



Weber-Morgan Health Department

Regulation for


Tobacco Sales and Permitting

Adopted by the Weber-Morgan Board of Health

January 25, 2021

Under Authority of Section 26A-1-121
Utah Code Annotated, 1953, as amended

Certified Official Copy
Weber-Morgan Health Department

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1. TITLE AND PURPOSE

These standards shall be known as the Weber-Morgan Health Department Regulation for Tobacco Sales & Permitting, hereinafter referred to as "this Regulation".

It is the purpose of this Regulation to protect the public health, safety and welfare of Weber and Morgan County residents and employees, by establishing requirements and provisions for tobacco sales and permitting.

2. AUTHORITY AND JURISDICTION OF THE DEPARTMENT

- 2.1. The Weber-Morgan Board of Health (Board of Health) is authorized to make standards and regulations pursuant to Utah Code Local Health Authorities (Section 26A-1-121) and Utah Code Tobacco Retail permit (Section 26-62) as amended.
- 2.2. The Board of Health is authorized to establish and collect fees pursuant to Utah Code Local Health Act (Section 26A-1-114) and Utah Code Utah Indoor Clean Air Act (Section 26-38-1) as amended.
- 2.3. The Board of Health is authorized to establish and collect monetary penalties pursuant to Utah Code Utah Indoor Clean Air Act (Section 26-38) as amended.
- 2.4. All fees shall be set by the Weber-Morgan Board of Health. The Department may charge additional fees for enforcement and follow-up audits as set by the Board of Health.

3. DEFINITIONS

For the purpose of this Regulation, the following words and phrases, when used herein, except as otherwise required by the context, have the following meanings.

- 3.1.1. **"Alternative nicotine product"** means a product, other than a cigarette, a counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine product, or a tobacco product, that contain nicotine; is intended for human consumption; is not purchased with a prescription from a licensed physician; and is not approved by the United State Food and drug Administration as nicotine replacement therapy. Alternative nicotine products include pure nicotine; snortable nicotine, dissolvable salts, orbs, pellets, sticks, or strips; and nicotine-laced food and beverages.
- 3.2. "Audit" means a procedure performed by the Department that includes, but is not limited to: inspection of business retail areas and tobacco products, review of required records, compliance checks and review of personnel training. The audit procedures are intended to ensure compliance with this Regulation and department policies and procedures.
- 3.3. "Board of Health" means the Weber-Morgan Board of Health.
- 3.4. "Business" means any proprietor, partnership, joint venture, corporation, association, or other entity formed for purposes that include profit-making.
- 3.5. "Community Location" means the same as amended by Utah Code County Powers

(Section 17-50-333) and in Utah Code Powers and Duties of Municipalities (Section 10-8- 41.6). A community location means: a public or private kindergarten, elementary, middle, junior high, or high school; a licensed child-care facility or preschool; a trade or technical school; a church; a public library; a public playground; a public park; a youth center or other space used primarily for youth oriented activities; a public recreational facility; a public arcade; or for a new license issued on or after July 1, 2018, a homeless shelter.

