

**TITLE 12**  
**TOBACCO PRODUCTS AND SMOKING DEVICES**

***SUBTITLE 1***  
***INDOOR SMOKING***

**Editor's Note:** Chapters 501 and 502, Laws of Maryland 2007 (approved May 17, 2007) enacted a statewide "Clean Indoor Air Act", codified at State Health-General Article, Title 24, Subtitle 5. The prohibitions become effective February 1, 2008 {He § 24-504}. The State law expressly states that it does not "preempt a county ... from enacting and enforcing more stringent measures" {He § 24-510}.

**§ 12-101. Definitions.**

*(a) In general.*

In this subtitle, the following terms have the meanings indicated.

*(b) Electronic smoking device.*

*(1) In general.*

"Electronic smoking device" means an electronic or battery-operated device that delivers vapors for inhalation, whether manufactured, distributed, marketed, or sold:

- (i) as an electronic cigarette, electronic cigar, or electronic pipe; or
- (ii) by any other product name or descriptor.

*(2) Exclusions.*

"Electronic smoking device" does not include an asthma inhaler or similar product that:

- (i) contains no tobacco nor any nicotine; and
- (ii) has been specifically approved by the U.S. Food and Drug Administration for use in mitigating, treating, or preventing disease.

*(c) Enclosed area.*

- (1) "Enclosed area" means an area that is bounded on all sides by walls that extend, with or without doors, windows, vents, or like openings, from floor to ceiling.
- (2) "Enclosed area" includes the interior of a vehicle.

*(d) Person in charge.*

"Person in charge" means the person who owns, operates, or manages a place subject to this subtitle.

(e) *Smoke*.

“Smoke” means to:

- (1) inhale, burn, or carry any lighted cigarette, cigar, or pipe tobacco, or any other tobacco, weed, or plant product of any kind; or.
- (2) to inhale vapors from or otherwise allow vapors to be emitted from an electronic smoking device.

(Ord. 07-392; Ord. 14-310.)

**§ 12-102. Scope.**

Nothing in this subtitle precludes an employer or other person in charge from prohibiting smoking in open or enclosed areas not covered by this subtitle.

(Ord. 07-392.)

**§§ 12-103 to 12-104. {Reserved}**

**§ 12-105. Where smoking prohibited.**

Except as otherwise specified in this subtitle, smoking is prohibited in:

- (1) any enclosed area to or in which the public is invited or permitted; or
- (2) any enclosed area that is part of a place of employment.

(Ord. 07-392.)

**§ 12-106. Exceptions – General.**

This subtitle does not apply to the following:

- (1) any part of a private residence that is not open to the public for business purposes, except as required by COMAR 13A.14.01.
- (2) a private vehicle.
- (3) a sleeping room in a hotel or motel, as long as that hotel or motel maintains at least 75% of all its sleeping rooms as smoke-free.
- (4) smoking as an integral part of a theatrical performance held in a facility primarily used for theatrical performances.
- (5) smoking as an integral part of a religious ceremony.
- (6) smoking at an analytical or educational laboratory as an integral part of scientific research into the health effects of smoke.

(7) smoking that is permitted in a hospital, nursing home, or other health care facility under State Health-General Article, § 24-205.

(Ord. 07-392.)

**§ 12-107. Exceptions – Retail tobacco establishments; Hookah lounges.**

(a) *In general.*

This subtitle does not apply to a retail tobacco establishment or a hookah lounge that qualifies under this section.

(b) *Retail tobacco establishments.*

A retail tobacco establishment qualifies under this section only if it:

- (1) derives at least 75% of its revenues, measured by average daily receipts, from the sale of non-cigarette tobacco products;
- (2) has a ventilation system that prevents smoke from infiltrating into any area where smoking is prohibited under this subtitle; and
- (3) prohibits the entry of minors at all times.

