

Regulations Restricting the Sale of Tobacco Products in the Town of Walpole

Whereas, tobacco is one of the leading causes of illness and death in the United States, Massachusetts and Walpole;

Whereas, tobacco is currently sold where prescription medications are sold or dispensed in retail establishments;

Whereas, the sale of tobacco products and non-FDA (Federal Drug Administration) approved nicotine delivery products, including liquid nicotine, is detrimental to the public health.

Therefore, the Board of Health in the Town of Walpole, in recognition of the harmful effects of tobacco, believes that it is important that the sale of tobacco products, non-FDA approved nicotine delivery products, including liquid nicotine be banned in pharmacies, drug stores and retail establishments in the Town of Walpole that contain pharmacies/drug stores on premises in furtherance of its mission to protect, promote and preserve the health and well-being of Walpole residents and workers.

Section I: Definitions

Entity: Any single individual, group of individuals, corporation, partnership, institution, employer, association, firm or any other legal entity whether public or private.

E-Cigarette: Any electronic Nicotine Delivery Product composed of a mouthpiece, heating element, battery and/or electronic circuits that provides a vapor of liquid nicotine to the user, or relies on vaporization of any liquid or solid nicotine. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigs, e-pipes or under any other product name.

Liquid Nicotine (also known as “nicotine solution”): Any product composed either in whole, or in part, of nicotine and manufactured for use with Nicotine Delivery Products, including, but not limited to, e-cigarettes.

Nicotine Delivery Product: Any article or product made wholly or in part of a tobacco substitute or otherwise containing nicotine that is expected or intended for human consumption, but not including a tobacco substitute prescribed by a licensed physician or a product that has been approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose. Nicotine Delivery Products include, but are not limited to e-cigarettes.

Retail establishment: Any store that sells goods or articles of personal services to the public.

Tobacco Products: Any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipes, tobacco, snuff, chewing tobacco and dipping tobacco.

Section II: Prohibition Against the Sale of Tobacco Products, E-Cigarettes and Liquid Nicotine where Prescription Medications are Sold or Dispensed

No pharmacies, drug stores or retail establishments that have pharmacies or drug stores within their physical premises (such as a pharmacy or a supermarket or department store that contains a pharmacy) located in the Town of Walpole shall sell or cause to be sold tobacco products, E-cigarettes, or liquid nicotine or any other nicotine delivery product as defined above.

Section III: Violations

A violator of this Regulation shall receive:

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| 1. | First Offense | \$200 fine |
| 2. | Second or Third Offense during a three (3) year period | \$300 fine |
| 3. | Subsequent offenses during a three (3) year period | Determined at hearing of Board of Health |

Each calendar day an entity operates in violation of any provision of this regulation shall be deemed a separate violation.

No provision, clause or sentence of this section of this regulation shall be interpreted as prohibiting the Board of Health or a Town of Walpole department or agency from suspending or revoking any license or permit issued by and within the jurisdiction of such departments or agencies for repeated violations of this regulation.

Section IV: Non-preemption

Nothing in this regulation shall be deemed to preempt the further limitation of the sale of tobacco, non-FDA approved nicotine delivery devices or liquid nicotine in the Town of Walpole by any local regulatory body within the limits of its authority and jurisdiction.

Section V: Severability

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

Section VI: Effective Date

This regulation shall date effect on October 21, 2010.

Authority: M.G.L. c. 111, §31.