

TOWN of HINGHAM REGULATION

“PROHIBITING SMOKING in WORKPLACES and PUBLIC PLACES”

Section 1. Authority:

This regulation is adopted under the authority of MGL chapter 111, section 31, and MGL chapter 270, section 22.

Section 2. Statement of Purpose:

Whereas conclusive evidence exists that smoking and 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 smoking is recognized as a drug delivery mechanism that can result in the indiscriminate exposure of the general public to substances which are known to impair human health; and whereas to promote a tobacco-free and drug-free lifestyle for the youth of our community; the Hingham Board of Health establishes this regulation to protect the health and welfare of the inhabitants, employees, and visitors within the Town of Hingham relative to workplaces and public places.

Section 3. Definitions:

For the convenience of this regulation, the following definitions may contain an abbreviated version of a corresponding definition within MGL chapter 270, § 22(a). In all instances, the full statutory definition shall also apply in addition to any abbreviated version listed below.

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 person who performs services for an employer.

Employer: A person, partnership, association, corporation, trust, or other organized group of individuals, including the Town of Hingham or any agency thereof, which utilizes the services of one (1) or more employees.

Enclosed: 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.

Membership Association: A not-for-profit entity that has been established and operates for a charitable, philanthropic, civic, social, benevolent, educational, religious, athletic, recreation or similar purpose, and is comprised of members who collectively belong to:

- i. a society, organization or association of a fraternal nature that operates under the lodge system, and having one (1) or more affiliated chapters or branches incorporated in any state; or
- ii. a corporation organized under Massachusetts General Laws Chapter 180; or
- iii. an established religious place of worship or instruction in the Town of Hingham whose real or personal property is exempt from taxation; or

- iv. a veterans organization incorporated or chartered by the Congress of the United States, or otherwise, having one (1) or more affiliated chapters or branches incorporated in any state.

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.

Non-Tobacco Smoking Product: Includes but is not limited to E-Cigarettes, clove, marijuana (cannabis), 'synthetic' marijuana, potpourri, or other herbal product which is smoked.

Public Places: Any building, facility, vehicle or vessel owned, leased, operated or occupied by the United States Federal Government, Commonwealth of Massachusetts or Town of Hingham including courtrooms or courthouse, town hall, school buildings and grounds or any Enclosed area open to the general public including but not limited to bars, restaurants, retail food stores, supermarkets, auditoriums, libraries, museums, theaters, banks, automatic teller machine (ATM) lobbies, laundromats, inn/hotel/motel lobbies, private and public educational facilities, indoor sports arenas, retail stores, shopping malls, common areas of residential or office buildings, public restrooms, lobbies, staircases, halls, exits, entrance ways, elevators accessible to the public, public transportation conveyances and indoor and outside platforms, open meetings of a governmental body as defined in Mass. General Law section 11A of chapter 30A, section 23A of chapter 39, section 9F of chapter 34, licensed childcare locations, licensed healthcare facilities and patient-care offices.

Regulated Marijuana Dispensary: A state-permitted facility whose purpose is to cultivate, manufacture, sell or dispense marijuana products.

Retail Tobacco Store: An establishment whose primary purpose is to sell or offer for sale tobacco products and tobacco paraphernalia, in which the sale of other products is merely incidental and neither possesses nor is required to possess a retail food permit.

Smoking: Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, or other tobacco or non-tobacco product in any form.

Smoking Bar: An establishment that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises and is required by Mass. General Law chapter 270, section 22 to maintain a valid permit to operate a smoking bar issued by the Massachusetts Department of Revenue.

Tobacco Product: Includes but is not limited to cigarettes, cigars, cigarillos, bidis, blunts, pipe tobacco, chewing tobacco and snuff.

Town: The municipality of the Town of Hingham

Workplace: Any enclosed area of a structure or portion thereof at which one (1) or more employees perform services for their employer.

Section 4. Smoking Prohibited:

- A. It shall be the responsibility of the Employer to provide a smoke-free environment for all Employees working in an Enclosed Workplace in Hingham.

