

§ 201-19. Prohibition of Smoking in Workplaces and Public Places [Added 9-24-2013, effective 10-4-2013]

- A. Statement of purpose. The purpose of this regulation is to protect the health of the employees and the general public in the Town of Northbridge.
- B. Authority. This regulation is promulgated pursuant to the authority granted to the Northbridge Board of Health by MGL Ch. 111 § 31 that Boards of Health may make reasonable health regulations. It is also promulgated pursuant to MGL Ch. 270 § 22(j) which states in part that “Nothing 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 ordinance or by-law or any fire, health or safety regulation. Nothing in this section shall preempt further limitation of smoking by the Commonwealth or any department, agency, political subdivision of the commonwealth.”
- C. Definitions. As used in this section, the following terms shall have the meanings indicated:

E-CIGARETTE: Any electronic nicotine delivery product 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 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.

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 Northbridge.

ENCLOSED: A space bounded by walls, with or without windows, continuous from floor to ceiling and enclosed by one or more doors, including but not limited to an office, function room or hallway.

MARIJUANA: All parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination.

MUNICIPAL BUILDING: Any building or facility owned, operated, leased, or occupied by the Town of Northbridge.

NICOTINE DELIVERY PRODUCT: Any manufactured article or product made wholly or in part of a tobacco substitute or containing nicotine that is expected or intended for human consumption, but not including a product approved by the United States Food and Drug Administration for sale as a tobacco cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose. Nicotine delivery products include, but are not limited to, e-cigarettes.

SMOKING (SMOKE): The lighting of a cigar, cigarette, pipe, tobacco product, marijuana, or nicotine delivery product or possessing a lighted cigar, cigarette, pipe, tobacco product, marijuana, or nicotine delivery product or any 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 MGL 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/TOBACCO PRODUCTS -- Cigarettes, cigars, chewing tobacco, pipe tobacco, snuff or tobacco in any of its forms

WORKPLACE: An indoor area, structure or facility or a portion thereof, at which one 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.

D. Smoking Prohibited.

- (1) Smoking is hereby prohibited in the Town of Northbridge in accordance with MGL Ch. 270 § 22, commonly known as the "Smoke-Free Workplace Law".
- (2) It shall be the responsibility of the employer to provide a smoke free environment for all employees working in an enclosed workplace.
- (3) Pursuant to MGL Ch. 270 § 22(j), smoking is also hereby prohibited in smoking bars and within twenty (20) feet of an entranceway accessible to the public. Exception: this shall not apply to a smoker transiting through such area nor to a smoker approaching an entranceway with the intention of extinguishing a tobacco product.
- (4) It is prohibited for any person to use tobacco or tobacco products including E-cigarettes, marijuana or any combustible substance or product designed to be burned and inhaled in any municipal building or on any municipal grounds, in parks, or in recreation areas open to the public.

E. Violations and Penalties

- (1) The Board of Health, its agent, or designee, may in accordance with MGL c. 40 § 21D and the Northbridge Code of Bylaws § 1-109A enforce these regulations through the disposition of noncriminal fines as set forth below:
 - (a) An owner, manager, or other person in control of a building, vehicle or vessel who violates these regulations shall be punished by a fine of:
 1. In the case of a first offense: a fine of \$100.
 2. In the case of second offense within 36 months of the first offense: a fine of \$200.
 3. In the case of a third or subsequent offense within 36 months of the second offense: a fine of \$300.
- (2) Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the chapter, regulations or permit violated shall constitute a separate offense.
- (3) The Board of Health may, at its discretion, file criminal complaints for violations of this regulation. Said complaints shall be filed with the District Court.

F. Enforcement. Enforcement of this regulation shall be implemented by the Board of Health of the Town of Northbridge or its designated agent(s).

G. Severability. Each of these regulations shall be construed as separate to the end that if any regulation or sentence, clause or phrase thereof shall be held invalid for any reason, the remainder of that regulation and all other regulations shall continue in full force and effect.

H. Effective date. These regulations shall become effective October 4, 2013.