- 3.6. "Department" means the Weber-Morgan Health Department.
- 3.7. "E- Cigarette" means any electronic oral device that provides a vapor of nicotine or other substance and which simulates smoking through its use or through inhalation of the vapor through the device; and includes an oral device that is composed of a heating element, battery, or electronic circuit and marketed, manufactured, distributed or sold as an e-cigarette, e-cigar, e-pipe, or any other product name or descriptor, if the function of the product meets the definition of an electronic oral device.
- 3.8. "E-cigarette Paraphernalia" means cartridges, cartomizers, e-liquid, smoke juice, tips, atomizers, e-cigarette batteries, e-cigarette chargers, and any other item specifically designed for the preparation, charging, or use of e-cigarette products.
- 3.9. "E-liquid" means a liquid product that is vaporized and inhaled when using an e-cigarette.
- 3.10. "Employee" means any person who is employed or retained as an independent contractor by any employer or nonprofit entity in consideration for direct or indirect monetary wages or profit, or any person who volunteers his or her services for an employer or nonprofit entity.
- 3.11. "Employer" means any business or nonprofit entity that retains the service of one or more employees.
- 3.12. "Health Officer" means and includes the Health Officer of the Department, his/her deputy, or other designated officer.
- 3.13. "General Tobacco Retailer" means a retailer that is not a retail tobacco specialty business.
- 3.14. "General Tobacco Retailer Permit" means a permit issued by the Department to a general tobacco retailer.
- 3.15. "Nominal Cost" means the cost of any item imposed for the transfer from one person to another for less than the total of 25% of the fair market value of the item exclusive of taxes or government fees; plus all taxes and government fees previously paid and all taxes and government fees still due on the item at the time of transfer.
- 3.16. "Nonprofit Entity" means any entity that meets the requirements of Utah Code Utah Revised Nonprofit Corporation Act (Section 16-6a-102), as well as any corporation, unincorporated association or other entity created for charitable, religious, philanthropic, educational political, social or similar purposes, the net proceeds of which are committed to the promotion of the objectives or purposes of the entity and

not to private gain. A government agency is not a nonprofit entity within the meaning of this Regulation.

- 3.17. "Nonsale Distribution" means to give, furnish, or cause or allow to be given or furnished within the jurisdictional limits of the department, a tobacco product at no cost or nominal cost to a person who is not a retailer.
- 3.18. "Permit" means the document issued by the Department that authorizes a person, permitted under this Regulation, to operate a business that sells tobacco products.
- 3.19. "Person" means any natural person, business, cooperative association, employer, nonprofit entity, personal representative, receiver, trustee, assignee, or any other legal entity including a government agency.
- 3.20. "Plan Review" means the process by which the Department will verify the accuracy of the information provided by the retail tobacco specialty business through the permit application process.
- 3.21. "Proprietor" means the owner of a retail establishment, or any other place of business which sells, markets, or distributes tobacco products.
- 3.22. "Public Place" means a community location and any enclosed indoor place of business, commerce, banking, financial service, or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which persons not employed at the place of public access have general and regular access or which the public uses as defined in Utah Code Utah Indoor Clean Air Act (Section 26-38).
- 3.23. "Public retail floor space" means the total floor square feet of the business where a customer can see, retrieve, or purchase any item that is offered for sale by the general tobacco retailer, including all areas behind the purchase counter, and including appurtenant areas used for storage.
- 3.24. "Retail Tobacco Specialty Business" means a commercial establishment in which:
 - 3.24.1. The sale of tobacco products accounts for more than 35% of the total quarterly gross receipts for the establishment;
 - 3.24.2. Twenty percent or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products;
 - 3.24.3. Twenty percent or more of the total shelf space is allocated to the offer, display, or storage of the tobacco products; or
 - 3.24.4. The retail space features a self-service display for tobacco products.
- 3.25. "Retail Tobacco Specialty Business Permit" means a permit issued by the Department to a retail tobacco specialty business.
- 3.26. "Retailer" means any person who obtains and maintains a current permit from the Department to sell tobacco products. This definition is without regard to the quantity of the tobacco products sold.