(c) *Hookah lounges.*

(1) *“Hookah lounge” defined.*

In this subsection, “hookah lounge” means an establishment that is primarily devoted to the on-premises use of 1 or more hookahs (also known as a hookah pipe, water pipe, shisha, or narghile) for smoking tobacco or other substances.

(2) *Qualifications.*

A hookah lounge qualifies under this section only if it:

- (i) meets the criteria listed in State law;
- (ii) derives at least 75% of its revenues, measured by average daily receipts, from the sale or use of non-cigarette smoking products and accessories;
- (iii) has a ventilation system that prevents smoke from infiltrating into any area where smoking is prohibited under this subtitle; and
- (iv) prohibits the presence of minors at all times.

(Ord. 07-392; Ord. 18-124.)

**§ 12-107.1. Exceptions – Retail sellers of electronic smoking devices.**

This subtitle does not apply to the use of electronic smoking devices in a business establishment in which:

- (1) the primary activity is the retail sale of electronic smoking devices, accessories, and related products;
- (2) the sale of other products is incidental; and
- (3) the entry of minors is prohibited at all times.

*(Ord. 14-310.)*

**§ 12-107.2. Exceptions – Electronic smoking devices in certain restaurants and taverns.**

*(a) Definitions.*

*(1) In general.*

In this section, the following terms have the meanings indicated.

*(2) Restaurant.*

“Restaurant” means a business establishment that:

- (i) is devoted primarily to serving food and drinks to the public for on-premises consumption by seated patrons; and
- (ii) might or might not also serve alcoholic beverages.

*(3) Tavern.*

“Tavern” means a business establishment that:

- (i) is devoted primarily to serving alcoholic beverages to the public for on-premises consumption; and
- (ii) might or might not also serve food.

*(b) In general.*

This subtitle does not apply to the use of electronic smoking devices in a restaurant or tavern or in 1 or more designated areas of a restaurant or tavern, as the case may be, if the establishment notifies its patrons and potential patrons that the use of electronic smoking devices is allowed on or in designated areas of the premises, as the case may be.

*(c) Method and tenor of notification.*

- (1) The notification required by this section must be provided both:

- (i) by a prominently posted notice, at least 17" x 22", that is clearly readable by all patrons on entry to the establishment; and
- (ii) by a conspicuous notice, in at least 20-pt. font size, printed on each menu provided to patrons.

(2) The tenor of the notices must be substantially as follows:

“This {restaurant / tavern} allows the use of electronic smoking devices {in designated areas / throughout the premises}.”

*(Ord. 14-310.)*

### **§ 12-107.3. Exceptions – Electronic smoking devices in video lottery facility.**

This subtitle does not apply to the use of electronic smoking devices in a facility that has been awarded a Video Lottery Operation License by the Maryland Video Lottery Location Commission under State Government Article, Title 9, Subtitle 1A.

*(Ord. 14-310.)*

### **§ 12-108. Waivers.**

*(a) Authority to grant.*

On written application, the Commissioner may grant a waiver from the application of a specific provision of this subtitle, if the applicant for the waiver establishes that:

- (1) compliance with that provision would cause undue financial hardship; or
- (2) other factors exist that would render compliance unreasonable.

*(b) Conditions and restrictions.*

The Commissioner may impose conditions or restrictions on the waiver as necessary or appropriate to:

- (1) minimize the adverse effects of the waiver on individuals involuntarily exposed to second-hand smoke; and
- (2) ensure that the waiver is consistent with the purposes of this subtitle.

*(Ord. 07-392.)*

### **§§ 12-109 to 12-110. {Reserved}**

### **§ 12-111. Enforcement by citation.**

*(a) In general.*

In addition to any other civil or criminal remedy or enforcement procedure, this subtitle may be enforced by issuance of:

- (1) an environmental citation as authorized by City Code Article 1, Subtitle 40 {"Environmental Control Board"}; or
- (2) a civil citation as authorized by City Code Article 1, Subtitle 41 {"Civil Citations"}.

