

**Regulation of the Stoughton Board of Health
Restricting the Sale of Tobacco Products and Smoke Accessories**

A. Statement of Purpose:

Whereas, there exists conclusive evidence that tobacco smoking causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose, and throat;¹

Whereas, the U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin² and the Surgeon General found that nicotine exposure during adolescence, a critical window for brain development, may have lasting adverse consequences for brain development,³ and that it is addiction to nicotine that keeps youth smoking past adolescence;⁴

Whereas, a Federal District Court found that Phillip Morris, RJ Reynolds and other leading cigarette manufacturers “spent billions of dollars every year on their marketing activities in order to encourage young people to try and then continue purchasing their cigarette products in order to provide the replacement smokers they need to survive” and that these companies were likely to continue targeting underage smokers;⁵

Whereas, the majority (90%) of smokers begin smoking before the age of 25, and over 5 million youth and young adults (ages 25 and under) smoke;⁶

Whereas, cigars and cigarillos, can be sold in a single “dose;” and enjoy a low tax as compared to cigarettes;⁷

Whereas, spitless tobacco, including oral nicotine pouches, sales have increased from 100,000 units a year in 2018 to over 700,000 units a year by 2023, and the current use among Massachusetts high school students increased from 1% in 2019 to 3.2% in 2023;⁸

Whereas, nicotine use in any form during adolescence can cause addiction and can harm parts of the brain that control attention, learning, memory, mood, and impulse control. Nicotine use may also increase adolescents’ risk of future addiction to other drugs;⁹

¹ U.S. Center for Disease Control and Prevention (CDC), Health Effects of Cigarette Smoking Fact Sheet (2021), https://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/effects_cig_smoking/index.htm.

² CDC, How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease, (2010), http://www.cdc.gov/tobacco/data_statistics/sgr/2010/.

³ U.S. Dep’t of Health and Hum. Servs., The Health Consequences of Smoking – 50 Years of Progress: A Report of the Surgeon General at 122 (2014), <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/fullreport.pdf>.

⁴ Id. at 13 (Executive Summary).

⁵ United States v. Phillip Morris, 449 F.Supp.2d 1, 1605-07 (D.D.C. 2006).

⁶ Center for Behavioral Health Statistics and Quality, Substance Abuse and Mental Health Services Administration, Key substance use and mental health indicators in the United States: Results from the 2020 National Survey on Drug Use and Health (HHS Publication No. PEP21-07-01-003, NSDUH Series H-56) (2021) (Retrieved from <https://www.samhsa.gov/data/>).

⁷ CDC, Youth Risk Behavior, Surveillance Summaries (MMWR 2010: 59, 12, note 5) (2009) (Retrieved from: <http://www.cdc.gov/mmwr/pdf/ss/ss5905.pdf>).

⁸ Massachusetts Dept. of Public Health, Updated Presentation: Monitoring the Impacts of MA Flavored Tobacco Law (2024).

⁹ Campaign for Tobacco Free Kids, The Rise of Products Using Synthetic Nicotine (2021) (<https://assets.tobaccofreekids.org/factsheets/0420.pdf>)

Whereas, spitless tobacco, in particular nicotine salt packages, provides a discrete, cheap nicotine delivery system;¹⁰

Whereas, the Surgeon General found that exposure to tobacco marketing in stores and price discounting increase youth smoking;¹¹

Whereas, the U.S. Food and Drug Administration and the U.S. Surgeon General have stated that flavored tobacco products are “starter” products that help establish smoking habits that can lead to long-term addiction;¹²

Whereas, the U.S. Surgeon General recognized in his 2014 report that a complementary strategy to assist in eradicating tobacco-related death and disease is for local governments to ban categories of products from retail sale;¹³

Whereas, the Massachusetts Department of Environmental Protection has classified liquid nicotine in any amount as an “acutely hazardous waste;”¹⁴

Whereas, research indicates that the density and proximity of tobacco retailers increase smoking behaviors, including number of cigarettes smoked per day, reduced smoking abstinence during a quit attempt, and increased smoking prevalence among youth;¹⁵

Whereas, the density of tobacco retailers near adolescents’ homes has been associated with increased youth smoking rates and initiation of non-cigarette tobacco product use;¹⁶

Whereas, tobacco retailers are more prevalent in underserved communities, especially in neighborhoods with a higher proportion of African American or Hispanic residents;¹⁷

¹⁰ Ibid.

