

# TOWN OF UXBRIDGE

Board of Health  
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## Minutes of the Uxbridge Board of Health hybrid meeting held on December 21, 2022 at 6:00 PM

**Present:** Dr. David Tapscott, Chairman; Dr. Joann Lindenmayer (via zoom), Vice Chair; and Dr. Cay DenHerder, Member

**Also present:** Erin Hightower, Health Director; Kaitlin Donahue, Health Inspector, Missy Kakela-Boisvert, Administrative Assistant Mark Rockwell, owner of 775 Quaker Highway, Tom Corbin of Hanna's Place, Joan Hamlett. Director of the Board of Health Tobacco Control Alliance (via zoom), Muhammad F. Akram and Muhammad I. Akram owners of IIF Mart, Attorney Kevin Quinlan representing V & D LLC, Kamlesh Kumar Patel owner of V & D LLC

Join Zoom Meeting

<https://uxbridge.zoom.us/j/87691030673>

Meeting ID: 876 9103 0673

### Meeting called to order:

The time being 6:00 PM and a quorum present, Chairman Dr. David Tapscott called the meeting to order.

**Hanna's Place** – violation and correction plan discussion regional inspector Danielle Edmonds conducted a routine inspection. Violations that needed to be addressed.

1. One being the grease trap needs to be replaced and during a follow-up inspection it still was not replaced.
2. Another is the walk-in refrigerator, it needs some attention. It has a good amount of structural issues and some were addressed but there is concern about mold being behind the wall area. Follow-up inspections will be needed and Kaitlin would like to see a plan as to how these corrections will be done.

Mark Rockwell told the board that he did put a temporary cover over the grease until a new trap is installed. Regarding the walk-in refrigeration, he's not sure what is needed to be done. Kaitlin told him the whole unit should be replaced. Tom Corbin approached the board and asked the air be tested for mold. They will correct whatever is necessary. Erin told the gentlemen that we don't test for mold we just report what is observed. Kaitlin would like to see the grease trap installed with the all proper approved permits within 30-days.

**Violations under "An Act to Modernize Tobacco Control" and 105 CMR 665.000: Appeals  
Permit updates**

Erin explained that 4 tobacco permitted establishment had violations for either selling blunt wraps and/or selling flavored products. Joan sent the establishments violation letters. Some have decided to request an appeal. These inspections were done December 6, 2022. The flavor violations are a State violation and supersedes the local regulation. So, it's enforced locally but uses the State penalties. Blunt wraps is a local regulation violation.

Under State law:

First violation fine is \$1,000.00 and suspension of tobacco license for three consecutive business days.

Second violation fine is \$2,000.00 and suspension of tobacco license for seven consecutive business days.

### **St's General Store**

Currently owner is out of the country and they did not request a hearing as of yet. If they don't request a hearing within the appropriate time it is assumed they will pay the fine and go with the set suspension. Joan explained that because they are out of country and meant to request a hearing, we can do that in January. This is their second violation in the 36-month window. The last violation was March 5, 2022, they paid the fine and agreed to the three-day permit suspension.

### **IIF Mart**

This is their first violation but the Tobacco Control Alliance did four educational visits in person to the store. The dates were January 24<sup>th</sup>, May 12<sup>th</sup>, June 18<sup>th</sup> and November 8<sup>th</sup> along with two mailings just to make sure they understood what they needed to do with regards to flavor. No flavor products were found in the store during those four visits. They are the same owners but changed the name of the store earlier this year. Joan is sure they received the education. The inspection was done on December 6, 2022 and violations were found for the Game Green, Fronto King Wrap and Dutch Fusion products.

- 1) There is no manufacturer letter for Game Green. Game Green is a vanilla flavor product and should not be available to order by distributors in Massachusetts because it's a flavor product. If these types of products are received by mistake, the alliance asks that the retailer contact them and distributor right away. The retailer needs to put it in the back storage, covered with a sign saying for distributor pick up. It's not allowed on the shelves with price points. It should never make it to the shelves for sale.
- 2) Dutch Fusion flavored products were also found. There was a manufacturer letter from ITG saying it was flavored. So, Dutch Fusion products were removed from all shelves and a letter was mailed out to all retailer and was discussed during in person visits prior to the December 6<sup>th</sup> inspection.
- 3) Fronto King Wrap unflavored wrap products are a violation of the local regulation with a fine of \$300.00 for first offense

There was not a large amount of these products found on this inspection but they were there for sale. The responsibility is on the retailer to check their orders and make sure no flavored products are there. Public Health is about compliance and education not fining. The Alliance did a lot of education visits and mailings to make sure establishments stay in compliance.

