

Policy 1111
Smoking, Vaping, Tobacco and Nicotine Regulations

Date of Current Revision: June 2019

Responsible Officer: Director of Human Resources

1. PURPOSE

This policy establishes the rules and regulations concerning smoking, vaping and possession of tobacco and nicotine products on the JMU campus, on property controlled by JMU, and in facilities and vehicles owned or controlled by JMU. This policy ensures compliance with the Virginia Executive Order 41 (2006).

2. AUTHORITY

The Board of Visitors has been authorized by the Commonwealth of Virginia to govern James Madison University. See Code of Virginia section 23.1-1600; 23.1-1301. The Board has delegated the authority to manage the university to the president.

STATE OR FEDERAL STATUATE AND/OR REGULATION

Effective July 1, 2019, Code of Virginia § 18.2-371.2 prohibits the possession or use of any tobacco product, nicotine vapor product, or alternative nicotine product by any individual under the age of 21, unless the individual is over the age of 18 and is active duty military personnel. The statute also prohibits sale to, distribution to, purchase for, or knowingly permitting the purchase of such products by any person less than 21 years of age, unless the person is an active duty military personnel over the age of 18.

3. DEFINITIONS

Alternative Nicotine Product

Any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, or dissolved, or ingested by any other means. Alternative nicotine product does not include any nicotine vapor product, tobacco product, or product regulated as a drug or device by the U.S. Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

Nicotine Vapor Product

Any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. Nicotine vapor product includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Alternative nicotine product does not include any nicotine vapor product, tobacco product, or product regulated as a drug or device by the U.S. Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

Smoking

The carrying or holding of any kind of lighted smoking equipment, or device; or the lighting, inhaling, or exhaling of smoke or vapor from a pipe, cigar, cigarette, e-cigarette, vaporizer, or any other smoking device of any kind. Smoking devices may or may not contain nicotine.

Tobacco Product

Any product made of tobacco, and includes cigarettes, cigars, smokeless tobacco, pipe tobacco, bidis, and wrappings. Wrappings includes papers made or sold for covering or rolling tobacco or other materials for smoking in a manner similar to a cigarette or cigar. Tobacco product does not include any nicotine vapor product, tobacco product, or product regulated as a drug or device by the U.S. Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

4. APPLICABILITY

This policy applies to all employees, students, affiliates, contractors, visitors and all other individuals while they are on university owned or operated property or in university vehicles.

5. POLICY

Smoking is not permitted within buildings, facilities, structures, or vehicles owned, leased or rented by the university, including parking garages, covered walkways, temporary enclosed structures, trailers, and tents, as well as structures placed on state-owned property by contractors or vendors. This includes individual offices. Smoking is permitted outdoors on university grounds, plazas, sidewalks, malls and similar open pedestrian-ways, unless such areas are designated as non-smoking areas, provided smokers are 25 feet or more in distance away from an entrance, exit, outdoor air intake, or operable window of any facility, including parking garages. Smokers are required to use ash urns to dispose of their smoking material waste and are prohibited from littering state-owned property with smoking material waste.

Smoking and possession of tobacco, nicotine vapor products and alternative nicotine products by any person under the age of 21 is prohibited on any university owned or controlled property, including university vehicles, unless the person is over the age of 18 and is active duty military personnel. Sale to, distribution to, purchase for, or knowingly permitting the purchase of such products by any person less than 21 years of age is also prohibited, unless the person is an active duty military personnel over the age of 18.

6. PROCEDURES

6.1 Petition to Designate Outdoor Smoking Areas

Persons wishing to have a specific outdoor area designated as an outdoor smoking area may petition the building coordinator of the nearest building or other employee in charge of the outdoor space for the area to be designated as a smoking area. The building coordinator or employee in charge of the area will forward the petition through the appropriate individuals to the AVP or dean responsible for management of the outdoor area. The AVP or dean may either grant or deny the petition. If the petition is granted, the AVP or dean's office will contact the Director of Facilities Management to arrange for

the installation of appropriate signage designating the area as a designated outdoor smoking area and arrange for ash urns to be installed at outside locations 25 feet or more from entries, exits, outdoor air intakes, and operable windows to aid smokers in disposing of smoking materials. If the AVP or dean denies the petition, the denial may be appealed to the appropriate vice president, whose decision will be final.

6.2 Conflicts

Common courtesy and consideration toward others should be exercised. The university may choose to designate an outdoor area as a non-smoking area, or to remove the designation of an outdoor area as a smoking area, upon the request of any member of the university community. Such requests should be made to the appropriate AVP or dean. Members of the university community who disagree with the AVP or dean's decision to remove the designation of a smoking area or to deny a request to remove the designation of a smoking area may appeal that decision to the appropriate vice president, whose decision will be final.

6.3 Accommodations

The university, on the recommendation of the Office of Human Resources, the Office of Equal Opportunity, or the Office of Disability Services, may agree to provide a reasonable accommodation for the documented disability of a student, employee, or visitor by deciding that any outdoor area on campus should be a non-smoking area. This decision may be for a limited amount of time or a permanent designation. The decision will be made by the AVP or dean, and it may be appealed to the appropriate vice president, whose decision in this regard is final.

7. RESPONSIBILITIES

It is the responsibility of each supervisor, manager, department head, director, dean and AVP to enforce the provisions of this policy in their area of accountability.

It is the responsibility of all AVPs and deans to decide on petitions to designate smoking areas, requests to remove the designation of an area as a smoking area, and requests for accommodations of documented disabilities regarding smoking areas.

It is the responsibility of the vice presidents to resolve all appeals from the decision of an AVP or dean concerning the designation of an area as a smoking area or non-smoking area.

It is the responsibility of all employees, students, affiliates, contractors, and visitors to observe the smoking policy.

All departments, offices and employees that generate, receive or maintain public records under the terms of this policy are also responsible for compliance with Policy [1109](#)-Records Management.

8. SANCTIONS

Sanctions will be commensurate with the severity and/or frequency of the offense and may include termination of employment, suspension or expulsion from the university, termination of contract or affiliate status, or removal from campus. The penalty for

underage smoking or possession of tobacco, nicotine vapor product or alternative nicotine product is punishable by a civil penalty not to exceed \$100 for a first violation and a civil penalty not to exceed \$250 for a second or subsequent violation.

9. EXCLUSIONS

This policy does not apply to the use of smoking materials in laboratory research or dramatic productions. Special permission for such research or productions must be obtained from the appropriate AVP/dean prior to the commencement of the research or production.

10. INTERPRETATION

The authority to interpret this policy rests with the president, but is generally delegated to the director of human resources.

Previous update: July 2017

Approved by the president: October 2005