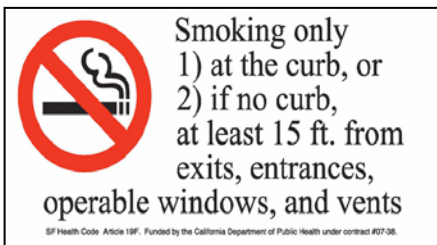
# Electronic Cigarettes

## San Francisco Policy



### WHAT LAWS GOVERN E-CIGARETTES IN SAN FRANCISCO?

[California Health and Safety Code 119405](#) prohibits the sales of e-cigarettes to minors. Effective April 2014, [San Francisco Health Code Article 19N](#) prohibits the use of e-cigarettes wherever traditional cigarettes are prohibited. This generally means smoking or using e-cigarettes (vaping) is only permitted at the curb. Sales of e-cigarettes in San Francisco require a tobacco permit, just like cigarettes. These are common sense regulations supported by major health organizations such as the American Lung Association, American Heart Association, and World Health Organization that have also been supported by vapor industry representative leader Smoke-Free Alternatives Trade Association. They agree that e-cigarette products should not be sold to minors and advocate that users “don’t vape on planes and other places where smoking is generally prohibited.”<sup>1</sup> Health code section 19N exists so a new potential pollutant is not introduced into environments that San Francisco has made smoke-free.



E-cigarettes **ARE NOT BANNED** in San Francisco, they are simply regulated. If businesses choose to sell these products, they are perfectly allowed to as long as they are within the confines of the law. If a person chooses to use these devices, they must be over 18 and use them only where allowed by law. *Please be considerate of others and vape and smoke at the curb.*

### WHY IS THE CITY CONCERNED ABOUT E-CIGARETTES?

As of 2014, there were at least 466 different brands of e-cigarettes that came in all different shapes and sizes.<sup>2</sup> Despite urging from public health leaders, medical professionals, health and youth organizations, and individuals, there are currently **NO FDA REGULATIONS** or **STANDARDS IN E-CIGARETTE PRODUCTION**.<sup>3,4</sup> Therefore, all e-cigarettes are not created equal. Just because one version is safe does not mean all are safe. The lack of standards in production results in a lack of quality control. This has resulted in cases of malfunctioning e-cigarette devices that have exploded and caused fires.<sup>5,6</sup> Until regulations are set, caution is necessary.

Since introduction into the market, e-cigarette sales have been increasing exponentially. In 2013, sales were estimated at \$2.5 billion worldwide and are expected to top \$10 billion by 2017.<sup>7</sup> This rapid increase in sales and use is also a cause for concern regarding youth uptake. Several large surveys have shown increased youth usage of e-cigs with the potential for leading to traditional cigarette usage.<sup>8</sup> (See: Are Young People Using E-cigarettes?)

E-cigarettes were introduced to the United States roughly eight years ago, and are therefore new products. There are no long term studies on the health effects of first hand, [second hand](#), or [third hand](#) e-cigarette usage. Additionally, the onset of the diseases of interest, such as cancer, usually take decades to develop, therefore the long term health effects of e-cigs will not be known for quite some time.<sup>9</sup> There is already some evidence of immediate adverse health effects similar to those resulting from cigarette usage such as airway resistance and reduced fraction of exhaled nitrous oxide.<sup>10</sup>

San Francisco subscribes to the [Precautionary Principle](#), which states that if an activity or action has the potential to harm, then precautionary measures must be taken. This also means the burden of definitive proof of safety lies with the e-cigarette industry. There is also concern over the potential for e-cigarettes to renormalize tobacco use in smoke free environments and to cause confusion as to why it is allowed.<sup>11</sup> Prior to [San Francisco Health Code](#)

[Article 19N](#), the San Francisco Department of Public Health received several inquiries from businesses and community members regarding e-cigarette usage in smoke free areas.