¹¹ U.S. Dep’t of Health and Human Servs., Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General 508, 530 (2012) (www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/fullreport.pdf).

¹² Food and Drug Administration, Fact Sheet: Flavored Tobacco Products (2011), www.fda.gov/downloads/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/UCM183214.pdf; U.S. Dep’t of Health and Human Services, Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General, 508, 539 (2012) (www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/fullreport.pdf).

¹³ See fn. 3 at p. 85.

¹⁴ 310 CMR 30.136

¹⁵ Ying-Chih Chuang et al., Effects of neighbourhood socioeconomic status and convenience store concentration on individual level smoking, 59(7) J. Epidemiol Cmty Health 568 (2005) (doi: 10.1136/jech.2004.029041); Shelley D. Golden et al., County-level associations between tobacco retailer density and smoking prevalence in the USA, 2012, 17 (101005) Prev. Med. Rep. (Mar. 2020) (doi: 10.1016/j.pmedr.2019.101005); Eric C. Leas et al., Place-Based Inequity in Smoking Prevalence in the Largest Cities in the United States, 179(3) JAMA Intern Med., 442 (2019) (doi: 10.1001/jamainternmed.2018.5990); JG Lee et al., Associations of tobacco retailer density and proximity with adult tobacco use behaviors and health outcomes: a meta-analysis. Tobacco Control. Published Online First: 03 September 2021; LR Reitzel et al., The effect of tobacco outlet density and proximity on smoking cessation. American Journal of Public Health. 2011, 101(2):315-320; L Henriksen et al., Is adolescent smoking related to the density and proximity of tobacco retailers and retail cigarette advertising near schools? Preventive Medicine. 2008, 47(2): 210-4.

¹⁶ LJ Finan et al., Tobacco Outlet Density and Adolescents’ Cigarette Smoking: A Meta-Analysis, 28(1) Tob Control. 27 (2019) (doi: 10.1136/tobaccocontrol-2017-054065); Abdel Magid HS et al., Tobacco Retail Density and Initiation of Alternative Tobacco Product Use Among Teens, 66(4) J. Adolescent Health 423 (2020) (doi: 10.1016/j.jadohealth.2019.09.004).

¹⁷ Siahpush M. et al., Association of availability of tobacco products with socio-economic and racial/ethnic characteristics of neighbourhoods, 124(9) Pub. Health 525 (2010) (doi: 10.1016/j.puhe.2010.04.010); Lee JG,et al., Inequalities in tobacco outlet density by race, ethnicity and socioeconomic status, 2012, USA: results from the ASPIRE Study, 71(5) J. Epidemiol Cmty Health 487 (2017) (doi: 10.1136/jech-2016-208475); D.O. Fakunle et al., Black, White, or Green? The Effects of Racial Composition and Socioeconomic Status on Neighborhood-Level Tobacco Outlet Density, Ethn Health. 1 (2019) (doi: 10.1080/13557858.2019.1620178).

Whereas, policies to reduce tobacco retailer density have been shown to be effective and can reduce or eliminate social and racial inequities in the location and distribution of tobacco retailers;¹⁸

Whereas, the Massachusetts Supreme Judicial Court has held that “. . . [t]he right to engage in business must yield to the paramount right of government to protect the public health by any rational means.”¹⁹

Whereas, local tobacco regulations are proving to be effective in reducing youth initiation and use of tobacco products, demonstrated by the following: Of Stoughton High School students surveyed in September of 2025 84% had never vaped nicotine, 97% had never smoked a cigarette, 92% did not currently vape (within the last 30 days), and 98.88% did not currently use chewing tobacco products (within the last 30 days).²⁰

Whereas, Stoughton has a higher smoking rate than the average rate in Massachusetts, a higher rate of asthma related emergency room visits, and higher rates of lung cancer incidents.²¹

Now, therefore it is the intention of the Town of Stoughton Board of Health to regulate the sale of tobacco products.

B. Authority:

This regulation is promulgated pursuant to the authority granted to the Stoughton Board of Health by Massachusetts General Laws Chapter 111, Section 31 which states "Boards of health may make reasonable health regulations".

