

The Board of Health of the Town of Dedham, County of Norfolk, Massachusetts, acting under the authority of Chapter 111, Section 31 of the Massachusetts General Laws, Tercentenary Edition and Amendments and Additions thereto, hereby makes the following addition to the Board of Health Regulations in the interest of and for the preservation of the public health.

Part IV

Regulation Affecting Smoking and the Sale and Distribution of Tobacco and Nicotine Delivery Products in Dedham

Section 9.1: Authority

This regulation is promulgated under the authority granted to the Dedham Board of Health under Massachusetts General Laws Chapter 111, Section 31 “boards of health may make reasonable health regulations.”

Section 9.2: Rational/Statement of Purpose

Whereas conclusive evidence exists that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose, and throat; and whereas the harmful effects of tobacco smoke are not confined to smokers but also cause severe discomfort and illness to nonsmokers; and whereas environmental tobacco smoke [hereinafter ETS], which includes both exhaled smoke and the side stream smoke from burning tobacco products, causes the death of 53,000 Americans each year (McGinnis JM, George W, ‘Actual Causes of Death in the United States”, JAMA 1993 270:2207-2212); and whereas the U.S. Environmental Protection Agency classified secondhand smoke as a known human carcinogen (IARC-WHO, 2002); now therefore, the Board of Health of Dedham recognizes the right of those who wish to breathe smoke-free air and establishes this regulation to protect and improve the public health and welfare by prohibiting smoking in public places and workplace.

Whereas more than eight percent of all smokers begin smoking before the age of eighteen years (Centers for Disease Control and Prevention, “ Youth Surveillance-United States 2000,” 50 MMWR 1 (Nov. 2000); and whereas nationally in 2000 sixty nine percent of middle school age children who smoke at least once a month were not asked to show proof of age when purchasing cigarettes (Id.); and whereas the U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin; and whereas despite state laws prohibiting the sale of tobacco to a minors, access by minors to tobacco products is a major problem.

Whereas many non-cigarette tobacco products, such as cigars and cigarillos, can be sold in a single “dose;” enjoy a relatively low tax as compared to cigarettes; are available in fruit, candy and alcohol flavors; and are popular among youth (CDC, 2009); and according to the CDC’s youth risk behavior surveillance system (2010), the percentage of high school students in Massachusetts who reported the use of cigars

within the past 30 days went from 11.8% in 2003 to 14.9% in 2009; and in Massachusetts, youth use of all other tobacco products, including cigars, rose from 13.3% in 2003 to 17.6% in 2009, and was higher than the rate of current cigarette use (16%) for the first time in history (*Data Brief, Trends in Youth Tobacco Use in Massachusetts, 1993-2009*, Commonwealth of Massachusetts); research shows that increased cigar prices significantly decreased the probability of male adolescent cigar use and a 10% increase in cigar prices would reduce use by 3.4% (*Effects of Public Policy on Adolescents' Cigar Use: Evidence from the National Youth Tobacco Survey*, Ringel, Wasserman & Andreyeva, 2005); and nicotine levels in cigars are generally much higher than nicotine levels in cigarettes (*Cigar Smoking and Cancer*, National Institute of Health, NCI, 2010).

Whereas limiting the number of tobacco sales permits helps cities and towns in their efforts to reduce the influence of the tobacco industry in their community. Studies indicate that point-of-purchase exposure to tobacco products directly influence what products youth buy and use. (U.S. Dept. of Health and Human Services, Office of the Surgeon General. Preventing Tobacco Use among Youth and Young Adults: A Report of the Surgeon General, 2012. Access on 8/15/2012 at <http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/index.html>.) Research has shown that kids who shop at stores with tobacco two or more times a week are 64% more likely to start smoking than their peers who don't. (Henriksen, Schleicher, Feiughery and Fortmann. Pediatrics: The Official Journal of the American Academy of Pediatrics. July 19, 2010, DOI: 10.1542/peds.2009 3021).

Whereas, according to the US Surgeon General's "2014 Surgeon General's Report: The Health Consequences of Smoking" (Report), smoking remains the leading preventable cause of death and disease in the United States.

Whereas according to the US Surgeon General's 2014 Report, "... tobacco smoke contains toxic chemicals that can damage DNA and lead to cancer and that one out of every three cancer deaths in this country is from smoking.