*(b) Process not exclusive.*

The issuance of a citation to enforce this subtitle does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

*(Ord. 07-392.)*

**§ 12-112. Penalties: Varied.**

*(a) Smoker: \$500.*

Any person who smokes in violation of this subtitle is subject to a civil fine of not more than \$500 for each offense.

*(b) Employer or person in charge: \$750.*

- (1) Any employer or other person in charge who violates a provision of this subtitle or who knowingly allows a violation is subject to a civil fine of not more than \$750 for each offense.
- (2) It is an affirmative defense that the employer, other person in charge, or an agent of the employer or other person in charge:
  - (i) posted a "No Smoking" sign at each entrance used by the public; and
  - (ii) removed all ashtrays and other smoking paraphernalia from all areas where smoking is prohibited; and
  - (iii) in a bar or restaurant:
    - (A) refused to seat or serve any person who smoked where smoking is prohibited; and
    - (B) if the person continued to smoke after an initial warning, asked the person to leave the establishment.

(3) Each day that a violation continues is a separate offense.

*(Ord. 07-392; Ord. 10-340.)*

***SUBTITLE 2***  
***SALE OF UNPACKAGED CIGARETTES***

**§ 12-201. Definitions.**

*(a) In general.*

In this subtitle, the following terms have the meanings indicated.  
*(City Code, 1976/83, art. 19, §8A(a)(intro).) (Ord. 99-548.)*

*(b) Unpackaged cigarette.*

“Unpackaged cigarette” means any cigarette not contained in a sealed package of 20 or more cigarettes that are designed and intended to be sold or distributed as a unit.  
*(City Code, 1976/83, art. 19, §8A(a)(3).) (Ord. 99-548; Ord. 01-072.)*

**§ 12-202. Sale of unpackaged cigarettes prohibited.**

No person may sell or otherwise transfer for consideration unpackaged cigarettes to any other person.  
*(City Code, 1976/83, art. 19, §8A(a)(2), (b).) (Ord. 99-548.)*

**§ 12-203. Enforcement by citation.**

*(a) In general.*

In addition to any other civil or criminal remedy or enforcement procedure, this subtitle may be enforced by issuance of:

- (1) an environmental citation under City Code Article 1, Subtitle 40 {“Environmental Control Board”}; or
- (2) a civil citation under City Code Article 1, Subtitle 41 {“Civil Citations”}.

*(b) Process not exclusive.*

The issuance of a citation to enforce this subtitle does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.  
*(Ord. 01-072; Ord. 03-595.)*

**§ 12-204. Penalties.**

Any person who violates any provisions of this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$1,000 for each offense.  
*(City Code, 1976/83, art. 19, §8A(c).) (Ord. 99-548; Ord. 01-072.)*

***SUBTITLE 3  
DISTRIBUTION OF SAMPLES AND COUPONS***

**§ 12-301. Definitions.**

*(a) In general.*

In this subtitle, the following terms have the meanings indicated.  
*(Ord. 99-548.)*

*(b) Distribute.*

“Distribute” means to:

(1) give, sell, deliver, or offer to give, sell, or deliver; or

(2) cause or hire any person to give, sell, deliver, or offer to give, sell, or deliver.

*(City Code, 1976/83, art. 11, §284(a)(1).) (Ord. 99-548.)*

*(c) Less than basic cost.*

“Less than basic cost” means:

(1) free of charge;

(2) for a nominal or discount price; or

(3) for any other price that is less than the distributor’s cost plus any applicable tobacco taxes.

*(City Code, 1976/83, art. 11, §284(a)(3).) (Ord. 99-548.)*

*(d) Public place*

*(1) In general.*

“Public place” means any area, whether open or enclosed, to which members of the public are normally invited or permitted.

*(2) Inclusions.*

“Public place” includes parks, streets, sidewalks, sports fields, gymnasiums, shopping centers, and any property owned, occupied, or operated by the City.

*(3) Exclusions.*

“Public place” does not include any retail store.

