

**TOWN of HINGHAM  
REGULATION**

**“PROHIBITING the SALE of TOBACCO PRODUCTS and NICOTINE  
DELIVERY PRODUCTS to MINORS”**

**Section 1. Authority:**

This regulation is promulgated pursuant to the authority granted to the Hingham Board of Health by Massachusetts General Laws Chapter 111, Section 31.

**Section 2. Statement of Purpose:**

Whereas conclusive evidence exists that exposure to tobacco products causes various forms of cancer, respiratory and cardiovascular diseases, adverse birth outcomes, irritations to the eyes, nose and throat and other maladies; and whereas the vast majority of all smokers begin smoking before the age of eighteen (18) years; and whereas tobacco and other nicotine-containing products are drug delivery systems known to cause chemical dependency, addiction and impair human health; the Hingham Board of Health hereby establishes this regulation to curtail access of tobacco and other nicotine-containing products to minors and promote a tobacco-free and drug-free lifestyle for the students and youth of our community.

**Section 3. Definitions:**

For the purpose of this regulation, the following words shall have the following meanings:

**Business Agent:** An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

**Electronic Cigarette (E-Cigarette):** Any electronic nicotine delivery product composed of a mouthpiece, heating element and battery that provides vapor of liquid nicotine to the user, or relies on vaporization of any liquid or solid nicotine. This term shall include devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

**Employee:** Any individual who performs services for an employer.

**Employer:** Any individual, partnership, association, corporation, trust or other organized group of individuals, including the Town of Hingham or any agency thereof, which uses the services of one (1) or more employees

**Minor:** Any individual under the age of nineteen (19).

**Nicotine Delivery Product:** Any manufactured article or product made wholly or in part of a tobacco substitute 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 or harm reduction product for other medical purposes and which is being marked and sold separately for that intended purpose. Nicotine delivery products include but are not limited to E-Cigarettes.

**Permit Holder:** Any person engaged in the sale or distribution of tobacco or nicotine delivery products directly to consumers who applies for and receives a tobacco/nicotine sales permit or any person who is required to apply for a tobacco/nicotine sales permit pursuant to these regulations, or his or her business agent.

**Person:** An individual, employer, employee, retail store manager or owner, or the owner or operator of any establishment engaged in the sale or distribution of tobacco or nicotine delivery products directly to consumers.

**Self Service Display:** Any display from which customers may select a tobacco or nicotine delivery product without assistance from an employee or store personnel, excluding vending machines.

**Tobacco Product:** Cigarettes, cigars, chewing tobacco, pipe tobacco, bidis, snuff or tobacco in any of its forms.

**Vending Machine:** Any automated or mechanical self service device, which upon insertion of money, tokens or any other form of payment, dispenses cigarettes or any other tobacco or nicotine delivery product.

#### **Section 4. Tobacco and Nicotine Sales to Minors Prohibited:**

- A. No Person shall sell Tobacco Products or Nicotine Delivery Products or allow Tobacco Products or Nicotine Delivery Products to be sold to a Minor; or not being the Minor's parent or legal guardian, give Tobacco Products or Nicotine Delivery Products to a Minor in the Town of Hingham.
- B. Required Signage:
  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 Hingham Board of Health. The notice shall be at least 48 square inches and 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 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. In addition, this notice, or a separate notice of similar size and placement, shall inform the public that the sale of tobacco products to anyone under **nineteen (19)** years of age is prohibited in the Town of Hingham.
  2. The owner or other Person in charge of a shop or other place used to sell Nicotine Delivery Products at retail shall post conspicuously a notice stating "The sale of **nicotine delivery products** to anyone under nineteen (19) years of age is prohibited in the Town of Hingham". This notice shall conform in size and placement to the criteria identified in Section 4(B)(1) of this regulation.

C. Age Verification:

1. Each Person selling or distributing Tobacco Products or Nicotine Delivery Products in the Town of Hingham 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 nineteen (19) years old or older. Verification is required for any person who appears under the age of thirty (30).
2. All retail sales of Tobacco Products or Nicotine Delivery Products must be face-to-face between the seller and the buyer

**Section 5. Tobacco/ Nicotine Sales Permit and Application:**

A. No Person shall sell or otherwise distribute Tobacco Products or Nicotine Delivery Products at retail in Hingham without first obtaining a tobacco/nicotine sales permit issued by the Hingham Board of Health.

