

**Board of Health**  
**Prohibiting Smoking in Workplaces and Public Places**

**SECTION 1**

The purpose of these Regulations is to protect the health of employees and the public in the Town of Stoughton.

**SECTION 2**

These Regulations are promulgated under the authority granted to the Stoughton Board of Health ("Board of Health") pursuant to Massachusetts General Laws Chapter 111, Section 31 providing that "[b]oards of health may make reasonable health regulations" and Massachusetts General Laws Chapter 270, Section 22(j) which states in relevant part that "nothing in this section shall permit smoking in an area in which smoking is or may hereafter be prohibited by law including, without limitation: any other law or . . . health . . . regulation. Nothing in this section shall preempt further limitation of smoking by the commonwealth . . . or political subdivision of the commonwealth."

**SECTION 3**

As used in these Regulations, the following words shall have the following meanings, unless the context requires otherwise:

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

**Employee**: an individual or person who performs a service for compensation for an employer at the employer's workplace, including a contract employee, temporary employee, and independent contractor who performs a service in the employer's workplace for more than a *de minimus* amount of time.

**Employer**: an individual, person, partnership, association, corporation, trust, organization, school, college, university or other educational institution or other legal entity, whether public, quasi-public, private, or non-profit which uses the services of one (1) or more employees at one (1) or more workplaces, at any one (1) time, including the Town of Stoughton.

**Enclosed**: a space bounded by walls, with or without windows or fenestrations, continuous from floor to ceiling and enclosed by one (1) or more doors, including but not limited to an office, function room or hallway.

**Outdoor space**: an outdoor area, open to the air at all times and cannot be enclosed by a wall or side covering.

**Retail Establishment**: An establishment that sells, tobacco products and tobacco paraphernalia, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the Stoughton Health Department.

**Smoking (or smoke)**: the lighting of a cigar, cigarette, pipe or other tobacco product or possessing a lighted cigar, cigarette, pipe or other tobacco or non-tobacco product designed to be combusted and inhaled.

**Smoking bar**:

(1) exclusively occupies an enclosed indoor space and is primarily engaged in retail sale of tobacco products for consumption by customers on the premises only;

(2) derives revenue from the sale of food, alcohol or other beverages that is incidental to the sale of a tobacco

product and prohibits entry to a person younger than 21 years old;

(3) prohibits a food or beverage not sold directly by the establishment from being consumed on the premises;

(4) maintains a valid permit for the retail sale of a tobacco product as required to be issued by the appropriate authority in the city, town, or other legally constituted governmental unit within the Commonwealth in which the establishment is located; and

(5) maintains a valid permit issued by the department of revenue to operate as a smoking bar.

Workplace: an indoor area, structure or facility or a portion thereof, at which one (1) or more employees perform a service for compensation for an employer, other enclosed spaces rented to or otherwise used by the public; and where the employer has the right or authority to exercise control over the space.

Terms not defined herein shall be defined as set forth in M.G.L. Ch. 270, §22 and/or 105 CMR 661. To the extent any of the definitions herein conflict with M.G.L. Ch. 270, §22 and 105 CMR 661, the definition contained in this regulation shall control.

#### **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 as well as those workplaces listed in subsection (c) below.

b) Smoking is hereby prohibited in Stoughton in accordance with M.G.L. Ch. 270, §22 (commonly known as the "Smoke-Free Workplace Law") and 105 CMR 661, including enclosed common areas of multiunit residential buildings.

c) Pursuant to M.G.L. Ch. 270, §22(j) smoking is also hereby prohibited in:

1) ☐ Smoking Bars (cigar bars and hookah bars)

2) ☐ Adult-Only Retail Tobacco Stores (tobacconists & vape shops)

3) ☐ Municipal buildings (required by state law)

4) ☐ Buffer Zones around municipal building entrances (25 feet)

5) ☐ Municipal-owned parks and playgrounds

6) ☐ Municipal-owned athletic fields

7) ☐ Municipal-owned beaches

8) ☐ Nursing Homes

9) ☐ Hotels, Motels, B&B Rooms

10) ☐ In all outdoor areas where food and/or beverages are served to the public by employees of restaurants, bars and taverns;

11) ☐ Public Transportation, Bus and Taxi Waiting Areas

d) The use of Electronic Nicotine Delivery Systems is prohibited wherever smoking is prohibited per M.G.L. Ch. 270, §22 and wherever smoking is prohibited per Section 4(c) of this regulation.

e) Smoking Bars are prohibited in **Stoughton**

#### **SECTION 5: Posting Notice of Smoking Prohibition:**

(1) Any owner, Employer, or person having control of premises in Stoughton 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 Stoughton Board of Health.

(2) Any owner, Employee, manager, or other person in control of a building, vehicle or vessel who violates these Regulations, in a manner other than by smoking in a place where smoking is prohibited, shall be punished by a fine of:

- a. \$100 for the first violation;
- b. \$200 for a second violation occurring within two (2) years of the date of the first offense; and
- c. \$300 for a third or subsequent violation occurring within two (2) years of the second violation.

#### **SECTION 6: ENFORCEMENT**

(1) Each calendar day on which a violation occurs shall be considered a separate offense.

(2) This regulation shall be enforced by the Stoughton Health Department and its designees.

(3) Violations of Section 4 may be punishable by a fine of:

- a. \$200 for the first violation;
- b. \$400 for a second violation occurring within two (2) years of the date of the first offense; and
- c. \$600 for a third or subsequent violation occurring within two (2) years of the second violation.

(4) The disposition of fines assessed shall be subject to Section 188 of Chapter 111.

(5) Nothing in this Section shall limit the Board of Health in enforcing these Regulations in a court of competent jurisdiction or any other administrative or judicial forum.

(6) Any violation of these Regulations may, after notice and an opportunity to be heard, result in the revocation or suspension of any license to operate issued by the Board of Health.

(7) Any person may register a complaint to initiate an investigation and enforcement with the Stoughton Health Department.

#### **SECTION 7: SEVERABILITY**

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 paragraphs or provisions.

#### **SECTION 8: CONFLICT WITH OTHER LAWS OR REGULATIONS**

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

#### **SECTION 9: EFFECTIVE DATE**

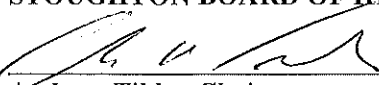
This regulation shall take effect on 5/19/2022.

Regulation voted 2/11/16 by the Stoughton Board of Health. A public hearing was held on February 11, 2016. Promulgation was advertised in the Stoughton Journal January 15 and January 22, 2016

#### **ATTESTATION**

*The regulation described herein and attached hereto is a true copy of the regulation adopted by the Stoughton Board of Health.*

ATTESTS:  
STOUGHTON BOARD OF HEALTH

  
\_\_\_\_\_  
Andrew Tibbs, Chairman

5/14/22  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Steven Snyder, Vice Chairman

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Richard Parolin

5/18/22  
\_\_\_\_\_  
Date

  
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Ellen Epro

5/19/22  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Michael Varner

\_\_\_\_\_  
Date