



Programs & Services Committee Agenda

City of Newton In City Council

Thursday, June 20, 2024

7:00 PM
Room 211

The Programs & Services Committee will hold this meeting as a hybrid meeting on Thursday, June 20, 2024 at 7:00 PM that the public may access in-person or virtually via Zoom. To attend this meeting via Zoom use this link: <https://newtonma-gov.zoom.us/j/85906658763> or call 1-646-558-8656 and use the Meeting ID: 859 0665 8763.

Items Scheduled for Discussion:

- #149-24** **Ordinance change to prohibit the sale of tobacco in Newton to anyone born on or after 1/1/2000**
COUNCILORS ALBRIGHT, KELLEY, HUMPHREY, KRINTZMAN, DOWNS, LUCAS, BIXBY, AND DANBERG requesting a discussion and amendment to Chapter 20 Section 3 or sections as appropriate to protect the health, safety, and welfare of the young people in Newton by creating a prohibition of sales such that No person, firm, corporation, establishment, or agency shall sell tobacco or e-cigarette products to anyone born on or after 1/1/2000.
Programs & Services Held 7-0 on 04/10/24
- #264-24** **Discussion regarding on-demand transportation system**
HER HONOR THE MAYOR requesting discussion of the new City-wide on-demand transportation system.
- #46-24** **Discussion on the Ban of Single Use Plastic Water Bottles in Newton**
COUNCILORS DANBERG, ALBRIGHT, KALIS, WRIGHT, DOWNS, AND GROSSMAN requesting discussion and possible ordinance change regarding the ban on the purchase or sale of single use plastic water bottles in Newton.

Respectfully Submitted,
Josh Krantzman, Chair

The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the City of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: jfairley@newtonma.gov or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.



Newton City Councilor Susan Albright

Date: June 14, 2024

To: Programs & Services Committee

From: Susan Albright, Ward 2 At-Large Councilor

Re: Additional Communities Adopting Ordinances/By-Laws about Nicotine-Free Generation

Dear Programs & Services Committee,

On April 10th the Programs & Services Committee held an initial discussion on adopting an ordinance that would prohibit the sale of tobacco products to anyone born after 1/1/2004. Since that meeting a number of communities have passed similar ordinances/by-laws. These communities include Winchester, Malden, Stoneham, Wakefield, Melrose, and Reading. I hope this can better inform your discussion when this is discussed on June 20th.

Respectfully Submitted,

Susan Albright, Ward 2 At-Large Councilor

Chapter 20

MISCELLANEOUS ORDINANCES*

- Art. I Smoking, Tobacco Products, Nicotine Delivery Products, and Alcoholic Beverages, §§ 20-1—20-12**
- Art. II. Noise, §§ 20-13—20-22**
- Art. III. Light Trespass, §§ 20-23—20-49**
- Art. IV. Miscellaneous Offenses, §§ 20-50—20-70**
- Art. V. Hawkers, Peddlers, Food Trucks and Canvassers, §§ 20-71—20-106**
Div. 1. Generally, §§ 20-71—20-80
Div. 2. Licenses for Hawkers and Peddlers of Food, §§ 20-81—20-87
Div. 3. Food Trucks, §§ 20-88—20-94
Div. 4. Solicitors and Canvassers, §§ 20-95—20-106
- Art. VI. Secondhand and Junk Dealers, §§ 20-107—20-139**
Div. 1. Generally, §§ 20-107—20-122
Div. 2. Licenses, §§ 20-123—20-139
- Art. VII. Storage of Inflammables, §§ 20-140—20-147**
- Art. VIII. Lodging Houses, §§20-148 – 20-159**
Div. 1. Generally, §§20-148 – 20-152
Div. 2. Licenses, §§20-153 – 20-159
- Art. IX Short Term Rentals, §§20-160 – 20-168**

ARTICLE I.

SMOKING, TOBACCO PRODUCTS AND ALCOHOLIC BEVERAGES

Sec. 20-1. Distribution of tobacco products and nicotine delivery products.

No person in the business of selling or otherwise distributing cigarettes or other tobacco or smoking products or nicotine delivery products for commercial purposes, or any agent or employee of any such person, shall in the course of such business distribute any cigarettes or other tobacco or smoking products or nicotine delivery products free to any person on any public street or sidewalk, or in any public park or playground, or any other public ground, or in any public building.

Any person who violates the provisions of this section shall be punished by a fine of not less than twenty (\$20.00) nor more than fifty (\$50.00) dollars for each violation. Every hour or part thereof in which a person engages in the conduct prohibited by this section shall constitute a single and separate violation. (Ord. No. R-224, 3-1-82; Rev. Ords. 1995, § 20-18; Ord. No. X-59, 10-7-03)

Sec. 20-2. Sale of tobacco products and nicotine delivery products.