- 3.27. "Self-service display" means a display of a cigarette, tobacco product, an electronic cigarette product, or a nicotine product to which the public has access without the **intervention of a retailer or retailer's employee.**
- 3.28. "Shelf space" means the total cubic feet (length x depth x height) of shelf space contained within the retail space that is used for the offer, display, or storage of items that are offered for sale by the retailer. The shelf height is measured from the top of the tallest item on the shelf. Empty shelf space is not included in the total shelf space calculation.
- 3.29. "Tobacco product" means a product made of, or containing, tobacco and includes (as defined in Utah Code Cigarettes and Tobacco and Psychotoxic Chemical Solvents (Section 76-10-101), Utah Code Cigarette and Tobacco Tax and Licensing Act (Section 59-14-102), and Utah Code Providing tobacco paraphernalia to minors (Section 76-10-104.1): a cigarette; a cigar; moist snuff; chewing tobacco; electronic cigarette; any substitute for a tobacco product, including flavoring or additives to tobacco; tobacco paraphernalia; alternative nicotine product, and e-cigarette paraphernalia.
- 3.30. "Tobacco paraphernalia": means any equipment, product, or material of any kind which is used, intended for use, or designed for use to package, repackage, store, contain, conceal, ingest, inhale, or otherwise introduce a cigar, cigarette, or tobacco in any form into the human body, including: metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls; water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips: meaning objects used to hold burning material, such as a cigarette, that has become too small or too short to be held in the hand; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice pipes or chillers; and does not include matches or lighters.
- 3.31. "Tobacco retailer" means a person that is required to obtain a tax commission license and a local health department permit for the sale of tobacco.

4. SCOPE

This Regulation applies to the tobacco products sold or offered for sale in incorporated and unincorporated areas of Weber and Morgan Counties. It shall be unlawful for any person not to comply with any policy, procedure, regulation or ordinance promulgated by the Board of Health, Health Officer and/or the Department unless expressly waived by this Regulation.

5. POWERS AND DUTIES

- 5.1. General Powers and Duties. The Department shall be responsible for the enforcement and administration of this Regulation and any other powers vested in it by law and shall:
- 5.1.1. Require the submission of information reports, plans and specifications as necessary to implement the provisions and requirements of this Regulation;
 - 5.1.2. Issue permits, and charge fees as necessary to implement this Regulation;
 - 5.1.3. Perform audits of any facility and issue orders and/or notices, hold hearings, levy administrative penalties and negotiate monetary penalties as necessary to

effect the purposes of this Regulation;

- 5.1.3.1. Audits where the Department sends in an individual who is under 21 years old a minimum of two times at a retailer establishment that sells tobacco products, electronic cigarette products, or nicotine products within a 12-month period.
- 5.1.3.2. Audits of the e-liquid, as described in Utah Administrative Code Electronic-Cigarette Substance Standards (R384-415), will be conducted a minimum of once per permit cycle for each store. Follow-up audits, if a violation occurs, will be conducted after 10 days of the previous audit.

5.1.4. Adopt policies and procedures necessary to ensure that the provisions of this Regulation are met and that the purposes of this Regulation are accomplished.

- 5.2. Suspension, Revocation, or Denial of Permits. The Department may suspend, revoke, deny or require the surrender of the permit as a result of violations of this Regulation.
- 5.3. The Department shall respond according to its policies, procedures and this Regulation to public complaints.

6. PROHIBITIONS

- 6.1. The sale of tobacco products shall occur only in a direct, face-to-face exchange between the retailer and the purchaser. Self-service displays for tobacco products are prohibited unless permitted as a retail tobacco specialty business.
- 6.2. The sale of tobacco products to an individual who is under 21 years old is prohibited.
- 6.3. A permit is only valid for one physical location, at one fixed business address; selling tobacco products by persons on foot, at events or from vehicles is prohibited.
- 6.4. Nonsale distribution is prohibited.

7. PERMIT REQUIREMENTS

7.1. General Provisions

- 7.1.1. No person shall act as a retailer without having first obtained a permit for each location at which tobacco products are sold as well as a Utah State Tax Commission tobacco retail license. This permitting process is separate from and in addition to the requirement to have and maintain a valid tobacco license with the Utah State Tax Commission. The retailer shall submit an application with all required sections completed either online or a hard copy to the Department.
- 7.1.2. No permit will be issued to a business at any place other than the fixed location approved on the application.
- 7.1.3. Any retailer without a valid permit may not:

- 7.1.3.1. place tobacco products in public view;
 - 7.1.3.2. display any advertisement related to tobacco products that promotes the sale, distribution, or use of those products; or
 - 7.1.3.3. sell, offer for sale, or offer to exchange for any form of consideration, tobacco or tobacco products.
- 7.1.4. A permit under this Regulation is:
- 7.1.4.1. valid only for one physical location, including a vending machine;
 - 7.1.4.2. valid only at one fixed business address; and
 - 7.1.4.3. if multiple retailers are at the same address, a separate permit is required for each retailer.
 - 7.1.4.4. Any person desiring a permit shall submit an application provided by the Department.
- 7.1.5. Possession of a valid Permit under this Regulation does not entitle the holder to engage in an activity which is otherwise prohibited by law.
- 7.2. General Tobacco Retailer Permit Application
- 7.2.1. Such application shall be verified and include the following for each business:
- 7.2.1.1. The name, mailing address and telephone number of each business;
 - 7.2.1.2. The name and mailing address of each business authorized to receive permit-related communication and notices;
 - 7.2.1.3. The business name, address and telephone number of the single, fixed location for which a permit is being sought.
 - 7.2.1.4. Provide a copy of a valid Utah State Tax Commission tobacco retail license;
 - 7.2.1.5. Information regarding whether, in the past 24 months, any proprietor of the retailer has been determined to have violated, or has been a proprietor at a location that has been determined to have violated;
 - 7.2.1.5.1. a provision of this Regulation;
 - 7.2.1.5.2. Utah Code Utah Indoor Clean Air Act (Section 26-38-1); Utah Code Cigarettes and Tobacco and Psychotoxic Chemical Solvents (Section 76- 10-101);
 - 7.2.1.5.3. Utah Code Pattern of Unlawful Activity Act (Section 76-10-16);
 - 7.2.1.5.4. regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug

Administration, 21 C.F.R. Part 1140; or

- 7.2.1.5.5. any other provision of state law, local ordinance, or regulation regarding the sale, marketing, or distribution of tobacco products; and
- 7.2.1.5.6. the dates of all violations disclosed in 7.2.1.5 of this Regulation
- 7.2.1.5.7. The individual completing the application must certify that the proposed retail tobacco location meets the requirements as defined for a general tobacco retailer or retail tobacco specialty business.

7.3. Retail Tobacco Specialty Business Permit Application

- 7.3.1. A Retail Tobacco Specialty Business shall provide all necessary documentation and requirements
 - 7.3.1.1. A retail tobacco specialty business shall comply with 7.2 of this Regulation and the following:
 - 7.3.1.2. Include a map that demonstrates that the business is not located within:
 - 7.3.1.2.1. One thousand feet of a community location; and,
 - 7.3.1.2.2. Six hundred feet of another retail tobacco specialty business; and,
 - 7.3.1.2.3. Six hundred feet of property used or zoned for agricultural or residential use.
 - 7.3.1.2.4. The proximity requirements shall be measured in a straight line from the nearest property boundary of the location identified as the business address, without regard for intervening structures or zoning districts.
 - 7.3.1.3. Include a plan review fee as approved by the Department with the application for a retail tobacco specialty business.

7.4. Permit Issuance

- 7.4.1. The Department shall issue the permit to the applicant within 30 days from receiving the application and payment unless such application is incomplete or inaccurate, the application seeks authorization for a business for which a suspension is in effect under this Regulation, the applicant is not under any discipline action or owes monetary action to the Department, or the application seeks authorization for retailing that is unlawful under this Regulation, or applicable law(s).
 - 7.4.1.1. The Department will provide a digital or hard copy receipt of payment and application submission to the proprietor when the Department receives the completed application and payment.