## How does Health Code Article 19N affect the use and sale of Electronic Cigarettes?

Locations Where Using E-cigs is Prohibited	Legal Authority
Workplaces, Restaurants, and Bars	CA Labor Code 6404.5 SF Health Code Article 19F, Section 1009.22
Near entryways including exits and operable windows of commercial, multi-unit residential and mixed use buildings (Smoking only at the curb or 15 feet if no curb)	SF Health Code Article 19F, Section 1009.22
Tobacco Shops	SF Health Code Article 19F, Section 1009.22
Enclosed areas of Common areas of Multi-Unit Housing	SF Health Code Article 19F, Section 1009.22
Rental units with leases designating units as smoke free	SF Health Code Article 19M, Section 19M.3
Public Transit Vehicles and Stations (Muni and BART)	CA Health and Safety Code Sections 118925-118945/ SF Health Code Article 19F, Section 1009.22
Indoor facility utilized for kindergarten, elementary, or secondary education or library services for children	US Code Section 6083
Motor vehicles with a minor under 18 years of age	CA Health and Safety Code Sections 118947-118949
Taxis (whether or not passengers are present)	SF Health Code Article 19F, Section 1009.22
Service Waiting Lines (ATMs, ticket lines, bus stops)	SF Health Code Article 19F, Section 1009.22
City and County of San Francisco owned or operated parks, playing fields, or other unenclosed areas	SF Health Code Article 19I, Section 1009.81
Outdoor Events held on City and County property	SF Health Code Article 19L, Section 19L.3
Sports Arenas	SF Health Code Article 19F, Section 1009.22
Farmer's Markets	SF Health Code Article 19F, Section 1009.22
Playgrounds and Tot Lots	CA Health and Safety Code Section 104495
Wharf, Pier, Dock, Bulkhead, or Marine Facility	SF Police Code Article 1, Section 55
Any other location with a smoke free policy such as a college campus	

Locations Where Sales are Prohibited	Legal Authority
Sales of Electronic Cigarettes require a tobacco sales permit. All related requirements and penalties apply	SF Health Code Article 19H, Section 1009.52
Sales of Electronic Cigarettes are prohibited at pharmacies	SF Health Code Article 19J, Section 1009.92
Sales of Electronic Cigarettes are prohibited on City and County Property	SF Health Code Article 19K, Section 1010.1
Sales of Electronic Cigarettes through self-service merchandizing such as vending machines are illegal. This includes counter top displays	SF Health Code Article 19D, Section 1009.1 / SF Police Code Article 46, Section 4600.3
Illegal to have giveaways or free samples or coupons	SF Police Code Article 1, Section 95
Illegal to advertise on City & County Property	SF Administrative Code, Chapter 4, Section 4.2

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- <sup>1</sup> Colliver, V. (2015). "[Big battles ahead over e-cigarettes' safety, regulation.](#)" *San Francisco Chronicle*.
- <sup>2</sup> Zhu, S., Sun, J., et al. (2014). "[Four hundred and sixty brands of e-cigarettes and counting: implications for product regulation.](#)" *Tobacco Control*. doi:10.1136/tobaccocontrol-2014-051670
- <sup>3</sup> Van Hollen, J., Hood, J., et al. (2013). "[FDA Regulation of E-Cigarettes.](#)" *National Association of Attorneys General*.
- <sup>4</sup> Bankhead, C. (2015). "[AACR, ASCO Urge FDA to Move on E-Cig Regulations.](#)" *MedPage Today*.
- <sup>5</sup> Corona, M. & Marcus, E. (2015). "Electronic cigarette caused Sparks High gym explosion." *Reno-Gazette Journal*.
- <sup>6</sup> Liebelson, D. & Suebsaeng, A. (2014). "[Should You Be Worried About Your E-Cigarette Exploding?](#)" *MotherJones*
- <sup>7</sup> Goodman, A. (2013). "[E-Cigarettes Are Smoking Hot - Four Ways To Invest In Them.](#)" *Forbes*.
- <sup>8</sup> Bunnell, R., Agaku, I., et al. (2014). "[Intentions to smoke cigarettes among never-smoking U.S. middle and high school electronic cigarette users, National Youth Tobacco Survey, 2011-2013.](#)" *Nicotine & Tobacco Research*. doi:10.1093/ntr/ntu166
- <sup>9</sup> World Health Organization. (2014). "[Electronic Nicotine Delivery Systems.](#)" *Conference of the Parties to the WHO Framework Convention on Tobacco Control*
- <sup>10</sup> Avdolic, M & Murin, S. (2012). "Electronic Cigarettes: No Such Thing as a Free Lunch...Or Puff." *Chest*. 141(6):13711372. doi:10.1378/chest.120205
- <sup>11</sup> Slavitt, W. (2011). "[What Employers Need to Know About Electronic Cigarettes.](#)" *National Business Group on Health*.