

Town of Reading Board of Health Regulations

Section 16 Tobacco Use

16.1 Purpose

The Board of Health finds that environmental tobacco smoke

- Is a human carcinogen, responsible for approximately 3000 adult lung cancer deaths annually in U.S. nonsmokers
- Has subtle but significant effects on the respiratory health of nonsmoking adults, including reduced lung function, increased coughing, phlegm production and chest discomfort
- Exposure is causally associated with an increased risk of lower respiratory tract infections such as bronchitis and pneumonia in children with estimates that 150,000 to 300,000 cases annually in infants and young children up to 18 months of age are attributed to ETS
- Exposure is causally associated with an increased prevalence of fluid in the middle ear, symptoms of upper respiratory tract irritation, and a small but significant reduction in lung function of children
- Exposure is causally associated with additional episodes and increased severity of symptoms in children with asthma, with estimates that 200,000 to 1,000,000 asthmatic risk factor for new cases of asthma in children who have not previously displayed symptoms.

Further, the Board of Health finds cigarette smoking and other tobacco *product* use by minors to be a continuing problem with grave public health consequences.

- The Surgeon General has concluded that nicotine is an addictive substance and that minors in particular are at risk from the addictive effect of nicotine.
- 75% of current smokers became addicted to tobacco by age 18.
- Tobacco is a “gateway drug” that is the use of tobacco products often precedes the use of other illegal drugs.

Accordingly, the Board of Health finds and declares that the purpose of these regulations are:

- To protect the public’s health and welfare by prohibiting smoking in certain public places;
- To ensure people’s ability to breathe smoke-free air, and to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke
- To implement a strict and enforceable systems to prevent the illegal sale of cigarettes and other tobacco products to minors.

16.2 Smoking Restrictions in Public Places

Smoking shall not be permitted in the following public places in the Town of Reading:

- Restaurants
- Service bar and pub areas
- Retail food stores
- Health care facilities including, but not limited to nursing homes, physicians' offices, dentists offices, physical therapy facilities
- Taxis licensed by the Town of Reading
- Elevators
- Licensed child care facilities and homes during hours of operation
- Sports arenas including ice rinks
- Buildings and vehicles owned or leased by the Town of Reading, including school buildings and vehicles
- Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance, except where smoking is a part of the stage production.
- Restriction of Smoking in the Workplace 105 CMR 661.000

Notwithstanding any other provision of this section to the contrary, the following areas shall not be subject to smoking restrictions:

- Private residences, except when used as a licensed child care facility or home during hours of operation

Notwithstanding any other provision of this regulation, any operator, manager or other person who controls any establishment as described in the section may declare that entire establishments as a non-smoking establishment.

Section 16.3 Posting Signs

Except in licensed child care facilities and homes, "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) shall be clearly, sufficiently and conspicuously posted in every building or other place where smoking is regulated by this regulation by the owner, operator, manager, or other person having control of such building or other places.

Section 16.4 Sale or gift of tobacco to minors

No person shall sell a cigarette, chewing tobacco, snuff or any tobacco in any of its forms to any person under the age of eighteen or, not being his/her parent or guardian, give a cigarette, chewing tobacco, snuff or tobacco in any of its forms to any person under the age of eighteen. (not MGL Ch 270 S 6). Each retailer shall verify by means of photographic identification containing the buyer's date of birth that no person purchasing the product is younger than 18 years of age. No such verification is required for any person over the age of twenty-six (26).

Section 16.5 Posting 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 store or other place used to sell cigarettes at retail. The notice to be posted shall be that notice provided by the Massachusetts Department of Public 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 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 place at a height of less than four feet or greater than nine feet or greater than nine feet from the floor. For all other cash registers that sell cigarettes, a notice shall be attached which is no smaller than nine square 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 no less than four feet or more than nine feet from the floor.

(Also see 105CMR590.001D Tobacco Products: Notice and Sale, which has been adopted under Board of Health Regulation Section 9)

Section 16.6 Vending Machines

Cigarette vending machines or any other device for the sale or distribution of tobacco products are prohibited except in private, non-profit organizations.

