



Regulation of the Holliston Board of Health

Restricting the Sale of Tobacco Products and Electronic Smoking Devices

A. Statement of Purpose:

1. Whereas there exists conclusive evidence that tobacco smoking causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat; and
2. Whereas more than 90 percent of all smokers begin smoking before the age of twenty-one; and
3. Whereas the U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin; and
4. Whereas despite state laws prohibiting the sale of Tobacco Products to minors, access by minors to Tobacco Products is a major problem; and
5. Whereas the sale of Tobacco Products and nicotine delivery products is incompatible with the mission of health care institutions because it is detrimental to the public health;
6. Therefore it is the intention of the Holliston Board of Health to regulate the access of Tobacco Products and nicotine delivery products.

B. Authority: This Regulation is promulgated pursuant to the authority granted to the Holliston Board of Health by Massachusetts General Laws Chapter 111, Section 31 which states "Boards of Health may make reasonable health regulations."

C. Definitions: For the purpose of this Regulation, the following words shall have these meanings:

Blunt Wrap: Any product made wholly or in part from a Tobacco Product, manufactured or packaged with loose and removable leaves or a section of a leaf, or as a hollow tube, that may be used by the consumer to wrap or contain loose tobacco or other fillers.

Permit Holder: Any person engaged in the sale or distribution of Tobacco Products who applies for and receives a Tobacco Product Sales Permit or his or her business agent.

Tobacco Product: Any product containing, made or derived from tobacco or nicotine, that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, pipes, snuff; or electronic cigarettes, electronic cigars, electronic pipes, electronic hookahs, liquid nicotine, "e-liquids" or other similar products, regardless of nicotine content, that rely on vaporization or aerosolization. "Tobacco Product" includes any component or part of a Tobacco Product. "Tobacco Product" does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other

medical purposes and which is being marketed and sold or prescribed solely for the approved purpose.

Vending Machine: Any automated or mechanical self-service device, which upon insertion of money, tokens, or any other form of payment, dispenses or makes cigarettes or any other Tobacco Products.

Terms not defined herein shall be defined as set forth in Chapter 133 of the Acts of 2019 (commonly known as “An Act Modernizing Tobacco Control”) and 105 CMR 665.000 (commonly known as “Minimum Standards for Retail Sale of Tobacco and Electronic Nicotine Delivery Systems”).

D. No Tobacco Sales for Persons Under Twenty-One (21) Years Old:

1. This regulation incorporates by reference Chapter 133 of the Acts of 2019 and 105 CMR 665.000.
2. **Required Signage:** All retail establishment holding a Tobacco Product Sales Permit shall conspicuously post signage, in the form developed and made available by the Department of Public Health (DPH) and made available from the Holliston Board of Health. Such signage shall include:
 - a. A copy of M.G.L. c. 270, §§ 6 and 6A;
 - b. Referral information for smoking cessation resources;
 - c. A statement that the sale of tobacco products, including e-cigarettes to someone younger than 21 years old is prohibited;
 - d. Health warnings associated with using nicotine delivery systems; and
 - e. Notice to consumers that the sale of flavored tobacco products is prohibited at all times.
 - f. Such signage shall be posted conspicuously in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four feet or greater than nine feet from the floor.
 - g. Adult only retail tobacco stores shall post signage in the form developed and made available by DPH and made available from the Holliston Board of Health, on the exterior of the door providing entrance and such sign shall not be obstructed from view or placed at a height of less than four feet or greater than nine feet from the bottom of the door. Such signage shall state that “No person younger than 21 years old is permitted on the premises at any time.”
3. **Identification:** Each person selling or distributing Tobacco Products shall verify the age of purchaser by means of a valid government-issued photographic identification containing the bearer's date of birth, that the purchaser is 21 years old or older.
4. **Face-to-face:** All retail sales of Tobacco Products must be face-to-face between the seller and the buyer and occur at the permitted location.

E. Tobacco Product Sales Permit:

1. **Town Permit:** No person shall sell or otherwise distribute Tobacco Products within the Town of Holliston without *first obtaining a Tobacco Product Sales Permit* issued annually by the Holliston Board of Health. Only owners of establishments with a permanent, non-mobile location in Holliston are eligible to apply for a permit and sell Tobacco Products at the specified location in Holliston.

2. **State License:** Each applicant who sells Tobacco Products is required to provide *proof of a current Tobacco Retailer Licenses* issued by the Massachusetts Department of Revenue, as required by state law, before a Tobacco Product Sales Permit can be issued. Applicant may be asked to provide evidence that a legitimate business transfer or business purchase has taken place.
3. **Inspections:** Issuance of a Tobacco Product Sales Permit shall be conditioned on an applicant's consent to *unannounced, periodic inspections* of his/her retail establishment to ensure compliance with this Regulation.
4. **Fines:** A Tobacco Product Sales Permit will not be renewed if the Permit Holder has failed to:
 - a. pay all fines issued, and the time period to appeal the fines has expired, or
 - b. satisfy any outstanding permit suspensions.
5. **Maximum Number of Tobacco Product Sales Permits:**
 - a. **Number:** There shall be *no more than ten Tobacco Product Sales Permits* issued in Holliston, reduced by the number of permits not renewed pursuant to Subsection (b) below. No permit renewal will be denied based on the requirements of this Subsection except any Permit Holder who has failed to renew his or her permit within thirty days of expiration.
 - b. **Retired Permits:** Any permit not renewed because a retailer no longer sells Tobacco Products shall be returned to the Holliston Board of Health, and shall be permanently retired by the Board of Health, and the total allowable number of Tobacco Product Sales Permits under Subsection (a) shall be reduced by the number of the retired permits.
 - c. **Transferrable:** Tobacco Product Sales Permits are transferrable at the time of the sale or acquisition of said business.