- 7.4.1.2. The receipt provided by the Department will serve as a temporary operating permit, which will be valid for 30 days.
- 7.4.2. The Department may conduct an audit of the business after the submission of the application and before submission of payment. If it is found that all provisions of this Regulation and all applicable laws have been and will be complied with, the Department shall issue the permit once the payment has been received; otherwise, the application for the permit shall be denied.
- 7.4.3. The permit shall clearly state the following on its face:
 - 7.4.3.1. the legal owner(s) of the permitted premises;
 - 7.4.3.2. Doing Business As (dba), if any;
 - 7.4.3.3. business and mailing address of the owner of the permitted premises;
 - 7.4.3.4. date the permit was issued;
 - 7.4.3.5. permit number;
 - 7.4.3.6. permit type (general tobacco retailer or retail tobacco specialty business); and
 - 7.4.3.7. permit expiration date.
- 7.4.4. The permit shall not be transferable or assignable from one person or proprietor to another or from one location to another location.
 - 7.4.4.1. If the information required in the permit application changes, a retailer may not renew the permit; and
 - 7.4.4.2. shall apply for a new permit no later than 15 days after the information in Section 7.2 General Tobacco Retailer Permit Application (subsection 7.2.1) changes.

8. Sale of tobacco products and electronic cigarette products

- 8.1. A tobacco retailer shall:
 - 8.1.1. Provide the customer with an itemized receipt for each sale of a tobacco product or an electronic cigarette product that separately identifies the name of the product, amount charged for each products, and the time and date of the sale.
 - 8.1.2. A tobacco retailer shall maintain an itemized transaction log for each sale of a product that separately identifies the name of the product, amount charged for each product, and the date and time of the sale.
 - 8.1.3. The itemized transaction log shall be maintained for at least one year after the date of each transaction and made available to the enforcing agency or a peace officer at the request of the agency or officer that is no less restrictive than the provisions in this part.

8.2. Verification of proof of age

- 8.2.1. A retail tobacco specialty business shall require that an employee verify proof of age.
- 8.2.2. An employee shall:
 - 8.2.2.1. Request the individual present proof of age; and
 - 8.2.2.2. Verify the validity of the proof of age electronically
- 8.2.3. Information obtained shall be kept for at least 180 days and is subject to inspection upon request by the Department.
- 8.2.4. If an employee does not verify proof of age, the employee may not permit an individual to:
 - 8.2.4.1. Enter the retail tobacco specialty business; or
 - 8.2.4.2. Purchase a tobacco product or an electronic cigarette product
 - 8.2.4.3. In accordance with 76-10-105.1(4), an individual who is under 21 years old may be permitted to enter a retail tobacco specialty business if the individual is accompanied by a parent or legal guardian who provides proof of age; or the individual is present at the retail tobacco specialty business for a bona fide commercial purpose other than to purchase a tobacco product or an electronic cigarette product.
- 8.2.5. To determine whether the individual is 21 years old or older, the following may request an individual to present proof of age:
 - 8.2.5.1. An employee
 - 8.2.5.2. A peace officer; or
 - 8.2.5.3. A representative of an enforcing agency

9. GENERAL PROVISIONS - PERMIT TERMS AND RENEWALS

- 9.1. No person shall in any way represent any place as a permitted facility unless the facility is operated under a valid permit issued by the Department.
- 9.2. The Department is authorized to issue, suspend, revoke, deny or require the surrender of a permit.
- 9.3. A permit may not be transferred from one person to another person, from one facility to another facility or from one type of operation to another.
- 9.4. The permit shall be posted at the business location in a conspicuous place within public view on the premises.