¹⁸ Ribisl KM, et al., Reducing Disparities in Tobacco Retailer Density by Banning Tobacco Product Sales Near Schools, 19(2) Nicotine Tobacco Res. 239 (2017) (doi: 10.1093/ntr/ntw185); HG, Henry et al., Tobacco Retail Licensing and Density 3 Years After License Regulations in Philadelphia, Pennsylvania (2012-2019), 110 (4) Am J. Pub. Health 547 (2020) (doi: 10.2105/AJPH.2019.305512); A.E. Myers et al., A comparison of three policy approaches for tobacco retailer reduction, 74 Prev. Med. 67(2015) (doi: 10.1016/j.ypmed.2015.01.025).

¹⁹ Druzik et al v. Board of Health of Haverhill, 324 Mass. 129 (1949)

²⁰ Stoughton High School YRBS

²¹ Massachusetts Tobacco Control Program

C. Definitions:

For the purpose of this regulation, the following words shall have the following meanings:

Adult-Only Retail Tobacco Store: An establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale but not for resale, Tobacco Products and smoke accessories, in which the sale of other products or offer of services is merely incidental, and in which the entry of persons under the age of 21 is prohibited at all times, and which maintains a valid Tobacco Product Sales Permit for the retail sale of Tobacco Products and Smoke Accessories as required by the Stoughton Board of Health.

Blunt Wrap: Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers regardless of any content. **Business Agent:** An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

Bona Fide Purchaser for Value: A bona fide purchaser is someone who exchanges value for property without any reason to expect irregularities in the transaction.

Characterizing flavor: A distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any menthol, mint, or wintergreen, fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

Child-Resistant Package: Packaging intended to reduce the risk of a child ingesting nicotine and that meets the minimum standards of 16 C.F.R. 1700 et seq., pursuant to 15 U.S.C. 1471 through 1476.

Cigar: Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco, with or without a tip or mouthpiece, that is in a readily usable state immediately when removed from its packaging without any modification, preparation or assembly required as in a kit or roll-your-own package, and is not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1. Tobacco leaf in such kits or roll-your-own packages shall be considered "blunt wraps" for the purpose of this regulation.

Component part: Any element of a tobacco product, including, but not limited to, the tobacco, filter and paper, but not including any constituent.

Constituent: Any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacturing or packaging of the tobacco product. Such term shall include a smoke constituent.

Coupon: Any card, paper, note, form, statement, ticket or other issue distributed for commercial or promotional purposes to be later surrendered by the bearer so as to receive an article, service or accommodation without charge or at a discount price.

Distinguishable: Perceivable by either the sense of smell or taste.

Educational Institution: Any public or private college, school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.

Electronic Nicotine Delivery System: An electronic device, whether for one-time use or reusable, that can be used to deliver nicotine or another substance to a person inhaling from the device including, but not limited to, electronic cigarettes, electronic cigars, electronic cigarillos, electronic pipes, vaping pens, hookah pens and other similar devices that rely on vaporization or aerosolization; provided, however, that “electronic nicotine delivery system” shall also include any noncombustible liquid or gel that is manufactured into a finished product for use in such electronic device; provided further, that “electronic nicotine delivery system” shall also include any component, part or accessory of a device used during the operation of the device even if the part or accessory was sold separately; provided further, that “electronic nicotine delivery system” shall not include a product that has been approved by the United States Food and Drug Administration for the sale of or use as a tobacco cessation product or for other medical purposes and is marketed and sold or prescribed exclusively for that approved purpose.

Employee: Any individual who performs services for an employer.

Employer: Any individual, partnership, association, corporation, trust or other organized group of individuals that uses the services of one (1) or more employees.

Enforcement Authority: The primary enforcement authority shall be the Stoughton Board of Health. The alternate enforcement authority shall be the Stoughton Police Department.

Flavored tobacco product: Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

Health Care Institution: An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under M.G.L. c. 112 or a retail establishment that provides pharmaceutical goods and services and is subject to the provisions of 247 CMR 6.00. Health care institutions include, but are not limited to, hospitals, clinics, health centers, pharmacies, drug stores, doctor offices, optician/optometrist offices and dentist offices.

Liquid Nicotine Container: A bottle or other vessel which contains nicotine in liquid or gel form, whether or not combined with another substance or substances, for use in a Tobacco Product, as defined herein. The term does not include a container containing nicotine in a cartridge that is sold, marketed, or intended for use in a Tobacco Product, as defined herein, if the cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer or retailer.

