

WILLIAMSBURG BOARD OF HEALTH

REGULATIONS AFFECTING THE SALE OF TOBACCO PRODUCTS

Section 1. Declarations of Findings & Policy:

Whereas there exists conclusive evidence that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose, and throat; and, whereas at least one-half of all smokers begin smoking before the age of eighteen (18); and, whereas an estimated three thousand (3,000) minors begin smoking every day in the United States; and, whereas nicotine in tobacco has been found by the Surgeon General to be a powerfully addictive drug; and, whereas despite state laws prohibiting the sale of tobacco products to minors, access by minors to tobacco products is a major problem; and, whereas a town regulation requiring proof of age in order to purchase tobacco products is necessary in order to restrict the access of minors to tobacco products in the interest of public health; now, therefore, it is the policy of the Town of Williamsburg to discourage minors from experimenting with tobacco and to make tobacco products inaccessible to minors.

These regulations are adopted pursuant to Massachusetts General Laws Chapter 111, section 31.

Section 2. Definitions: for the purposes of this regulation, the following words shall have the meanings respectively ascribed to them by this section:

Board: The Board of Health of the Town of Williamsburg

Minor: Any individual who is under the age of eighteen (18).

Person: A person, employer, employee, retail store manager or owner, or the owner or operator of any establishment engaged in the sale of tobacco products.

Retailer: Any person who sells tobacco products to individuals for personal consumption.

Self-service display: A display of tobacco products from which individual packages or cartons of tobacco products may be selected by a customer without assistance from an employee or store personnel.

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

Tobacco vending machine: Any machine or device designated for or used for the vending of cigarettes, cigars, or tobacco products upon the insertion of coins, trade checks, slugs or any other form of payment.

Town: The Town of Williamsburg.

Section 3. Sales to minors prohibited:

A. Sales to Minors – In conformance with Massachusetts General Laws Chapter 270, Section 6, it is a violation of these regulations to sell cigarettes, chewing tobacco, snuff, or nay tobacco in any of its forms to any person under the age of (18) or, not being his parent or guardian, to give a cigarette, chewing tobacco, snuff, or tobacco in any of its forms to any person under the age of eighteen (18).

B. Posting of State Law – In conformance with Massachusetts General Laws, 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 cigarettes at retail. The notice to be posted shall be that notice provided by the Massachusetts department of Health and the Board of Health. Such notice shall be at least 48 square inches and shall be posted at the cash register which receives the 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 54 feet or greater than 9 feet from the floor. For all other cash registers that sell cigarettes, a notice shall be attached which is not smaller than 9 inches, which is the size of the sign, provided by the Massachusetts Department of Public Health. 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 less than 4 feet or more than 9 feet from the floor.

C. Identification: A person selling tobacco products shall verify by means of photographic identification containing the bearer's date of birth that no person purchasing the product is younger than eighteen (18) years of age. Such verification is required only for persons who are under the age of twenty-seven (27).

Section 4. Tobacco sales permit:

A. After the effective date of this regulation, no person shall sell or otherwise distribute tobacco within the town without first obtaining a tobacco sales permit issued by the Board.

B. An application for a tobacco sales permit shall be filed by each person required to comply with this section no later than sixty (60) days following the effective date of this regulation.

C. The tobacco sales permit may be granted without fee upon application by the retailer to the Board. All such permits shall be renewed annually on July 1.

D. The tobacco sales permit is non-transferable, except a new permit will be issued to a tobacco retailer who changes locations.

E. Each tobacco sales permit shall be displayed on the premises in a conspicuous place.

Section 5. No person in the business of selling or otherwise distributing cigarettes or other tobacco products for commercial purposes, or any agent or employee of such person, shall distribute a cigarette or other tobacco product free to any person.

Section 6. Tobacco vending machines: No person shall distribute or sell tobacco products by the use of a tobacco vending machine at any location within the Town.

Section 7. Out-of-Package Sales Prohibited: The sale or free distribution of individual or loose cigarettes is prohibited. 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.

Section 8. Self-service displays prohibited: The sale of tobacco products by means of a self-service display is prohibited.

Section 9. Violations and Penalties:

A. It shall be the responsibility of the permit holder and/or his or her agent to ensure compliance with all sections of this regulation pertaining to their place of business.

B. In the case of a first violation of any provision of these regulations, the permit holder shall be notified in writing of penalties levied for further violations, including permit suspension.

C. In the case of a second violation of any provision of these regulations, the permit holder shall be fined one hundred dollars (\$100).

D. In the case of a third violation of any provision of these regulations, the permit holder shall be fined two hundred dollars (\$200).

E. In the case of a fourth and subsequent violations of any provision of these regulations, the permit shall be suspended for seven (7) consecutive calendar days from the date of suspension.

F. The Board shall provide notice to the permit holder of the intent to suspend a tobacco sales permit, which notices 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 holders shall have an opportunity to be heard at such hearing and shall be notified of the Board's decision, and the reasons therefore, in writing. All tobacco products shall be removed from the premises upon suspension of the tobacco sales permit. Failure to remove all tobacco products shall constitute a separate violation of this regulation.

Section 10. Non-criminal Method of Disposition: As an alternative to initiating criminal proceedings, violations of this regulation may be enforced in the manner provided in MGL Chapter 40, Section 21D, by the Board of its agents. Any fines imposed under the provisions of this regulation shall enure to the Town of Williamsburg for such use as the town may direct.

Section 11. Variances:

A. Written application must be made by the tobacco sales permit holder to the Board for a variance from these regulations.

B. Every written variance application is subject to a public hearing. Notice of a hearing upon an original application for a variance, shall be posted as part of the public notice of the Board of Health meeting at which the variance application will be considered. Such notice shall be posted not less than one week before the meeting.

C. By vote of a majority of its full authorized membership, the Board may vary the application of any provision of these regulations with respect to any particular case in which, in the Board's opinion, both of the following requirements are fulfilled:

- a. The enforcement of the regulations would do manifest injustice; and
- b. The applicant has proved that the same degree of protection of the public health, safety and welfare can be achieved without strict applications of the particular provision. The alternative means of protection shall be detailed and documented by the applicant to the satisfaction of the Board.

D. Any variance granted by the Board shall be in writing.

E. Variances may be granted for up to one year and extended for like periods upon submission of a renewal application by the proprietor(s).

F. A copy of any variance granted under this section shall be available for public inspection on the premises for which it is issued.

Section 12. If any paragraph or provision of this regulation is found to be illegal or against public policy or unconstitutional, it shall not affect the legality of any remaining section being in force.

Section 13. Effective date: The provisions of this regulation shall take effect on July 1, 1998.

Date adopted: April 15, 1998

Board of Health, Town of Williamsburg: Donna Gibson, Chair; Don Lawton, Ira Gabrielson