RULES AND REGULATIONS AFFECTING SALES OF TOBACCO PRODUCTS IN THE TOWN OF RUTLAND

BOARD OF HEALTH RUTLAND, MA

EFFECTIVE DATE: DECEMBER 30, 2018

REVISED: NOVEMBER 26, 2018
Section I – Purpose and authority

The Rutland Board of Health recognizes cigarette smoking and other tobacco use by minors to be a continuing problem with grave public health consequences. Accordingly, the purpose of this regulation is to implement a strict and enforceable system to prevent the illegal sales of cigarettes and other tobacco products to **individuals less than 21 years of age**. Therefore, these regulations are adopted pursuant to Massachusetts General Laws Chapter 111, Section 31, as reasonable health regulations designed to protect and improve the health of individuals in the Town of Rutland.

SECTION II – DEFINITIONS

As used in this regulation:

**Carton** - any packaging that includes two or more packages of tobacco products or any single package of tobacco product combined with another product.

**Employee** – any individual who performs services for an employer in return for wages or profit, or who performs services as a volunteer.

**Employer** – any individual, partnership, association, corporation, trust, or other organized group of individuals, including the Town of Rutland or any agency thereof, which regularly uses the services of two (2) or more employees.

**Smoking** – the lighting of any cigar, cigarette, pipe or other tobacco product or having possession of any lighted cigar, cigarette, pipe, or other tobacco product.

**Tobacco Product** – cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, or tobacco in any of its forms.
SECTION III – TOBACCO SALES AGE LIMIT

A. Sales Age Limit - *Board of Health Voted to amend regulations on November 26, 2018

Pursuant to Massachusetts General Laws Chapter 111 Section 31, the sale of cigarettes, chewing tobacco, snuff, or any tobacco in any of its forms to any person under the age of twenty one (21) shall be prohibited in the Town of Rutland. Similarly, it shall be prohibited in the Town of Rutland that anyone not being his/her parent or guardian, gives a cigarette, chewing tobacco, snuff, or tobacco in any of its forms to any person under the age of twenty one (21).

B. 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 shop or other place used to sell tobacco products 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 forty eight (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 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 (4) feet nor greater than six (6) feet from the floor. All cash registers that sell tobacco products shall post a notice no smaller than nine (9) square inches, which is the size of the sign provided by the Massachusetts Department of Public Health. Such notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of no less than four (4) feet or more than six (6) feet from the floor. Whoever violates this provision shall be punished by a fine of fifty dollars ($50.00). Any person unlawfully removing a copy so posted while said premises are used for the sale of tobacco products shall be punished by a fine of ten dollars ($10.00).

C. Sales Permit Required

No person or entity shall sell tobacco products at retail within the Town of Rutland without a tobacco sales permit issued by the Board of Health.

- The fee for this permit is $20.00, renewable annually on or before January 1.
- The tobacco sales permit shall not be issued until the applicant reads the Board of Health regulations and Mass. General Law Chapter 270 Section 6 & 7 regarding the sale of tobacco. The applicant shall then sign a statement on the application stating that s/he understands the regulations.
• The tobacco sales permit must be displayed no higher than six (6) feet or lower than four (4) feet, in clear and unobstructed view, behind the cash register receiving the highest volume of tobacco product sales.

D. Suspension of Permit

A permit shall be suspended after notice and opportunity to be heard as follows:

• In the case of the first violation of Section 3-A, the licensee shall be fined twenty five dollars ($25.00) and shall be notified in writing of penalties levied for further violations.
• In the case of the second violation of Section 3-A within a twelve (12) month period, the licensee shall be fined fifty dollars ($50.00), and the permit shall be suspended for seven (7) consecutive days.
• In the case of the third violation of Section 3-A within a twelve (12) month period, the licensee shall be fined one hundred ($100.00) and the permit shall be suspended for thirty (30) consecutive days.
• In the case of any additional violation of Section 3-A within a twelve (12) month period, the licensee shall be fined one hundred ($100.00) and the permit shall be suspended for sixty (60) consecutive days.

The Board of Health shall provide written notice to the licensee of the intent to suspend a tobacco sales permit. The notice shall contain the reasons for the suspension and establish a date and time of the hearing. The date of the hearing shall be no earlier than seven (7) days after the date of said notice. The licensee shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health’s decision and reasons in writing.

All tobacco products shall be removed from the premises upon suspension of the tobacco sales permit. Failure to remove, shall constitute a separate violation of this section and shall be punishable by a fine of one hundred ($100.00) per business day.
E. Identification Required

No person or entity shall sell or permit cigarettes or other tobacco products to be sold to an individual without requesting and examining photographic identification establishing the purchaser's age as twenty one (21) years or greater unless the seller has some other conclusive basis for determining the buyer's age.

F. Individual Cigarette Sale

The sale of individual cigarettes is prohibited in the Town of Rutland. Sale or distribution of tobacco products in any form other than an original factory-wrapped package is prohibited.

G. Free Distribution/Sampling

The free distribution or sampling of tobacco products is prohibited in the Town of Rutland.

H. Inspections/Enforcement

The Board of Health shall enforce this regulation through periodic inspections conducted by the Board of Health or its enforcement officer(s) or designee(s). Inspections may be conducted each quarter or more frequently at the discretion of the Board of Health and in cooperation with the Rutland Police Department.

I. Penalties

Violations of Sections C, E, F, and G of these regulations shall be punished by a fine of one hundred ($100.00) dollars per business day for each violation.

J. Severability

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.
K. Effective Date

These regulations shall be effective as of November 26, 2018.

Board of Health
Rutland, MA

Scott Gilroy, Chairman

Karin Prucnal, Vice-Chair

Elliott Nadeau, Clerk