Listed or Non-Discounted Price: The higher of the price listed for a Tobacco Product on its package or the price listed on any related shelving, posting, advertising or display at the place where the Tobacco Product is sold or offered for sale plus all applicable taxes if such taxes are not included in the state price, and before the application of any discounts or coupons.

Manufacturer Documentation: A written document from a manufacturer that certifies which of each of its products is not flavored, as defined under Massachusetts law and these regulations. Manufacturer

Documentation shall also mean a written document from a manufacturer that certifies the nicotine content expressed as milligrams per milliliter for each of its Electronic Nicotine Delivery System products. A manufacturer documentation must:

1. Be written by the manufacturer of the product(s).
2. Certify that the product(s) listed in the documentation are neither flavored nor have a characterizing flavor as defined by 105 CMR 665.005.
3. Include an attestation clause indicating that the “letter is true and accurate.”
4. State that the “manufacturer will immediately provide an updated letter to correct any inaccuracy.”
5. State that the person signing the letter “is authorized on behalf of the manufacturer to sign the letter.”
6. Contain a signature of the manufacturer’s corporate officer or an owner; and
7. For any Electronic Nicotine Delivery System product, certify that it does not have a nicotine content greater than 35 milligrams per milliliter. The content amount must be in “milligrams per milliliter.” If the nicotine content is documented in a separate letter, the above-listed requirements must be included in that separate letter.

Marijuana Accessories: Equipment, products, devices, or materials of any kind that are intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana into the human body.

Marijuana Retailer: "Marijuana Retailer" as defined in 935 CMR 500.002.

Non-Residential Roll-Your-Own (RYO) Machine: A mechanical device made available for use (including to an individual who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the individual's own personal consumption or use) that is capable of making cigarettes, cigars or other tobacco products. RYO machines located in private homes used for solely personal consumption are not Non-Residential RYO machines.

Oral Nicotine Pouches: Pre-portioned pouches containing nicotine and other ingredients, intended to be used between the cheek and gum to deliver nicotine.

Permit Holder: Any person engaged in the sale or distribution of tobacco products who applies for and receives a tobacco product sales permit or any person who is required to apply for a Tobacco Product Sales Permit pursuant to these regulations, or his or her business agent.

Person: Any individual, firm, partnership, association, corporation, company or organization of any kind, including but not limited to, an owner, operator, manager, proprietor or person in charge of any establishment, business or retail store.

Self-Service Display: Any display from which customers may select a tobacco product, as defined herein, without assistance from an employee or store personnel.

Schools: Public or private elementary or secondary schools.

Smoke Accessories: Equipment, products, devices, or materials of any kind that are intended or designed for use in ingesting, inhaling, or otherwise introducing Tobacco Product, marijuana, tetrahydrocannabinol (THC), or cannabidiol (CBD) into the human body, including, but not limited to, Marijuana Accessories, rolling papers, bongs, pipes, glass pipes, vaporizers (for use other than nicotine products), vape pens (for use other than nicotine products), hookah apparatus, dab rigs, pods, tanks, and cartridges.

Smoke Constituent: Any chemical or chemical compound in mainstream or side stream tobacco smoke that either transfers from any component of the tobacco product to the smoke or that is formed by the combustion or heating of tobacco, additives or other component of the tobacco product.

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.

Tobacco Product: Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; or electronic cigarettes, electronic cigars, electronic pipes, electronic hookah, liquid nicotine, "e-liquids" or other similar products, regardless of nicotine content, that rely on vaporization or aerosolization. "Tobacco product" includes any component or part of a tobacco product. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other medical purposes and which is being marketed and sold or prescribed solely for the approved purpose.

Tobacco Product Flavor Enhancer: Any product designed, manufactured, produced, marketed, or sold to produce a characterizing flavor when added to any tobacco product.

Tobacco Product Sales Permit: A permit issued by the Stoughton Board of Health for selling or otherwise distributing Tobacco Products in the Town of Stoughton.

Vending Machine: Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes cigarettes or any other tobacco products, as defined herein.

