Regulation of the Adams Board of Health
Restricting the Sale of Tobacco Products

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TOWN CLERK
ADAMS, MASS

A. Statement of Purpose:

Conclusive evidence exists that tobacco smoking causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat.

The U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin, and the U.S. Surgeon General has found that nicotine exposure during adolescence, a critical window for brain development, may have lasting adverse consequences for brain development and that it is this addiction to nicotine that keeps youth smoking past adolescence.

The U.S. Food and Drug Administration and the Surgeon General have stated that *FLAVORED TOBACCO PRODUCTS* are considered to be "starter products" that help establish smoking habits that can lead to long-term addiction. The Surgeon General recognized, in his 2014 report, that a complementary strategy to assist in eradicating tobacco-related death and disease is for local governments to ban categories of products from retail sale.

The U.S. Food and Drug Administration and the Tobacco Products Scientific Advisory Committee concluded that menthol *FLAVORED TOBACCO PRODUCTS* increased nicotine dependence and decreased success in smoking cessation; and, Massachusetts students are known to use e-cigarettes, the Massachusetts Department of Environmental Protection has classified liquid nicotine in any amount as an "acutely hazardous waste" and data from the National Youth Tobacco Survey indicate that more than two-fifths of U.S. middle and high school smokers report using flavored little cigars or flavored cigarettes.

The sale of *TOBACCO PRODUCTS* is incompatible with the mission of *HEALTH CARE INSTITUTIONS* because these products are detrimental to the public health; therefore, it is the intention of the Adams Board of Health to regulate the sale of *TOBACCO PRODUCTS*.

This regulation will replace any and all existing tobacco regulations previously approved by the Adams Board of Health.

B. Authority:

This regulation is promulgated pursuant to the authority granted to the Adams Board of Health by Massachusetts General Laws Chapter 111, Section 31 which states "Boards of health may make reasonable health regulations".

C. Definitions:

For the purpose of this regulation, the following words shall have the following meanings:

ADULT-ONLY RETAIL TOBACCO STORE: An establishment that does not share space with another business, that has a separate entrance, that does not sell food or alcohol, that does not have a restaurant license or lottery license, whose only purpose is to sell or offer for retail sale *TOBACCO PRODUCTS* and/or *TOBACCO PRODUCT* paraphernalia, in which the entry of *PERSON* under the age of 21 is prohibited at all times, and which maintains a valid permit for the retail sale of *TOBACCO PRODUCTS* from the Adams

Board of Health and applicable state licenses. Entrance to the establishment must be secure so that access to the establishment is restricted to *EMPLOYEES* and to those 21 years or older. The establishment shall not allow anyone under the age of 21 to work at the establishment. As of the effective date of this regulation, no new *ADULT-ONLY RETAIL TOBACCO STORES* shall be located within twenty-five (25) feet of a retailer with a tobacco product sales permit.

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 regardless of any content.

BUSINESS AGENT: An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

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 a *TOBACCO PRODUCT* or *COMPONENT PART* thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb or spice; provided, however, that no *TOBACCO PRODUCT* shall be determined to have a *CHARACTERIZING FLAVOR* solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the *DISTINGUISHABLE* taste or aroma of the product.

CIGAR: Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1.

COMMERCIAL ROLL-YOUR-OWN (RYO) MACHINE: A mechanical device made available for use (including to an individual who produces *CIGARS*, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the individual's own personal consumption or use) that is capable of making cigarettes, *CIGARS* or other *TOBACCO PRODUCTS*. RYO machines located in private homes used for solely personal consumption are not *COMMERCIAL RYO MACHINES*.

COMPONENT PART: Any element of a *TOBACCO PRODUCT,* including, but not limited to, the tobacco, filter and paper, but not including any *CONSTITUENT*.

CONSTITUENT: Any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a *TOBACCO PRODUCT* during the processing, manufacturing or packaging of the *TOBACCO PRODUCT*. Such term shall include a *SMOKE CONSTITUENT*.

COUPON: Any card, paper, note, form, statement, ticket or other communication distributed for commercial or promotional purposes to be later surrendered by the bearer so as to receive an article, service or accommodation without charge or at a discount price.

