necsema
New England Convenience Store & Energy Marketers Association

Amherst — Document Notes

11 DOCUMENTS · PUBLIC RECORDS PRODUCTION · REAL TRUTH MA · RETRIEVED OCTOBER 1, 2026

The substantive documents in Amherst's production, in the order the events occurred: what each one is, what it says, and a link to the file. The complete production is in the document library on the main Amherst page.

Nothing is characterized or interpreted. Where a document is ambiguous, it is quoted and left ambiguous.

---

1 The state model regulation and its policy checklist

Sample regulation · headed "FY 2025" · no author or issuing body named

> "3. No sales to the following persons (select one): Any person under the age of 21 (___) *Nicotine Free Generation (___)"

A fill-in-the-blanks regulation for a municipality to adopt, opening with an eighteen-item "Checklist for Policy Decisions." The birth-date restriction is item 3, an alternative to the age-21 rule. Its color key reads "GREEN highlighted sections are uniquely local policy decisions… to be made by the Board of Health," and a bracketed "[city/town]" marks the municipality name. No author, agency or organization is named.

2 Board of Health minutes, August 7, 2025

Board of Health minutes · August 7, 2025 · Risha Hess, Chair; Jack Jemsek; Premila Nair; Betsy Brooks; Kiko Malin, Public Health Director

> "R. Hess noted that the BOH wanted to hear young peoples' reaction to the Nicotine Free Generation regulation, since it would affect younger generations."

The first discussion of the policy in this production, under the agenda heading "Preparation for Fall Tobacco Public Hearing about possible Tobacco Free Generation Regulations." Consensus was to hold the hearing after the October 9 meeting. No vote on tobacco was taken; the meeting went mostly to kratom and a waste-hauler proposal.

3 The reopened Amherst draft

Draft regulation · header dated April 3, 2025; filename marks it reopened October 8, 2025

> "1. No person shall sell or provide a tobacco product, as defined herein, to a person born on or after January 1, 2005."

The working draft before the public hearing. The January 1, 2005 birth-date provision is already in it, with a standalone section on tobacco rolling papers that the later clean draft drops and a recital figure reading "7000,000" — an error a Board member catches in December.

4 Board of Health minutes, October 9, 2025

Board of Health minutes · October 9, 2025 · public comment from Alison Smith of the Global Kratom Coalition and Ken Elstein of the Belchertown Board of Health

> “The hearing will be in person rather than on Zoom so that the Board of Health can hear from local community members and will be less likely inundated with comments from regional and national advocates for one side or the other.”

Sets the hearing for October 30 and the Board’s reasons for meeting in person. The Director would reorder the regulation to match the state template and add the birth-date language. Elstein, a Board of Health member from another town, “offered to be a resource to the BOH on both Kratom and Nicotine Free Generation.”

5 NECSEMA letter opposing the regulation

Letter with attachments · October 22, 2025 · Peter A. Brennan to the Town Council and Board of Health, copied to Kiko Malin and the Town Manager

> “Such a policy undemocratically infringes on 21-plus adults in your community and fails to effectively impact youth access to age-restricted products.”

The trade association’s opposition, sent eight days before the hearing. Most of the file is attachments — research papers; the letter is about a tenth of it. It names Bellingham, Manchester-by-the-Sea, Brookline, Milton, Peabody, Westfield and Worcester, and quotes model language using a 2004 birth date, not the 2005 date Amherst was considering. NECSEMA funded the records requests behind this site.

6 The Chair’s script for the public hearing

Hearing script · for October 30, 2025 · no author named

> “Board members only need to listen to the public testimony. No BOH member will comment or ask any questions”

A running order for the Chair. It states that “[w]ith the exception of Title V regulations, it is not legally required for the Board of Health to hold a public hearing,” sets a written-testimony deadline of November 12, and provides for a vote at the next meeting with no further testimony. Its last third is a sixteen-point section headed “Helpful information for Boards of Health regarding public hearings,” generic rather than Amherst-specific, with no author or source named.

7 Minutes of the public hearing, October 30, 2025

Public hearing minutes · October 30, 2025, Bangs Community Center

> “Ken Elstein: supports NFG. Amherst would be the 14th municipality to pass NFG.”

Nine people are recorded testifying: eight in support, one opposed — Ben Brooks of Hollis, Maine, for Nouria Energy. Supporters include Maureen Buzby of Melrose, Heather Warner of the Hampshire Franklin Tobacco-Free Community Partnership, Ginny Chadwick, Ken Elstein of the Belchertown Board of Health, and Amherst residents; Cheryl Sbarra of the Massachusetts Association of Health Boards also spoke. The only recorded vote closed the hearing, 4–0; the regulation vote was postponed to December 4, two members being away in November.

8 Written testimony submitted by email

Compilation of written testimony · October 2025

> “I am against banning tobacco products to future generations. I am over 21 and use tobacco for offerings when I do my prayers.”

Seven submissions under two headings, “Support for regulations” and “Against regulations.” Five support, including letters from Heather Warner, Dr. Zachary Rich, Ken Elstein and Maureen Buzby; two oppose, both Amherst residents. The Elstein and Buzby entries give a name and affiliation but no text.

9 Board of Health minutes, December 4, 2025 — the adoption vote

Board of Health minutes · December 4, 2025 · also present: Cheryl Sbarra of the Massachusetts Association of Health Boards

> “R. Hess stated that the opportunity to comment in person on the NFG amendment was at the October 30, 2025 public hearing.”

Adopted 4–0 on a motion by J. Jemsek, seconded by B. Brooks. Three members of the public — Peter Brennan of NECSEMA, Stephen Helfer, and a Cambridge resident — objected that they could not comment before the vote. Rather than vote on the birth-date provision’s specifics, the Chair asked members to discuss the general concept and gauge consensus. P. Nair caught the “7000,000” misprint: “It should read 700,000.”

10 The final draft, six days after the vote

Final draft regulation · header dated December 10, 2025

> “Adopted by the above on December 4, 2025 at a posted Board of Health Meeting. A public hearing was held on October 30, 2025.”

The text after the vote, effective January 1, 2026. The “7000,000” error is corrected here and in no earlier draft. Two changes are not in the December 1 version: split penalties — state-law violations at $1,000/$2,000/$5,000, local-policy violations at $300/$600/$1,000 — and a new subsection letting the Board permanently revoke a retailer’s permit after three birth-date violations. Signature lines are still blank. The July 1, 2026 enforcement date the Director recommended on December 4 does not appear.

11 The records request, and the fee that narrowed it

Amended public records request · February 4, 2026 · NECSEMA to the Town Clerk and Records Access Officer

> “The original estimate of $18,787.50 was based on a search of “all Town official’s inboxes,” which yielded 89,723 emails.”

Amherst quoted $18,787.50 for the original December 22, 2025 request, including 747 hours of review at thirty seconds an email. This letter narrows the date range from three years to seven months, the custodians to four categories and the correspondents from more than twenty to ten, and tabulates nine other municipalities’ charges: Belchertown, Conway, Hopkinton and Yarmouth nothing; Mansfield $125; Bellingham $175; Dover $500; Manchester-by-the-Sea $612; South Hadley $625. The production that followed contains no email between Town officials and any outside party.