B. Application:

As part of the tobacco/nicotine sales permit application process, the applicant will be provided with a copy of this regulation.

1. An applicant is required to sign a statement declaring that he or she has read, understands and shall comply with this regulation and the applicable state laws regarding the sale of Tobacco Products or Nicotine Delivery Products.
2. An applicant is required to provide proof of a valid tobacco sales license issued by the Massachusetts Department of Revenue before a tobacco/nicotine sales permit can be issued.
3. A tobacco/nicotine sales permit is required for each retail establishment that sells Tobacco Products or Nicotine Delivery Products.
4. A tobacco/nicotine sales permit is non-transferable, except a new permit will be issued to a retailer who changes location.
5. The fee for a tobacco/nicotine sales permit shall be determined by the Hingham Board of Health.
6. A tobacco/nicotine sales permit may be renewed annually.
7. Each tobacco/nicotine sales permit shall be displayed at the retail establishment in a conspicuous place.

C. No Permit Holder or their Business Agent shall allow any Employee to sell Tobacco Products or Nicotine Delivery Products until such Employee has been trained on this regulation and the applicable state laws regarding the sale of Tobacco Products or Nicotine Delivery Products; and that the Employee has signed a statement, a copy of which will be placed on file in the office of the Employer, that the Employee has read and understands the requirements of this regulation and the applicable state laws regarding the sale of Tobacco Products or Nicotine Delivery Products.

D. Issuance of a tobacco/nicotine sales permit shall be conditioned on the Permit Holder's consent to unannounced periodic inspections of his/her retail establishment to ensure compliance with this regulation.

**Section 6. Prohibited Activities:**

- A. No Person shall distribute, or cause to be distributed, any free samples of Tobacco Products or Nicotine Delivery Products.
- B. 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.
- C. All Self Service Displays of Tobacco Products or Nicotine Delivery Products are prohibited. All humidors including, but not limited to, walk-in humidors must be locked.
- D. All tobacco Vending Machines are prohibited.

**Section 7. Enforcement:**

- A. Enforcement of this regulation shall be by the Hingham Board of Health or its designated agent, including the Hingham Police Department.
- B. Any citizen who desires to register a complaint pursuant to this regulation may do so by contacting the Hingham Board of Health or its designated agent and the Board shall investigate.

**Section 8. Violations:**

- A. It shall be the responsibility of the Permit Holder and his or her Business Agent to ensure compliance with all sections of this regulation pertaining to the sale or distribution of Tobacco Products or Nicotine Delivery Products. The violator shall receive:
  - 1. In the case of a first violation, a fine of one hundred dollars (\$100.00).
  - 2. In the case of a second violation within twenty-four (24) months of the date of the current violation, a fine of two hundred dollars (\$200.00) and the tobacco/nicotine sales permit shall be suspended for seven (7) consecutive business days.
  - 3. In the case of three or more violations within a twenty-four (24)-month period, a fine of three hundred dollars (\$300.00) and the tobacco/nicotine sales permit shall be suspended for thirty (30) consecutive business days.
- B. Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the tobacco/nicotine sales permit for thirty (30) consecutive business days.
- C. 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 shall be subject to additional sanctions, including the suspension of all Hingham Board of Health issued permits.
- D. The Hingham Board of Health shall provide notice of the intent to suspend or revoke the tobacco/nicotine sales 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 and his or her 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 therefore in writing. After a hearing, the Hingham Board of Health may immediately suspend or revoke the tobacco/nicotine sales permit. All Tobacco Products and Nicotine

Delivery Products shall be removed from the retail establishment upon suspension or revocation of the tobacco/nicotine sales permit. Failure to promptly remove all Tobacco Products or Nicotine Delivery Products from the establishment shall constitute a separate violation of this regulation.

- E. Any Permit Holder who does not pay the assessed fine within twenty-one (21) days from the issuance of a fine may be subject to additional legal proceedings.

**Section 9. 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.

**Section 10. Effective Date:**

This regulation was adopted by vote of the Town of Hingham Board of Health on November 19, 2014 and is to be in full force and effect on and after January 1, 2015.

A summary explanation of this regulation shall be published in a newspaper of this town and a copy thereof shall be deposited in the Office of the Town Clerk.

HINGHAM BOARD OF HEALTH

Peter Bickford, Chairman

Kirk Shilts, D.C., Member

Stephan White, Member