(a) *Declaration of findings and policy:* Whereas there exists conclusive evidence that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose, and throat; ~~and, whereas at least one half of all smokers begin smoking before the age of twenty one (21); and, whereas an estimated three thousand (3,000) minors begin smoking every day in the United States;~~ and, whereas nicotine in tobacco has been found by the Surgeon General to be a powerfully addictive drug; and, whereas a city ordinance to restrict the access ~~of minors~~ to tobacco ~~and e-cigarette~~ products is in the interest of public health, ~~including but not limited to the city's younger population;~~ now, therefore, it is the policy of the City of Newton to ~~discourage minors from experimenting with tobacco and nicotine and to make tobacco products and nicotine delivery products less accessible to minors~~ restrict the

[sale of and public exposure to tobacco and e-cigarette products within the city.](#)

(b) *Definitions:* For the purposes of this section, the following words shall have the meanings respectively ascribed to them by this section:

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.

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, menthol, mint or wintergreen, imparted 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, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the use of additives or flavorings that do not contribute to the distinguishable taste or aroma or because of the provision of ingredient information.

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 M.G.L. chapter 64C, section 1.

City: City of Newton.

Commissioner: The commissioner of health and human services of the City of Newton.

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, manufacture or packing of the tobacco product. Such term shall include a smoke constituent.

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

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 solid nicotine or any liquid, with or without 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: 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.

Flavored tobacco product: Any tobacco product or component part thereof that contains a constituent that imparts a characterizing flavor. A public statement or claim 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 produce has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is flavored.

Health care provider: An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services or employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under M.G.L. c. 112. Health care provider includes hospitals, clinics, health centers, pharmacies, drug stores and doctor and dentist offices.

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 use 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.

Non-residential 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 non-residential RYO machines.

Retail tobacco store or retail nicotine delivery product store: An establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and tobacco paraphernalia, or nicotine delivery products, in which the entry of persons under the age of twenty-one (21) is prohibited at all times, and maintains valid tobacco and nicotine delivery product sales permit.

Self service display: Any display of tobacco products or nicotine delivery products which is so located such that said products are accessible to customers without assistance from an employee or storepersonnel.

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.

Minor: Any individual who is under the age of twenty-one (21).

Person: A person, employer, employee, retail store manager or owner, or the owner or operator of any establishment engaged in the sale of tobacco products.

Vending machine: Any automated or mechanical self-service device which, upon insertion of money, tokens or any other form of payment, dispenses cigarettes or any other tobacco product or nicotine delivery product.

Tobacco products: Cigarettes, cigars, chewing tobacco, pipe tobacco, snuff or tobacco in any of its forms.

(c) ~~Sale or gift to minors prohibited~~ Prohibition of sales:

(1) No person shall sell tobacco products or nicotine delivery products, or permit the same to be sold, to a ~~minor, or, not being the minor's parent or legal guardian, give tobacco products or nicotine delivery products to a minor,~~ anyone born on or after January 1, 2004.

(2) *Required signage and notice of prohibition:*

(a) In conformance with and in addition to Massachusetts General Law, Chapter 270, Section 7, a copy of

Massachusetts General Laws, Chapter 270, Section 6 and 6A, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be provided by the Massachusetts Department of Public Health and made available from the Commissioner. The notice shall be at least forty-eight (48) square inches and shall be posted conspicuously by the permit holder in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor.

(b) The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post signage provided by the Commissioner that discloses current referral information about smoking cessation.

(c) The owner or other person in charge of a shop or other place used to sell tobacco and/or nicotine delivery products at retail shall conspicuously post a sign stating “The sale of tobacco or nicotine delivery products to someone born on or after 1/1/2004 is a minor under 21 years of age is prohibited.” The owner or other person in charge of a shop or other place used to sell e-cigarettes at retail shall conspicuously post a sign stating “The use of e-cigarettes at indoor establishments may be prohibited by local law.” The notices shall be posted conspicuously in such a manner that they may be readily seen by a person standing at or approaching the cash register. The signs will be provided by the Commissioner.

(3) *Identification:* Each person selling or distributing tobacco products and/or nicotine delivery products shall verify the age of the purchaser by means of government-issued photographic identification containing the bearer's date of birth and confirming that the purchaser is twenty-one (21) years old or older was born before January 1, 2004. ~~Verification is required for any person under the age of 27.~~

(d) *Tobacco sales and nicotine delivery product permit:*

(1) No person shall sell or otherwise distribute tobacco or nicotine delivery products within the city without first obtaining a tobacco or nicotine delivery product sales permit issued by the commissioner. Only owners of establishments with a permanent, non-mobile location in Newton are eligible to apply for a permit and sell tobacco and/or nicotine delivery products at the specified location in Newton.

