

SECTION 202-1 ~ PURPOSE

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In order to protect the health, safety and welfare of the public, including but not limited to its younger Population, by restricting the sale of and public exposure to tobacco cigarette products known to and found to be related to various and serious health cancer, this by-law shall limit conditions such as it and restrict the sale of and public exposure to tobacco cigarette products within the Town of Bellingham,

SECTION 202-2 – DEFINITIONS

a,
Tobacco - Any product containing, made, or derived from tobacco that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars, cigars, chewing tobacco, pipe tobacco or snuff. "Tobacco" does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco cessation product or for other medical purposes and which is being marketed or prescribed solely for and sold for the approved purpose,
b,

E-Cigarette ~ Any electronic nicotine delivery product composed of a mouthpiece, heating element, battery, and/or electronic circuits that provides a vapor of liquid to the user or relies on vaporization of solid nicotine or any liquid, with or without nicotine. This term shall include such

devices whether they are manufactured as e-cigarettes, e-pipes, hookah pens, or e-cigars, under any other product name.

c. Smoking - Lighting of, or having in one's possession any lighted cigarette, cigar, pipe or other tobacco product or non-tobacco product designed to be combusted and inhaled. The activation of or inhalation of vapor from an e-cigarette shall be considered smoking under this by-law,

a. Tobacco Vending Machine - A mechanical or electrical tobacco or e-cigarette product device which dispenses products by self-service, with or without assistance by a clerk or operator.

e,

Self-Service Display – Any display

f.

Minor - A person under twenty-one years of age,

play from which customers may select a tobacco or e-cigarette product without assistance from an employee or store personnel,

g.

Employee - An individual who performs services for an employer,
h,

Employer - An individual, partnership, association, organized group of individuals that utilizes the services of one (1) or more employees

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i.

Workplace - An indoor area, structure or facility or a portion thereof, at which more employees perform one or

a service for compensation for the employer, other enclosed Spaces

rented to or otherwise used by the public, where the employer has the right or authority to exercise control over the space,
5.

Food Service Establishment - An establishment having one or more seats at which

food is served to the public

k.
Health Care Institution - An individual, partnership, association, corporation or any person or group of persons or trust that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Health under M.G.L. c. 112, Health care

institution includes hospitals, clinics, health centers, pharmacies, drug stores and doctors' and dentists' offices.

l.
Entity - any Single individual, group of individuals, corporation, institution, employer, association, partnership, firm or any other legal entity whether public or private.

m.
Educational Institution - any public or private college, normal school, professional school, scientific or technical institution, university or other institution furnishing of higher education.
n.
Retail Establishment - any store that sells goods or articles of personal services to the public.

o.
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.

p.
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 tobacco or e-cigarette products or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb

or spice; provided, however, that no tobacco product shall be determined to

q.
Component part - Any element of a tobacco or e-cigarette products, including, but not limited to, the tobacco, filter and paper, but not including any constituent.

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

s.

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

t.

Smoke Constituent - Any chemical or chemical compound in mainstream or sidestream smoke that either transfers from any component of the tobacco cigarette product to the smoke or e-cigarette or that is formed by the combustion or heating of tobacco additives or other component of the tobacco or e-cigarette product.

u.

Flavored

tobacco

or e-cigarette

product - Any tobacco product or e-cigarette product that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indication made

or disseminated by the manufacturer of a tobacco or e-cigarette product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco or e-cigarette products, that such tobacco or

e-cigarette products has characterizing flavor shall constitute presumptive evidence that the tobacco or e-cigarette product is a flavored tobacco or e-cigarette product,

v. 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 and/or cigarette products and tobacco paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the min

imum legal sales age is prohib
at all times, and maintains a
ited
valid permit for the retail sale
of tobacco products as requir
to be issued by the Bellingha
ed
m Board of Health.

Ww.

Cigar - Any roll of tobacco that
is wra

pped in leaf tobacco or in any sub
tobacco with or without a
stance containing
tip or mouthpiece not otherw
ise defined as a cigarette
Massachusetts General Law,
under
Chapter 64C, Section 1, Paragr
aph 1,
SECTION 202-3 – REGULA
TED CONDUCT
a. Public Places

no person shall smoke in any
rooms or

interior areas in which the pub
includes, but is not limited
lic is permitted. This
to, any food service establish
ment, health care institution,
classroom, lecture hall, museum
, motion pictur

e theater, school, day care
area, waiting room, restroom
facility, reception
or lavatory, retail Store, ban
k (including ATMs), hair sal
or barber shops and meetings
ons
of government agencies open
to the public,
(2) Licensed Inns, Hotels,
Motels and Lodging Houses
in the Town of Bellingham
provide smoke-free common
must
areas. Licensed Inns, Hotels
and Motels in the Town
Bellingham must designate
of
100% of individual dwelling
units or rooms as non-smoki
ng.

(3) The use of tobacco or e-c
igarette products by minors
or school personnel is prohib
or upon any public sidewalk

ited in
or other public property loc
ated within four hundred (400
Bellingham School grounds,
) feet of

(4). Such signage shall be erected to notify the public of the smoking prohibition and the areas affected thereby,
b. Workplaces

(1)

Smoking in workplaces is prohibited.