*(City Code, 1976/83, art. 11, §284(a)(6), (7).) (Ord. 99-548.)*

**§ 12-302. Exemptions.***(a) Single cigarette.*

This subtitle does not apply to the distribution of a single cigarette.

*(b) Downtown area.*

This subtitle does not apply anywhere in the area within and bounded by:

- (1) Centre Street on the north;
- (2) the Fallsway on the east;
- (3) Pratt Street on the south;
- (4) Paca Street on the west; and
- (5) Druid Hill Avenue on the northwest.

*(c) Published coupons.*

This subtitle does not apply to a coupon that is contained in a newspaper, magazine, or other type of publication in which the coupon is incidental to the primary purpose of the publication.

*(d) Private functions.*

This subtitle does not apply to the distribution of tobacco products or coupons at an event that is held in an enclosed area to which entry is not available to the general public but only to those whom the sponsor of the event invites.

*(e) Tobacco company employees.*

This subtitle does not apply to the distribution of tobacco products or coupons by a retailer, manufacturer, or distributor of tobacco products to its adult employees.

*(City Code, 1976/83, art. 11, §284(a)(2), (5), (8), (c).) (Ord. 99-548.)*

**§ 12-303. Public distribution prohibited.***(a) Tobacco products.*

Except as specified in § 12-302 {"Exemptions"} of this subtitle, no person in any public place or at any public event may distribute to a member of the public any tobacco product at less than basic cost.

*(b) Coupons.*

Except as specified in § 12-302 {"Exemptions"} of this subtitle, no person in any public place or at any public event may distribute to a member of the public any coupon that is redeemable for a tobacco product to members of the public in public places, in public areas or at public events.

*(City Code, 1976/83, art. 11, §284(b).) (Ord. 99-548.)*

**§§ 12-304 to 12-305. {Reserved}**

**§ 12-306. Penalties.**

*(a) In general.*

Any person who violates any provision of this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$500 for each offense.

*(b) Each distribution a separate offense*

Each person to whom a tobacco product is distributed constitutes a separate offense.  
*(City Code, 1976/83, art. 11, §284(d).) (Ord. 99-548.)*

***SUBTITLE 4***  
***PLACEMENT OF TOBACCO PRODUCTS AND SMOKING DEVICES***

**§ 12-401. Definitions.**

*(a) In general.*

In this subtitle, the following terms have the meanings indicated.

*(b) Electronic smoking device.*

“Electronic smoking device” has the meaning stated in § 12-101 {“Definitions”} of this title.

*(c) Tobacco product.*

*(1) In general.*

“Tobacco product” means any substance that contains tobacco.

*(2) Inclusions.*

“Tobacco product” includes any:

(i) cigarette;

(ii) cigar;

(iii) bidi;

(iv) pipe or other smoking tobacco; or

(v) chewing tobacco, spit tobacco, snuff, or other smokeless tobacco.

*(Ord. 01-076; Ord. 14-310.)*

**§ 12-402. Placement requirements — In general.**

*(a) Prohibited placement.*

Except as otherwise specified in this subtitle, no establishment that sells tobacco products or electronic smoking devices at retail may display, store, or place any tobacco product or electronic smoking device anywhere that is accessible to customers without the intervention of the seller or an employee of the seller.

*(b) Examples of complying placement.*

The display, storage, or placement of tobacco products or electronic smoking devices in accord with one of the following methods does not violate subsection (a) of this section:

- (1) behind a sales counter in a place that, absent extraordinary efforts, is beyond the physical reach of customers;

- (2) in a locked display case for which seller assistance is needed to gain access to products in the case; or
- (3) in an overhead merchandise rack that:
  - (i) at its lowest point, is at least 6 feet above the floor; and
  - (ii) permits access to products in the rack only from the side facing away from customers.