(2) As part of the tobacco and nicotine delivery product sales permit application process, the applicant will be provided with a copy of this section. 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 or nicotine delivery product sales regarding both state laws regarding the sale of tobacco to minors and this regulation.

(3) Each applicant selling or distributing tobacco is required to provide proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a tobacco and nicotine delivery product sales permit can be issued.

(4) The fee for an initial tobacco and nicotine delivery product sales permit shall be determined by the commissioner based on the cost of administering the permit process. All such permits shall be renewed annually. The annual renewal fee shall be in an amount determined by the commissioner based upon the actual cost of administering the permit renewal process.

(5) A separate permit is required for each retail establishment selling tobacco and/or nicotine delivery product.

(6) Each tobacco and nicotine delivery product sales permit shall be displayed at the retail establishment in a

conspicuous place.

- (7) No tobacco and nicotine delivery product sales permit holder shall allow any employee to sell cigarettes, other tobacco products, or nicotine delivery products until such employee reads this regulation and state laws regarding the sale of tobacco to minors and signs a statement, a copy of which will be placed on file in the office of the employer, that he/she has read the regulation and applicable state laws.”
- (8) A tobacco and nicotine delivery product sales permit is non-transferable. A new owner of an establishment that sells tobacco or nicotine delivery products must apply for a new tobacco and nicotine delivery product sales permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.
- (9) Issuance of a tobacco and nicotine delivery 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.
- (10) A tobacco and nicotine delivery 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.

(e) Tobacco products or nicotine delivery products vending machines:

No person shall distribute or sell tobacco products or nicotine delivery products by the use of a vending machine.

(f) Self service displays:

No person shall sell or offer for sale tobacco products or nicotine delivery products by means of a self service display.

(g) Ban on free distribution, on single cigarettes, and on non-residential roll-your-own machines:

No person shall distribute, or cause to be distributed, any free samples of tobacco products or nicotine delivery products. 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, or any non-residential roll-your-own machine.

(h) Prohibition of the sale of tobacco products or nicotine delivery products by health care providers:

No health care provider located in the City of Newton shall sell tobacco products or nicotine delivery products or cause tobacco products or nicotine delivery products to be sold. No retail establishment that operates, maintains or employs a health care provider within it, such as a pharmacy or drug store, shall sell tobacco products or nicotine delivery products or cause tobacco products or nicotine delivery products to be sold.

(i) Cigar sales regulated:

No retailer, retail establishment, or other individual or entity shall sell or distribute or cause to be sold or distributed any original package of two or more cigars, unless such package is priced for retail sale at \$5.00 or more. This section shall not apply to the sale or distribution of any cigar having a retail price of two dollars and fifty cents (\$2.50) or more; or 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 Newton; or to a retail tobacco or retail nicotine delivery store.

(j) *Sale of flavored tobacco or nicotine delivery products prohibited:*

No retailer, or other individual or entity shall sell or distribute or cause to be sold or distributed or offer for sale any flavored tobacco or nicotine delivery product to a consumer. This provision shall not apply to a retail tobacco store or retail nicotine delivery product store.

(k) *Prohibition of the sale of blunt wraps:*

No retailer, retail establishment, or other individual or entity shall sell or distribute or cause to be sold or distributed or offer for sale blunt wraps.”

(l) *Violations and penalties:*

- (1) A person who violates the provisions of subsection (d)(1) of this section shall be subject to a fine of three hundred dollars (\$300.00) for each violation. Every day in which a person engages in conduct prohibited by subsection (d)(1) of this section shall constitute a single and separate violation.
- (2) A violation of any provision of this section other than subsection (d)(1) shall be subject to:
 - (a) In the case of a first violation, a fine of one hundred dollars (\$100.00).
 - (b) In the case of a second violation within thirty-six (36) months of the date of the current violation, a fine of two hundred dollars (\$200.00) and the tobacco and nicotine delivery product sales permit shall be suspended for seven (7) consecutive business days.
 - (c) In the case of a third violation within a thirty-six (36) month period, a fine of three hundred dollars (\$300.00) and the tobacco and nicotine delivery product sales permit shall be suspended for thirty (30) consecutive business days.
 - (d) In the case of four or more violations within a thirty-six (36) month period, a fine of three hundred dollars (\$300.00) and the tobacco and nicotine delivery product sales permit shall be revoked for sixty (60) consecutive business days or for the remainder of the permit term, whichever is longer.
 - (e) The tobacco and nicotine delivery product sales permit holder shall be assessed a fine according to the schedule stated in this subsection for each violation of any provision of this section, other than subsection (d)(1), occurring on the premises governed by the permit. In the event of a sale or free distribution of a tobacco product or nicotine delivery product to [anyone born on or after January 1, 2004](#) ~~a minor~~ made by an employee of the permit holder, such employee shall also be subject to a fine in accordance with the schedule stated in this paragraph.
 - (f) Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the tobacco sales and nicotine delivery product permit for thirty (30) consecutive business days.
- (3) The commissioner shall suspend or revoke a tobacco and nicotine delivery product sales permit granted pursuant to this section upon determination that a permit holder has committed three (3) violations of this section within three (3) years, calculated from the date of the first offense. The commissioner shall provide notice to the permit holder of the intent to suspend or revoke a tobacco and nicotine delivery product sales permit, which notice shall contain the reasons therefore and establish a time and date for a hearing, which date shall be no earlier than seven (7) days after the date of said notice. The permit holder shall have an opportunity to be heard at such hearing and shall be notified of the commissioner’s decision and the reasons therefore, in writing. All tobacco and nicotine delivery products shall be removed from the premises upon