Muhammed Akram spoke to the board as one of the three owners of the establishment. They opened the store in February 2022 in Uxbridge but own a store in Worcester prior to 2022. Because they opened in February of 2022 they did not receive the first education visit on January 24<sup>th</sup>. He explained that they have had a lot of turnover in employees as he and the other owners are hardly there. He is trying to figure out how Game Green got into the establishment.

*Dr. Cay DenHerder moved to find IIF Mart responsible for the blunt wraps. Dr. Joann Lindenmayer seconded and the motion was passed unanimously with a vote of 3-0-0. Dr. David Tapscott – aye, Dr. Joann Lindenmayer – aye, Dr. Cay DenHerder - aye*

*Dr. Cay DenHerder moved to find IIF Mart responsible for Game Green flavored tobacco. Dr. Joann Lindenmayer seconded and the motion was passed by majority with a vote of 2-1-0. Dr. David Tapscott – no, Dr. Joann Lindenmayer – aye, Dr. Cay DenHerder - aye*

Joan will be in touch with the owners do discuss the tobacco suspension. The fines will need to be paid by December 30, 2022. The Alliance offers education any time to retailers.

## **V & D LLC**

Erin explained to the board that this is the establishment's second violation in a 36-month period. The fine is \$2,000.00 with a permit suspension of 7-days. The alliance did four educational visits in person at the store. The dates were 1/24/2022, 5/12/2022, 6/18/2022 and 11/8/2022 along with two mailings just to make sure they understood what they needed to do with regards to flavor products. November 8, 2021 flavored products were found in the store. They were told to remove it and given a verbal warning. On March 5, 2022 they sold to a minor and received a \$1,000.00 fine and a three-day suspension. On December 6<sup>th</sup> the alliance did an inspection and found Game Green. They also found Acid Blondie and Acid Kuba Kuba cigars. They received a warning for Acid Blondie and Acid Kuba Kuba cigars the store. In the educational packet that is given to retailer there is information regarding Acid products and future violations will be considered a fineable offense.

Attorney Quinlan spoke to the board on behalf of his client Kamlesh Kumar Patel owner of V & D LLC. Attorney Quinlan put blame on the distributor and poor packaging information. Joan looked on the State data base, on November 8, 2021 Newport menthol cigarettes and Game Green were the flavored products found. There's close to 70,000 tobacco, cigar, vape, pipe, chew products and it can get confusing. So, the State of Massachusetts said the manufacturer not distributor has to meet components of a manufacturer letter and they are attesting to and verifying no flavors. The manufacturer's letter attests to the absence of flavor, which is difficult to determine based on the product name. The copy of the Garcia Vega letter attests Game Green is flavored Green Sweets is not. So, there is no need to open packages up and test because there is a letter from the

manufacturer. The state law puts the responsibility on the store owner not on the distributor.

Attorney Quinlan asked for clarification from the Board that if his clients are found responsible, there is no leeway with the fine but there is the with permit suspension. The owners' wife who attend the meeting admitted to putting the Game Green out on the shelf because she did not know the difference and normally does not work at the store. She asked not for a long suspension because they are a small business. The owner spoke that he can't find a lot of help. There's been adequate education on the laws regarding the sale of tobacco products. Uxbridge had their own regulations regarding no flavor tobacco before the State Law was enacted.

*Dr. Joann Lindenmayer moved to find V & D LLC responsible for Game Green flavored tobacco with a three-day suspension of permit. Dr. Cay DenHerder seconded and the motion was passed unanimously with a vote of 3-0-0. Dr. David Tapscott – aye, Dr. Joann Lindenmayer – aye, Dr. Cay DenHerder - aye*

Joan will be in touch with the owners do discuss the tobacco suspension. The fines will need to be paid by December 30, 2022. Joan's alliance offers education any time to retailers.