D. Flavored Tobacco Product & Nicotine Content in Electronic Nicotine Devices:

1. No retailer or person, as defined herein, shall possess, hold, keep, sell or distribute or cause to be possessed, held, kept, sold or distributed any flavored tobacco product, as defined herein, or any flavored tobacco product enhancer, as defined herein. Retailers must obtain Manufacturer Documentation as described in Section C, certifying that all products possessed, held, kept, sold, or distributed by the retailer do not meet the definition of a flavored tobacco product or tobacco product flavor enhancer (105 CMR 665.010(E)).
2. No retailer or person shall sell an electronic nicotine delivery system with nicotine content greater than 35 milligrams per milliliter; provided, however, that this subsection shall not apply to adult-only retail

tobacco stores or smoking bars. Retailers must obtain Manufacturer Documentation verifying that all electronic nicotine delivery products possessed, held, kept, sold, or distributed by the retailer indicating the nicotine content expressed as milligrams per milliliter for each electron nicotine delivery system to be sold in the retail establishment (105 CMR 665.010(C)).

E. Tobacco Sales to Persons Born on or after January 1, 2005.

1. No person shall sell or provide a tobacco product to a person born on or after January 1, 2005.

2. Required Signage:

a. All retail establishments, including adult-only retail tobacco stores, shall conspicuously post signage inside the establishment, in the form developed and made available by the Massachusetts Department of Public Health. Such signage shall include: (i) a copy of M.G.L. c. 270, §§ 6 and 6A; (ii) referral information for smoking cessation resources; (iii) a statement that sale of tobacco products, including e-cigarettes, to someone born or after January 1, 2005 is prohibited; (iv) health warnings associated with using electronic nicotine delivery systems; and (v) notice to consumers that the sale of flavored electronic nicotine systems are prohibited at all times. Such signage shall be posted conspicuously in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four feet or greater than nine feet from the floor.

b. All adult-only retail tobacco stores shall post signage, in the form developed and made available by the Massachusetts Department of Public Health, on the exterior of the door providing entrance to the adult-only tobacco retail store and such sign shall not be obstructed from view or placed at a height of less than four feet or greater than nine from the bottom of the door. Such signage shall state that "No person younger than 21 years old is permitted on the premises at any time."

3. Identification:

a. Each person selling or distributing tobacco products shall verify the age of the purchaser by means of a valid government-issued photographic identification containing the bearer's date of birth that the purchaser was born before January 1, 2005.

b. Each person admitting entrance into an adult-only retail tobacco store shall first verify the age of every person entering is 21 or older by means of a valid government-issued photographic identification containing the bearer's date of birth.

4. All retail sales of tobacco products, as defined herein, must be face-to-face between the seller and the buyer and occur at the permitted location.

F. Tobacco Product Sales Permit:

1. No person shall sell or otherwise distribute tobacco products, as defined herein, within the Town of Stoughton without first obtaining a Tobacco Product Sales Permit issued annually by the Stoughton Board of Health. Only owners of establishments with a permanent, non-mobile location in Stoughton are eligible to apply for a permit and sell tobacco products, as defined herein, at the specified location in Stoughton.

2. As part of the Tobacco Product Sales Permit application process, the applicant will be provided with the Regulation of the Stoughton Board of Health Restricting the Sale of Tobacco Products and Smoke Accessories (this regulation). Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco product sales regarding federal, state and local laws regarding the sale of tobacco and this regulation.

3. Each applicant who sells tobacco products is required to provide proof of a current Tobacco Retailer License issued by the Massachusetts Department of Revenue, when required by state law, before a Tobacco Product Sales Permit can be issued. Applicant may be asked to provide evidence that a legitimate business transfer or business purchase has taken place.

4. A separate permit, displayed conspicuously, is required for each retail establishment selling tobacco products, as defined herein. The fee for which shall be determined by the Stoughton Board of Health annually. All required Massachusetts Department of Revenue licenses related to the sale of tobacco products, as defined herein, must also be displayed conspicuously at the retail establishment.

5. A Tobacco Product Sales Permit is non-transferable. A new owner of an establishment that sells tobacco products, as defined herein, must apply for a new permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.

6. No single retail establishment shall have more than one Tobacco Product Sales Permit.

7. Issuance of a Tobacco Product Sales Permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation.

8. A Tobacco Product Sales Permit will not be renewed if the permit holder has failed to pay all fines issued and the time period to appeal the fines has expired and/or the permit holder has not satisfied any outstanding permit suspensions.

