



Board of Health
Town of Southwick
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**REGULATIONS LIMITING YOUTH ACCESS TO TOBACCO PRODUCTS
AND NICOTINE DELIVERY PRODUCTS**

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Section I. Purpose / Authority

Whereas, tobacco use by minors is a continuing problem with grave public health consequences because more than 80% of all smokers begin before the age of 18 and more than 3,000 teens begin smoking every day in the United States ("Preventing Tobacco Use Among Young People: A Report, of the Surgeon General", Atlanta, GA: U.S. Department of Health and Human Services, 1994); whereas, the U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin, action is needed to curtail the easy access of tobacco products and nicotine delivery products to minors; now, therefore, be it determined that a strict and enforceable system to prevent access to nicotine delivery products and the illegal sale of tobacco products to minors be enacted as follows.

Section II. Definitions

As used in this article, the following terms shall have the meanings indicated:

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 medical purposes and which is being marketed and sold solely for that approved purpose. Nicotine delivery products include, but are not limited to e-cigarettes, e-cigars, e-pipes, or under any other product name.

Adult-only Establishment

Any establishment that admits only those persons who are over the age of 18, and never permits anyone under age 18 to be present.

Self-Service Display (also known as "freestanding")

A display from which individual packs or cartons of tobacco products or nicotine delivery products may be selected by a customer.

Tobacco and/or Nicotine Delivery Products Vending Machine

Any machine or device designated for or used for the vending of cigarettes, cigars, tobacco, tobacco products, or nicotine delivery products upon insertion of coins, trade checks, swipe cards, slips or any other form of payment.

Section III. Tobacco and Nicotine Delivery Products Sales to Minors Prohibited

A. Sale to Minors

In conformance with M.G.L. c. 270, § 6, whoever sells a cigarette, chewing tobacco, snuff or any tobacco product in any of its forms to any person under the age of 18 or, not being his parent or guardian, gives a cigarette, chewing tobacco, snuff or tobacco in any of its forms to any person under the age of 18, shall be punished according to the fine schedule set forth in Paragraph H of this article. Whoever sells a nicotine delivery product in any of its forms to any person under the age of 18 or, not being his parent or guardian, gives a nicotine delivery product in any of its forms to any person under the age of 18, shall be punished according to the fine schedule set forth in Paragraph H of this article.

B. Posting State Law

In conformance with M.G.L. c. 270, § 7, a copy of M.G.L. c. 270, § 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell cigarettes and other tobacco products at retail.

The notice to be posted shall be provided by the Massachusetts Department of Public Health and made available from the Southwick 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 readily be 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 four feet or more than nine feet from the floor. For all other cash registers that sell cigarettes, a notice shall be attached. The notice is provided by the Massachusetts Department of Public Health and is no smaller than nine square inches. The notice shall 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 four feet or more than nine feet from the floor.

C. Permit for Location and Sale of Tobacco and/or Nicotine Delivery Products

1. After the effective date of these regulations, the Southwick Board of Health will issue a permit for location and sales that will specify the name, address and approved location per the Southwick Board of Health or its designated agent/s for retailers who sell tobacco and/or nicotine delivery products.
2. After the effective date of these regulations, all retailers who are required to hold a state license to sell cigarettes or other tobacco or nicotine delivery products will be required to hold and maintain a valid permit for location and sales from the Town of Southwick for each location at which tobacco and/or nicotine delivery products are sold.
3. After receiving the permit, the merchant will receive signage that states "Sale of cigarettes or any tobacco products to persons under age 18 is illegal, M.G.L. c. 270, §§ 6 and 7." If the merchant also sells nicotine delivery products, the merchant will receive signage that states "Sale of nicotine delivery products to persons under age 18 is illegal per the Town of Southwick Board of Health's Regulations Limiting Youth Access to Tobacco and Nicotine Delivery Products." Any merchant not posting said signage will be in noncompliance of these regulations and subject to penalties per Paragraph H.
4. The term of the permit shall be one year.
5. The fee for a one-year tobacco and/or nicotine delivery products retailer's permit for location and sales shall be determined by the Southwick Board of Health annually.
6. A permit for location and sales is nontransferable, except a new permit will be issued to a retailer who changes locations.
7. During such time that a permit for location and sales of tobacco and/or nicotine delivery products has been suspended for violation of this article, all tobacco and/or nicotine delivery products must be removed from the premises. Any person or entity selling any tobacco and/or nicotine delivery products without said permit shall be fined according to Paragraph H until said permit is reinstated by the Southwick Board of Health or its designated agent/s.

