

BOARD OF HEALTH MINUTES
February 11, 2013

Marie O'Rourke, Chair, called the meeting to order at 7:45 p.m. Also in attendance were Robert Reader, Vice Chair, Sandra Giroux, Secretary, Daniel Kane, Mike Grady, Richard Berube, Director and Joanne White, Recording Clerk.

Keeping of Hens Regulation

A copy of the proposed Section 12 Regulations Regarding the Keeping of Hens has been provided to the Board for review.

Mr. Berube stated that Jen Croce provided me with a draft of the regulations that have been modeled after the Billerica Board of Health Horse and Barn regulation however, they were not comprehensive enough and sensitive to the issues the Board of Health has raised at past hearings. Mr. Berube explained that he has done quite a bit of research from many towns across Massachusetts regarding this regulation. The regulations from other towns were either too brief or too vague. So I took bits and pieces from those regulations and drafted these. I also had a discussion with the Massachusetts Department of Agricultural Resources (MDAR) Division of Animal Health and they provided some information but unfortunately I could not tailor them for our purposes. Mr. Berube explained in detail starting with the purpose, the Best Management Practices (BMP's), the definitions and requirements of the regulations.

Mr. Grady asked what are we going to do about the people that already have chickens.

Mr. Berube explained that these regulations will be published and a public hearing will be held. It might take a couple of years before everyone is permitted. Mr. Berube explained that he has received a lot of inquiries so there are a lot of people that are looking forward to seeing these regulations in place. Mr. Berube continued to explain and review the regulations.

Mrs. O'Rourke asked if the Building Department has reviewed the regulation.

Mr. Berube replied no, because they won't have a role in this.

Mrs. O'Rourke asked will a building permit be required to build a chicken coop or a hen house.

Mr. Berube replied that he would talk to the Building Inspector.

Mr. Reader asked about the property lines.

Mr. Berube stated that the Board may want to review the setbacks that he has documented.

Mrs. O'Rourke asked how will the chicken owners remove the manure.

Mr. Berube explained that he wants the owner of the chickens explain how they plan on disposing of the manure. One of the requirements is that they provide a manure management plan. They can compost it with the approval of the Board of Health.

Mrs. O'Rourke asked Ms. Croce what she does with the chicken manure.

Ms. Croce replied that she composts it.

Mrs. O'Rourke asked if the pile gets too big what do you do with it.

Ms. Croce replied that it breaks down quickly. You can only have six (6) chickens and the manure is very small it is not like the manure from a horse.

Mr. Berube explained that Billerica is not a rural community anymore. The thought process I used when writing these regulations was what would need to be done so that this would not cause a problem in the residential neighborhood.

Mrs. Giroux asked what is the rule for the proper disposal of a dead chicken.

Mr. Kane commented that an appropriate way to dispose of chicken manure and the disposal of a dead chicken should be clearly documented in the regulations.

Mr. Berube replied that he did not want to make the regulations so comprehensive where they become lengthy.

Mr. Grady asked how much manure does six (6) chickens generate in a week.

Ms. Croce replied maybe a few pounds.

Mr. Reader asked Ms. Croce how she gets rid of her dead chickens.

Ms. Croce replied that she called McGrath Animal Hospital and they will take the dead carcass.

Mr. Berube stated that they can contact the MDAR or go to the poultry program on the website for more information.

The Board Members discussed the proposed regulations and standards.

Mrs. O'Rourke asked do we need to have a public hearing.

Mr. Berube replied yes. The public hearing will probably be held in March.

Mr. Grady asked who will do the inspections.

Mr. Berube replied it will be a combination of the Animal Inspector and the Board of Health office. Mr. Berube explained that he is also exploring training opportunities with the Division of Animal Health.

Mrs. O'Rourke and the Board Members complimented Mr. Berube on the job that he did with the regulations.

Mr. Berube stated that if the Board Members had any comments please email me with them.

Mrs. Giroux stated that her only question is whether or not a building permit is required. Mrs. Giroux asked what the fee will be for the permit.

Mr. Berube replied that he is suggesting that the permit fee for keeping of chickens will probably be a flat fee per year of \$50.00 for the six (6) chickens.

Mr. Kane suggested that a specific website should not be included because if the mass.gov website changes their link it will not point to anything. I suggest that you just reference the Massachusetts Department of Agriculture.

Mrs. Giroux suggested that the link be eliminated but make them aware of the website that they can go to for more information.

Mr. Berube explained that he would like to have the public hearing in March. At that public hearing we will review and adopt the proposed Keeping of Chickens, Tobacco Control and the Body Art/Body Work regulations.