*(Ord. 01-076; Ord. 14-310.)*

**§ 12-403. Placement requirements — Exceptions.**

This subtitle does not apply to:

- (1) the sale of tobacco products or electronic smoking devices from a vending machine that complies with all requirements of State Business Regulation Article, Title 16, Subtitle 3A; or
- (2) an establishment that:
  - (i) sells tobacco products or electronic smoking devices exclusively or primarily; and
  - (ii) makes bona fide efforts to prevent minors from entering the establishment.

*(Ord. 01-076; Ord. 14-310.)*

**§§ 12-404 to 12-405. {Reserved}**

**§ 12-406. Enforcement by citation.**

*(a) In general.*

In addition to any other civil or criminal remedy or enforcement procedure, this subtitle may be enforced by issuance of:

- (1) an environmental citation under City Code Article 1, Subtitle 40 {"Environmental Control Board"}; or
- (2) a civil citation under City Code Article 1, Subtitle 41 {"Civil Citations"}.

*(b) Process not exclusive.*

The issuance of a citation to enforce this subtitle does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

*(Ord. 01-076; Ord. 03-595.)*

**§ 12-407. Penalties: \$500.***(a) In general.*

Any owner, operator, or manager of an establishment that violates any provision of this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$500 for each offense.

*(b) Each day a separate offense.*

Each day that a violation continues is a separate offense.  
(Ord. 01-076.)

***SUBTITLE 5***  
***UNLAWFUL DISTRIBUTION***

**§ 12-501. Definitions.***(a) In general.*

In this subtitle, the following terms have the meanings indicated.

*(b) Distribute.*

“Distribute” means to:

- (1) give away, sell, deliver, dispense, or issue;
- (2) offer to give away, sell, deliver, dispense, or issue; or
- (3) cause or hire any person to:
  - (i) give away, sell, deliver, dispense, or issue; or
  - (ii) offer to give away, sell, deliver, dispense, or issue.

*(c) Tobacco product.*

“Tobacco product” has the meaning stated in State Health-General Article, § 13-1001 {“Definitions: Tobacco Product”}.

**Editor’s Note:** State HG Art. § 13-1001(u) reads as follows:

(u)(1) “Tobacco product” means any product that is:

- (i) Intended for human inhalation, absorption, ingestion, smoking, heating, chewing, dissolving, or any other manner of consumption that is made of, derived from, or contains:

1. Tobacco; or
2. Nicotine; or

- (ii) An accessory or component used in any manner of consumption of a product described in item (i) of this paragraph.

(2) “Tobacco product” includes:

- (i) Cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, and snus;
- (ii) Electronic smoking devices; and
- (iii) Filters, rolling papers, pipes, and liquids used in electronic smoking devices regardless of nicotine content.

- (3) “Tobacco product” does not include a drug, device, or combination product authorized for sale by the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act.

*(Ord. 02-322; Ord. 14-310; Ord. 20-340.)*

**§ 12-502. Unlawful distribution.***(a) Persons in business.*

A person engaged in the business of selling or otherwise distributing tobacco products for commercial purposes may not:

- (1) distribute any tobacco product to an individual under the age of 21 years, unless the individual is acting solely as the agent of an employer engaged in the business of distributing those products or devices;
- (2) distribute any cigarette rolling paper to an individual under the age of 21 years; or
- (3) distribute to an individual under the age of 21 years any coupon redeemable for any tobacco product.

*(b) Others.*

A person not described in subsection (a) of this section may not:

- (1) buy for or sell to an individual under the age of 21 years any tobacco product; or
- (2) buy for or sell or deliver to an individual under the age of 21 years any cigarette rolling paper.

*(Ord. 02-322; Ord. 14-310; Ord. 20-340.)*

**§ 12-503. Exceptions.***(a) Published coupon.*

This subtitle does not apply to the distribution of a coupon that is:

- (1) contained in a newspaper, magazine, or other type of publication in which the coupon is incidental to the primary purpose of the publication; or
- (2) sent through the mail.

*(b) Identification of age.*

A person has not violated this subtitle if:

- (1) the person examined a buyer's or recipient's driver's license or other identification issued by an employer, governmental entity, or institution of higher education; and
- (2) the license or other identification identified the buyer or recipient as being at least 21 years old.

