



BOARD OF HEALTH
MINUTES
December 5, 2017

The Board of Health held a meeting in Room 9 at the Town Hall, 121 Glen Road, Wilmington, MA. The meeting was called to order at 5:30 p.m. Present were, Elizabeth Sabounjian, Dr. Jane Williams, Dr. Daniel King and Shelly Newhouse, Director of Public Health. The next regularly scheduled Board of Health meeting will be December 19, 2017 at 5:30 p.m. in Room 9 at the Town Hall, 121 Glen Road, Wilmington, MA.

The Board reviewed and approved the minutes of the November 7, 2017 and the November 21, 2017 meetings.

The Board reviewed the most recent food inspection reports.

New Business Public Hearing to amend Section 8 of the Board of Health regulations.

The hearing was opened at 5:40 p.m. The Director has received no comments and no one was in attendance. Dr. King motioned to approve the regulations, Dr. Williams, second, voted 3-0. As follows:

Section 8 Smoking, marijuana and Tobacco Products

8.0 Definitions: Smoking shall mean having in possession or control any lighted cigar, cigarette, e-cigarette, other lighted tobacco substance in any form, any nicotine delivery product or device **and marijuana (as defined below)**

E-cigarette: Any electronic nicotine or **marijuana** 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. This term shall include such devices whether they are manufactured or marketed and sold as e-cigarettes, e-cigars, e-pipes or under any other product name.

"Marijuana" or "Marihuana", all parts of any plant of the genus Cannabis

Health Care Institution: Any entity, person, or group of persons that provides health care services and employs health care providers subject to licensing under G.L. c. 112, §§ 1, et seq., or a retail establishment or business that provides pharmaceutical goods and services and is subject to 247 CMR 6.00. Such persons and entities shall include, but not be limited to, hospitals, clinics, urgent care facilities, health centers, drug stores, pharmacies, physician's offices, optician's or optometrist's offices, and dental offices.

Nicotine Delivery Product: Any article, item or product made wholly or in part of a tobacco substitute or containing nicotine. This definition shall not apply to any product which is approved or certified by a regulatory agency as a tobacco use cessation or other medical purpose product and which is marketed and sold exclusively for such purposes.

Retail Tobacco Store: As defined in G.L. c. 270, §22.

Tobacco Product: Any product which contains tobacco in any form, including but not limited to cigarettes, cigars, pipe tobacco, chewing tobacco, and snuff.

Self Service Display: A Self-Service Display is any display from which customers may select or make a tobacco product without access from an employee or store personnel.

8.1 Recreational marijuana use is prohibited wherever smoking is prohibited per section 8 of the Wilmington Board of Health regulations.

8.0.1 The use of e-cigarettes is prohibited wherever smoking is prohibited per section 8 of the Wilmington Board of Health regulations.

8.2 No person shall smoke in any public elevator, supermarket, retail store, retail tobacco store, retail food store, restroom, or at any open meeting of a governmental body in the Town of Wilmington. No person shall smoke in any interior common area of any multiple dwelling unit including platforms, public areas of all buildings which includes but is not limited to banks, financial institutions, commercial establishments used for the purpose of carrying on or exercising any trade, profession, vocation or charitable activity, group child care center, day care center, or waiting area of a health care facility, except in any private area which has been specifically designated as a smoking area for employees at the discretion of the manager of the building. No person shall smoke within a school building, within a school facility, on a school bus or on school grounds.

8.4 Smoking is prohibited in any restaurant or other such establishment open to the general public that sells food products. The operator of any food establishment shall conspicuously post such notice or signs indicating that smoking is prohibited therein. Any person who smokes in a food establishment shall be subject to a fine of \$50.00. Any operator of any food establishment who does not comply with this provision shall be subject to a fine of \$50.00.

8.5 In the case of hotels, motels and inns, a minimum of 75% of the total number of guestrooms shall be designated as non-smoking. The rooms so designated will have signs posted indicating the smoking is prohibited therein. Room designations shall be made and provided to the Board of Health at the time permits are issued. No changes in room designation can take place without prior approval of the Board of Health.

8.6 No person shall sell or offer for sale any tobacco product that has been removed from its original package or offer for sale any cigarette package that contains fewer than twenty (20) cigarettes.

8.7 No person shall sell any tobacco products, or nicotine delivery products, or give any such products, to any person under the age of 21 years. The minimum legal sales age in the Town of Wilmington is 21. The fine for the sale or gift of a tobacco product or nicotine delivery product to a person under the age of 21 shall be \$300.00 (see Section 8.22). Each retailer shall verify by means of valid government-issued photographic identification that each person purchasing tobacco is 21 years of age or older. No such verification is required for any person who reasonably appears to be 30 years of age or older. (effective November 1, 2015)

8.8 Existing vending machines dispensing tobacco products shall be located in plain view and control of a responsible employee, and all such vending machines must be equipped with a lock-out device approved by the Board of Health. Sale of a tobacco product to a minor by means of a vending machine is punishable by a fine of \$300.00. A second offense within a two year period shall be punishable by removal of the tobacco vending machine(s) for a period of one (1) year. A third offense within the same two-year period shall be punishable by permanent removal of the tobacco vending machine. After the effective date of this regulation, any new installation of a vending machine dispensing tobacco products shall be prohibited.

8.9 In conformance with Massachusetts General Laws, Chapter 270, Section 7, a copy of Massachusetts General Laws, Chapter 270, Section 6 shall be posted conspicuously in any place which sells tobacco products by the operator thereof.

8.10 A separate notice shall be posted at all of the cash registers and on any vending machine such that it may be readily seen by a person standing at or approaching the cash register or vending machine. Such notice shall directly face the patrons and shall not be obstructed from view, and shall be in two contrasting colors, at least 48 square inches in area, and able to be read at a distance of five (5) feet. Such notice shall state that the sale of any tobacco product to persons under age 21 is illegal. The owner or other person in charge of a shop or other place used to sell nicotine delivery products shall also conspicuously post a sign stating that "The sale of nicotine delivery products to persons under 21 years of age is prohibited."

8.11 Self-service displays of tobacco products are prohibited. Displays of tobacco products, including humidors, must be under the direct supervision of an employee and may be located only in

an area behind or above the sales counter or courtesy desk counter area. Walk-in humidors must be located immediately adjacent to the cash register so as to prevent access without age verification. A Commercial Roll-Your-Own (RYO) machine is a mechanical device, by whatever manufacturer made and by whatever name known, that is designed to roll and wrap tobacco into products.

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Ms. Sabounjian motioned to close the public hearing at 5:45 p.m., Dr. Williams, second, voted 3-0.

Department Business

There will be one more seasonal flu clinic in mid December at the Town Hall

Special Town Meeting with 5 articles is on Saturday December 16 at 10:30 a.m. at the High School

Dr. Williams motioned to adjourn at 6:00 p.m., voted 3-0.


Recording: Shelly Newhouse, Director of Public Health