- B. Smoking shall be prohibited in all Workplaces, private and public, in Hingham.
- C. Smoking shall be prohibited in all indoor and outdoor food service areas in Hingham including but not limited to restaurant decks and patios, take-out establishment tables, benches, and in any place where food or drink is sold to the public and consumed on the premise.
- D. Smoking shall be prohibited in all Public Places in Hingham.
- E. Smoking and the use of Tobacco Products or Non-Tobacco Smoking Products shall be prohibited in any vehicle, building, or school grounds owned, operated or leased by the Town.
- F. Smoking and the use of Tobacco Products or Non-Tobacco Smoking Products shall be prohibited at the Hingham Transfer Station.
- G. Smoking and the use of Tobacco Products or Non-Tobacco Smoking Products shall be prohibited at all Town-owned beaches, docks, marinas, parks, playgrounds and recreational facilities - including the recreational facilities at the South Shore Country Club, and at public events, celebrations or festivals held on public property. This includes both indoor and outdoor areas unless specifically allowed under Section 6 of these regulations.
- H. A twenty (20) foot radius “No Smoking” buffer zone shall exist outside of each entrance of all buildings owned, operated, leased or occupied by the Town.
- I. Smoking is prohibited within all Enclosed spaces used by any Membership Association in Hingham.
- J. Smoking shall be prohibited within any Retail Tobacco Store or Regulated Marijuana Dispensary in Hingham.
- K. Smoking Bars shall be prohibited in Hingham.

Section 5. Posting Notice of Smoking Prohibition:

An owner, Employer, or person having control of a premises in Hingham where Smoking is prohibited shall conspicuously display upon the premises “No Smoking” signs or the international “No Smoking” symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it). These signs shall be comparable in size to the sign provided by the Massachusetts Department of Public Health, which are available from the Hingham Board of Health.

Section 6. Exceptions:

Notwithstanding the provisions of this regulation, the Smoking or use of a Tobacco Product or Nicotine Delivery Product may be permitted in Hingham in the following places and/or circumstances:

- A. Private residences, except those portions used as a childcare or healthcare office when operating as such;
- B. Private vehicles or vessels, except those vehicles or vessels used for childcare or healthcare services, taxis, or public transportation when operating as such;

- C. A guest room in a hotel, inn, motel, bed and breakfast or lodging home rented to guests that are designated as “Smoking Rooms”;
- D. An apartment unit in the ‘Lincoln School Apartments’ community housing facility the Hingham Affordable Housing Trust has designated as a “Smoking Unit”, where smoking is allowed within the unit’s Enclosed space by written policy on smoking accepted by the Hingham Board of Health;
- E. A housing unit in Hingham under the control of the Hingham Housing Authority the Hingham Housing Authority has designated as a “Smoking Unit”, where smoking is allowed within the unit’s Enclosed space by written policy on smoking accepted by the Hingham Board of Health;
- F. The tees, fairways, and greens at the Hingham South Shore Country Club;
- G. An outdoor location where the public may gather that is under federal or state jurisdiction, which has a written policy on smoking accepted by the Hingham Board of Health; and
- H. An outdoor location where the public may gather that is owned and under the control of a Membership Association, which has a written policy on smoking accepted by the Hingham Board of Health.

Section 7. Enforcement:

- A. The Hingham Board of Health and its designees, including the Hingham Police Department shall enforce this regulation.
- B. Any person may register a complaint with the Board of Health to initiate an investigation.

Section 8. Violations:

- A. An Employer, owner, manager, or other person in control of a building, vehicle or vessel who violates this regulation in a manner other than by Smoking in a place where Smoking is prohibited, shall be punished by a fine of:
 - (1) \$100 for the first violation;
 - (2) \$200 for a second violation occurring within 2-years of the date of the first offense;
 - (3) \$300 for a third or subsequent violation occurring within 2-years of the previous offence.

Each calendar day on which a violation exists may be considered a separate offense.

- B. An individual or person who violates this regulation by Smoking in a place where Smoking is prohibited, shall be subject to a civil fine of \$100 for each violation.

Section 9. Severability:

Each provision of this regulation shall be considered as separate to the extent that if any section, item, sentence, clause or phrase is determined to be invalid for any reason, the remainder of this regulation shall continue in full force and effect.

Section 10. Conflict with Other Laws or Regulations:

Notwithstanding the provisions of the foregoing Section 4 of this regulation, nothing in this regulation shall be deemed to amend or repeal applicable fire, health or other pertinent regulations so as to permit Smoking in areas where it is prohibited by such regulations.

Section 11. Effective Date:

This regulation was adopted by vote of the Town of Hingham Board of Health on January 12, 2016 and in full force and effect on and after March 1, 2016.

A summary explanation of these regulations 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

Kirk Shilts, D.C., Chairman

Peter Bickford, Member

Stephan White, Member

(Final 1-12-16)