- 9.5. The Department may renew a permit for an existing facility or may issue a permit to a new owner of an existing facility after a properly completed renewal form is submitted, reviewed, and approved, the fees are paid, and a review shows that the facility is in compliance with this Regulation.
- 9.5.1. The Department shall not approve any application for issuance or renewal of a permit for an existing facility that is under suspension until the date that the suspension has expired.
- 9.5.2. The Department shall not issue a permit to a new owner of any facility where a permit has been revoked prior to twelve months from the date of revocation.
- 9.5.3. If the property referenced in sections 9.5.1 or 9.5.2 is sold or leased to a new proprietor that is requesting a permit, that person may request a waiver to sections 9.5.1 or 9.5.2 from the Board of Health.
- 9.5.3.1. The waiver may be issued upon demonstrating that no association exists between the person requesting the permit and the owner/operator currently suspended or revoked, and all monetary penalties have been paid.
- 9.6. No permit shall be issued unless the Department finds that the business complies with the requirements of this Regulation and that trained personnel, are employed and available, and the operation thereof will be properly conducted in accordance with this Regulation.
- 9.7. Permit Duration and Renewal.
- 9.7.1. The term of a permit issued under this Regulation to a retail tobacco specialty business is one year from the date the permit was issued at the end of the month. A permit issued to a general tobacco retailer is two years from the date the permit was issued.
- 9.7.2. A retailer that fails to renew a permit before the permit expires may apply to reinstate the permit by submitting to the Department:
- 9.7.2.1. a complete application;
- 9.7.2.2. the fee for the reinstatement of a permit; and
- 9.7.2.3. a signed affidavit affirming that the retailer has not violated any requirements in this Regulation.
- 9.7.3. The permit shall be issued annually for retail tobacco specialty businesses and every other year for general tobacco retailers. The permit it is renewable no earlier than thirty (30) days prior to the date of expiration.
- 9.7.4. It is the responsibility of the proprietor to pursue the permit renewal with the Department.
- 9.7.5. The permit fee shall be paid to the Department by the billing due date set by the Department.

- 9.7.6. Permits that have expired for more than 90 days are not able to be reinstated. After 90 days a new application is required.
- 9.7.7. Prior to the date on which the permit fee is due the Department shall attempt to notify each retailer of the amount of the fee.
- 9.8. Permit Revocation and Suspension
 - 9.8.1. Permits may be suspended by the Department for violations of this Regulation.
 - 9.8.2. Permits may be revoked by the Department for severe or repeated violations of this Regulation.
 - 9.8.3. Permits are and remain the property of the Department.
 - 9.8.4. A permit may be suspended or revoked by the Department because of returned checks and may not be reinstated until repayment is confirmed. All returned checks will be charged a returned check handling fee.
 - 9.8.5. A permit may be suspended or revoked by the Department for failure to allow access to authorized Department representatives for audits.
- 9.9. A person is in violation of the permit issued under this Regulation if the person violates:
 - 9.9.1. a provision of this Regulation;
 - 9.9.2. a provision of retail tobacco specialty business licensing laws as described in Utah Code County Powers (Section 17-50-333) and Utah Code Powers and Duties of Municipalities (Section 10-8-41.6);
 - 9.9.3. a provision of the Utah Code Cigarettes and Tobacco and Psychotoxic Chemical Solvents (Section 76-10-101);
 - 9.9.4. a provision of the Utah Code Pattern of Unlawful Activity Act (Section 76-10-16);
 - 9.9.5. a regulation restricting the sale and distribution of cigarettes and smokeless tobacco issued by FDA (C.F.R. Part 1140); or
 - 9.9.6. any other provision of state law or local ordinance regarding the sale, marketing, or distribution of tobacco products.
- 9.10. Except when a transfer described in 9.5 this Regulation occurs, the Department may not issue a permit to:
 - 9.10.1. a retailer for whom a permit is suspended or revoked due to violations of Utah Code providing a cigar, cigarette, electronic-cigarette, or tobacco to an individual who is under 21 years old; or