Whereas according to the Center for Disease Control and Prevention (CDC), nearly all tobacco use begins during youth and progresses during young adulthood. More than 3,200 children age 18 or younger smoke their first cigarette every day. Nearly 9 out of 10 smokers start before the age of 18 and almost all start smoking by age 26. Every adult who dies early because of smoking is replaced by two new young smokers. If smoking continues at current rates, 5.6 million—or 1 out of every 13—of today's children will ultimately die prematurely from a smoking-related illness ... and that more than 400,000 babies born in the United States every year are exposed to chemicals in cigarette smoke before birth because their mothers smoke. In the last 50 years, 100,000 babies have died from smoking-related prematurity, low birth weight, sudden infant death syndrome (SIDS), or other conditions caused by exposure to chemicals in secondhand smoke during infancy or before they were born (Ibid) ... and that today about half of all children between ages 3 and 18 years in this country are exposed to cigarette smoke regularly (Ibid) ... and compared to children who are not exposed,

children exposed to secondhand smoke have more, ear infections, more respiratory infections, more asthma attacks, and miss more days of school than children who don't smoke (Ibid).

Whereas according to data published by the CDC and the U.S. Food and Drug Administration's Center for Tobacco Products (CTP) in the April 16, 2015 Morbidity and Mortality Weekly Report (MMWR), current e-cigarette use among middle and high school students tripled from 2013 to 2014. And findings from the 2014 National Youth Tobacco Survey show that current e-cigarette use among high school students increased from 4.5 percent in 2013 to 13.4 percent in 2014, rising from approximately 660,000 to 2 million students and among middle school students, current e-cigarette use more than tripled from 1.1 percent in 2013 to 3.9 percent in 2014—an increase from approximately 120,000 to 450,000 students.

Whereas according to the US Surgeon General's Report, there is no safe level of exposure to tobacco smoke... and cigarettes are designed for addiction. The design and contents of tobacco products make them more attractive and addictive than ever before. Nicotine addiction keeps people smoking even when they want to quit (Ibid) ... and any exposure to tobacco smoke—even an occasional cigarette or exposure to secondhand smoke is harmful (Ibid).

Whereas the Surgeon General's Advisory Committee on the Health Consequences of Using Smokeless Tobacco Summary Report, (Public Health Rep. 1986 Jul-Aug;101(4):355-73) states "...smokeless tobacco is used predominantly in the forms of chewing tobacco and snuff.", and "National estimates indicate that more than 12 million persons age 12 and older in the United States used some form of smokeless tobacco...". And, "The highest rates of smokeless tobacco use occurred among adolescent and young adult males. Examination of the relevant epidemiologic, experimental, and clinical data revealed that oral use of smokeless tobacco is a significant health risk. This behavior can cause cancer in humans, and the evidence is strongest for cancer of the oral cavity...", and "Smokeless tobacco use can also lead to the development of noncancerous oral conditions, particularly, oral leukoplakia and gingival recession. Further, the levels of nicotine in the body resulting from smokeless tobacco can lead to nicotine addiction and dependence."

Whereas the US Surgeon General and the U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin... and there is no safe cigarette.

Whereas according to the Center for Disease Control and Prevention (CDC), the use of e-cigarettes is unsafe for kids, teens, and young adults. Most e-cigarettes contain nicotine which is highly addictive and can harm brain development, *through young adulthood, and other harmful substances in addition to nicotine.
(https://www.cdc.gov/tobacco/basic_information/e-cigarettes/Quick-Facts-on-the-Risks-of-E-cigarettes-for-Kids-Teens-and-Young-Adults.html).

Whereas, nationally from 2017 to 2018 vaping use among youth has increased 78% among high school students and 48% among middle school students and the total number of children who are currently vaping rose to 3.6 million in 2018; (Excerpted from Massachusetts Governor, Charlie Baker's Emergency Order, September 24, 2019).

Whereas, these confirmed and probable cases in Massachusetts are among both teenagers and older adults and are linked to a range of vaped products; (Excerpted from Massachusetts Governor, Charlie Baker's Emergency Order, September 24, 2019).

Whereas, there are certain tobacco products such as blunts that are frequently marketed and sold to the youth and are also known to be used as drug paraphernalia.

Section 9.3 Definitions:

For the purposes of this regulation, the following words shall have the meanings respectively ascribed to them by this paragraph:

Bidi: (also spelled "beedie") means a product containing tobacco that is wrapped in temburni leaf (*diospyros melanoxylon*) or tendu leaf (*diospyros exculpra*), or any product that is offered to, or purchased by, consumers as bidis.