9. A Tobacco Product Sales Permit will not be renewed if the permit holder has sold a Tobacco Product to a person born on or after January 1, 2005 three times within the previous 24 months and the time period to appeal has expired. The violator may request a hearing in accordance with subsection 4 of the Violations section.

10. Maximum Number of Tobacco Product Sales Permits.

a. At any given time, there shall be no more than 30 Tobacco Product Sales Permits issued in Stoughton. No permit renewal will be denied based on the requirements of this subsection except any permit holder who has failed to renew his or her permit within thirty (30) days of expiration will be treated as a first time permit applicant.

b. At any given time, of the number of Tobacco Product Sales Permit allowed in subsection (a) above, there shall be no more than 4 Tobacco Products Sales Permits issued to Adult-Only Retail Tobacco Stores, per the definition, in Stoughton. No permit renewal will be denied based on the requirements of this subsection except any permit holder who has failed to renew his or her permit within thirty (30) days of expiration will be treated as a first-time permit applicant.

c. Any Tobacco Product Sales Permits surrendered, revoked or not renewed either because a retailer no longer sells tobacco products, as defined herein, or because a retailer closes the retail business, or because the retailer fails to renew their permit within thirty (30) calendar days of its expiration, shall be returned to the Stoughton Board of Health and shall be permanently retired by the Board of Health..

d. A Tobacco Product Sales Permit shall not be issued to any new applicant for a retail location within five hundred (500) feet of a public or private elementary or secondary school as measured by a straight line from the nearest point of the property line of the school to the nearest point of the property line of the site of the applicant's business premises.

e. A Tobacco Product Sales Permit shall not be issued to any new applicant for a retail location within five hundred (500) feet of a retailer with a valid Tobacco Product Sales Permit as measured by a straight line from the nearest point of the property line of the retailer with a valid Tobacco Product Sales Permit to the nearest point of the property line of the site of the applicant's business premises.

f. Applicants who purchase or acquire an existing business that holds a valid Tobacco Product Sales Permit at the time of the sale or acquisition of said business must apply within sixty (60) days of such sale or acquisition for the permit held by the Current Permit Holder if the Applicant intends to sell tobacco products, as defined herein. Such applicant may choose to apply for a Tobacco Product Sales Permit for an Adult-Only Retail Tobacco Store if the Current Permit Holder possessed the same or if a Tobacco Product Sales Permit for an Adult-Only Retail Tobacco Store is available per subsection (b).

G. Prohibition of Smoking Bars:

Smoking Bars are prohibited in the Town of Stoughton.

H. Oral Nicotine Pouches:

No retailer or person shall sell or distribute or cause to be sold or distributed oral nicotine pouches with a nicotine content greater than 6 mg/per individual pouch.

I. Cigar Sales Regulated:

1. No person shall sell or distribute or cause to be sold or distributed a single cigar unless such cigar is priced for retail sale at two dollars and ninety cents (\$2.90) or more.
2. No person shall sell or distribute or cause to be sold or distributed any original factory-wrapped package of two or more cigars, unless such package is priced for retail sale at five dollars and eighty cents (\$5.80) or more.
3. This Section shall not apply to a person or entity engaged in the business of selling or distributing cigars for commercial purposes to another person or entity engaged in the business of selling or distributing cigars for commercial purposes with the intent to sell or distribute outside the boundaries of Stoughton.
4. The Stoughton Board of Health may adjust from time to time the amounts specified in this Section to reflect changes in the applicable Consumer Price Index by amendment of this regulation.

J. Prohibition of the Sale of Blunt Wraps:

No person or entity shall sell or distribute blunt wraps in Stoughton.

K. Free Distribution and Coupon Redemption:

No person shall:

1. Distribute or cause to be distributed, any free samples of tobacco products, as defined herein;
2. Accept or redeem, offer to accept or redeem, or cause or hire any person to accept or redeem or offer to accept or redeem any coupon that provides any tobacco product, as defined herein, without charge or for less than the listed or non-discounted price; or
3. Sell a tobacco product, as defined herein, to consumers through any multi-pack discounts (e.g., "buy-two-get-one-free") or otherwise provide or distribute to consumers any tobacco product, as defined herein, without charge or for less than the listed or non-discounted price in exchange for the purchase of any other tobacco product.