- 9.10.2. a retailer that has the same proprietor, director, corporate officer, partner, or other holder of significant interest as another tobacco retailer for whom a permit is suspended or revoked under Utah Code Providing a cigar, cigarette, electronic cigarette, or tobacco to an individual who is under 21 years old.
- 9.11. A person whose permit:
 - 9.11.1. is suspended under this section may not apply for a new permit for any other tobacco retailer for a period of 12 months after the day on which an enforcing agency suspends the permit; and
 - 9.11.2. is revoked may not apply for a new permit for any tobacco retailer for a period of 24 months after the day on which an enforcing agency revokes the permit.
- 9.12. Failure to pay the permit fee and any additional charges after the due date may result in suspension or revocation of the permit and the right to operate.
- 9.13. The permit applicant shall hold the Department harmless in applying for a permit or for its renewal; such action shall constitute a declaration by the applicant that the Department shall be held harmless from liability incurred due to action or inaction of the owner or their employees.
- 9.14. The permit fees shall be determined according to a fee schedule adopted by the Board of Health. Fees are subject to change and may be amended as deemed necessary by the Board of Health to accomplish the purposes of this Regulation.
- 9.15. The Department, by the Health Officer, has the authority to perform audits, reviews or other similar actions as necessary to promulgate this Regulation. No person shall refuse to allow, or hinder the activity of the authorized representatives of the department while conducting audits of permitted facilities. The Department may determine whether the retailer continues to meet the qualifications of this Regulation and hasn't violated any provisions as described in 9.9 of this Regulation.
- 9.16. During any period of permit suspension or revocation, the retailer must remove from public view and remove sale all tobacco products and related advertising.
- 9.17. Any person engaging in the business of distributing, selling, or offering to sell tobacco products without holding a valid permit will be ineligible for a permit for a period of 30 days from the date of violation and may be subject to additional penalties from the department.

10. ADJUDICATIVE PROCEEDINGS

- 10.1. In accordance with the Department Adjudicative Proceedings, a Departmental Conference or Hearing may be requested in writing within ten (10) days of any action in which a party is aggrieved.

11. PENALTY

- 11.1. Any person who is found guilty of violating any of the provisions of this Regulation, either by failing to do those acts required herein or by doing a prohibited act, shall be guilty of a class B misdemeanor pursuant to Utah Code Local Health Department Act

(Section 26a-1-123), as amended. If a person is found guilty of a subsequent similar violation within two years, they shall be guilty of a Class A misdemeanor pursuant to Utah Code Local Health Department Act (Section 26a-1-123) as amended.

- 11.2. Any individual who knowingly, intentionally, recklessly, or with criminal negligence provides a tobacco product, an electronic cigarette product, or a nicotine product to an individual who is under 21 years old, is guilty of:
 - 11.2.1. a class C misdemeanor on the first offense;
 - 11.2.2. a class B misdemeanor on the second offense; and
 - 11.2.3. a class A misdemeanor on any subsequent offense.
- 11.3. Each day that a violation is committed or permitted to continue shall constitute a separate violation.
- 11.4. The County Attorney may initiate legal action, civil or criminal, requested by the Department to abate any condition that exists in violation of this Regulation.
- 11.5. In addition to other penalties imposed by a court of competent jurisdiction, any person(s) found guilty of violating any of this Regulation shall be liable for all expenses incurred by the Department in prosecuting and/or abating the violation.
- 11.6. Violations of this Regulation shall be subject to the Department's adjudicative hearing procedures and may result in permit suspension or revocation, and/or monetary penalties.
- 11.7. The penalties will be administered as referenced in Utah Code 26-62-305 and Utah Code 26-62-402.
- 11.8. Enforcement of any criminal penalties does not preclude imposition of administrative or civil penalties and vice-versa.

12. SEVERABILITY

- 12.1. If any provision, clause, sentence, or paragraph of this Regulation or the application thereof to any person or circumstances shall be held to be invalid, such invalidity shall not affect the other provisions or applications of this Regulation. The valid part of any clause, sentence, or paragraph of this Regulation shall be given independence from the invalid provisions or application and to this end the provisions of this Regulation are hereby declared to be severable.

13. EFFECTIVE DATE

- 13.1. This Regulation shall become effective the day of its adoption by the Board of Health. Adopted by the Weber-Morgan Board of Health on January 25, 2021.