

TOWN OF NANTUCKET BOARD OF HEALTH REGULATION

LOCAL REGULATION 73.00

ADOPTED MAY 21, 2015

**PROHIBITION OF SMOKING ON TOWN OF NANTUCKET OWNED RECREATION
AREAS**

73.01 Purpose.

Whereas, there exists conclusive evidence that tobacco, nicotine and marijuana products cause cancer, respiratory disease, various cardiac problems, allergies and irritations to the eyes, oral and nasal cavities and are hazardous to persons with compromised immune systems, children and pregnant women. This has been proven for users, non users and employees who are exposed to such products; and whereas the Town of Nantucket's Board of Health has engaged in continuing efforts to keep Nantucket beaches and recreation areas clean, so as to promote the health, safety, and enjoyment of all individuals.

In light of these concerns and to protect public health, safety and welfare, the Town of Nantucket Board of Health is hereby enacting this regulation to prohibit smoking and the use of tobacco products on all Town-owned recreation areas, including all public beaches, playgrounds, parks, and adjacent parking areas.

73.02 Authority.

This

Regulation is adopted by the Town of Nantucket Board of Health as authorized by Massachusetts General Laws, Chapter 111, Section 31.

73.03 Definitions.

Marijuana: As defined in Massachusetts General Laws, Chapter 94C, Section 1.

Marijuana Delivery product: Any device or material of any kind used to inhale marijuana, including but not limited to the items defined as “drug paraphernalia” in Massachusetts General Laws, Chapter 94C, Section 1(12).

Nicotine Delivery product: Any device or material of any kind used to inhale nicotine, including but not limited to e-cigarettes, e-cigars and e-pipes.

Recreation Area: Any property which is owned by the Town of Nantucket and which is open to use by the public for recreational purposes, including but not limited to beaches, parks, playgrounds and all parking areas and structures used in connection therewith.

Smoking: The lighting of, or having in one’s possession any lighted cigarette, cigar, pipe, marijuana delivery product, tobacco product, or any other matter or substance that contains tobacco, nicotine or marijuana. The term smoking shall also include using or having in one’s possession and activated nicotine delivery product.

Tobacco Product: Any product containing tobacco, including but not limited to cigarettes, cigars, pipes, chewing tobacco and snuff.

73.04 Smoking and Use of Tobacco products Prohibited.

Smoking and the use of any tobacco product on or in any recreation area is prohibited, unless the person is sitting in a parked motor vehicle.

73.05 Enforcement.

Non-Criminal Disposition

This regulation may be enforced by the Town of Nantucket enforcement personnel, including but not limited to, seasonal enforcement officers, police, health, marine, and natural resources individuals.

Whoever violates any provision of this regulation may be penalized by a noncriminal disposition process as provided in G.L. c40, subsection 21D and the Town’s noncriminal disposition by-law. If noncriminal disposition is elected,

then any person who violates any provision of this regulation shall be subject to the following penalties;

First offense:	verbal warning
Second offense:	\$100 fine
Third offense:	\$200 fine
Fourth or Subsequent offense:	\$300 fine

Criminal Disposition

Whoever violates any provision of this regulation may be penalized by indictment or on complaint brought in district court. Except as may be otherwise provided by law and as the district court may see fit to impose the maximum penalty for each violation or offense shall be three hundred dollars.

Permit Suspension or Revocation

The Town may suspend or revoke any Town of Nantucket Beach Permit issued for any violation of this regulation. Such revocation or suspension may take place after a hearing held by the Board of Health of which the permit holder is given seven (7) days written notice. Such notice shall be deemed given upon mailing same, certified mail, return receipt requested, to the address listed on the permit application.

Other

The Board of Health may enforce this regulation or enjoin violations thereof through any lawful process, and the election of one remedy by the Board of Health shall not preclude enforcement through any other lawful means.

Any penalty imposed under this regulation for the possession of marijuana shall be in addition to any civil penalty that may be imposed pursuant to Massachusetts General Laws, Chapter 94C, section 32L.

73.06 Effective date.

This Regulation shall be effective May 31st through September 30th of each year.

Approval date _____

Malcolm MacNab MD PHD – Chairman

James Cooper – Vice Chairman

Helene Weld RN

Stephen Visco

Rick Atherton