L. Out-of-Package Sales:

1. The sale or distribution of tobacco products, as defined herein, in any form other than an original factory-wrapped package is prohibited, including the repackaging or dispensing of any tobacco product, as defined herein, for retail sale. 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.
2. Permit holders who sell Liquid Nicotine Containers must comply with the provisions of 310 CMR 30.000, and must provide the Stoughton Board of Health with a written plan for disposal of said product, including disposal plans for any breakage, spillage or expiration of the product.
3. All permit holders must comply with 940 CMR 21.05 which reads: "It shall be an unfair or deceptive act or practice for any person to sell or distribute nicotine in a liquid or gel substance in Massachusetts after March 15, 2016 unless the liquid or gel product is contained in a child-resistant package that, at a minimum, meets the standard for special packaging as set forth in 15 U.S. C. §§1471 through 1476 and 16 CFR §1700 et. Seq."
4. No permit holder shall refill a cartridge that is prefilled and sealed by the manufacturer and not intended to be opened by the consumer or retailer.

M. Self-Service Displays:

All self-service displays of tobacco products, as defined herein, are prohibited. All humidors including, but not limited to, walk-in humidors must be locked.

N. Vending Machines:

All vending machines containing tobacco products, as defined herein, are prohibited.

O. Non-Residential Roll-Your-Own Machines:

All Non-Residential Roll-Your-Own machines are prohibited.

P. Prohibition of the Sale of Tobacco Products by Health Care Institutions:

No health care institution located in Stoughton shall sell or cause to be sold tobacco products. No retail establishment that operates or has a health care institution within it, such as a pharmacy or drug store, shall sell or cause to be sold tobacco products. This section shall not apply to a retail establishment, which applies for and obtains an exemption from this section, provided that no exemption shall be granted unless the retail establishment: (1) is a membership warehouse club; (2) sells memberships only to persons eighteen years of age or older; and (3) provides only eye care and/or hearing care services to its memberships.

Q. Prohibition of the Sale of Tobacco Products by Educational Institutions:

No educational institution located in Stoughton shall sell or cause to be sold tobacco products, as defined herein. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

R. Incorporation of State Laws and State Regulations:

1. The sale or distribution of tobacco products, as defined herein, must comply with state statutes including but not limited to those provisions found at G.L. c. 270, §§6, 6A, 7, 28, 29 and G.L. c. 112, §61A.
2. The sale or distribution of tobacco products, as defined herein, must comply with state regulations including but not limited to those provisions found at 940 CMR 21.00, Sale and Distribution of Cigarettes, Smokeless Tobacco Products, and Electronic Smoking Devices in Massachusetts, 940 CMR 22.00 Sale and Distribution of Cigars in Massachusetts; and 105 CMR 665.00, Minimum Standards for Retail Sale of Tobacco and Electronic Nicotine Delivery Systems.

S. Violations:

1. It shall be the responsibility of the establishment, permit holder and/or his or her business agent to ensure compliance with all sections of this regulation. For violations of this regulation the following penalties apply:
 - a. In the case of a first violation, a fine of one thousand dollars (\$1,000.00) for a State Law violation and a written warning and a fine up to two hundred and fifty dollars (\$250) for a Local Policy violation shall be issued and, additionally, if the violation is a sale of a tobacco product to a person under the age of 21,

the Tobacco Product Sales Permit shall be suspended per 105 CMR 040(d), for three (3) consecutive business days.

- b. In the case of a second violation within thirty-six (36) months of the date of the current violation, a fine of two thousand dollars (\$2,000.00) for a State Law violation and five hundred dollars (\$500.00) for a Local Policy violation shall be issued and the Tobacco Product Sales Permit shall be suspended for seven (7) consecutive business days.
- c. In the case of three or more violations within a thirty-six (36)-month period, a fine of five thousand dollars (\$5,000.00) for a State Law violation and one thousand (\$1000.00) for a Local Policy violation shall be issued and the Tobacco Product Sales Permit shall be suspended for thirty (30) consecutive business days.