DISTINGUISHABLE: Perceivable by either the sense of smell or taste.

EDUCATIONAL INSTITUTION: Any public or private college, *SCHOOL*, professional *SCHOOL*, scientific or technical institution, university or other institution furnishing a program of higher education.

EMPLOYEE: Any individual who performs services for an *EMPLOYER*.

EMPLOYER: Any individual, partnership, association, corporation, trust or other organized group of individuals that uses the services of one (1) or more *EMPLOYEES*.

ELECTRONIC NICOTINE DELIVERY SYSTEM: An electronic device, whether for 1-time use or reusable, that can be used to deliver nicotine or another substance to a *PERSON* inhaling from the device including, but not limited to, electronic cigarettes, electronic cigars, electronic cigarillos, electronic pipes, vaping pens, hookah pens and other similar devices that rely on vaporization or aerosolization; provided, however, that *ELECTRONIC NICOTINE DELIVERY SYSTEM* shall also include any noncombustible liquid or gel that is manufactured into a finished product for use in such electronic device; provided further, that *ELECTRONIC NICOTINE DELIVERY SYSTEM* shall also include any component, part or accessory of a device used during the operation of the device even if the part or accessory was sold separately; provided further, that *ELECTRONIC NICOTINE DELIVERY SYSTEM* shall not include a product that has been approved by the United States Food and Drug Administration for the sale of or use as a tobacco cessation product or for other medical purposes and is marketed and sold or prescribed exclusively for that approved purpose.

FLAVORED TOBACCO PRODUCT: Any *TOBACCO PRODUCT* or *COMPONENT PART* thereof that contains a *CONSTITUENT* that has or produces a *CHARACTERIZING FLAVOR*. A public statement, claim or indicia made or disseminated by the manufacturer of a *TOBACCO PRODUCT,* or by any *PERSON* authorized or permitted by the manufacturer to make or disseminate public statements concerning such *TOBACCO PRODUCT,* that such *TOBACCO PRODUCT* has or produces a *CHARACTERIZING FLAVOR* shall constitute presumptive evidence that the *TOBACCO PRODUCT* is a *FLAVORED TOBACCO PRODUCT*.

FLAVORED TOBACCO PRODUCT ENHANCER: Any product designed, manufactured, produced, marketed, or sold to produce a *CHARACTERIZING FLAVOR* when added to any vapor product or *TOBACCO PRODUCT* as defined below.

HEALTH CARE INSTITUTION: An individual, partnership, association, corporation or trust or any *PERSON* or group of *PERSONS* that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under M.G.L. c. 112 or a retail establishment that provides pharmaceutical goods and services and is subject to the provisions of 247 CMR 6.00. *HEALTH CARE INSTITUTIONS* include, but are not limited to, hospitals, clinics, health centers, pharmacies, drug stores, doctor offices, optician/optometrist offices and dentist offices.

LIQUID NICOTINE CONTAINER: A bottle or other vessel which contains nicotine in liquid or gel form, whether or not combined with another substance or substances, for use in a *TOBACCO PRODUCT*. The term does not include a container containing nicotine in a cartridge that is sold, marketed, or intended for use in a *TOBACCO PRODUCT*, if the cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer or retailer.

LISTED OR NON-DISCOUNTED PRICE: The higher of the price listed for a *TOBACCO PRODUCT* on its package or the price listed on any related shelving, posting, advertising or display at the place where the *TOBACCO PRODUCT* is sold or offered for sale plus all applicable taxes if such taxes are not included in the state price, and before the application of any discounts or *COUPONS*.

MINIMUM LEGAL SALES AGE (MLSA): The age an individual must be before that individual can be sold a *TOBACCO PRODUCT* in the municipality.

PERMIT HOLDER: Any *PERSON* engaged in the sale or distribution of *TOBACCO PRODUCTS* who applies for and receives a tobacco product sales permit or any *PERSON* who is required to apply for a Tobacco Product Sales Permit pursuant to these regulations, or his or her *BUSINESS AGENT.*

PERSON: Any individual, firm, partnership, association, corporation, company or organization of any kind, including but not limited to, an owner, operator, manager, proprietor or *PERSON* in charge of any establishment, business or retail store.

