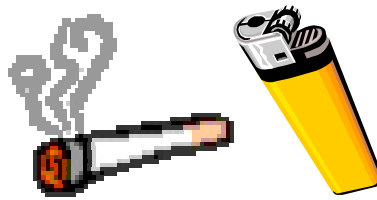


THE WEST BOYLSTON BOARD OF HEALTH

MIXTER MUNICIPAL OFFICE BUILDING
120 PRESCOTT STREET
WEST BOYLSTON, MASSACHUSETTS 01583



SMOKING REGULATIONS

Adopted January 26, 2000

1. TITLE: SMOKING REGULATIONS

2. STATEMENT OF PURPOSE:

Whereas conclusive evidence exists that tobacco smoking causes cancer (U.S. Surgeon General, 1986), respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat; and whereas the harmful effects of tobacco smoke are not confined to smokers but also can cause discomfort and illness to nonsmokers; therefore, the Town of West Boylston recognizes that the desire to breathe smoke-free air shall have priority over the desire to smoke and establishes this regulation to protect and improve the public health and welfare by prohibiting smoking in certain public places.

3. AUTHORITY:

This regulation is promulgated under the authority granted to the West Boylston Board of Health under Massachusetts General Laws Chapter 111, Section 31 that “Boards of Health may make reasonable health regulations.”

4. DEFINITIONS:

For the purposes of this regulation, the following definitions shall apply:

Bar: An establishment whose business is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is incidental to the consumption of such beverages.

Bar area of a restaurant: An area of a restaurant that is devoted to the serving of alcoholic beverages for consumption by guests or restaurant patrons on the premises and in which the serving of food is incidental to the consumption of such beverages.

Board: The Board of Health of the Town of West Boylston

Town: the Town of West Boylston

Health Care Facility: Any office or institution providing individual care or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions including but not limited to rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, offices of any surgeon, chiropractor, physical therapist, physician, dentist and all specialists within these professions.

Pouring License: A Section 12 License, approved by the Massachusetts Alcoholic Beverages Control Commission, which permits the sale of alcoholic beverages to be drunk on the premises.

Public Place: Any building or enclosed facility owned, operated, or leased by the town, including school buildings or grounds; any area open to the general public including, but not limited to:

- Auditoriums
- Automobile sales rooms, dealerships, repair shops, and service stations
- Bank and automatic teller machine (ATM) lobbies
- Clinics and other health care facilities
- Clubs, rooms, and halls when used for public meetings or gatherings
- Common areas of apartment buildings and condominiums
- Elevators accessible to the public
- Game arcades
- Gasoline stations
- Grocery stores, supermarkets, and convenience stores
- Hallways accessible to the public
- Hair salons, cosmetology establishments, tanning salons, and barbershops
- Health and fitness centers
- Indoor places of public worship
- Indoor sports arenas
- Indoor stairwells accessible to the public
- Laundromats
- Libraries
- Licensed child care locations, including child care homes during hours of operation
- Municipal buildings

- Museums and galleries
- Nursing homes
- Public Rest Rooms
- Public Transportation
- Retail Food Establishments
- Retail Stores
- Schools, school grounds, and other educational facilities
- Indoor theaters or other facilities used for a stage production, play, lecture, musical recital, or other similar performance, except when smoking is part of said performance
- Video rental stores

Public transportation vehicle: Buses, taxis, and other means of transportation available to the general public while such means of transportation is operating within the boundaries of the town including indoor platforms by which such means of transportation may be accessed.

Restaurant: Any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, and other eating establishment which gives or offers food for sale to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.

Retail store: Any establishment whose primary purpose is to sell or offer for sale to consumers, but not for resale, any goods, wares, merchandise, or articles, including supermarkets and grocery stores.

Seating capacity: The capacity designated on the occupancy permit of a food service establishment.

Smoking: Inhaling, exhaling, burning or carrying any lighted tobacco product.

Sports Arena: Any indoor sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar recreational facilities where members of the general public assemble; either to engage in physical exercise, participate in athletic competition, or witness sports events.

Ventilation System: A mechanical system to remove tobacco smoke and exchange inside air by bringing in fresh air. The ventilation rate in a designated smoking area shall conform to the current American Society of Heating, Refrigeration and Air Conditioning Engineers (A.S.H.R.A.E.) recommendation for a smoking lounge, a ventilation rate of 60 cubic feet per minute (CFM), per person based on occupancy of no more than seven (7) people per 100 square feet of net occupied space.

5. SMOKING PROHIBITED:

No person shall smoke nor shall any person be permitted to smoke in any of the following places as defined herein: restaurants, retail stores, supermarkets, grocery stores, health care facilities, polling places, public places, sports arenas or public transportation vehicles, except as otherwise provided in Section 8 of this regulation.

6. POSTING NOTICE OF PROHIBITION:

Every person having control of premises upon which smoking is prohibited by and under the authority of this Section 5 of this regulation shall conspicuously display upon the premises “No Smoking” signs or the international “*No Smoking*” symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it).

7. SMOKING WHERE NOTICE OF PROHIBITION POSTED:

No person shall smoke in any place in which a sign conforming to the requirements of Section 5 of this regulation is posted. No person shall remove a sign posted under the authority of Section 5 of this regulation.

8. EXCEPTIONS:

Notwithstanding the provisions of Section 5 of this regulation, smoking may be permitted in the following places and/or circumstances:

1. Private residences, except during use as a licensed childcare facility or health care facility
2. Hotel and motel rooms that are rented to guests that are designated as smoking rooms
3. Hotel and motel conference/meeting rooms and private and public assembly rooms while these places are being used for private functions.
4. Private or semiprivate rooms of nursing homes and long term care facilities, occupied by one (1) or more patients, all of whom are smokers who have requested in writing to be placed in rooms where smoking is permitted
5. The bar area of a restaurant that holds a pouring license, provided that as of

July 1, 2000 it is (A) separated from the non-smoking area of the restaurant by location in a separate room or by means of physical barriers that completely enclose the bar area of the restaurant, and is (B) served by a ventilation system that is separate from the ventilation system that serves the non-smoking portion of the restaurant so as not to interfere with the smoke-free air of the non-smoking area of the restaurant

6. Bars that permit smoking must conspicuously post signs approved and supplied by the Board at the entrance prohibiting persons under eighteen (18) years
7. Retail tobacco stores which are primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental
8. Restaurant staff shall not be required to work in the bar/lounge area or designated smoking section.

9. PENALTIES

Any person who violates this regulation may be subject to a fine in an amount of \$25 for a first offense, \$50 for a second offense and \$75 for a third or subsequent offense.

Enforcement Agents: The West Boylston Board of Health and its designees.

10. CONFLICT WITH OTHER LAWS OR REGULATIONS:

Notwithstanding the provisions of the foregoing, Section 8 of this regulation shall be deemed to neither amend nor 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.

11. 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.

12. VARIANCE PROCEDURE:

1. The variance procedure will be available only to establishments in existence as of the date of adoption of these regulations.
2. Written application must be made to the Board of Health for a variance from these regulations.
3. Every variance is subject to a public hearing at a regularly scheduled Board of Health meeting. Notice of hearing shall be posted in a local newspaper designated by the Board of Health.

4. By vote of a majority of its fully authorized membership, the Board of Health may vary the application of any provision of these regulations with respect to any particular case.
5. A copy of the variance granted under this section shall be available for public inspection on the premises for which it is issued.

13. EFFECTIVE DATE:

These regulations shall become effective on July 1, 2000

Valmore H Pruneau, Chair
N. Allen Harris
Robert Barrell
Celia Hartigan
Elizabeth J Dahlin