Blunt wrappers: Blunt Wrap means cigarette-like rolling paper that is thick and dark and usually made from tobacco leaves. Blunt wraps come in flavored varieties and are heavily marketed to the youth and often used as drug paraphernalia. Also known as cigar wraps.

Board: Board of Health of the Town of Dedham

Characterizing Flavor: means a distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a tobacco product or nicotine delivery product or component part thereof, including but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, menthol, mint, wintergreen, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco or nicotine delivery product shall be determined to have a characterizing flavor solely because of the use of additives or flavorings that do not contribute to the distinguishable taste or aroma or because of the provision of ingredient information.

Cigar: any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1.

Cigar Wraps: means Blunt Wrap means cigarette-like rolling paper that is thick and dark and usually made from tobacco leaves. Blunt wraps come in flavored varieties and are heavily marketed to the youth and often used as drug paraphernalia. Also known as blunt wraps.

Drug Paraphernalia: as stated in MGL Chapter 94C section 1 and below, all equipment, products, devices and materials of any kind which are primarily intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this chapter. It includes, but is not limited to:

(1) kits used, primarily intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) kits used, primarily intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(3) isomerization devices used, primarily intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) testing equipment used, primarily intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

(5) scales and balances used, primarily intended for use or designed for use in weighing or measuring controlled substances;

(6) diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, primarily intended for use or designed for use in cutting controlled substances;

(7) separation gins and sifters used, primarily intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marihuana;

(8) blenders, bowls, containers, spoons and mixing devices used, primarily intended for use or designed for use in compounding controlled substances;

(9) capsules, balloons, envelopes and other containers used, primarily intended for use or designed for use in packaging small quantities of controlled substances;

(10) containers and other objects used, primarily intended for use or designed for use in storing or concealing controlled substances;

(12) objects used, primarily intended for use or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:

(a) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, which pipes may or may not have screens, permanent screens, hashish heads or punctured metal bowls;

(b) water pipes;

(c) carburetion tubes and devices;

(d) smoking and carburetion masks;

(e) roach clips; meaning objects used to hold burning material, such as a marihuana cigarette that has become too small or too short to be held in the hand;

(f) miniature cocaine spoons and cocaine vials;

(g) chamber pipes;

(h) carburetor pipes;

(i) electric pipes;

(j) air-driven pipes;

(k) chillums;

(l) bongs;

(m) ice pipes or chillers;

(n) wired cigarette papers;

(o) cocaine freebase kits.

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 solid nicotine or any liquid. This term shall include such devices, whether disposable or refillable, whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

Educational Institution: any public or private college, normal school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.

Enclosed Area: a space bounded by walls (with or without windows) continuous from the floor to the ceiling and enclosed by doors, including, but not limited to, offices, rooms and halls.

Electronic Nicotine Delivery System: An electronic device, whether for 1-time use or reusable, that can be used to deliver nicotine or another substance to a person inhaling from the device including, but not limited to, electronic cigarettes, electronic cigars, electronic cigarillos, electronic pipes, vaping pens, hookah pens and other similar devices that rely on vaporization or aerosolization; provided, however, that “electronic nicotine delivery system” shall also include any noncombustible liquid or gel that is manufactured into a finished product for use in such electronic device; provided further, that “electronic nicotine delivery system” shall also include any component, part or accessory of a device used during the operation of the device even if the part or accessory was sold separately; provided further, that “electronic nicotine delivery system” shall not include a product that has been approved by the United States Food and Drug Administration for the sale of or use as a tobacco cessation product or for other medical purposes and is marketed and sold or prescribed exclusively for that approved purpose.

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

Flavored Tobacco Product: means any tobacco product or any component part thereof that contains a constituent that imparts a characterizing flavor. A public statement or claim made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is flavored

Health Care Facility: An individual, partnership association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under M.G.L. c. 112 or a retail establishment that provides pharmaceutical goods and services and is subject to the provisions of 247 CMR 6.00 Health care facilities include but are not limited to, hospitals, clinics, health centers, pharmacies, drug stores, doctor offices, and dentist offices.

Municipal Building: any building or enclosed facility owned, operated, rented, leased or occupied by the Town of Dedham, including school buildings and school grounds.