F. Free Distribution and Coupon Redemption: No person shall:

1. Distribute or cause to be distributed, any **free samples** of Tobacco Products; or
2. Accept or redeem, offer to accept or redeem, or cause or hire any person to accept or redeem or offer to accept or **redeem any coupon** that provides any Tobacco Product without charge or for less than the listed or non-discounted price; or
3. Sell a Tobacco Product to consumers through any **multi-pack discounts** (e.g., "buy-two-get-one-free") or otherwise provide or distribute to consumers any Tobacco Product without charge or for less than the listed or non-discounted price in exchange for the purchase of any other Tobacco Product.

G. Out-of-Package Sales:

1. The sale or distribution of Tobacco Products in any form other than an **original factory-wrapped** package is prohibited, including the repackaging or dispensing of any Tobacco Product for retail sale. No person may sell or cause to be sold or distribute or cause to be distributed any cigarette package that contains fewer than twenty cigarettes, including single cigarettes.
2. A retailer of Liquid Nicotine Containers must comply with the provisions of 310 CMR 30.000, and must provide the Holliston Board of Health with a **written plan for disposal** of said product, including disposal plans for any breakage, spillage or expiration of the product.

H. Self-Service Displays: All self-service displays of Tobacco Products are prohibited. All humidors including, but not limited to, walk-in humidors must be locked.

I. Vending Machines: All Vending Machines containing Tobacco Products are prohibited.

J. Prohibition of the Sale of Blunt Wraps: No person or entity shall sell or distribute blunt wraps in Holliston.

K. Incorporation of Attorney General Regulation 940 CMR 21.00: The sale or distribution of Tobacco Products must comply with those provisions found at 940 CMR 21.00 ("Sale and Distribution of Cigarettes, Smokeless Tobacco Products and Electronic Smoking Devices in Massachusetts").

L. Violations:

1. It shall be the responsibility of the establishment, permit holder and/their business agent, and not their employees, to ensure compliance with all sections of this regulation. For violations of the sections of this regulation the violator shall receive:
 - a. In the case of a first violation, a fine of *one thousand dollars (\$1,000.00)* shall be issued and, additionally, *if the violation is a sale of a tobacco product to a person under the age of 21, the Tobacco Product Sales Permit shall be suspended per 105 CMR 665.040(d), for three (3) consecutive business days.*
 - b. In the case of a second violation within thirty-six (36) months of the date of the current violation, a fine of *two thousand dollars (\$2,000.00)* shall be issued and *the Tobacco Product Sales Permit shall be suspended for seven (7) consecutive business days.*
 - c. In the case of three or more violations within a thirty-six (36)-month period, a fine of *five thousand dollars (\$5,000.00)* shall be issued and *the Tobacco Product Sales Permit shall be suspended for thirty (30) consecutive business days.*
2. In the case of four violations or repeated, egregious violations of any section of this regulation, as determined by the Board of Health within a thirty-six (36)-month period, the Board of Health shall hold a hearing in accordance with this regulation and, after such hearing may permanently revoke a Tobacco Sales Permit.
3. Failure to cooperate or interfere with inspections pursuant to this regulation shall result in the suspension of the Tobacco Product Sales Permit for thirty (30) consecutive business days.
4. In addition to the monetary fines set above, any permit holder who engages in the sale or distribution of tobacco products while their permit is suspended shall be subject to the suspension of all Board of Health issued permits for thirty (30) consecutive business days. Multiple suspensions of a Tobacco Product Sales Permit shall not be served concurrently.
5. The Holliston Board of Health shall provide notice of the intent to suspend or revoke a Tobacco Product Sales Permit, which notice shall contain the reasons therefor and establish a time and date for a hearing which date shall be no earlier than seven (7) days after the date of said notice. The permit holder or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision and the reasons therefor in writing. After a hearing, the Holliston Board of Health shall suspend or revoke the Tobacco Product Sales Permit if the Board of Health finds that a violation of this regulation occurred. All tobacco products, as defined herein, shall be removed from the retail establishment upon suspension or revocation of the

Tobacco Product Sales Permit. Failure to remove all tobacco products, as defined herein, shall constitute a separate violation of this regulation.

6. For purposes of such fines, the Board of Health shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense.

M. Separate Violations: Each day any violation exists shall be deemed to be a separate offense.

N. Enforcement: Enforcement of this Regulation shall be by the Holliston Board of Health or its designated agent(s). Any person who desires to register a complaint pursuant to this Regulation may do so by contacting the Holliston Board of Health or its designated agent(s) and the Board shall investigate.

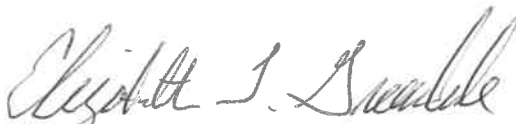
O. Severability: If any provision of this Regulation is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

P. Effective Date: This Regulation shall be effective as of March 1, 2023.

Holliston Board of Health:


Joshua Mann, Chairperson
Jay Leary, Vice-chairperson
Peter Liffiton, Member

Voted: January 24, 2023


A True Record Attest:
Elisabeth T. Greendale
Holliston Town Clerk

