



**TOWN OF MANSFIELD, MASSACHUSETTS**  
Six Park Row, Mansfield, MA 02048

**REGULATION PROHIBITING SMOKING IN WORKPLACES AND PUBLIC PLACES**

**ARTICLE 1. PURPOSE**

The purpose of this regulation is to protect the health of the employees and general public in the town of Mansfield.

**ARTICLE 2. AUTHORITY**

This regulation is promulgated under the authority granted to the Mansfield Board of Health pursuant to Massachusetts General Laws Chapter 111, Section 31 that “[b]oards of health may make reasonable health regulations.” It is also promulgated pursuant to Massachusetts General Laws Chapter 270, Section 22(j) which states in part that “[n]othing 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.”

**ARTICLE 3. DEFINITIONS**

As used in this regulation, the following words shall have the following meanings, unless the context requires otherwise:

**Adult-Only Retail Tobacco Store (smoke shop, tobacconist, vape shop):** An establishment that does not share space with another business, that has a separate entrance, that does not sell food or alcohol, that does not have a restaurant license or lottery license, whose only purpose is to sell or offer for retail sale tobacco products and/or tobacco product paraphernalia, in which the entry of persons under the age of 21 is prohibited at all times, and which maintains a valid permit for the retail sale of tobacco products from the Mansfield Board of Health and applicable state licenses. Entrance to the establishment must be secure so that access to the establishment is restricted to employees and to those 21 years or older. The establishment shall not allow anyone under the age of 21 to work at the establishment.

**Compensation:** money, gratuity, privilege, or benefit received from an employer in return for work performed or services rendered.

**E-Cigarette:** Any electronic device, not approved by the United States Food and Drug Administration, 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 nicotine. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes, e-hookah 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 Mansfield.

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.

Membership Association: a not-for-profit entity that has been established and operates, for a charitable, philanthropic, civic, social, benevolent, educational, religious, athletic, recreation or similar purpose, and is comprised of members who collectively belong to:

1. a society, organization or association of a fraternal nature that operates under the lodge system, and having 1 or more affiliated chapters or branches incorporated in any state; or
2. a corporation organized under chapter 180; or
3. an established religious place of worship or instruction in the commonwealth whose real or personal property is exempt from taxation; or
4. a veterans' organization incorporated or chartered by the Congress of the United States, or otherwise, having 1 more affiliated chapters or branches incorporated in any or state.

Except for a religious place of worship or instruction, an entity shall not be a membership association for the purposes of this definition, unless individual membership is required for all members of the association for a period of not less than 90 days.

Nursing Home: a facility licensed pursuant to MGL Chapter 111, Section 71

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

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: an establishment that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises and is required by Massachusetts General Law Ch. 270, §22 to maintain a valid permit to operate a smoking bar issued by the Massachusetts Department of Revenue. "Smoking bar" shall include, but not be limited to, those establishments that are commonly known as "cigar bars" and "hookah bars".

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.

**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 or 105 CMR 661, the definition contained in this regulation shall control.

#### **ARTICLE 4: SMOKING PROHIBITED**

**Section 1.** 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 Section 3 below.

**Section 2.** Smoking is hereby prohibited in Mansfield in accordance with M.G.L. Ch. 270, §22 (commonly known as the "Smoke-Free Workplace Law").

**Section 3.** Pursuant to M.G.L. Ch. 270, §22(j) smoking is also hereby prohibited in:

- A. Adult-Only Retail Tobacco Store (smoke shop, tobacconist, vape shop)
- B. Buffer Zones around municipal building entrances (50 feet)
- C. Municipal-owned parks and playgrounds
- D. Municipal-owned athletic fields
- E. Municipal-owned beaches
- F. Membership Associations (private clubs)
- G. Hotels, Motels, B&B Rooms
- H. Nursing Homes
- I. In all outdoor areas where food and/or beverages are served to the public by employees of restaurants, bars and taverns
- J. Public Transportation, Bus and Taxi Waiting Areas

**Section 4.** The use of e-cigarettes is prohibited wherever smoking is prohibited per M.G.L. Ch. 270, §22 and Article 4, Section 3 of this regulation.

## **ARTICLE 5: VIOLATIONS**

**Section 1.** An owner, manager, or other person in control of a building, vehicle or vessel who violates this section, 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 2.** Each calendar day on which a violation occurs shall be considered a separate offense.

**Section 3.** Violations of Article 4, Section 2 shall be disposed of by a civil penalty using the non-criminal method of disposition procedures contained in Section 21D of Chapter 40 of Massachusetts General Law without an enabling ordinance or by-law. The disposition of fines assessed shall be subject to Section 188 of Chapter 111.

**Section 4.** Violations of Article 4, Sections 1,3, and 4 may be disposed of by a civil penalty using the non-criminal method of disposition procedures contained in Section 21D of Chapter 40 of Massachusetts General Law.

**Section 5.** If an owner, manager or other person in control of a building, vehicle or vessel violates this Regulation repeatedly, demonstrating egregious noncompliance as defined by regulation of the Department of Public Health, the Board of Health may revoke or suspend any Board of Health-issued permit to operate and shall send notice of the revocation or suspension to the Department of Public Health.

## **ARTICLE 6. 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 or by filing a criminal complaint at the appropriate venue. Each day any violation exists shall be deemed to be a separate offense.

## **ARTICLE 7: ENFORCEMENT**

**Section 1.** Enforcement of this regulation shall be by the Mansfield Board of Health or its designated agent(s).

**Section 2.** Anyone wishing to register a complaint pursuant to the regulation may do so by contacting the Mansfield Board of Health or its designated agent(s) in writing, naming the alleged violation, location, date and time of the violation and the Board shall investigate.

**ARTICLE 8: SEVERABILITY**

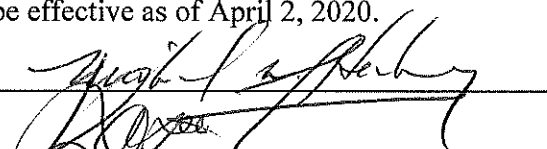
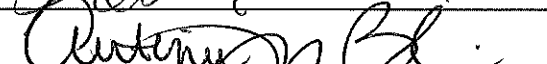
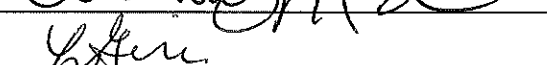


If any paragraph or provision of this regulation is found to be illegal or against public policy or unconstitutional, it shall not affect the legality of any remaining paragraphs or provisions.

**ARTICLE 9: CONFLICT WITH OTHER LAWS OR REGULATIONS**

Notwithstanding the provisions of Article 4 of this regulation, nothing in this regulation 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.

**ARTICLE 10: EFFECTIVE DATE**

This Regulation shall be effective as of April 2, 2020.

Michael W. Healey	
Kasia Frenette	
Antonia Blinn	
Leah Gillespie	
Graham Wilson	

A True Copy  
Attest;

