

TOWN OF UXBRIDGE

Board of Health

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Minutes of the Uxbridge Board of Health hybrid meeting held on June 21, 2023 at 6:00 PM

Present: Dr. David Tapscott, Chairman; Dr. Joann Lindenmayer, Vice Chair and Dr. Cay DenHerder, Member

Also present: Erin Hightower, Health Director; Kaitlin Donahue, Health Inspector Missy Kakela-Boisvert, Administrative Assistant, Joan E. Hamlett, Director Boards of Health Tobacco Control Alliance and Ron Adams.

Join Zoom Meeting

<https://uxbridge.zoom.us/j/83845502291>

Meeting ID: 838 4550 2291

Meeting called to order:

The time being 6:01 PM and a quorum present, Chairman Dr. David Tapscott called the meeting to order.

Tobacco Hearing – V&D LLC, Uxbridge Mobil/Honey Farms

Dr. Lindenmayer made a motion to open the tobacco hearing. Dr. DenHerder seconds the motion and the motion passed unanimously with a vote of 3-0-0. Dr. Tapscott – aye, Dr. Lindenmayer – aye, Dr. DenHerder - aye

Erin explained to the Board that on May 18, 2023, V & D LLC was in violation of having an unlocked self-service humidor display. Under the Uxbridge Board of Health tobacco regulation, In the case of three violations or repeated, egregious violations of this regulation within a 36-month period, the Board of Health shall hold a hearing in accordance with subsection 4 of this section and may permanently revoke a Tobacco Product Sales Permit. The violations are as follows.

- November 8, 2021 – Flavor product and received a verbal warning.
- March 5, 2022 – Sold to a minor
- December 6, 2022 – Flavor product found in the store
- May 18, 2023 – Unlocked humidor

Dr. Lindenmayer asked if the letter was sent by certified mail to ensure they were aware of the hearing tonight. Erin said the letter was sent on June 7th but was not sure if it was sent certified mail. Dr. Lindenmayer wants to make sure they were notified properly. They did pay the fine.

Dr. Cay DenHerder made a motion to close the tobacco hearing. Dr. Joann Lindenmayer seconds the motion and the motion passed unanimously with a vote of 3-0-0. Dr. Tapscott – aye, Dr. Lindenmayer – aye, Dr. DenHerder - aye

The Board looked at the current tobacco regulations as to the violation structure.

Section Q. Violations, 1.b) of the regulations state that:

In the case of three violations or repeated, egregious violations of this regulation within a 36-month period, the Board of Health shall hold a hearing in accordance with subsection 4 of this section and may permanently revoke a Tobacco Product Sales Permit.

Dr. Lindenmayer wants to know for certain that they were sent and received notification of this hearing. They have been responsive before and have attended meetings before. Missy knows that it was emailed and mailed but is not sure if it was sent certified mail.

Dr. Lindenmayer is not in favor of revoking the tobacco permit and favors sending a very strongly worded letter that if there is any other violation before the 36-month period, there is a strong possibility of revoking their license. Joan E. Hamlett, Director Boards of Health Tobacco Control Alliance spoke to the Board regarding the regulations. Three violations require a hearing and to revoke a license is a big deal. Her suggestion is to continue without a finding. Her team can go to the store and conduct mandatory merchant education training.

The Board decided to send a very strongly worded letter that if there is any other violation before the 36-month period which would end March of 2025. In addition, the Board suggested merchant education training be done.

Discussion on updated Tobacco Regulations – Dr. Tapscott brought up for discussion the cap for the number of tobacco permits that are issued. Currently, there are 14 permits and all 14 permits have been issued. The Board talked about possibly doing retiring permits. That would mean when a business closes and the new owner does not apply for that establishment's permit, the number of tobacco permits will be reduced until there are no tobacco permits available. There was a discussion regarding distance for new permits with regards to schools 500 feet, 1,000 feet and 2,000feet. The biggest difference between the current regulations and proposed regulations is formatting and making the regulations more in line with State regulation.

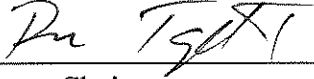
Mr. Ron Adams spoke to the board about the cap on tobacco permits. He feels the board is restricting new business instead of fining those businesses that sell to minors. Dr. Tapscott said the Board would discourage the sale of tobacco and the health risks. Mr. Adams said the Town will not get any new gas stations or convenience stores if there are no tobacco permits available. He is trying to sell his property and those types of businesses want to be able to sell tobacco.

