

**BOARD OF HEALTH**  
**Hearing Room, Second Floor, City Hall: 210 Main Street**  
**October 17, 2019 Minutes**

**BOH Members Present:** Joanne Levin; Suzanne Smith; Cynthia Suopis; William Hargraves; and Laurent Levy  
**BOH Members Absent:** None: Suzanne Smith adjourned at 7:06 pm  
**Staff:** Merridith O’Leary, Director (Attending by Remotely by Telephone) and Melissa Roberts-Cote, BOH Clerk  
**Staff Absent:** None

**Meeting opened October 17, 2019** at 5:31 pm by Joanne Levin

**I. Public Comment Session:** Three people spoke during public comment.

**II. Review Minutes**

**A. Meeting Minutes from August 19, 2019.**

**Motion: Approved:** Motion made by Suzanne Smith to accept the minutes, seconded by Laurent Levy. All were in favor (5-0)

**B. Meeting Minutes from September 19, 2019.**

**Motion: Tabled:** Motion made by Suzanne Smith to table the minutes to the next meeting, seconded by Cynthia Suopis. All were in favor (5-0).

**III. Discussion: Regulation of the City of Northampton Board of Health Restricting the Sale of Tobacco Products and Nicotine delivery Product**

The Board discussed tobacco sales policy amendments that they are considering at the upcoming hearing.

**Proposed Policy Amendment #1:** Updating the definition of “Characterizing Flavor” to un-exempt mint, menthol and wintergreen would determine that mint, menthol and wintergreen are flavors and subject to the policy.

Use suggested Model Language that reads:

*Characterizing flavor: A distinguishable taste or aroma, other than the taste or aroma of tobacco imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, menthol, mint, wintergreen, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.*

The Board voted to move policy changes forward to the upcoming hearing.

Vote: For Amendment #1: Yes: J.Levin, S.Smith, W. Hargraves, – Abstained: L. Levy – Opposed: C. Suopis (3-1-1)

**Proposed Policy Amendment #2:** Updating the definition of Tobacconist will further clarify and delineate what conditions a tobacconist would need to meet to avail itself of advantages to policies where tobacconist are exempt.

Use suggested Model Language that reads:

*Tobacconist: An establishment that does not share space with another business, that has a separate entrance, that does not sell food or alcohol, that does not have a restaurant license or lottery license, whose only purpose is to sell or offer for retail sale tobacco products and/or tobacco product paraphernalia, in which the entry of persons under the age of 21 is prohibited at all times, and which maintains a valid permit for the retail sale of tobacco products from the Northampton Board of Health and applicable state licenses. Entrance to the establishment must be secure so that access to the establishment is restricted to employees and to those 21 years or older. The establishment shall not allow anyone under the age of 21 to work at the establishment.*

The Board unanimously has agreed that they would like to add language to this definition so that there is no possibility of a tobacconist being within another store or have direct physical access to another store. Director O’Leary will speak with Attorney Cheryl Sbarra, Director of Policy and Law at Massachusetts Association of health boards (MAHB) to clarify language for Amendment #2.

The Board voted to move policy change forward to the upcoming hearing.

Vote for Issue #2: MOTION: made by Suzanne Smith to adopt the intention of the amendment with clarification on the language, seconded by Cynthia Suopis. All in favor (5-0)

**Proposed Policy Amendment #3:** Adding a policy that will restrict the sale of all vape product to Tobacconists, where one needs to be 21 to enter the store.

*E. Sale of Vape Products Restricted to Tobacconist Establishments:*

*No person shall sell or distribute or cause to be sold or distributed any E-Cigarette, as defined herein, except in a permitted Tobacconist Establishment.*

The Board voted to move policy change forward to the upcoming hearing.

Vote for Issue #3: MOTION: made by Cynthia Suopis to restrict the sale of vape products to Tobacconist Establishment adopt the intention with clarification on the language, effective January 1, 2020 seconded by Suzanne Smith. All in favor (5-0)

**Proposed Policy Amendment #4:** Adding a policy that will restrict the sale of ALL tobacco products to Tobacconists. The effective date will be a year out from the effective date of the rest of the regulation.

*F. Sale of All Tobacco Products Restricted to Tobacconist Establishments:*

*On and after January 1, 2021, not person shall sell or distribute or cause to be sold or distributed any tobacco product except in Tobacconist Establishments with a valid tobacconist Establishment Permit from the Northampton Board of Health*

The Board voted to move policy change forward with a change in the effective date.

Vote for issue #4: MOTION: made by Cynthia Suopis to amendment #4 to change the effective date from 1/20/21 to 3/1/20 with a second by William Hargraves. (Discussion)

Yes: C. Suopis, Abstain: L. Levy, 3 Opposed: J. Levin S. Smith, W. Hargraves. (1-1-3) Motion failed.