SELF-SERVICE DISPLAY: Any display from which customers may select a *TOBACCO PRODUCT*, without assistance from an *EMPLOYEE* or store personnel.

SCHOOLS: Public or private elementary or secondary schools.

SMOKE CONSTITUENT: Any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the *TOBACCO PRODUCT* to the smoke or that is formed by the combustion or heating of tobacco, additives or other component of the *TOBACCO PRODUCT.*

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".

TOBACCO PRODUCT: A product containing or made or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means including, but not limited to, cigarettes, *CIGARS*, little cigars, chewing tobacco, pipe tobacco, snuff, electronic cigarettes, electronic cigars, electronic pipes, *ELECTRONIC NICOTINE DELIVERY SYSTEMS* or any other similar products that rely on vaporization or aerosolization regardless of nicotine content in the product; provided, however, that *TOBACCO PRODUCT* shall also include any component, part or accessory of a *TOBACCO PRODUCT*; and provided further, that *TOBACCO PRODUCT* shall not include a product that has been approved by the United States Food and Drug Administration for the sale of or use as a tobacco cessation product or for other medical purposes and is marketed and sold or prescribed exclusively for the approved purpose.

TOBACCO SALES CERTIFICATION TRAINING: A certification training program, approved by the Adams Board of Health, that requires a training which must be successfully completed with proof of a certificate or other means by all *TOBACCO PRODUCT SALES CLERKS* engaged in the sale or distribution of *TOBACCO PRODUCTS* directly to the consumer. – see appendix A for approved certification training programs.

TOBACCO SALES CLERK: An individual, *EMPLOYER, EMPLOYEE,* retail store manager, the owner or operator of any establishment engaged in the sale or distribution of *TOBACCO PRODUCTS* directly to consumers who can produce documentation that he/she maintains a valid tobacco product sales certification.

VENDING MACHINE: Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes cigarettes or any other *TOBACCO PRODUCTS.*

D. **Tobacco Sales to *PERSONS* Under the *MINIMUM LEGAL SALES AGE* Prohibited:**

1. No *PERSON* shall sell or provide a *TOBACCO PRODUCT*, to a *PERSON* under the *MINIMUM LEGAL SALES AGE*. The *MINIMUM LEGAL SALES AGE* (MLSA) in Adams is twenty-one (21).

2. Required Signage: All signage shall meet the requirements of relevant and related Massachusetts statutes and regulations, and Adams Zoning bylaws.

3. Identification: Each *PERSON* selling or distributing *TOBACCO PRODUCTS*, shall verify the age of the purchaser by means of a valid government-issued photographic identification containing the bearer's date of birth. Verification is required for any *PERSON* under the age of 27.

4. All retail sales of *TOBACCO PRODUCTS*, must be face-to-face between the seller and the buyer and occur at the permitted location.

E. **Tobacco Product Sales Permit:**

1. No *PERSON* shall sell or otherwise distribute *TOBACCO PRODUCTS*, within the Town of Adams without first obtaining a Tobacco Product Sales Permit issued annually by the Adams Board of Health. Only owners of establishments with a permanent, non-mobile location in Adams are eligible to apply for a permit and sell *TOBACCO PRODUCTS*, at the specified location in Adams.

2. As part of the Tobacco Product Sales Permit application process, the applicant will be provided with the Adams regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all *EMPLOYEES* who will be responsible for *TOBACCO PRODUCT* sales regarding federal, state and local laws about the sale of tobacco and this regulation.

3. Each applicant who sells *TOBACCO PRODUCTS* is required to provide proof of current Tobacco Retailer Licenses issued by the Massachusetts Department of Revenue, when required by state law, before a Tobacco Product Sales Permit can be issued.

4. A separate permit, displayed conspicuously, is required for each retail establishment selling *TOBACCO PRODUCTS*. The fee shall be determined by the Adams Board of Health annually.

5. A Tobacco Product Sales Permit is non-transferable. A new owner of an establishment that sells *TOBACCO PRODUCTS*, must apply for a new permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous *PERMIT HOLDER* are satisfied in full.