*(c) Active duty military.*

A person has not violated this subtitle if:

(1) the person examined a buyer's or recipient's valid military identification; and

(2) the identification indicated that the buyer or recipient is:

(i) an active duty member of the military; and

(ii) at least 18 years old.

*(Ord. 02-322; Ord. 20-340.)*

**§§ 12-504 to 12-505. {Reserved}**

**§ 12-506. Enforcement by citation.**

*(a) In general.*

In addition to any other civil or criminal remedy or enforcement procedure, this subtitle may be enforced by issuance of:

(1) an environmental citation under City Code Article 1, Subtitle 40 {"Environmental Control Board"}; or

(2) a civil citation under City Code Article 1, Subtitle 41 {"Civil Citations"}.

*(b) Process not exclusive.*

The issuance of a citation to enforce this subtitle does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

*(Ord. 02-322.)*

**§ 12-507. Penalties: \$1,000.**

Any person who violates any provision of this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$1,000 for each offense.

*(Ord. 02-322.)*

***SUBTITLE 6***  
***FLAVORED TOBACCO WRAPPINGS***

**§ 12-601. Definitions.**

*(a) In general*

In this subtitle, the following terms have the meanings indicated.

*(b) Distribute.*

“Distribute” means to:

- (1) sell, deliver, dispense, issue, transfer, or otherwise distribute;
- (2) offer to sell, deliver, dispense, issue, transfer, or otherwise distribute; or
- (3) cause or hire any person to:
  - (i) sell, deliver, dispense, issue, transfer, or otherwise distribute; or
  - (ii) offer to sell, deliver, dispense, issue, transfer or otherwise distribute.

*(c) Flavored tobacco wrapping.*

“Flavored tobacco wrapping” means any cigarette rolling paper or tobacco wrapping leaf or paper constituted from tobacco that is, or is held out to be, impregnated or scented with, or aged or dipped in, or has as a constituent part (including a smoke constituent) or additive, an artificial or natural flavor, alcoholic liquor, or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, coconut, licorice, cocoa, cherry, coffee, chocolate, vanilla, honey, or any other flavoring agent that is a characterizing flavor of the tobacco product or the tobacco smoke.

*(Ord. 09-234.)*

**§ 12-602. Distribution prohibited**

No person may distribute for consideration any flavored tobacco wrapping to any other person.

*(Ord. 09-234.)*

**§ 12-603. Exception for certain tobacco shops.**

This subtitle does not apply to the distribution of flavored wrapping paper by or to a retail tobacco establishment that:

- (1) derives at least 75% of its revenues, measured by average daily receipts, from the sale of non-cigarette tobacco products;
- (2) maintains for sale an inventory of loose tobacco products; and
- (3) prohibits the entry of minors at all times.

*(Ord. 09-234.)*

**§ 12-604. Exception for vending machine sales.**

This subtitle does not apply to the sale or distribution of tobacco products by vending machines.  
(*Ord. 09-234.*)

**§ 12-605. {Reserved}****§ 12-606. Enforcement by citation.***(a) In general.*

In addition to any other civil or criminal remedy or enforcement procedure, this subtitle may be enforced by issuance of:

- (1) an environmental citation as authorized by City Code Article 1, Subtitle 40 {"Environmental Control Board"}; or
- (2) a civil citation as authorized by City Code Article 1, Subtitle 41 {"Civil Citations"}.

*(b) Process not exclusive.*

The issuance of a citation to enforce this subtitle does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.  
(*Ord. 09-234.*)

**§ 12-607. Penalties: \$1,000.***(a) In general.*

Any person who violates any provision of this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$1,000 for each offense.

*(b) Each wrapper a separate offense.*

Each individual wrapping distributed in violation of this subtitle is a separate offense.  
(*Ord. 09-234; Ord. 10-340.*)

***SUBTITLE 7***  
***SMOKING IN VENDOR TRUCKS***

**§ 12-701. Definitions.**

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Vendor truck.*

“Vendor truck” has the meaning stated in City Code Article 15, § 17-1 {“Definitions”}.