Second Vote for Amendment #4: MOTION: made by Laurent Levy to proceed with amendment #4 with an effective date of 7/1/20 seconded by William Hargraves. Yes: J. Levin, C. Suopis, W.

Hargraves, L. Levy – Opposed: S. Smith (4-1)

**Proposed Policy Amendment #5:** Reducing the number of retail permits to reflect our current number issued (at the time of the effective date of the regulation). Currently our cap is 29 and we have 28 permits issued.

*H. Tobacco Product Sales Permit:*

*9. At any given time, there shall be no more than twenty-nine (29) Tobacco Sales Permits issued in Northampton. The number of Tobacco Sales Permits shall be not more than the number issued at the effective date of the amended regulation.*

The Board voted to move policy change forward to the upcoming hearing.

Vote for Issue #5: MOTION: made by Laurent Levy to eliminate the tobacco retail permits per amendment #5 as of July 1, 2020. As of July 1, 2020 all tobacco retail permits would expire. There would be a cap of 29 Tobacconist Establishment and no reduction through attrition. Seconded by Cynthia Suopis. All in Favor (4-0) Suzanne Smith was not present for this vote.

**Proposed Policy Amendment #6:** Adding policy that will reduce the number of tobacco sales permits through attrition when a retailer chooses to stop selling tobacco and returns their permit to the City. The only way a new retailer can obtain a permit would be to buy an existing business.

The Board decided not to move forward on issue #6.

The Board has previously voted on issue #6. As of July 1, 2020 there would be no more retail tobacco permits, all 29 would expire and a cap of 29 Tobacconist Establishments would be established. There would be no regular tobacco permits and therefore would be no reduction through attrition.

**Proposed Policy Amendment #7:** Updating out-of-package sales to use suggested language of the model regulation. This is to allow cities and towns the ability to enforce the AG Regulations that ban in-store vape juice mixing and requires child-resistant packaging. It is not new law, just allowing for local enforcement.

Use suggested Model Language that reads:

*Section K: Out –of-Package Sales model regulation language:*

- 1. The sale or distribution of tobacco products, as defined herein, in any form other than an original factory-wrapped package is prohibited, including the repackaging or dispensing of any tobacco product, as defined herein, for retail sale. No person may sell or cause to be sold or distribute or cause to be distributed any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.*

2. *Permit holders who sell Liquid Nicotine Containers must comply with the provisions of 310 CMR 30.000, and must provide the Northampton board of Health with a written plan for disposal of said product, including disposal plans for breakage, spillage or expiration of the product.*
3. *All permit holders must comply with 940 CMR 21.05 which reads: "It shall be an unfair or deceptive act or practice for any person to sell or distribute nicotine in a liquid or gel substance in Massachusetts unless the liquid or gel product is contained in a child-resistant package that, at a minimum, meets the standard for special packaging as set forth in 15 U.S.C. §§ 1470 through 1476 and 16 CFR § 1700 et. Seq.*
4. *No permit holder shall refill a cartridge that is prefilled and sealed by the manufacturer and not intended to be opened by the consumer or retailer.*

The Board voted to move issue forward to the upcoming hearing.

Vote for Issue #7: MOTION: made by William Hargraves to accept section K and add 2,3,4 seconded by Laurent Levy. All in favor (4-0) Suzanne Smith was not present for this vote.

The Board will have a meeting to assess the final draft regulation prior to a hearing date.

#### **IV. Department Updates:**

- Joanne Levin discussed with the Board some suggestions on how to increase the vaccination rates in Northampton with regard to Measles. An array of possible actions varied from parent forums, documentation of a provider signature verifying a discussion about the benefits of vaccination, ad campaigning as well as writing a regulation to eliminate religious exemptions. She will be working with the Public Health Nurse Jenny Meyer to work on various approaches with the schools and families. The Board discussed this, however no decisions were made on the next step.
- The City of Northampton will be conducting another Coat Drive on November 4 collecting new or gently worn coats, jackets, hats, scarfs, gloves or mittens until December 2, 2019. Donation boxes will be throughout the community where donations can be made and the apparel will be donated to the local shelters.

**Meeting Closed: Motion to Close Meeting:** Motion made to close the Board of Health meeting by Cynthia Suopis, seconded by William Hargraves, all in favor (4-0) Suzanne Smith was not present for this vote.

**Meeting closed at 7:57 PM.**

The next scheduled Board of Health Meeting: November 21, 2019.

Melissa Roberts-Cote, BOH Clerk

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## **BOARD OF HEALTH**

Date: October 17, 2019

**Hearing Room, Second Floor, City Hall, 210 Main Street**

### **Meeting Document List**

The following documents were available to the Board of Health during their scheduled meeting.

These documents are available for review at the:

**Northampton Health Department, 212 Main Street, Northampton, MA 01060**

- Meeting Agenda
- August 19, 2019 Minutes
- September 19, 2019 Minutes
- Outline for draft regulation
- Draft Regulation Restricting the Sale of Tobacco Products
- Appendix A