2. List of State Laws and Local Policies:

Policies Subject to State Law Fines	Policies Subject to Local Policy Fines
Tobacco and Vape Sales to persons under 21 (G.L. Ch. 270, §6)	Nicotine Free Generation / Sales to persons born on or after January 1, 2005
Failure to Check Identification of Purchaser (105 CMR 665.020)	Prohibition of the Sale of Blunt Wraps
Local Tobacco Sales Permit suspension for a first violation for sales to a person under 21 of Tobacco/Vape products (105 CMR 665.040(d))	Ban on Smoking Bars
Flavored Tobacco Product Sales Restrictions (G.L. Ch. 270, §28)	Cigar Sales Regulated, including minimum sales price regulations
Nicotine Content in Electronic Nicotine Delivery Systems (G.L. Ch. 270, §29)	Tobacco Product Sales in Health Care Institutions as more broadly defined than in state law.
Required Retailer Signage (105 CMR 665.015)	Tobacco Product Sales in Educational Institutions
Ban on Free Distribution (105 CMR 665.025)	Non-Residential Roll-Your-Own Machines Ban
Coupon Redemption (105 CMR 665.025)	Display of MA Department of Revenue license(s)
Ban on Self-Service Displays (105 CMR 665.010(B))	Sales Without a Local Tobacco Product Sales Permit
Ban on Out-Of-Package Sales (105 CMR 665.030)	Retailer Density Minimums
Sales Without a Local Tobacco Product Sales Permit Adult-Only Retail Tobacco Stores (105 CMR 665.013(A))	Transfer of Permit in Sale of Business
Child-Proofed Liquid Nicotine Containers Required (105 CMR 665.035)	Sales of oral nicotine pouches with a nicotine content greater than 6 mg/per individual pouch
Failure to obtain manufacturer's non-flavored certification (105 CMR 665.010(E))	Other local policies
Failure to obtain manufacturer's nicotine content certification (105 CMR 665.010(C))	

Admitting a person under the age of 21 into an Adult-Only Retail Tobacco Store (105 CMR 665.020(B))	
Other state laws	

3. In the case of four violations or repeated, egregious violations of any section of this regulation, as determined by the Board of Health within a thirty-six (36)-month period, the Board of Health shall hold a hearing in accordance with this regulation and, after such hearing may permanently revoke a Tobacco Sales Permit.

4. Failure to cooperate with inspections pursuant to this regulation shall result in the suspension of the Tobacco Product Sales Permit for thirty (30) consecutive business days.

5. In addition to the monetary fines set above, any permit holder who engages in the sale or distribution of tobacco products while his or her permit is suspended shall be subject to the suspension of all Board of Health issued permits for thirty (30) consecutive business days. Multiple tobacco product sales permit suspensions shall not be served concurrently.

6. A permit issued pursuant to this regulation may be suspended, revoked, or not renewed for any of the following reasons:

- a. Violation of the permit holder of any provision of state or local laws and/or regulations.
- b. Fraud, misrepresentation, false material statement, concealment, or suppression of facts by the permit holder in connection with an application for a permit or for renewal thereof.

7. The Stoughton Board of Health shall provide notice of the intent to suspend or revoke a Tobacco Product Sales Permit, which notice shall contain the reasons therefor 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 holder or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision and the reasons therefor in writing. After a hearing, the Stoughton Board of Health shall suspend or revoke the Tobacco Product Sales Permit if the Board of Health finds that a violation of this regulation occurred. All tobacco products, as defined herein, shall be removed from the retail establishment upon suspension or revocation of the Tobacco Product Sales Permit. Failure to remove all tobacco products, as defined herein, shall constitute a separate violation of this regulation.

8. For purposes of such fines, the Board of Health shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense.

T. Non-Criminal Disposition:

Whoever violates any provision of this regulation may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D where the penalty calls for a monetary fine not exceeding three hundred (\$300.00) dollars.

U. Separate Violations:

Each day any violation exists shall be deemed to be a separate offense. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

V. Enforcement:

Primary enforcement of this regulation shall be by the Stoughton Board of Health or its designated agent(s). The Board of Health may enforce these regulations or enjoin violations thereof through any lawful process, and the election of one remedy by the Board of Health shall not preclude enforcement through any other lawful means. Any resident who desires to register a complaint pursuant to the regulation may do so by contacting the Stoughton Board of Health or its designated agent(s) and the Board shall investigate. In cases where any enforcement action that is taken, implemented or initiated by the Stoughton Police Department, the Chief of Police or his designee shall notify the primary enforcement agent within 5 business days.

W. Severability:

If any provision of this regulation is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

X. Effective Date:

This regulation shall take effect on _____, 2025.