Municipal Vehicle: any vehicle owned, rented, leased or operated by the Town of

Dedham, including without limitation, cars, trucks and buses.

Nicotine Delivery Product: Any manufactured article or product made wholly or in part of a tobacco substitute or containing nicotine that is expected or intended for human consumption, but not including a product approved by the United States Food and Drug Administration for sale as a tobacco use cessation product or for other medical purposes and is marketed and sold or prescribed exclusively for that approved purpose. Nicotine delivery products include, but are not limited to, e-cigarettes and Electronic Nicotine Delivery Systems.

Non-Residential Roll-Your-Own (RYO) Machine: A mechanical device made available for use (including to an individual who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the individual's own personal consumption or use) that is capable of making cigarettes, cigars or other tobacco products. RYO machines located in private homes used for, solely personal consumption are not Non-Residential RYO machines.

Non-Smoking Area: any area that is designated and posted by the proprietor or person in charge as a place where smoking by patrons, employees, visitors or others is prohibited and where smoke and smoking by-products are not permitted.

Private Club: any not-for-profit entity created and organized pursuant to M.G.L. Chapter 180 as a charitable corporation with a defined membership. A private club is not a place of public accommodation but rather is distinctly private. Criteria used to determine whether a club is distinctly private include, but are not limited to, those factors identified in 204 CMR 10.02. If the private club holds an alcoholic beverage license, said license shall be a "club license" or a "war veterans club license" as defined in M.G.L. Ch. 138, §12 and by the Massachusetts Alcohol Beverage Control Commission. Said license is subject to the terms set forth by the local licensing authority.

Public Place: any building or facility owned, leased, rented, operated and/or occupied by the Town of Dedham, including school buildings and grounds; any area open to the general public, including but not limited to restaurants, bar areas of restaurants, bars, auditoriums, licensed child care locations and other child care facilities, schools and school property, public and private educational facilities, clinics, hospitals, health care facilities, nursing homes, long-term care facilities, public libraries, municipal buildings, private clubs, museums, theaters, retail stores, laundromats, hair cutting establishments, salons, massage and body art establishments, retail food establishment, fast food or take-out food facilities, indoor sports arenas, public transit facilities, enclosed shopping malls, common areas in privately owned buildings, common areas in public access buildings, any clubs, rooms or halls when open to the public or when used for public meetings, all areas available to and customarily used by the public in all businesses and non-profit entities patronized by the public, including but not limited to, attorneys' offices and other offices, banks, hotels and motels, stairwells, hallways, entranceways, waiting areas, lobbies, public rest rooms, and elevators accessible to the public.

Public Transportation: buses, taxis, and other means of transportation available to the general public while such means of transportation is operating within the boundaries of the town including indoor platforms by which such means of transportation may be accessed.

Restaurant: any coffee shop, cafeteria, workplace cafeteria, sandwich stand, private and public school cafeteria, and other eating establishment that gives or offers food for sale to the public, guests, or employees for on-premises consumption. This includes all food service establishments licensed by the Board of Health, including catering facilities.

Retail Food Establishment: any establishment commonly known as a supermarket, grocery store, bakery, or convenience store in which the primary activity is the sale of food items to the public for off-premises consumption. This includes any “take-out” food service establishment and all other food service establishments not included in the definition of a restaurant.

Retail Store: any retail service establishment whose primary purpose is to sell or offer for sale to consumers any goods, wares, merchandise, articles, other things or services. “Retail store” shall include retail food stores but shall not include restaurants as defined herein.

Retail Tobacco Store: An establishment which is not required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and tobacco paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the age of 18 is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the Dedham Board of Health.

Smoking (or Smoke): The inhaling, exhaling, burning or carrying of a lighted or heated cigar, cigarette, pipe or other tobacco product intended for inhalation in any manner or form, including the use of electronic cigarettes, electronic cigars, electronic pipes or other similar products that rely on vaporization or aerosolization.

Smoking Bar: An establishment that: (i) exclusively occupies an enclosed indoor space and is primarily engaged in the retail sale of tobacco products for consumption by customers on the premises; (ii) derives revenue from the sale of food, alcohol or other beverages that is incidental to the sale of a tobacco product and prohibits entry to a person under 21 years of age; (iii) prohibits a food or beverage not sold directly by the establishment from being consumed on the premises; (iv) maintains a valid permit for the retail sale of a tobacco product as required to be issued by the Town of Dedham; and (v) maintains a valid permit issued by the department of revenue to operate as a smoking bar.