6. Issuance of a Tobacco Product Sales Permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation.

7. A Tobacco Product Sales Permit will not be renewed if the *PERMIT HOLDER* has failed to pay all fines issued and the time period to appeal the fines has expired and/or the *PERMIT HOLDER* has not satisfied any outstanding permit suspensions.

8. A Tobacco Product Sales Permit will not be renewed if the *PERMIT HOLDER* has sold a *TOBACCO PRODUCT* to a *PERSON* under the *MINIMUM LEGAL SALES AGE* of 21 (§D.1) three times within the

previous permit year and the time period to appeal has expired. The violator may request a hearing in accordance with subsection 4 of the Violations section P.

9. Maximum Number of Tobacco Product Sales Permits.

a. At any given time, there shall be no more than twelve (12) Tobacco Product Sales Permits issued in Adams. No permit renewal will be denied based on the requirements of this subsection except any *PERMIT HOLDER* who has failed to renew his or her permit within thirty (30) days of expiration will be treated as a first-time permit applicant. As of November 1, 2021, if there is an unused permit, that one permit will no longer be available to a new applicant. As of November 1, 2022, if there is an unused permit, that one permit will no longer be available to a new applicant. New applicants for permits who are applying at a time when the maximum number of permits have been issued will be placed on a waiting list and will be eligible to apply for a permit on a "first-come, first-served" basis as issued permits are either not renewed, revoked, or are returned to the Board of Health. The Board of Health reserves the right to revisit the cap from time to time depending on, but not limited to, changes in town composition (e.g. population) and/or by application from an establishment that would provide benefits potentially outweighing public health concerns. In such case, the Board of Health will revise the regulations accordingly, within the guidelines of MGL c.111 §31, associated code (CMR) and pertinent future legislation.

b. As of the effective date of this Regulation, any permit not renewed either because a retailer no longer sells *TOBACCO PRODUCTS*, or because a retailer closes the retail business, shall be returned to the Adams Board of Health and shall be permanently retired by the Board of Health and the total allowable number of Tobacco Product Sales Permits under paragraph (a) shall be reduced by the number of the retired permits until it reaches nine (9) Tobacco Product Sales Permits.

c. At any given time, there shall be no more than four (4) permits issued to *ADULT-ONLY RETAIL TOBACCO STORES.*

d. A Tobacco Product Sales Permit shall not be issued to any new applicant for a retail location within five hundred (500) feet of a public or private elementary or secondary school as measured by a straight line from the nearest point of the property line of the *SCHOOL* to the nearest point of the property line of the site of the applicant's business premises. Nor shall a Tobacco Product Sales Permit be issued to any new applicant for a retail location with five hundred (500) feet from another tobacco vendor, sports/athletic field, park, or playground.

e. Applicants who purchase or acquire an existing business that holds a valid Tobacco Product Sales Permit at the time of the sale or acquisition of said business must apply within thirty (30) days subsequent of such sale or acquisition for the permit held by the current *PERMIT HOLDER* if the Applicant intends to sell *TOBACCO PRODUCTS.*

F. ***CIGAR* Sales Regulated:**

1. No *PERSON* shall sell or distribute or cause to be sold or distributed a single *CIGAR* unless such *CIGAR* is priced for retail sale at two dollars and fifty cents ($2.50) or more.

2. 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 five dollars ($5.00) or more and cannot be linked to the sale of a non-tobacco product.

3. 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 Adams.

4. The Adams Board of Health may adjust from time to time the amounts specified in this Section to reflect changes in the applicable Consumer Price Index by amendment of this regulation.

G. **Free Distribution and *COUPON* Redemption:** No *PERSON* shall:

1. Distribute or cause to be distributed, any free samples of *TOBACCO PRODUCTS*;

2. Accept or redeem, offer to accept or redeem, or cause or hire any *PERSON* to accept or redeem or offer to accept or redeem any *COUPON* that provides any *TOBACCO PRODUCT*, without charge or for less than the *LISTED OR NON-DISCOUNTED PRICE*; or

3. Sell a *TOBACCO PRODUCT*, to consumers through any multi-pack discounts (e.g., "buy-two-get-one-free") or otherwise provide or distribute to consumers any *TOBACCO PRODUCT*, without charge or for less than the *LISTED OR NON-DISCOUNTED PRICE* in exchange for the purchase of any other *TOBACCO PRODUCT*.