Section 16.7 Put-of-package sales prohibited

It is unlawful to sell cigarettes out of the manufacturer's package with required health warnings. Sale or distribution of tobacco products in any form other than an original factory-wrapped package is prohibited.

Section 16.8 Sale of loose cigarettes/Fee distribution of samples.

No person or entity may sell or cause to be sold, or distributed or cause to be distributed, any cigarette package that contains fewer than twenty (20) cigarettes. No person or entity shall knowingly distributed or furnish without charge, or cause to be furnished or distributed without charge, cigarettes or other tobacco products, or coupons for cigarettes or other tobacco products, in any public place or at any event open to the public, except retail establishments.

Section 16.9 Public Education

The Board of Health shall engage in a continuing program to explain and clarify the purposes and requirements of this regulation to citizens affected by it, and to guide owners, operators and managers in their compliance with it.

Section 16.10 Enforcement

Any person and their employer who violates Section 16.4 of those regulations shall be punished by the following fine schedule:

	1 st offense	2 nd offense	Subsequent offenses
Person making sale	\$50	\$75	\$100
Store owner	\$100	\$200	\$300

Any person who violates any other part Section 16 shall be punished by a fine of fifty dollars per offense.

Section 16.11 Effective date (notes at end of regulations)

Section 16.12 Tobacco sales permit

- A) No person (which, unless otherwise indicated, shall include, but not be limited to, a business, regardless of the form of business ownership, the manager or operator thereof, and the employee(s) selling or distributing the tobacco product) shall sell or otherwise distribute tobacco or tobacco products (hereinafter referred to as “tobacco products”) within the Town without the owner of the business first obtaining a tobacco sales permit issued by the Board of Health. Each location where tobacco are sold or distributed shall require a separate tobacco sales permit.
- B) Any person who submits an application for a tobacco sales permit shall certify on the application that he has read these regulations and has informed each employee of the requirements of these regulations
- C) The fee for an annual tobacco sales permit shall be \$75.00.
- D) An application for a tobacco sales permit shall be filed by existing tobacco product vendors within thirty (30) days following the effective date of these regulations. Any other person shall, prior to selling or distribution tobacco products submit an application for such permit to the Board of Health and obtain such permit from the Board.
- E) Permits shall run from July 1 to June 30. All applications for permit renewals shall be submitted to the Board of Health no later than June 1st. late submissions of an application for renewal shall be required to pay a late fee of \$25.00
- F) Each tobacco sales permit shall be displayed on the premises in a conspicuous place. Each permit holder shall also conspicuously post a sign(s) visible from each counter

from which tobacco products are sold or distributed that states “Sale or cigarettes or any tobacco product to persons under eighteen (18) years of age is illegal.”

G) A tobacco sales permit is non-transferable.

Section 16.13 Displays/Direct retail sales

A) Tobacco products shall not be offered for sale by means of a display directly accessible to the public. All sales must be made directly by store personnel.

Section 16.14 Suspension/ Revocation

A) A tobacco sales permit may be suspended or revoked by the Board of Health for violation of these regulations. The Board shall provide notice to the permit holder of the intent to suspend or revoke the tobacco sales permit, which notice shall contain the reasons. Therefore and establish a date and time for a hearing, which dates shall not earlier than seven (7) days after the date of said notice. The permit holder shall have opportunity to be heard at such hearing and shall be notified of the Board’s decision and the reasons therefore, in writing.

B) All tobacco products shall be removed from display upon suspension of the permit for a period of fourteen (14) days or less and shall be removed from the premise upon suspension of the permit for a period of greater than fourteen (14) days or upon revocation of the permit. Failure to remove as required herein shall be a separate violation.

16.15 Hotel/ Motel Facilities

All Hotels are required to have a minimum of 90% of licensed rooms designed nonsmoking with clear signage on each suite door. The placement of rooms that allow smoking shall not abut nonsmoking rooms. All other areas of the facility are to be designated smoke-free. Private function rooms with separate ventilation must adhere to sec. 16.2.