Tobacco Product: A product containing or 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, snuff, electronic cigarettes, electronic cigars, electronic pipes, electronic nicotine delivery systems or any other similar products that rely on vaporization or aerosolization regardless of nicotine content in the product; provided, however, that "tobacco product" shall also include any component, part or accessory of a tobacco product; and provided further, that "tobacco product" shall not include a product that has been approved by the United States Food and Drug Administration for the sale of or use as a tobacco cessation product or for other medical purposes and is marketed and sold or prescribed exclusively for the approved purpose.

Town: the Town of Dedham, Massachusetts.

Workplace: Any enclosed area of a structure or portion thereof at which one (1) or more employees perform services for their employer (including the personal residence of the employer during those hours when used as a place of employment). It also includes motor vehicles, employee lounges, restrooms, conference rooms, hallways, stairways and entrance ways, as well as exterior, unenclosed spaces at stairs, ramps, landings, patios, porches, decks, adjacent yards, loading docks and other areas within twenty (20) feet of the entrance doors or other areas where smoke would migrate into the enclosed area of a structure.

Section 9.4: Smoking Prohibited in Public Places and Workplaces

No person shall smoke or use an e-cigarette nor shall any person having control of the premises upon which smoking is prohibited by this regulation or by M.G.L. c. 270, §22, or the business agent or designee of such person, permit a person to smoke or use an e-cigarette in any of the following places as defined herein: restaurants, health care facilities, municipal buildings, municipal vehicles, public places, public transportation, retail stores, any establishment that is required to possess a valid Tobacco Sales and Nicotine Delivery Products Permit from the Dedham Board of Health (including, but not limited to, smoke shops, tobacconists, retail tobacco stores) and workplaces except as otherwise provided in Section 9.4.2 of this regulation. Additionally, no person shall smoke in any place in which a sign conforming to the requirements of Section 9.4.1 of this regulation is posted. No person shall remove a sign posted under the authority Section 9.4.1 of this regulation.

9.4.1 Posting Notice of Prohibitions

Every person having control of premises upon which smoking is prohibited by and under the authority of this regulation shall conspicuously display upon the premises "No Smoking" signs provided by the Massachusetts Department of Public Health and available from the Dedham Board of Health or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a circle with a bar across it) and comparable in size to the sign provided by the Massachusetts Department of Public Health and available from the Dedham Board of Health.

9.4.2 Exclusions

Notwithstanding any other provision of these regulations, smoking may be permitted in the following places and/or under the following circumstances consistent with all applicable state laws:

(a) Private residences except those portions used as a public place, food service establishment, child care, adult care, or health care office during the hours when operating as such;

Nothing shall prohibit an establishment from being completely smoke-free.

Section 9.5: Smoking Bar

Smoking Bars are prohibited in the Town of Dedham.

Section 9.6: Retail Sale of Tobacco Products

As of January 1, 2014, no person shall sell tobacco products or Nicotine Delivery Products or permit tobacco products or Nicotine Delivery Products to be sold to any person under the age of twenty-one (21) or not being the recipient's parent or legal guardian, give tobacco products or Nicotine Delivery Products to any person under the age of twenty-one (21).

9.6.1 In conformance with and in addition to Massachusetts General Law, Chapter 270, Section 7, a copy of Massachusetts General Laws, Chapter 270, Section 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be provided by the Massachusetts Department of Public Health and made available from the Dedham Board of Health. The notice shall be at least 48 square inches and shall be posted conspicuously by the permit holder 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 (4) feet or greater than nine (9) feet from the floor.

9.6.2 In addition to the notice required under Section 9.7.2, notices provided by the Dedham Health Department shall also be posted by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail: (a) As of January 1, 2014, such notice shall state that the sale of tobacco products to persons under age 21 is illegal; (b) The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post signage that discloses current referral information about smoking cessation; (c) The owner or other person in charge of a shop or other place used to sell nicotine delivery products at retail shall conspicuously post a sign stating "The sale of nicotine delivery products to minors under

21 years of age is prohibited.”; and (d) The owner or other person in charge of a shop or other place used to sell e-cigarettes at retail shall conspicuously post a sign stating, “The use of e-cigarettes at indoor establishments may be prohibited by local law.” The notices shall be no smaller than 8.5” by 11” and shall be posted conspicuously in the retail establishment or other place in such a manner so that they may be readily seen by a person standing at, or approaching the cash register. These notices shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than 4 or greater than 9 feet from the floor.

