

TOWN OF CHELMSFORD  
GENERAL PROVISION, CHAPTER 201  
BOARD OF HEALTH  
ARTICLE XII  
PROHIBITING SMOKING IN SMOKING BARS AND  
PROHIBITING HOOKAH/WATER PIPES  
(Adopted 4-1-2014, Amended 09/13/2021)

**§ 201.130 Purpose**

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

**§ 201.131 Authority**

This regulation is promulgated under the authority granted to the Chelmsford Board of Health pursuant to Massachusetts General Laws Chapter 111, Section 31 that “[b]oards of health may make reasonable health regulations.”<sup>1</sup> 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.”

**§ 201.132 Definitions**

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

**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 or under any other product name.

**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.

**Hookah pipe:** shall refer to a pipe with one or more long flexible tube(s) connected to a container where smoke is cooled by passing through water and may be referred as a Hookah pipe, water pipe, hubble-bubble, kalian, narghile or any derivative thereof.

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<sup>1</sup> This sentence is only applicable to Board of Health regulations. If enacting an ordinance or by-law, this section can begin with the second sentence, with the word “also” omitted.

Manager: an individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of the establishment.

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 Mass. 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".

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

### **§ 201.133 SMOKING PROHIBITED**

- (1) Hookah pipes (as defined herein) and the smoking thereof, is hereby prohibited in all establishments subject to Board of Health regulations in the Town of Chelmsford, as well as outdoor spaces accessory thereto.
- (2) Smoking is hereby prohibited in Chelmsford in accordance with M.G.L. Ch. 270, §22 and 22(j) (commonly known as the "Smoke-free Workplace Law").
- (3) Pursuant to M.G.L. Ch. 270, §22(j) smoking is also hereby prohibited in the Town of Chelmsford in Smoking Bars as defined in M.G.L. Ch.270, &22(a) and herein, also known as cigar bars and Hookah bars, and outdoor spaces accessory to any smoking bars.
- (4) The use of e-cigarettes is prohibited wherever smoking is prohibited per M.G.L. Ch. 270, §22 and Section 4(3) of this regulation.

### **§ 201.134 ENFORCEMENT**

- (1) Any person, or any owner, manager, or other person in control of a building or outdoor space, who violates these regulations or who allows, by action or inaction, any violation of these regulations shall be punished by a fine of:
  - i. \$100 for the first violation.
  - ii. \$200 for a second violation occurring within two (2) years of the date of the first offense; and
  - iii. \$300 for a third or subsequent violation occurring within two (2) years of the second violation.

- (2) Each calendar day on which a violation occurs shall be considered a separate offense.
- (3) This regulation shall be enforced by the Board of Health and its designees.
- (4) Violations of these regulations 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 without an enabling ordinance or by-law. The disposition of fines assessed shall be subject to Section 188 of Chapter 111.
- (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 the license to operate and shall send notice of the revocation or suspension to the Department of Public Health.
- (6) Any person may register a complaint to initiate an investigation and enforcement with the Board of Health, the local inspection department or the equivalent.

#### **§ 201.135 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.

#### **§ 201.136 CONFLICT WITH OTHER LAWS OR REGULATIONS**

Notwithstanding the provisions of Section 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.

#### **§ 201.137 EFFECTIVE DATE**

This regulation shall be effective as of April 1, 2014.

This regulation has been amended, voted on, and unanimously approved at a regularly scheduled Board of Health meeting on September 13, 2021, and will go into effect on September 13, 2021. The changes approved at the Board of Health's September 13, 2021, meeting consisted of administrative re-numbering, no substantive changes to the regulation were made at this time.