

**Town of Belchertown**

**Board of Health**

**Regulations**

**Chapter 261: Smoking and Access to Tobacco**

Complete text of existing regulations (totaling 10 pages) can be found at  
<http://ecode360.com/9052463>

**Proposed 2016 Amendments**

Sections proposed for amendment and changes are § 261-1, 2, 3, and § 261-5. Language proposed to be redacted appears in strike through font (~~strike through~~). New language proposed appears in bold face (**bold**).

§ 261-1. Findings; purpose; authority.

C.

**Whereas the Institute of Medicine (IOM) concludes that raising the minimum legal age of access to tobacco products will reduce tobacco initiation particularly among adolescents 15-17, and will improve health across the lifespan and save lives.<sup>1</sup>**

**Whereas nicotine exposure during adolescence may have lasting adverse consequences for brain development.<sup>2</sup>**

**Whereas more than 80 % of all adult smokers begin smoking before the age of 18; and more than 90% do so before leaving their teens.<sup>3</sup>**

**Whereas the use of electronic cigarettes (e-cigs) is high among teens with 8.7 percent of 8<sup>th</sup> graders, 16.2 percent of 10<sup>th</sup> graders, and 17.1 percent of 12<sup>th</sup> graders using e-cigarettes in the past month. Only 14.2 percent of 12 graders view regular e-cigarette use as harmful. <sup>4</sup>**

D.

These regulations are adopted pursuant to MGL c. 111, § 31, **which states “Boards of Health may make reasonable regulations”.**

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<sup>1</sup> IOM 2015. Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products  
Washington DC: The National Academics Press, 2015

<sup>2</sup> US Dept. of Health and Human Services. The Consequences of Smoking: 50 Years of Progress. A report of the Surgeon General: CDC Atlanta Georgia: Office on Smoking and Health 2014

<sup>3</sup> SAMHSA, Calculated based on data in 2011 National Survey on Drug Use and Health

<sup>4</sup> SAMHSA, Results from the 2013 National Survey on Drug Use and Health: Summary of National Findings, NSDUH Series H-48 Publication No. 14-144863 Rockville MD.

§ 261-2. Definitions.

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

**EDUCATIONAL INSTITUTION** Any public or private college, school, professional school, scientific or technical institute, university, or other institution furnishing a program of higher education.

**ELECTRONIC SMOKING DEVICE** Means any product that can deliver nicotine to the user through inhalation of vapor. Electronic smoking device includes any component part of such product, including liquid for use in the device regardless of whether the liquid contains nicotine, whether or not sold separately, and does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product and is being marketed and sold solely for the approved purpose.

**HEALTH CARE INSTITUTION** An individual, partnership, association, corporation, or trust or any person or group of persons that provides health care services and employ health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health MGL C 112 or a retail establishment that provides pharmaceutical goods and services and is subject to 247 CMR 6.00. Health care institutions include but are not limited to hospitals, clinics, health centers, pharmacies, drug stores, doctor offices and dentist offices.

**MINIMUM LEGAL SALE AGE ( MSLA)** The age an individual must be before that individual can be sold tobacco products or electronic smoking devices and components in the Municipality. In the Town of Belchertown, the minimum age shall be 21 years old.

~~SMOKING~~ ~~The lighting~~—The use of any cigar, cigarette, pipe, electronic smoking device, or other tobacco products.

~~TOBACCO~~ Cigarettes, chewing tobacco, snuff or tobacco in any of its forms.

**TOBACCO PRODUCTS** 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 other means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, or electronic cigarettes, electronic cigars, electronic pipes, electronic hookas, and other similar products regardless of nicotine content, that rely on vaporization or aerosolization. Tobacco Product does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product and is being marketed and sold solely for the approved purpose.

§ 261-3. Smoking prohibited in public places.

A.

Smoking, as defined by these regulations, including the use of electronic smoking devices, shall be prohibited in all enclosed public places within the Town of Belchertown, and include certain outdoor locations listed in these regulations, including but not limited to the following:

(1)

Restaurants, **including open, outdoor seating areas with food or beverage service.** ~~[In establishments serving alcohol, smoking will be permitted between the hours of 9:00 p.m. to closing until February 1, 1998.]~~

(2)

Bars, **including open, outdoor seating areas with food or beverage service.** ~~[In establishments serving alcohol, smoking will be permitted between the hours of 9:00 p.m. to closing until February 1, 1998.]~~

(3)

Private clubs ~~open to the public.~~ ~~[In establishments serving alcohol, smoking will be permitted between the hours of 9:00 p.m. to closing until February 1, 1998.]~~

(5) Waiting rooms, hallways, wards and semiprivate rooms of health-care facilities, including but not limited to hospitals, **nursing homes**, clinics, physical therapy facilities, doctors' offices and dentists' offices.

(13)

Public areas of Aquariums, galleries, libraries and museums ~~when open to the public.~~

**(19) Town owned outdoor recreational and gathering places, including the Town Common, Town Beach, and Town playing field and playgrounds.**

B.

Smoking is also prohibited outside buildings within a smoke-free zone surrounding the exterior entrance/exit doors for the regulated buildings described in Subsection **A** and § **261-4**. The smoke-free zone shall extend a minimum of a ten-foot radius from the exterior door of said buildings. **If restaurants and bars provide food or beverage service outdoors, those areas shall also be smoke free.**

§ 261-5. Where smoking is not regulated.

A.

Notwithstanding any other provision of these regulations to the contrary, the following areas shall not be subject to smoking, **as defined by these regulations**, restrictions:

(2)

~~Private or semiprivate rooms of retirement or nursing homes and long-term facilities occupied by one or more patients, all of whom are smokers who have requested, in writing, on the facility admission form to be placed in rooms where smoking is permitted.~~

§ 261-7. Retail sale of tobacco products.

B.

~~In conformance with MGL c. 270, § 6,~~ No person shall sell cigarettes, chewing tobacco, snuff or tobacco products, including rolling papers **and electronic smoking devices**, in any forms to any person under the age of ~~18~~ **21** years old or, not being his/her parent or guardian, give cigarettes, snuff or tobacco products in any of their forms to any person under the age of ~~18~~**21**-years.

C.

~~In conformance with MGL c. 270, § 7, a copy of MGL c. 270, § 6 shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place 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 all cash registers where tobacco products may be purchased. It shall be posted 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, shall not be obstructed from view and shall not be placed at a height of less than four feet or at a distance greater than nine feet from the door.~~

The Owner or other person in charge of a store or other place used to sell tobacco products shall conspicuously post a sign stating "The Sale of Tobacco Products, including e-cigarettes, to someone under the minimum sale age of 21 is prohibited" The sign shall be no smaller than 8.5 inches by 11 inches and shall be posted conspicuously, facing the purchaser and not obstructed from view..

E.

No retailer may sell tobacco products to any person younger than ~~18~~ **21** years of age. Each employee shall verify by means of photographic identification containing the bearer's date of birth that no person purchasing the product is younger than ~~18~~ **21** years of age. No such verification is required for any person over the age of ~~26~~ **28**

**K. No health care institution or retail establishment that operates a health care institution within in it, such as a pharmacy or drug store, shall sell or cause to be sold tobacco products as defined by these regulations.**

**L. No educational institution shall sell or cause to be sold tobacco products as defined by these regulations.**