Section 16.16 Use of Tobacco in Public Schools

Definitions

School: Public primary, secondary, and vocational schools located in Reading

School Sponsored Activity: An activity at least partially funded or controlled by a school or a parent –teacher organization to which students are invited and which occurs off school grounds, such as a field trip, class picnic or prom.

School Ground: Property owned or controlled by a school within 100ft, including but not limited to school buildings, structures, open space, sports or recreational facilities whether enclosed or not, vehicles owned or leased for the purpose of transporting students, school driveways, and parking lots. School grounds shall not mean any university property, college property, or adult education facility except during the time that these areas house public primary, secondary or vocational school programs.

School Personnel: A person who performs services for a public school in Reading, including but not limited to principals, assistant principals, teachers, teacher's aids, school counselors, coaches, assistant coaches, school nurses and therapists, cafeteria workers, administrative staff, janitorial staff, volunteers and interns.

Student: A person enrolled at any primary or secondary school in Reading.

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

Tobacco Use: The inhaling, exhaling, chewing or burning of any form of tobacco. Additionally, if an administrator witnesses tobacco smoke coming from a lavatory stall.

Visitor: A person on school grounds who is not a student or school personnel.

Tobacco Product Use Prohibited:

No student, school personnel, or visitor shall use a tobacco product at any time while on school grounds or at school-sponsored activity as defined above in Section C

Penalties:

If the violator is a STUDENT:

1. First violation during any of the 4 years of high school
 - a. one day suspension from school and attendance to a tobacco education class.
 - b. notification to the violator's parent or legal guardian of the infraction and mandatory parental conference;
2. Second or subsequent violation's [within 4 years]:
 - a. three day suspension and mandatory tobacco education class
 - b. payment of a ticket issued pursuant to Mass. Gen. Laws Ch 40, §21D in the amount of \$50.00 and payable to the Town of Reading within twenty-one (21) days. In lieu of fine 6 hours of community service.
 - c. Mandatory parental conference
3. Third offense within 4 years:
 - a. 3 day suspension and mandatory tobacco education class

- b. Payment of a ticket issued in the amount of \$75.00. In lieu of fine 8 hours of community service
 - c. mandatory parental conference prior to re-admission to school
- 4. Four or more offenses within 4 years:
 - a. 5 day suspension
 - b. Payment of a ticket issued in the amount of \$100.00. In lieu of fine 12 hours of community service
 - c. mandatory parental conference prior to re-admission to school

If the violator is SCHOOL PERSONNEL:

- 1. First violation:
 - a. at the violator's option:
 - i. Proof completion of a tobacco education or cessation program submitted to principal
 - ii. Payment of a ticket issued pursuant to Mass. Gen. Laws Ch. 40, §21D in the amount of \$50.00, payable to the Town of Reading within twenty-one (21) days
- 2. Second or subsequent violation
 - a. Payment of a ticket issued to Mass. Gen. Laws Ch. 40, §21D in the amount of \$75.00, payable to Town of Reading within twenty-one (21) days.

If the violator is a VISITOR:

- 1. First violation a warning will be issued.
- 2. Second violation or subsequent violation a \$50.00 fine will be issue.

Non-Criminal Method of Disposition

Whoever violates any provision of this regulation of which is subjected to a specific penalty, shall be penalized by the non-criminal method of disposition as provided in Mass Gen. Laws Ch 40 sec. 21 D, which might result in eventual filing of a criminal complaint in the appropriate jurisdiction and venue.

Enforcement

The Board of Health of the Town of Reading and or the school officials specially designated by the Board of Health shall be responsible for enforcing this regulation.

Section 16.11 Effective date

These regulations shall take effect on July 1, 1995.

Revisions to Section 16.10 shall take effect on May 20, 1996 and March 14, 1997.

Revisions to Section 16.4 and 16.8 shall take effect on July 1, 1997.

Effective December 11, 1997 (3:0:0)

Section 16.12 added effective date July 1, 1997

Effective February 8, 2002 (2:0:0)

Effective April 13, 2000 (3:0:0)

Revision Section 16.1, Section 16.2, 16.12 and shall take effect December 1, 2005