H. **Prohibition of the sale of *FLAVORED TOBACCO PRODUCTS*:**

1. No *PERSON*, as defined in these regulations, shall possess, hold, keep, sell, or distribute or cause to be possessed, held, kept, sold, or distributed any *FLAVORED TOBACCO PRODUCT*, as defined herein, or any *FLAVORED TOBACCO PRODUCT ENHANCER*, as defined herein, except in smoking bars for on-site consumption only. Per 105 CMR 665.010, retailers must obtain from a manufacturer documentation certifying that those products, sold by the retailer, do not meet the definition of a *FLAVORED TOBACCO PRODUCT* or *TOBACCO PRODUCT FLAVOR ENHANCER*. For the purpose of this regulation, *FLAVORED TOBACCO PRODUCT ENHANCERS* includes but is not limited to flavored rolling papers, flavored hemp wraps, and flavored tinctures or infusions for flavoring rolling papers, hemp wraps, etc.

2. This provision was adopted April 14, 2021, with effective date May 14, 2021.

I. **Out-of-Package Sales:**

1. The sale or distribution of *TOBACCO PRODUCTS*, in any form other than an original factory-wrapped package is prohibited, including the repackaging or dispensing of any *TOBACCO PRODUCT*, for retail sale. No *PERSON* may sell or cause to be sold or distribute or cause to be distributed any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.

2. All *PERMIT HOLDERS* must comply with 940 CMR 21.05 which reads: "It shall be an unfair or deceptive act or practice for any *PERSON* to sell or distribute nicotine in a liquid or gel substance in Massachusetts after March 15, 2016 unless the liquid or gel product is contained in a child-resistant package that, at a minimum, meets the standard for special packaging as set forth in 15 U.S. C.§§1471 through 1476 and 16 CFR §1700 et. Seq."

3. No *PERMIT HOLDER* shall refill a cartridge that is prefilled and sealed by the manufacturer and not intended to be opened by the consumer or retailer.

J. ***SELF-SERVICE DISPLAYS*:**

All *SELF-SERVICE DISPLAYS* of *TOBACCO PRODUCTS* are prohibited. All humidors including, but not limited to, walk-in humidors must be locked and secured to prevent access, other than the authorized seller.

K. ***VENDING MACHINES*:**

All *VENDING MACHINES* containing *TOBACCO PRODUCTS*, are prohibited.

L. ***COMMERCIAL ROLL-YOUR-OWN MACHINES*:**

All *COMMERCIAL ROLL-YOUR-OWN MACHINES* are prohibited.

M. **Prohibition of the Sale of *TOBACCO PRODUCTS* by *HEALTH CARE INSTITUTIONS*:**

No *HEALTH CARE INSTITUTION* located in Adams shall sell or cause to be sold *TOBACCO PRODUCTS*. No retail establishment that operates or has a *HEALTH CARE INSTITUTION* within it, such as a pharmacy, optician/optometrist or drug store, shall sell or cause to be sold *TOBACCO PRODUCTS*.

N. **Prohibition of the Sale of *TOBACCO PRODUCTS* by *EDUCATIONAL INSTITUTIONS*:**

No *EDUCATIONAL INSTITUTION* located in Adams shall sell or cause to be sold *TOBACCO PRODUCTS*. This includes all *EDUCATIONAL INSTITUTIONS* as well as any retail establishments that operate on the property of an *EDUCATIONAL INSTITUTION*.

O. **Incorporation of State Laws and State Regulations:**

1. The sale or distribution of *TOBACCO PRODUCTS*, must comply with those provisions found at M.G.L. Ch. 270, §§6, 6A, 7, 22 and M.G.L. Ch. 112, §61A.

2. The sale or distribution of *TOBACCO PRODUCTS*, must comply with those provisions found at 940 CMR 21.00 ("Sale and Distribution of Cigarettes, Smokeless Tobacco Products, and Electronic Smoking Devices in Massachusetts") and 940 CMR 22.00 ("Sale and Distribution of Cigars in Massachusetts").