9.6.3 Each person selling or distributing tobacco products or Nicotine Delivery Products shall verify the age of the purchaser by means of government-issued photographic identification containing the bearer’s date of birth that the purchaser is twenty-one (21) years or older. Verification is required for any person under the age of 27.

9.6.4 All retail sales of tobacco or Nicotine Delivery Products must be face-to-face between the seller and the buyer.

9.6.5 No health care facility, as per our regulations, located in the Town of Dedham shall sell or cause to be sold tobacco products and Nicotine Delivery Products. Additionally, no retail establishment that operates or has a health care facility within it, such as a pharmacy or drug store, shall sell or cause to be sold tobacco products and Nicotine Delivery Products.

9.6.6 No educational institution located in the Town of Dedham shall sell or cause to be sold tobacco products and Nicotine Delivery Products. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

9.6.7 No person or entity shall sell or distribute blunt wraps in the Town of Dedham.

9.6.8 No person, firm, entity or corporation shall sell or offer for sale or distribute drug paraphernalia, cigar wraps, bidi (beedie) and/or flavored Tobacco Products of any kind in The Town of Dedham.

9.6.9 No person or entity shall sell or distribute e-cigarettes in the Town of Dedham.

9.7: Tobacco and Nicotine Delivery Products Sales Permit

9.7.1 No person shall sell or otherwise distribute tobacco or Nicotine Delivery Products at retail within Dedham without first obtaining a Tobacco and Nicotine Delivery Products Sales Permit issued annually by the Dedham Board of Health.

9.7.2 As part of the Tobacco and Nicotine Delivery Products Sales Permit application process, the applicant will be provided with the Dedham Board of Health regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees

who will be responsible for tobacco or Nicotine Delivery Product sales regarding both state laws regarding the sale of tobacco and this regulation.

9.7.3 As a condition for obtaining and/or renewing a Tobacco and Nicotine Delivery Products Sales Permit, the Dedham Board of Health may require tobacco or Nicotine Delivery Products retailers and any employee involved in the act of sale of tobacco products or Nicotine Delivery Products to participate in training programs provided by or approved by the Board regarding compliance with the laws and regulations prohibiting the sale of tobacco products or Nicotine Delivery Products to minors and to individuals as stated in section 9.6.a,b, and c..

9.7.4 Each applicant selling tobacco products is required to provide proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a Tobacco Sales and Nicotine Delivery Products Permit can be issued.

9.7.5 The fee for a Tobacco Sales and Nicotine Delivery Products Permit shall be determined by the Dedham Board of Health annually. All such permits shall be renewed annually by January 1st.

9.7.6 A separate permit is required for each retail establishment selling tobacco or Nicotine Delivery Products.

9.7.7 Each Tobacco and Nicotine Delivery Products Sales Permit shall be displayed at the retail establishment in a conspicuous place.

9.7.8 No Tobacco and Nicotine Delivery Products Sales Permit holder 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 has read the regulation and applicable state laws.

9.7.9 A Tobacco and Nicotine Delivery Products Sales Permit is non-transferable, except a new permit will be issued to a retailer who changes location.

9.7.10 Issuance of a Tobacco and Nicotine Delivery Products 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.

9.7.11 A Tobacco and Nicotine Delivery Products Sales Permit will not be renewed if the permit holder has failed to pay all fines issued and the time period to appeal the fines has expired.

9.7.12 The Board of Health shall issue no more new permits for Tobacco. If an establishment closes then the license is forfeited. If establishment is sold the permit may be renewed by the buyer at the time of purchase.

9.8: Free Distribution and Coupon Redemption

No person shall distribute, or cause to be distributed, any free samples of tobacco products or Nicotine Delivery Products. No means, instruments or devices that allow for the redemption of all tobacco products or nicotine delivery products for free or cigarettes at a price below the minimum retail price determined by the Massachusetts Department of Revenue shall be accepted by any permit holder.

9.9: Cigarette Packaging and Cigar Sales

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

9.9.2 No retailer, retail establishment, or other individual or entity shall sell or distribute or cause to be sold or distributed a cigar unless the cigar is contained in an original package of at least four (4) cigars. This Section shall not apply to (a) the sale or distribution of any cigar having a retail price of two dollars and fifty cents (\$2.50) or more; (b) a person or entity engaged in the business of selling or distributing cigars for commercial purposes to another person or entity engaged in the business of selling or distributing cigars for commercial purposes with the intent to sell or distribute outside the boundaries of the Town of Dedham.