The Board agreed not to increase the number of tobacco permits not to discourage businesses but because of public health. Mr. Adams is the first on the waiting list for tobacco permits if one becomes available. Also, the Board agreed no new permits would be issued if the establishment was within 1,000 feet of a school. Currently there is no required distance between tobacco retailers. Dr. DenHerder would need to be convinced of the benefit of the distance from one tobacco retailer to another. Joan only has two out of twenty-eight towns that have a distance between retailers. This would only be for new businesses. The Board is not in favor of putting any distance requirement for tobacco establishment to tobacco establishment. Board members agreed to ban smoking bars. A new definition of Rolling Paper & Flavor Enhancer will capture flavored hemp wrap and clarify leaf wrap produce and the Board agreed to the proposed definition.

Joan will work on cleaning up the proposed regulations to get ready for a public hearing. Erin will send a copy to Town counsel for their review. The Board is looking at August 16th to have a public hearing for the tobacco regulations.

Salmon VNA yearly contract – signature – Erin said the VNA has not gone up in price. Ann Labonte continues to be our public health nurse. The Board approved the contract since nothing has changed.

Motion to adjourn: *Dr. Lindenmayer moved to adjourn the meeting at 8:37 pm. Dr. DenHerder seconded and the motion was passed unanimously with a vote of 3-0-0. Dr. Tapscott – aye, Dr. Lindenmayer – aye, Dr. DenHerder - aye*



David Tapscott, Chairman

Joann Lindenmayer, Vice Chairman



Cay DenHerder, Member

2023 Sales Regulation

UXBRIDGE DRAFT REGULATION RESTRICTING THE SALE OF TOBACCO AND VAPE PRODUCTS

THIS MODEL REGULATION INCORPORATES THE FOLLOWING:

1. The minimum standards required pursuant to the United States Food and Drug Administration relative to the sale and distribution of cigarettes; and
2. The minimum standards required pursuant to Massachusetts state law and regulation. This includes G.L. c. 270 regarding sales to those under 21, tobacco and vaping product sales including flavored products, required signage, matching definitions and other relevant state statutes and regulations.

CHECKLIST FOR POLICY DECISIONS (circle decisions):

- | | |
|---|--|
| 1. No permit renewal if outstanding fines exist (§E.6) | Already Have |
| 2. No permit renewal if three sales to persons under 21 (§E.7) | Already Have |
| 3. Cap and/or reduce number of permits (§E.8) | Already Have |
| 4. No new permits within 1000 feet of a school (§E.11.a) Had 500 Proposed change to 1000 | |
| 5. *No new permits within (---) feet of an existing permittee (§E.11.b)
500 () 1,000 () 2,000 () | PROPOSED IN DRAFT |
| 6. Ban Smoking Bars (§F) | PROPOSED IN DRAFT |
| 7. Include minimum cigar package size/price (§G) | Already have |
| 8. Ban blunt wraps (§J) | Already have |
| 9. Ban free distribution of tobacco products (§K.1) | Already have |
| 10. Ban redemption of coupons (§K.2) | Already have |
| 11. Ban Self-Service Displays (§M)
Exception for Adult-Only Retail Tobacco Stores () | Already Have |
| 12. Ban tobacco product sales in educational institutions (§Q) | Already Have |
| 13. New Definition of Rolling Paper & Flavor Enhancer to capture flavored hemp wrap and clarify leaf wrap produce | PROPOSED IN DRAFT |
| 14. *Fining Structure System (§S)
Separate State and Local () Unified Fining Structure () | PROPOSED IN DRAFT
Recommend Separate |
| 15. Tolling periods for local violations (§S) | Already Have |
| 16. State level at 36 months | PROPOSED IN DRAFT |
| 17. Suspension Periods (§S) | Have but recommend changes. |
| 18. Choose Suspension Periods (§S)
First Violation: 1 to 7 days (mandatory for first underage sale)
Second Violation: up to 7 days
Third or More Violations: up to 30 days | (3) recommend
(7) recommend
(30) recommend |
| 19. "Shall" vs. "May" language for suspensions (§S) | Have Shall |

GREEN highlighted sections are local policy decisions (most are on the above checklist) to be made by the Board of Health.

***Means all options are being left in the draft for the BOH to decide on after public input.**

All contents in black and white includes what is presently enforced as per 1 & 2 under THIS MODEL REGULATION INCORPORATES THE FOLLOWING and in current Uxbridge Boards of Health Regulation. However, there may be updated language, but the section means the same as previously passed.