Proposed New Tobacco Control Regulations

Mr. Berube stated that Ron Beauregard, Director of Healthy Communities Tobacco Control Program was present to discuss the new regulations. Mr. Berube explained that he took the existing tobacco regulations and updated them. A check list for policy decisions is included for the Board Members to reference all the changes that have been made.

BOARD OF HEALTH MINUTES
FEBRUARY 11, 2013 PAGE 4

Mr. Beauregard provided the Board Members with a fact sheet from the Massachusetts Municipal Association indicating what other changes have been done regarding these policies. DJ Wilson has compiled this information.

Mr. Berube explained that in Section 1 Restricting the Sale of Tobacco & Nicotine Delivery Products Purpose has expanded.

Mr. Beauregard stated that he has reviewed the Billerica Board of Health current regulations and put together a comparison sheet. Mr. Beauregard stated that he would explain each proposed policy.

1. Include the wording Nicotine Delivery Products in the regulations. That means no nicotine or tobacco product will be sold to anyone under the age of eighteen (18).

Mr. Reader asked about a commercial roll your own machine (RYO). Where do you find one of these machines?

Mr. Beauregard explained there was one in Tewksbury, Haverhill and Methuen. The federal government has banned these machines. The agencies in charge of these machines have stated that in order to have one you have to pay the same fee that a manufacturer pays. Mr. Beauregard explained how the machine makes the cigarettes. I recommend you include that policy.

2. Include cessation signage requirement. That means the owner or person in charge of a tobacco shop shall conspicuously post signage provided by the Board of Health that discloses current referral information about smoking cessation.

Mr. Beauregard explained that it is an 8 1/2 inch x 11 inch sign. The regulation would read that anyone selling tobacco would post this sign with an 800 number for anyone that wants to quit smoking.

Mr. Berube recommended that the Board adopt the cessation signage because we are in the business of enforcement and this sign will offer information for people that want to quit.

3. Include signage requirement for nicotine delivery products.

Mr. Beauregard explained that provision indicates that there will be a sign posted that reads it is illegal to sell tobacco and nicotine delivery products to anyone under the age of eighteen (18).

4. Permit requirement to abide by MA Department of Revenue minimum pricing.

Mr. Beauregard explained that sometimes cigarettes are sold under the minimum. If we find that we deliver that information to the Department of Revenue.

5. Cap and or/Reduce Permit Number.

Mr. Beauregard explained that none of the members of the collaborative have adopted this policy. It is recommended that you set the number a little higher than what you now have.

6. Include minimum Cigar package size/price.

Mr. Beauregard stated that he recommends this policy. Mr. Beauregard explained the different types of single cigars that are sold. The only cigars that will be prohibited are the ones that are sold for under \$2.50.

7. Ban Blunt Wraps.

Mr. Beauregard showed and explained what blunt wraps are and how they are used.

8. Ban Coupon Redemption.

Mr. Beauregard explained that this policy will not allow the redemption of tobacco products for free or at a reduced price below the minimum retail price.

9. Self-Service Displays.

Mr. Beauregard explained that the Board will need to decide if they want to allow an exception for retail tobacco stores that predominantly sell tobacco where no person younger than eighteen (18) is present or permitted to enter at any time. Some communities do not have an exception to this policy.

Mr. Kane commented that the Smoke Shop at the Billerica Mall is not an adult only and they refuse to put up the eighteen (18) or older sign. They refuse to ID everyone that goes into the establishment.

Mr. Beauregard explained that some stores do not want the exception because when a person goes into an establishment to get provisions they may have to take a child in with them.

10. Vending Machines.

Mr. Beauregard stated that there is only one (1) vending machine in Billerica. It is at the Billerica Elks. Mr. Beauregard explained that the FDA allows vending machines in establishments where no one under the age of eighteen (18) is allowed. I recommend the language.

11. Ban RYO Machines.

Mr. Beauregard stated that we have already discussed the Roll Your Own Machines.

12. Ban Tobacco Sales in Health Care Institutions.

Mr. Beauregard explained that this policy bans sales in pharmacies. The reason not to ban tobacco sales in pharmacies is because individuals will just buy the cigarettes somewhere else. The reason to ban tobacco sales is because pharmacies are where individuals go for health advice.

13. Ban Tobacco Sales in Educational Institutions.

Mr. Beauregard explained that this policy pertains to tobacco sales in campus stores at community or other colleges.