9.10: Self Service Displays

All self-service displays of tobacco products and/or Nicotine Delivery Products are prohibited. All humidors including, but not limited to, walk-in humidors must be locked.

9.11: Tobacco Vending Machines and Roll-Your-Own Machines

9.11.1 All tobacco vending and/or Nicotine Delivery Product machines are prohibited.

9.11.2 All Non-Residential Roll-Your-Own machines are prohibited.

9.12: Violations

9.12.1 It shall be the responsibility of the permit holder and/or his or her business agent to ensure compliance with all sections of this regulation pertaining to his or her distribution of tobacco or Nicotine Delivery Products. Any permit holder, proprietor(s) or other persons(s) in charge of a place covered by this regulation or his or her business agent or designee who fails to comply with this regulation shall be subject to the following:

a. In the case of a first violation, a fine of one hundred dollars (\$100.00), and the Tobacco Sales and Nicotine Delivery Products Permit shall be suspended for seven (7) consecutive business days.

b. In the case of a second violation within 24 months of the date of the first violation, a fine of two hundred dollars (\$200) and the Tobacco Sales and Nicotine Delivery Products Permit may be suspended for 6 months.

c. In the case of three or more violations within a 24-month period, a fine of three hundred dollars (\$300) and the Tobacco Sales and Nicotine Delivery Products Permit may be suspended for 12 months.

A permit holder whose permit has been suspended for 12 months may not apply for a new permit prior to the expiration of the 12-month suspension period.

9.12.2 Refusal to cooperate with inspections pursuant to this regulation may result in the suspension of the Tobacco Sales and Nicotine Delivery Products Permit for thirty (30) consecutive business days.

9.12.3 In addition to the monetary fines set above, any permit holder who engages in the sale or distribution of tobacco products or Nicotine Delivery Products directly to a consumer while his or her permit is suspended may be subject to the suspension of all board of health issued permits for thirty (30) consecutive business days.

9.12.4 The Dedham Board of Health shall provide notice of the intent to suspend, revoke, or deny the issuance or renewal of a Tobacco Sales and Nicotine Delivery Products Permit, which notice shall contain the reasons therefore 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 may have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision, and the reasons therefore in writing. The Dedham Board of Health after a hearing, may suspend, revoke, or deny the issuance or renewal of the Tobacco Sales and Nicotine Delivery Products Permit. All tobacco products and Nicotine Delivery Products shall be removed from the retail establishment upon suspension of the Tobacco Sales and Nicotine Delivery Products Permit. Failure to remove all tobacco products and Nicotine Delivery Products shall constitute a separate violation of this regulation.

9.12.5 Any permit holder who does not pay the assessed fine within twenty-one days from fine issuance may be subject to criminal proceedings.

9.13: Non-Criminal Disposition

Whoever violates any provision of this regulation may be penalized by the non-criminal method of disposition as provided in General Laws, Chapter 40, Section 21 D and Town of Dedham General By Laws or by filing a criminal complaint at the appropriate venue.

Each day any violation exists shall be deemed to be a separate offense.

9.14: Enforcement

Enforcement of this regulation shall be by the Dedham Board of Health, Health Director, Environmental Health Agent, Public Health Nurse, other Health Agent, or the Dedham Police.

Any person who desires to register a complaint pursuant to the regulation may do so by contacting the Board of Health of Dedham or its designated agent(s) and the Board shall investigate.

9.15 Other Applicable Laws

These regulations shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable health, safety or fire codes, regulations or statutes.

9.16: Severability

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

9.17 Effective Date

This regulation shall take effect on **April 1, 2020**. As required by M.G.L., Chapter 111, Section 31, an attested copy has been filed with DEP on _____. Public meetings regarding this regulation were conducted on February 13,2020.

Amendments to these regulations have taken place on the following dates:

- Enacted 1/05/04
- Amended 11/5/07 updated sale of tobacco to minors regulations including but not limited to tobacco sales permit requirements, vending machines restrictions and penalties.
- Amended 12/01/08 Banned smoking in clubs
- Amended 11/20/13 effective date 1/01/14
- Amended 6/29/16
- Amended 2/132020