suspension or revocation of the tobacco and nicotine delivery product sales permit. Failure to remove shall constitute a separate violation of this section. A permit holder whose permit has been revoked may not apply for a new permit prior to the expiration of one (1) calendar year following the date of revocation.

(m) *Severability*: The provisions of this section are severable. If any provision of this section or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application. (Ord. No. T-241, 10-21-91; Ord. No. T-293, 8-9-93; Ord. No. T-295, 9-7-93; Rev. Ords. 1995, § 20-20-18A; Ord. No. X-59, 10-7-03; Ord. No. X-175, 05-26-05; Ord. No. Z-55, 11-06-09; Ord. No. Z-57, 11-16-09; Rev. Ords. 2007; Ord. A-42, 06-16-14)

#149-24

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City of Newton



Ruthanne Fuller
Mayor

HEALTH AND HUMAN SERVICES DEPARTMENT

Linda Walsh, Commissioner
1000 Commonwealth Avenue
Newton, MA 02459-1544

June 17, 2024

Dear City Councilors,

The Newton Health and Human Services Department would like to offer support for amending Sec. 20-2 of the Newton Ordinances to establish a “Nicotine Free Generation.” Use of tobacco products continues to be the leading cause of preventable deaths in the United States; one result of which is 480,000 deaths per year.¹ Ninety percent of adult smokers began in their teens. The tobacco industry’s strategy of targeting young people has been historically proven through the industry’s own comments and their dogged persistence in targeting young people as the only source of replacement consumers.

Legislation at the local and state level has had a major impact on tobacco use by young people. Then Governor Baker, in 2019, signed into law “*An Act Modernizing Tobacco Control*.” The law immediately prohibited the sale of flavored e-cigarettes, and a ban on the sales of all other flavored tobacco products, including menthol cigarettes and flavored cigars, also took effect in June 2020. The Massachusetts Youth Health Survey indicated that from 2019 to 2021, youth e-cigarettes use declined from 32% to 17.6%, cigarette smoking from 4.3% to 2.9%, and cigar smoking from 4.7% to 2.0%.²

The ordinance amendment you are considering protects young people today and in future generations. The Newton Health and Human Services Department supports your consideration of this amendment.

Sincerely,

Linda Walsh
Commissioner, Newton HHS

¹ U.S. DEP’T OF HEALTH & HUMAN SERVS. (“HHS”), *The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General, Executive Summary*, at 2 (2014),

<https://www.hhs.gov/sites/default/files/consequences-smoking-exec-summary.pdf>

² MASS. DEP’T OF PUBLIC HEALTH, *Illegal Tobacco Task Force, Evaluation of an Act Modernizing 4 Campaign for Tobacco-Free Kids, Impact of Restricting the Sale of Flavored Tobacco Products: The Massachusetts Experience*, at 1 (July 3, 2023), <https://assets.tobaccofreekids.org/factsheets/0421.pdf> (“Massachusetts Experience”).



Ruthanne Fuller
Mayor

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Office of the Mayor

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June 10, 2024

Honorable City Council
Newton City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459

Dear Councilors:

I respectfully submit a docket item to your Honorable Council requesting discussion of the new City-wide on-demand transportation system.

After six years of operating Newton in Motion (NewMo), we are switching to a new transportation system for people living here who need the most support - our older adults, our lower income individuals, and people with disabilities.

We are partnering with an experienced, national, “customer service centric” company, [GoGo Technologies](#), to launch GoGo Newton.

Further details of the system will be released this week to the City Council and general public.

Senior Service Director Mignonne Murray and Transportation Planning Director Jenn Martin will be available at the committee meetings to answer any questions you may have.

Thank you for your consideration of this important matter.

Sincerely,

Ruthanne Fuller
Mayor