14. Fining Structure.

Mr. Beauregard explained that the fine structure is the same as the existing regulation. The only difference is should a first offense be subject to just a warning or a fine. The enforcement officer should use their judgment whether to issue a warning or a fine.

15. Ban smoking in smoking bars, retail tobacco stores, outdoor spaces of restaurant.

Mr. Beauregard explained that in smoking bars this policy is for establishments where sales predominate tobacco products and smoking is allowed.

Mr. Reader asked how come there isn't a policy that prohibits smoking in private clubs.

Mr. Beauregard explained that the supreme judicial court decided a couple of years ago that it was legal to smoke in private clubs.

16. Ban e-cigarettes in public places

Mr. Beauregard stated the banning of e-cigarettes has been discussed.

Mr. Berube asked the Board if they wanted to make any policy decisions tonight so that he can revise these regulations and finalize them.

Mrs. Giroux asked how many tobacco permits does the Board of Health issue.

Ms. White replied forty-three (43) tobacco permits.

Mrs. Giroux asked is there any way to include chewing tobacco.

Mr. Beauregard explained that chewing tobacco is called snus. That product would come under the definition of "tobacco product" as it does under the current regulations. The snus product is only available to adults for purchase and must be placed out of the reach of customers. Mr. Beauregard explained that instead of a round can of chewing tobacco there is a bag that young people put in between their teeth and gums. The bag looks like a tea bag.

The Board Members thanked Mr. Beauregard for his presentation.

Mr. Berube asked the Board Members if they wanted to go over the policy decisions at this time.

The Board Members replied yes.

1. Expand regulation to include Nicotine Delivery Products. The Board replied yes.
2. Include cessation signage requirement. The Board replied yes.
3. Include signage requirement for nicotine delivery products. The Board replied yes.
4. Permit requirement to abide by MA Department of Revenue minimum pricing. The Board replied yes.
5. Cap or Reduce Permit Number. A discussion was held. The Board agreed to Cap the permit number.
6. Include Minimum Cigar Package Size/Price The Board replied yes
7. Ban Blunt Wraps. The Board replied yes.
8. Ban Coupon Redemption. The Board replied yes.
9. Self-Service Displays. A discussion was held on this item. The Board agreed to AG
10. Vending Machines. The Board agreed to AG.
11. Ban RYO Machines. The Board replied yes.
12. Ban Tobacco Sales in Health Care Institutions. A discussion was held.

Mr. Kane asked will it include all pharmacies, convenience stores, gas stations that sell packets of health care products.

The Board agreed to a grandfather status for the existing pharmacies that have permits.

13. Ban Tobacco Sales in Educational Institutions. The Board replied yes.
14. Fining Structure.

Mrs. Giroux asked if it could be changed to three (3) years versus two (2) years.

**BOARD OF HEALTH MINUTES
FEBRUARY 11, 2013 PAGE 8**

Mr. Kane commented that he thinks the fine is too light. Mr. Kane gave a couple of examples of why he thought the fine was not stiff enough. Nowhere in the regulations does it state that a tobacco license can be pulled for just cause.

Mr. Berube stated that he is in favor of taking out the warning.

Mrs. Giroux suggested that the warning be eliminated from the regulations. The first (1) violation would be one hundred (100) dollars, the second (2) violation would be two hundred (200) dollars and the possibility of a seven (7) day suspension and the third (3) violation would be a three hundred (300) dollar fine and a mandatory suspension and a fourth (4) violation would be to revoke the tobacco permit. So if there is a problem after the suspension the license is revoked.

A discussion was held regarding the fine structure.

Mr. Kane stated that he did not see any language for revocation in the proposed regulation.

Mr. Berube explained that it is stated in the Board of Health Regulations, Chapter 1, Section 19 *The Board of Health may revoke or suspend, for just cause, any license, variance, etc.* Mr. Berube stated he would work on the language that would be more appropriate. Mr. Berube asked the Board Members if they agree with three (3) years instead of two (2).

15. Ban smoking in smoking bars, retail tobacco stores, outdoor spaces of restaurants. The Board replied yes.

16. Ban e-cigarettes in public places. The Board replied yes.

Mrs. Giroux asked about Mobile Trucks being allowed to sell tobacco products.

Mr. Beauregard explained that is stated in Section 4 that only owners of establishments with a permanent, non-mobile location in Billerica are eligible to apply for a permit and sell tobacco and nicotine delivery products.

Mrs. Giroux made a motion to adjourn. Mr. Reader seconded.

The Board adjourned at 9:35 p.m.

Respectfully submitted,

Sandra Giroux
Secretary

Joanne M. White
Recording Clerk