### **Permit updates**

Missy explained the process for renewing permits that the Board of Health issues for example food, tobacco, keeping of animals and so on. The process started back in October to give applicants plenty of time to renew before the December 31<sup>st</sup> expiration date. She asked for guidance on what to do with permits for keeping of animals if only a partial application was submitted. The Board agreed to fine those with incomplete applications.

### **Inspection updates**

Complaints/Nuisance – Cresco was supposed to have a new plan in place but Erin has not seen anything as of yet. Erin explained that we just found out the town is getting new town counsel. She not sure how this will affect the ongoing issues with Cresco. An odor complaint line was put in so anyone who would like to place a complaint regarding the smell of marijuana near Cresco is to call 1-800-285-7232. It's a 24/7 line. Erin was trained as an odor smeller. There is an individual who will go out within 30 minutes to check out the complaint. Also, as of December 21<sup>st</sup> they need to provide their new conceptual design for a new odor mitigation plan, if they do not, they are supposed to stop flowering immediately until they met the fully operational criteria and the Town will start the formal process of revoking their permits. The Board of Selectmen have the regulatory power with this issue. Erin has been in contact with the Cannabis Control Commission and Mass Department of Environmental Protection.

*Dr. Joann Lindenmayer moved to send a letter to the Selectmen stating the Cresco has not complied with the agreement that was drawn up by town counsel and their host community agreement be terminated immediately. Dr. Cay DenHerder seconded and the motion was passed unanimously with a vote of 3-0-0. Dr. Joann Lindenmayer – aye, Dr. Cay DenHerder - aye Dr. David Tapscott – aye, ,*

### **Discussion on changes to Article 14: Minimum Sanitation Standards for Private and Semi-Public**

## Wells

Dr. Tapscott has nothing to add and will look to vote on it at a January meeting. Because town counsel changing this might have to wait until February.

## Meeting Minutes

*Dr. Joann Lindenmayer moved to approve meeting minutes as written for **January 5, 2022**. Dr. Cay DenHerder seconded and the motion was passed unanimously with a vote of 3-0-0. Dr. David Tapscott – aye, Dr. Joann Lindenmayer – aye, Dr. Cay DenHerder - aye*

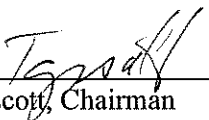
*Dr. Joann Lindenmayer moved to approve meeting minutes as written for **April 6, 2022**. Dr. Cay DenHerder seconded and the motion was passed unanimously with a vote of 3-0-0. Dr. David Tapscott – aye, Dr. Joann Lindenmayer – aye, Dr. Cay DenHerder - aye*

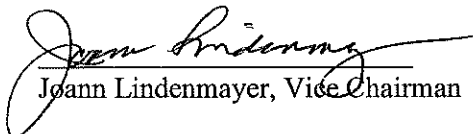
*Dr. Cay DenHerder moved to approve meeting minutes as written for **September 21, 2022**. Dr. David Tapscott seconded and the motion was passed with a vote of 2-0-1. – Dr. David Tapscott aye and Dr. Cay DenHerder – aye. Dr. Joann Lindenmayer – abstained because she was not present.*

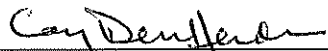
*Dr. Cay DenHerder moved to approve meeting minutes as written for **October 19, 2022**. Dr. Joann Lindenmayer seconded and the motion was passed unanimously with a vote of 3-0-0. Dr. David Tapscott – aye, Dr. Joann Lindenmayer – aye, Dr. Cay DenHerder - aye*

## Motion to adjourn:

*Dr. Joann Lindenmayer moved to adjourn the meeting at 8:16 pm. Dr. Cay DenHerder seconded and the motion was passed unanimously with a vote of 3-0-0. Dr. David Tapscott – aye, Dr. Joann Lindenmayer – aye, Dr. Cay DenHerder - aye*

  
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David Tapscott, Chairman

  
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Joann Lindenmayer, Vice Chairman

  
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Cay DenHerder, Member