P. **Certification:**

1. No *PERSON* shall sell any *TOBACCO PRODUCT* without successfully completing an approved *TOBACCO SALES CERTIFICATION TRAINING* and obtaining confirmation of certification. The definition of an approved retailer training program is defined in section C of this regulation.

2. New *EMPLOYEES* have thirty (30) consecutive days to successfully complete an approved tobacco product sales certification training. *EMPLOYERS* must provide documentation confirming new hire if requested by the Board of Health.

Q. **Violations:**

1. It shall be the responsibility of any person to ensure compliance with all sections of this regulation pertaining to his or her distribution of *TOBACCO PRODUCTS*. If an inspection reveals a retail establishment, and/or his or her business agent does not comply with this regulation, the retail establishment

shall be ordered to comply with the violated provision of this regulation. In addition to the correction order, the following fines and actions apply against any person who violates this regulation:

a. In the case of a first violation, a fine of $1,000 shall be imposed.

b. In the case of a second violation within a period of 36 months from the first violation, a fine of $2,000 shall be imposed; and a prohibition on the sale of tobacco products may be imposed for at least one day and up to seven consecutive business days.

c. In the case of a third violation within a period of 36 months from the first violation or additional violations during that time period, a fine of $5,000 shall be imposed; and a prohibition on the sale of tobacco products may be imposed for at least seven consecutive business days and up to 30 consecutive business days.

2. Failure to cooperate with inspections pursuant to this regulation shall result in the prohibition on the sale of tobacco products for up to 30 consecutive business days.

3. Consistent with this regulation, a retail establishment shall be provided notice of the intent to prohibit the sale of tobacco products at or by the retail establishment. The notice shall contain the reasons therefor and establish a time and date for a hearing. The retail establishment or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the decision regarding the retail establishment's prohibition from selling tobacco products and the reasons therefor in writing. After a hearing, the retail establishment may be prohibited from selling tobacco products upon a finding that a violation for which such prohibition is applicable occurred. All tobacco products shall be removed from the retail establishment upon an indefinite suspension from operating as a retail establishment. Failure to remove all tobacco products shall constitute a separate violation of this regulation.

Separate violations: Each day any violation of this regulation exists shall be deemed to be a separate offense.

R. **Non-Criminal Disposition:**

a. Whoever violates any provision of this regulation may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D.

b. Violators of this regulation who are the property owners where the business is located and where the violation occurred could, alternatively, be penalized by the non-criminal method of disposition as provided in Chapter 40U of the Massachusetts General Laws, if applicable.

S. **Separate Violations:** Each day any violation exists shall be deemed to be a separate offense.

T. **Enforcement:**

Enforcement of this regulation shall be by the Adams Board of Health or its designated agent(s). Any resident who desires to register a complaint pursuant to the regulation may do so by contacting the Adams Board of Health or its designated agent(s) and the Board's agent shall investigate.

U. **Severability:**

If any provision of this regulation is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

V. **History of the Regulations:**

1. On September 30, 2020, the Board of Health adopted the original set of regulations "Regulation of the Adams Board of Health Restricting the sale of tobacco products," with effective date November 1, 2020.
Board of Health: David B. Rhoads, PhD, Chair
Peter Hoyt, PhD, Vice-Chair
Laura Grandchamp, DVM, Member.

2. On April 14, 2021, the Board of Health adopted "Prohibition of the sale of flavored tobacco products," inserted as Paragraph H, with an effective date of May 14, 2021. Previous Paragraph H "Out-of-package sales" and subsequent paragraphs were re-lettered accordingly.

W. **Signatures:**

David B. Rhoads, PhD — Date: 26 April 2021

Peter Hoyt, PhD — Date: 4/26/2021

Laura Grandchamp, DVM — Date: 4/26/2021

Date Regulation approved: September 30, 2020

Town Clerk Attested Date:

Date of Published Notice of Public Hearing: September 23, 2020

Date of Summary Regulation Published in Public Newspaper:

Date Submitted to MA DEP Central Registry:

Appendix A: Approved Tobacco Sales Certification Training Programs

1. Tri-Town Health Department's Tobacco Retailer Certification Program – Approved 6/3/2020