

**City of Waltham
Board of Health
Tobacco Regulation Annotated**

TOBACCO REGULATION

Tobacco Regulations for the City of Waltham

In accordance with the provisions of Massachusetts General Laws, Chapter 111, section 31, and any other applicable law, the Board of Health of the City of Waltham hereby enacts and adopts the following health regulation: **WHEREAS**, tobacco use is a leading public health problem in the City of Waltham and throughout the United States; and **WHEREAS**, there exists conclusive evidence that tobacco smoke causes cancer, respiratory diseases, various cardiac diseases, negative birth outcomes, allergies and irritations to the eyes, nose, and throat of both the smoker and non-smoker exposed to secondhand smoke; and **WHEREAS**, tobacco use by minors is a continuing problem with grave public health consequences because more than 80% of all smokers begin before the age of eighteen and more than 3,000 people begin smoking every day in the United States; and **WHEREAS**, the U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin, action is needed to curtail the easy access of tobacco products to minors. **NOW THEREFORE BE IT ORDAINED** that a strict and enforceable system to prevent access to, and the illegal sale of tobacco products to, minors be enacted as follows:

Section I: Definitions:

"**Employee**" means any individual who performs services for an employer in return for wages or profit.

"**Employer**" means any individual, partnership, association, corporation, trust or other organized group of individuals which regularly uses the services of two (2) or more employees.

"**Individual**" means any employee, volunteer, or any other person who patronizes an area where tobacco products are sold.

"**Retail Store**" means any establishment selling goods or articles or personal services to the public.

"**Self Service Display**" (also known as "**free-standing display**") means a display from which individual packs or cartons of tobacco products may be selected by a customer.

"**Tobacco Vending Machine**" means any machine or device designated for or used for the vending of cigarettes, cigars, tobacco, or tobacco products upon the insertion of coins, trade checks, swipe cards, slips, or any other form of payment.

Section II: Tobacco Sales to Minors Prohibited

A. Sale to Minors

In conformance with Massachusetts General Laws, Chapter 270, Section 6, whoever sells a cigarette, chewing tobacco, snuff or any tobacco in any of its forms to any person under the age of eighteen or, not being his parent or guardian, gives a cigarette, chewing tobacco, snuff, or tobacco in any of its forms to any person under the age of eighteen, shall be a violation of this regulation.

(Effective March 1, 2015, no retailer shall sell cigarettes or other tobacco products to any individual under the age of 21. For further information regarding all Board of Health regulation approvals / changes please review all text that follows Section VII.)

B. Posting State Law

In conformance with Massachusetts General Laws, Chapter 270, sec. 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell cigarettes at retail. The notice to be posted shall be provided and made available from the Board of Health of the City of Waltham. Such notice shall be at least 48 square inches and shall be posted at the cash register which receives greatest volume of single cigarette package sales in such a manner so that it may be readily seen by a person standing at or approaching the cash register. Such notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor. For all other cash registers that sell cigarettes, a notice shall be attached which is no smaller than nine (9) square inches. Such notice must be posted in a manner so that it may be readily seen by a person standing at or approaching the cash register. Such notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of no less than four (4) feet or more than nine (9) feet from the floor.

C. Permit for Location and Sales of Tobacco

After the effective date of this Regulation, the Board of Health of the City of Waltham will issue a Permit for Location and Sales that will specify the name, address, and approved location per the Board of Health of the City of Waltham or their designated agent(s) for retailers who sell tobacco products.

After the effective date of this Regulation all retailers who are required to hold a state license to sell cigarettes in Waltham for each location at which tobacco products are sold.

After receiving the permit, the merchant will receive signage that states the "Sale of cigarettes or any tobacco products to persons under age eighteen (18) is illegal, M.G.L. Chapter 270 sec. 6 & 7." Any merchant not posting said signage will be in violation of this Regulation.

C. Permit for Location and Sales of Tobacco (Continued)

A "Permit for Location and Sales" is non-transferable, except a new permit will be issued to a tobacco retailer who changes locations.

During such time that a "Permit for Location and Sales" of tobacco products has been suspended for violations of this Regulation, all tobacco products must be removed from the portion of the retail store accessible to the general public.

D. Tobacco Vending Machines

Vending machines dispensing tobacco products shall be located in plain view and control of a responsible employee, and all such vending machines must be equipped with a lockout device approved by the Board of Health.

(Effective July 1, 2001, tobacco vending machines will be restricted to adult only establishments. Effective January 1, 2002, no tobacco vending machines will be allowed in the City of Waltham except those that have been in place and in compliance with the previous regulations prior to January 1, 2002. For further information regarding all Board of Health regulation approvals / changes please review all text that follows Section VII.)

E. Out-of-Package Sales Prohibited

No person or entity may sell or cause to be sold, or distribute or cause to be distributed, any cigarette package that contains fewer than twenty (20) cigarettes.

F. Self-service Display Restrictions

No retailer shall sell or offer for sale tobacco products by means of a self-service display (also known as "free-standing" display) unless such display is located within ten (10) feet of the check-out counter and in plain view of the cashier or person on duty and in charge of the establishment.

(Effective January 1, 2002, no retailer shall sell or offer for sale, by means of self-service display, any tobacco products. For further information regarding all Board of Health regulation approvals / changes please review all text that follows Section VII.)

G. Sales by Employees

In the event of a prospective purchase of cigarettes or other tobacco products at retail by a person age twenty-six (26) years old or younger. The employee responsible for the completion of the sale shall request and examine photographic identification establishing the purchasers age as eighteen (18) years or greater as long as such is not in conflict with federal law.

(Effective March 1, 2015, no retailer shall sell cigarettes or other tobacco products to any individual under the age of 21. For further information regarding all Board of Health regulation approvals / changes please review all text that follows Section VII.)

