

## **Regulations of the Berkley Board of Health Sale of Blunt Wraps**

### **A. Statement of Purpose:**

There exists conclusive evidence that blunt wraps, so-called, are commonly used to facilitate the smoking of marijuana and that the sale of blunt wraps encourages their use for such purposes, particular among young persons. Moreover, there exists conclusive evidence that the smoking of marijuana or tobacco constitutes a significant health problem affecting the residents of Town of Berkley particularly young persons.

### **B. Authority:**

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

### **C. Definitions:**

**Blunt Wrap:** Any tobacco product manufactured as a wrap or as a hollow tube made wholly or in part from tobacco that is designed to be filled by the consumer with loose tobacco or other fillers.

**Permit Holder:** Any person engaged in the sale or distribution of tobacco products directly to consumers who applies for and receives a tobacco sales permit or any person who is required to apply for a tobacco sales permit pursuant to these regulations, or his or her business agent.

**Person:** An individual, employer, employee, retail store manager or owner, or the owner or operator of any establishment engaged in the sale or distribution of tobacco products directly to consumers.

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

### **D. Sale of Blunt Wraps Prohibited:**

No person, permit holder or entity shall sell or distribute blunt wraps within Berkley or possess blunt wraps within Berkley with the intent to sell or distribute them.

E. Violations:

1. It shall be the responsibility of the permit holder and/or his or her business agent to ensure compliance with all sections of this regulation pertaining to his or her distribution of tobacco. The permit holder shall receive:

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 24 months of the date of the current violation, a fine of two hundred dollars (\$200.00) and the tobacco sales permit may be suspended for up to seven (7) consecutive business days.

c. In the case of three or more violations within a 24-month period, a fine of three hundred dollars (\$300.00) and the tobacco sales permit may be suspended for up to thirty (30) consecutive business days.

2. Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the tobacco sales permit for thirty (30) consecutive business days.

3. In addition to the monetary fines set above, any permit holder who engages in the sale or distribution of tobacco products, including blunt wraps, directly to a consumer while his or her permit is suspended shall be subject to the suspension of all board of health issued permits for thirty (30) consecutive business days.

4. The Berkley Board of Health shall provide notice of the intent to suspend a tobacco 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 or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision, and the reasons therefore in writing. After a hearing, the Berkley Board of Health may suspend the tobacco sales permit if the Board finds that a sale of a blunt wrap occurred. For purposes of such suspensions, the Board shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All tobacco products shall be removed from the retail establishment upon suspension of the tobacco sales permit. Failure to remove all tobacco products shall constitute a separate violation of this regulation.

F. Non-Criminal Disposition:

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

Each day any violation exists shall be deemed to be a separate offense.

G. Enforcement:

Enforcement of this regulation shall be by the Berkley Police Department, the Berkley Board of Health or their designated agent(s).

Any citizen who desires to register a complaint pursuant to the regulation may do so by contacting the Berkley Board of Health or its designated agent(s) and the Board shall investigate.

H. Severability:

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

I. Effective Date:

This regulation shall take effect on \_\_\_\_\_, 2009.

BERKLEY BOARD OF HEALTH

\_\_\_\_\_  
James Romano, Chairman

Dated: \_\_\_\_\_

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Steve Rapoza, Member

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Dan Fournier, Clerk