



May 5, 2015

Town of Dennis Sale and Distribution of Tobacco Products and Nicotine Delivery Products By-Law

SECTION I – PREAMBLE

Exposure to environmental tobacco smoke presents a serious and substantial public health risk. Of particular concern is the workplace environment of non-smokers, where they may be subjected to sustained, involuntary exposure. At special risk are children, the elderly, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease.

Studies have shown that vending machines and freestanding self-service displays afford an opportunity for unauthorized sale of cigarettes to minors. Evidence further demonstrates that tobacco is extremely addictive. Approximately 80% of all smokers begin smoking before age eighteen.

E-cigarettes have become increasingly common. Although they do not contain tobacco, most contain nicotine derived from tobacco, and nicotine is highly addictive. The nicotine in the product, along with other chemicals and flavorings, make up a solution that becomes vaporized and inhaled by the user. The U.S. Food and Drug Administration has conducted laboratory tests that found e-cigarettes contain toxic chemicals and carcinogens; and the health effects of involuntary exposure to e-cigarette vapors containing these chemicals and carcinogens is unknown. While there are proposed state and federal regulations covering e-cigarettes, such nicotine delivery products are currently unregulated. Some users do not purchase replacement cartridges, but instead, fill the cartridges on their own with nicotine, flavorings, and other substances that they purchase commercially or produce in their homes. In the absence of government oversight over either production or manufacturing standards for e-cigarettes, there is no assurance that the exhaled vapor is safe, especially if the cartridge has been filled with homemade solutions. Bystanders could be exposed to harmful chemicals in the exhaled vapor similar to second-hand smoke exposure.

SECTION II – SALE AND DISTRIBUTION OF TOBACCO PRODUCTS AND NICOTINE DELIVERY PRODUCTS

- a. No vending machines for dispensing cigarettes, or other tobacco products and nicotine delivery products, are allowed in the Town of Dennis.

- b. Sales to Minors – in conformance with Massachusetts General Laws Chapter 270, Sec. 6, no person, firm, corporation, establishment, or agency shall sell tobacco products or nicotine delivery products to a minor. Each employee working in an establishment which sells tobacco products or nicotine delivery products shall be required to read the Town By-Law and State Laws regarding the sale of tobacco and sign a form indicating that such regulations/laws have been read and understood, a copy of which must be placed on file in the office of the employer and retained. Such signed form must be made available for inspection during the license holder's normal business hours upon request of an agent of the Board of Health or other law enforcement agency.
- c. Distribution of Tobacco Products and Nicotine Delivery Products – No person, firm, corporation, establishment, or agency shall distribute tobacco products or nicotine delivery products free of charge or in connection with a commercial or promotional endeavor within the Town of Dennis. Such endeavors include, but are not limited to, product "giveaways" or distribution of a tobacco product or nicotine delivery products as an incentive, prize, award, bonus in a game, contest or tournament involving skill or chance. Such restrictions shall not apply to use of coupons from magazines, newspapers, periodicals or attached to packaging.
- d. Restrictions on Self-Service (Freestanding) Displays – Tobacco products and nicotine delivery products on freestanding displays in retail locations, restricted in the following manner:
 - 1. Self-service (freestanding) displays shall be permitted only on a checkout counter/register, in full view of a clerk, and at a distance of no more than five (5) feet from the clerk;
 - 2. No floor displays shall be permitted;
 - 3. If a checkout counter/register is not staffed, the tobacco products and nicotine delivery products must be in an enclosed, locked case or otherwise inaccessible for self-service.
- e. Definitions
 - 1. Tobacco Product – Cigarettes, cigars, snuff, chewing tobacco, pipe tobacco, bidis, snuff, blunt wraps, or tobacco in any of its forms.
 - 2. 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 or harm reduction product or for other medicinal purposes and which is being marketed and sold solely for that approved purpose. Nicotine delivery products shall include, but not be limited to, e-cigarettes.

SECTION III – VIOLATION AND PENALTIES

Non-Criminal Disposition

This by-law may be enforced by any Town police officer, enforcement officer(s), or agents of the Town’s Board of Health.

- a. Whoever violates any provision of this by-law may be penalized by a non-criminal disposition as provided in G.L., c.40, §21D and the town’s non-criminal disposition by-law. If non-criminal disposition is elected, then any person who violates any provisions of this by-law shall be subject to the following penalties:

First Offense:	Written Warning
Second Offense:	\$100.00 Fine
Third Offense:	\$200.00 Fine
Fourth or Subsequent Offense:	\$300.00 Fine

Subsequent offenses shall be determined as offenses occurring within two (2) years of the date of the first noticed offense. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

Permit Suspension or Revocation

- b. Following a third offense within two years calculated from the date of the first noticed offense, the Board of Health may suspend or revoke any permit issued pursuant to these regulations for any violation of these regulations, or any other applicable General Law, regulation or by-law. Such revocation or suspension may take place after a hearing held by the Board of Health of which the permit holder is given seven (7) days written notice. Such notice shall be deemed given upon mailing same, certified mail, return receipt requested, to the address listed on the permit application.

Other

- c. Whoever violates any provision of this by-law may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation or offense shall be three hundred dollars (\$300.00). Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

The Board of Health may employ the remedies set forth in G.L. c.270, §6 for violations of provisions relating to the sale of tobacco products to minors.

The Board of Health may enforce this by-law or enjoin violations thereof through any lawful process, and the election of one remedy by the Board of Health shall not preclude enforcement through any other lawful means.

SECTION IV – 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.

SECTION V – OTHER APPLICABLE LAWS

- a. The Board of Health, or its enforcement officer (s) or the Town of Dennis Police Department shall enforce this regulation.
- b. Any citizen who desires to register a complaint of noncompliance under this regulation may do so by contacting the Health Department or the Police Department.

DENNIS BOARD OF HEALTH

**Paul J. Covell, Chairman
Robert F. Duffy
Joseph E. Bunce, Jr.**

**Approved: 2/26/2015 & 4/9/2015
Approved by ATM: 5/5/2015
Effective: 8/27/2015**

Approved:	Amended:
ATM: 06/07/1996	
BOH:	10/09/2008
STM:	11/18/2008
BOH:	02/26/2015 & 04/09/2015
ATM:	05/05/2015