(2) Notwithstanding subsection (1), smoking may be permitted in private residences; except during such time when the residence is utilized as part of a business as a group childcare center, school age child care center, school age day or overnight camp, or a facility licensed by the department of early education and care or as a health care related office or facility.

(3) Every establishment in which smoking is permitted pursuant to this by-law shall designate all positions where the employee's presence in an area in which smoking is permitted to be "smoking positions." The establishment shall notify every applicant for employment in a smoking position, in writing, that the position may cause continuous exposure to secondhand smoke, which may be hazardous to the employee's health.

(4) No establishment in which smoking is permitted pursuant to this by-law may require any employee to accept a designated smoking position as a condition of continued employment by the employer.

(5)

No

establishment

in which

smoking

is permitted

pursuant

to this by-law may discharge, refuse to hire, or otherwise discriminate against any employee or applicant for employment

not by reason of such person's unwillingness to be subjected to secondhand smoke exposure unless the employee has been hired for a designated smoking position and has been so notified in writing at the time of hiring.

(6)

It is the intent of this by-law that a designated smoking position

shall not be considered
suitable work for purposes of M.G.L. c. 151A, and that
an employee who is required to work in
a smoking position shall
have good cause attributable to the employer for leaving
work.

(7) E-cigarette Usage – Locations Prohibited (1)
In addition to the smoking prohibitions set
forth in this bylaw, the use of e-cigarettes is further
prohibited wherever smoking is prohibited
under M.G.L, Chapter 270, Section 22 (the "Smoke-Free
Workplace Law"), and in all locations
listed in Section 202-3 of this by-law. The Health Agent
and/or their designee(s) shall enforce
this section in accordance with Section 202-6.

SECTION 202-4 - POSTING REQUIREMENTS:

Every person having control of a premise where smoking
is prohibited by this by-law, shall
conspicuously display on

the premises, including the primary entrance
doorways, signs
reading "Smoking Prohibited By Law." Posting
of the international symbol for "No Smoking"
shall be deemed as compliance,

tobacco or e-cigarette products. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

h.

Required Signage

1.

2,

The owner or other person in charge of an entity authorized to sell tobacco or ecigarette products at retail shall conspicuously post signage provided by the Town of Bellingham that discloses current referral information about smoking cessation. The owner or other person in charge of an entity auth

orized to sell tobacco or ecigarette products at retail shall conspicuously post a sign Stating that "The sale of tobacco or e-cigarette products to someone born on or after 1/1/2004 is prohibited." The notice shall be no smaller than 8.5 inches by 11 inches and shall be posted conspicuously in the retail establishment in such a manner so that they 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 (4) feet or greater than eight (8) feet from the floor.

i. Tobacco Sales

1.

No Tobacco Product Sales Permit holder shall allow any employee to sell tobacco or ecigarette products until such employee has received a copy of this by-law and federal and state laws regarding the sale of tobacco and e-cigarette and signs a statement, a copy of which will be placed on file in the office of the employer, that they have read the regulation and applicable state and federal laws

2,

Identification: Each person selling or distributing tobacco products, as defined herein, 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 prior to 1/1/2004,

3.

All retail sales of tobacco or e-cigarette products within the Town of Bellingham must be face-to-face between

the seller and the buyer and occur at the permitted location.

4,

Original Cigar Package Price - All single cigars shall be sold for no less than two dollars and fifty cents (\$2.50). 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 \$5.00 or more. 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 Bellingham.

5.

No entity shall sell or distribute or cause to be sold or distributed any flavored tobacco or e-cigarette products, except in retail tobacco stores.

6.

No entity shall sell or distribute or cause to be sold or distributed blunt wraps.

SECTION 202-6 - VIOLATIONS AND PENALTIES

a. Any person who violates any provision of this by-law, or who smokes in any area in which a "Smoking Prohibited By Law" sign, or its equivalent, is conspicuously displayed, shall be punished by a fine of \$100 for each offense, For

a first violation of this section, subsequent Violation, the violator and for any may be afforded the option of enrollment in a smoking cessation/education program approved by the Health Agent or their designee(s). Proof of completion of such approved Program shall be in lieu of the fines set forth in this Section.

b.

Any person having control of any premises

or place in which smoking is prohibited allows a person to smoke or otherwise who violate this bylaw, shall be punished by a fine of \$100 for a first offense, \$250 for a second offense, and \$500 for a third or subsequent offense.

c.

Employees who violate any provision of Section 202-3(b) shall be punished by a fine of \$100 per day for each day of such violation

d. Any entity violating any other section of this by-law shall receive a fine of \$500.00 for each offense.

e.

Violations of this by-law may be dealt with in a noncriminal manner as provided in Part 1 Chapter 1 Article III Section 1-8 of the Town by-laws.

f.

Each calendar day an entity operates in violation of any provision of this by-law shall be deemed a separate violation,

g.

No provision, clause or sentence of this section of this by-law shall be interpreted as prohibiting the Bellingham Health Department or a Town department or Board from suspending, or revoking any license or permit issued by and within the jurisdiction of such departments or Board for repeated violations of this by-law.

SECTION 202-7 – SEVERABILITY

Each provision of this by-law shall be construed as Separate to the extent that if any section, sentence, clause or phrase is held to be invalid for any reason, the remainder of the by-law shall continue in full force and effect.