No commercial entity selling tobacco products at retail shall allow any employee to sell cigarettes or other tobacco products until such employee reads this regulation and state laws regarding the sale of tobacco and signs a statement, a copy of which will be placed on file in the office of the employer that he/she understands the Regulation.

H. Revocation of Permit, Hearing

The Board Health of the City of Waltham shall provide written notice to the permittee of the intent to suspend or revoke a Permit for Location and Sale of Tobacco for any violation of this Regulation. The notice shall contain the reasons for the suspension or revocation and establish a date and time for a hearing. The date of the hearing shall be no earlier than seven (7) days after the date of said notice. The permittee shall have an opportunity to be heard at such hearing and shall be notified of the board's decision and reasons in writing.

(Effective March 1, 2015 no retailer shall sell cigarettes or other tobacco products to any individual under the age of 21. First Offense \$100, Second Offense \$200, Third Offense \$300, Subsequent Offense is License Suspension. For further information regarding all Board of Health regulation approvals / changes please review all text that follows Section VII.)

Section III: Enforcement

Enforcement of this Regulation shall be implemented by the Board of Health of the City of Waltham or its designated agent(s). Any citizen who desires to register a complaint of non-compliance under the Ordinance may do so by contacting the Board of Health of the City of Waltham or its designated agent(s).

(Effective March 1, 2015, no retailer shall sell cigarettes or other tobacco products to any individual under the age of 21. First Offense \$100, Second Offense \$200, Third Offense \$300, Subsequent Offense is License Suspension. For further information regarding all Board of Health regulation approvals / changes please review all text that follows Section VII.)

Section IV: Blank

Section is blank.

Section V: Public Education

The Board of Health of the City Waltham shall engage in a continuing program to explain and clarify the purposes and requirements of this Regulation to citizens affected by it and to guide owners, operators, and managers in their compliance with it. Such a program may include publication of a brochure for affected businesses and individuals explaining the provisions of this Regulation. The Board of Health of the City of Waltham shall respond to any requests from tobacco retailers for assistance in training sales personnel.

Section VI: Severability

If any provision, clause, sentence, or paragraph of this Regulation or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this article which can be given effect without the invalid provision or application, and to this end the provisions of this Regulation are declared to be severable.

Section VII: Effective Date

This Regulation shall take effect on July 1, 2000.

Board of Health Revisions / Changes / Amendments

Section II: Tobacco Sales to Minors Prohibited

1. Tobacco Vending Machines

The Waltham Board of Health, on Tuesday, April 24, 2001 at 5p.m. voted to approve the following regulation:

Effective July 1, 2001, tobacco vending machines will be restricted to adult only establishments.

Authority: Massachusetts General Laws, Chapter 111, section 31

The Waltham Board of Health, on Tuesday, September 18, 2001 at 5p.m. voted to approve the following regulations:

Effective January 1, 2002, no tobacco vending machines will be allowed in the City of Waltham except those that have been in place and in compliance with the previous regulations prior to January 1, 2002.

Authority: Massachusetts General Laws, Chapter 111, section 31

2. Self-Service Display Restrictions

The Waltham Board of Health, on Tuesday, September 18, 2001 at 5p.m. voted to approve the following regulation:

Effective January 1, 2002, no retailer shall sell or offer for sale, by means of self-service display, any tobacco products.

Authority: Massachusetts General Laws, Chapter 111, section 31

3. Enforcement - Sale to any Person Under Age 21 Prohibited

The Waltham Board of Health, on Tuesday, November 25, 2014 at 5p.m. voted to approve the following regulation amendment:

Effective March 1, 2015,

TOBACCO CONTROL REGULATION AMENDMENT

Waltham Board of Health

Regulation Amendment Limiting Tobacco Access by Young Adults

SECTION 1 - PURPOSE AND AUTHORITY

The Board of Health finds cigarette smoking and other tobacco use to be a continuing problem with grave public health consequences. In recognition of the Surgeon General's conclusion that nicotine is as addictive as cocaine or heroin, action is needed to curtail the easy access of young adults to cigarettes and other tobacco products. Therefore, the purpose of this amendment is to implement an enforceable system to prevent the illegal sale of cigarettes and other tobacco products to persons under the age of 21.

- First Offense - \$100.00
- Second Offense - \$200.00
- Third Offense - \$300.00
- Subsequent Offenses - License suspension

Authority: Massachusetts General Laws, Chapter 111, section 31



JOHN P. ZUPPE
Director of Public Health

CITY OF WALTHAM

MASSACHUSETTS
HEALTH DEPARTMENT

TOBACCO CONTROL REGULATION AMENDMENT Waltham Board of Health

Regulation Amendment Limiting Tobacco Access by Young Adults

SECTION 1 – PURPOSE AND AUTHORITY

The Board of Health finds cigarette smoking and other tobacco use to be a continuing problem with grave public health consequences. In recognition of the Surgeon General's conclusion that nicotine is as addictive as cocaine or heroin, action is needed to curtail the easy access of young adults to cigarettes and other tobacco products. Therefore, the purpose of this amendment is to implement an enforceable system to prevent the illegal sale of cigarettes and other tobacco products to persons under the age of 21.

- First Offense - \$100.00
- Second Offense - \$200.00
- Third Offense - \$300.00
- Subsequent Offenses – License suspension

This regulation amendment is adopted under authority of Section 31 of Chapter 111 of the Massachusetts General Laws.

Effective Date:

This amendment shall take effect on: March 1, 2015

Board of Health Members

Henry J. Mauria

Lee Ann

David J. O'Leary

Bernard E. Mulvan Jr.

Vote taken on: 11/25/2014