D. Tobacco and/or Nicotine Delivery Products Vending Machines

After the effective date of this article, retailers may not use vending machines to sell cigarettes, smokeless tobacco products, or nicotine delivery products except when the machine is located in an adult-only establishment.

E. Out-of-Package Sales

The sale or distribution of tobacco products in any form other than an original factory-wrapped package 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, including single cigarettes. Packaged, single cigarettes may be sold from vending machines in adult-only establishments.

F. Self-Service Displays.

Retailers may not use self-service displays to sell cigarettes, smokeless tobacco products, or nicotine delivery products except when such displays are located in adult-only establishments.

G. Sales by Employees

No commercial entity selling tobacco products at retail shall allow any employee to sell cigarettes, other tobacco products, or nicotine delivery products until such employee reads the Southwick Tobacco Control Regulations and state laws regarding the sale of tobacco. Employees shall sign a statement provided by the Board of Health indicating that they have read all tobacco and nicotine delivery products laws and regulations. Signed statements shall be placed on file in the office of the employer.

H. Penalties, Fines, Suspensions, Hearings

It shall be the responsibility of the permit holder or his or her agent to ensure compliance with all sections of these regulations pertaining to their place of business. The permit holder or his or her agent or persons involved in violation of any of the provisions of these regulations shall receive:

1. In the case of a first violation, the permit holder or his or her agent or persons not in compliance with the provisions of these regulations shall receive a fine of \$100.
2. In the case of a second violation within a 36 month period, the permit holder or his or her agent or persons not in compliance with the provisions of these regulations shall receive a fine of \$200 and the permit shall be suspended for seven consecutive business days.
3. In the case of three or more violations within a 36 month period, the permit holder or his or her agent or persons not in compliance with the provisions of these regulations shall receive a fine of \$300 and the permit shall be suspended for 30 consecutive business days.
4. The Southwick Board of Health shall provide written notice to the vendor of the intent to suspend a "permit for location and sales". The notice shall contain the reasons for the suspension and establish a date and time for a hearing. The date of the hearing shall be no earlier than seven days after the date of said notice. The retailer shall have an opportunity for appeal at the hearing and shall be notified of the Board's decision and reasons in writing. The suspension shall begin the next business day after the hearing.
5. Nonpayment of fines will result in the loss of the vendor's permit for each day of nonpayment.

I. Noncriminal Disposition

Whoever violates any provision of these regulations, the violation of which is subject to a specific penalty, may be penalized by the noncriminal method of disposition as provided in M.G.L. c. 40, § 21D or by filing a criminal complaint at the appropriate venue.

Section IV. Enforcement

Enforcement of these regulations shall be implemented by the Southwick Board of Health, its designated agent/s or by police officers of the Town of Southwick. Any citizen who desires to register a complaint of noncompliance under these regulations may do so by contacting the Southwick Board of Health or its designated agent/s.

Section V. Public Education

The Southwick Board of Health, its designated agents or police officers of the Town of Southwick shall engage in a continuing program to explain and clarify the purposes and requirements of these regulations to citizens affected by it and to guide owners, operators and managers in their compliance with it. Such programs may include publication of a brochure for affected businesses and individuals explaining the provisions of these regulations. The Southwick Board of Health may, at its discretion, respond to reasonable requests from retailers for assistance in training sales personnel.

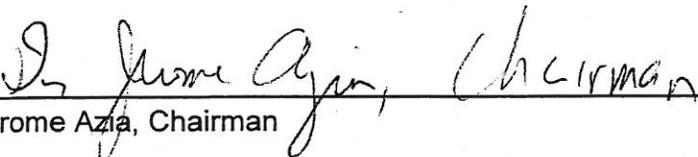
Section VI. Severability

If any provision, clause, sentence or paragraph of these regulations or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this article which can be given effect without the invalid provision or application, and to this end the provisions of this regulation are declared to be severable.

Section VII. Effective Date

These regulations shall take effect upon passage.

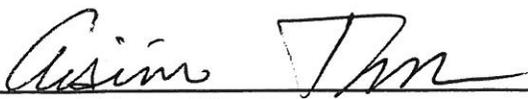
Town of Southwick Board of Health



Dr. Jerome Azia, Chairman



Susan Brzoska, Member



Casimir Tryba, Member



Date