(c) *Smoke.*

“Smoke” has the meaning stated in § 12-101 {“Definitions”} of this title.  
(*Ord. 14-237; Ord. 16-503.*)

**§ 12-702. Smoking prohibited within vendor truck.**

Smoking is prohibited in any vendor truck.  
(*Ord. 14-237.*)

**§§ 12-703 to 12-704. {Reserved}**

**§ 12-705. Enforcement by citation.**

(a) *In general.*

In addition to any other civil or criminal remedy or enforcement procedure, this subtitle may be enforced by issuance of:

- (1) an environmental citation as authorized by City Code Article 1, Subtitle 40 {“Environmental Control Board”}; or
- (2) a civil citation as authorized by City Code Article 1, Subtitle 41 {“Civil Citations”}

(b) *Process not exclusive.*

The issuance of a citation to enforce this subtitle does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.  
(*Ord. 14-237.*)

**§ 12-706. Penalties: \$500.**

Any person who violates any provisions of this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$500 for each offense.  
(*Ord. 14-237.*)

***SUBTITLE 8***  
***SMOKING NEAR PLAYGROUNDS***

**§ 12-801. Definitions.**

*(a) In general.*

In this subtitle, the following terms have the meanings indicated.

*(b) Athletic facility.*

*(1) In general.*

“Athletic facility” means any outdoor facility clearly intended for playing sports.

*(2) Illustrations.*

“Athletic facility” includes any:

- (i) baseball diamond;
- (ii) soccer, lacrosse, or football field;
- (iii) basketball court;
- (iv) racing track;
- (v) skating rink; or
- (vi) field hockey pitch.

*(c) Playground.*

“Playground” means an outdoor area set aside for recreation and play, including an area containing equipment such as seesaws, swings, slides, merry-go-rounds, jungle gyms, monkey bars, overhead ladders, trapeze rings, playhouses, sandboxes, mazes, or similar play structures of any kind.

*(d) Public swimming pool.*

“Public swimming pool” has the meaning stated in § 11-301(c) {“Definitions: Public swimming pool”} of this article.

*(e) Schoolyard.*

“Schoolyard” means outdoor school property intended to be used for recreation and play.

(f) *Smoke.*

“Smoke” has the meaning stated in § 12-101 {“Definitions”} of this title.  
(*Ord. 14-212; Ord. 14-307; Ord. 14-310.*)

**§§ 12-802 {Reserved}**

**§ 12-803. Where smoking prohibited.**

Except as otherwise specified in this subtitle, smoking is prohibited in or within 50 feet of any:

- (1) playground;
- (2) schoolyard;
- (3) athletic facility; or

(4) public swimming pool.  
(*Ord. 14-212; Ord. 14-307.*)

**§ 12-804. Exceptions.**

This subtitle does not apply to the following:

- (1) a moving private vehicle.
- (2) smoking as an integral part of a theatrical performance held in a facility primarily used for theatrical performances.
- (3) smoking as an integral part of a religious ceremony.

(*Ord. 14-212.*)

**§§ 12-805 to 12-806. {Reserved}**

**§ 12-807. Enforcement by citation.**

(a) *In general.*

In addition to any other civil or criminal remedy or enforcement procedure, this subtitle may be enforced by issuance of:

- (1) an environmental citation as authorized by City Code Article 1, Subtitle 40 {“Environmental Control Board”}; or
- (2) a civil citation as authorized by City Code Article 1, Subtitle 41 {“Civil Citations”}

*(b) Process not exclusive.*

The issuance of a citation to enforce this subtitle does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

*(Ord. 14-212.)*

**§ 12-808. Civil penalties. \$500.**

Any person who smokes in violation of this subtitle is subject to a civil fine of not more than \$500 for each offense.

*(Ord. 14-212.)*