



CITY OF PEABODY  
DEPARTMENT OF HUMAN SERVICES  
24 Lowell Street  
Peabody, Massachusetts 01960  
(978) 538-5926  
Fax: (978) 538-5990

BOARD OF HEALTH  
THOMAS J. DURKIN III, CHAIRPERSON  
LEIGH ANN MANSBERGER, MD, MPH  
ANTHONY CARLI  
SHARON CAMERON  
DIRECTOR

September 16, 2020

## NOTICE OF A HEARING

The Peabody Board of Health will conduct a virtual public Hearing on

**Thursday, September 24, 2020 at 4:50 P.M.**

At the request of Kentankumar Patel regarding the Order to Correct Violations issued on July 10, 2020 for violations of the Massachusetts "Act to Modernize Tobacco Control" and 105 CMR 665.000 at Main Street Smoke Shop, 7 Main St., Peabody.

A vote will be taken to uphold, modify, suspend, or revoke the Orders to Correct Violations and associated penalties.

A vote will be taken to uphold, modify, suspend, or revoke the variance granted to Main St. Smoke Shop on 2-28-19 to permit the sale of incidental items.

To join the webinar:

<https://us02web.zoom.us/j/85252619017?pwd=dm4yTEdyakRLaStBUXJpTjJ5NjdKUT09>

Passcode: 415387

Or iPhone one-tap :

US: +19292056099,,85252619017#,,,,,0#,,415387# or +12532158782,,85252619017#,,,,,0#,,415387#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 929 205 6099 or +1 253 215 8782 or +1 301 715 8592 or +1 312 626 6799 or +1 346 248 7799  
or +1 669 900 6833

Webinar ID: 852 5261 9017

Passcode: 415387

International numbers available: <https://us02web.zoom.us/j/85252619017>

Sharon Cameron  
Director of Health and Human Services

cc: Kentankumar Patel ✓  
Joyce Redford  
City Clerk  
Board of Health

A copy of the complete file is available for viewing at [www.peabody-ma.gov](http://www.peabody-ma.gov).



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SHARON CAMERON  
DIRECTOR

August 13, 2020

## NOTICE OF A HEARING

The Peabody Board of Health will conduct a virtual public Hearing on

**Thursday, August 27, 2020 at 5:15 P.M.**

At the request of Kentankumar Patel regarding the Order to Correct Violations issued on July 10, 2020 for violations of the Massachusetts "Act to Modernize Tobacco Control" and 105 CMR 665.000 at Main Street Smoke Shop, 7 Main St., Peabody.

A vote will be taken to uphold, modify, suspend, or revoke the Orders to Correct Violations and associated penalties.

A vote will be taken to uphold, modify, suspend, or revoke the variance granted to Main St. Smoke Shop on 2-28-19 to permit the sale of incidental items.

To join the webinar:

<https://us02web.zoom.us/j/83412301417?pwd=UW9HcVRVUFF1TmZRMnRQaWZsOTFiZz09>

Passcode: 415387

Or iPhone one-tap :

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Webinar ID: 834 1230 1417

Passcode: 415387

International numbers available: <https://us02web.zoom.us/j/83412301417?pwd=UW9HcVRVUFF1TmZRMnRQaWZsOTFiZz09>

Sharon Cameron  
Director of Health and Human Services

cc: Kentankumar Patel ✓  
Joyce Redford  
City Clerk  
Board of Health

A copy of the complete file is available for viewing at [www.peabody-ma.gov](http://www.peabody-ma.gov).

## Sharon Cameron

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**From:** Randy Suckney  
**Sent:** Wednesday, July 29, 2020 12:06 PM  
**To:** Debora T. Osgood  
**Cc:** Sharon Cameron  
**Subject:** FW: [External] Main Street Smoke Shop

Hi Deb,

Does this count for requesting a hearing in writing?

Thank You,

Randy Suckney  
Health/Building Department  
Code Enforcement Inspector  
24 Lowell St  
Peabody, MA 01960  
Phone-978-538-5927  
[randy.suckney@peabody-ma.gov](mailto:randy.suckney@peabody-ma.gov)

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**From:** Ketan Patel <[ketansub@gmail.com](mailto:ketansub@gmail.com)>  
**Sent:** Wednesday, July 22, 2020 8:43 AM  
**To:** Randy Suckney <[randy.suckney@peabody-ma.gov](mailto:randy.suckney@peabody-ma.gov)>  
**Subject:** [External] Main Street Smoke Shop

**WARNING** This email originated from outside the City of Peabody. Do not click on links or open attachments unless you trust the sender.

Recently we have received a notice about a violation. I would like to request a hearing in that manner so we can understand why we have received violations and which items are prohibited. We have taken all the steps mandated by the state and removed the items from the selling areas. if the town or state has a list of products which are banned we would gladly follow that list.

IF you have any questions please feel free to contact me.

Thank you  
Ketan Patel  
978-328-4620



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DIRECTOR

**City of Peabody  
Board of Health  
Correction Order**

This Correction Order is issued to: Kentankumar Patel  
Name of Establishment – Main St Smoke Shop  
Address – 7 Main St Peabody, MA 01960  
Date – 7-10-2020

Please be advised that on July 10, 2020 at approximately 11 am an inspection was conducted on behalf of the Peabody Health Department.

**Main St Smoke Shop** violated the state law entitled “An Act to Modernize Tobacco Control” and 105 CMR 665.000 by [check all that apply]:

- Sale of tobacco product to a person under the Minimum Legal Sales Age;
- Sale of a flavored nicotine delivery tobacco product [flavored combustible and other traditional tobacco products are prohibited on and after June 1, 2020];
- Offered for sale a flavored nicotine delivery product [see above];
- Failure of a non-age restricted establishment to maintain a record from the manufacturer indicating that an unflavored nicotine delivery product has a nicotine content of 35 milligrams per milliliter or less;
- Other, see the below additional violations, with any necessary additional pages attached:



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Additional violations:

While dropping off an application to renew Main St Smoke Shop's Tobacco Permit, which expired as of close of business on May 31, 2020, Inspector Randy Suckney noticed several flavored tobacco products still available for sale on the shelves.

You are  
hereby

ordered to comply with An Act to Modernize Tobacco Control and 105 CMR 665.000. In addition, the following fines and actions apply against Main St Smoke Shop for violations of 105 CMR 665.000:

- 
- First violation: a fine of One Thousand (\$1,000.00) Dollars;
- Second violation within a 36-month period from the first violation: a fine of Two Thousand (\$2,000.00) Dollars and a \_\_\_\_\_ day suspension;
- Third violation within a 36-month period from the first violation or additional violations during that time period: a fine of Five Thousand (\$5,000.00) Dollars and a \_\_\_\_\_ day suspension.

Consistent with 105 CMR 665.000, if this is a second, third or more violation within a 36-month period as indicated above, a **notice of the intent to suspend** the sale of tobacco products at or by **[name of establishment]** will follow forthwith.

You are hereby ordered to pay the amount of \_\_\_\_\_ by check or money order made payable to the **[city/town]** of **[name of city/town]** within twenty-one (21) days of receipt of this order to the address below:

Address:

If you are aggrieved by this order, you have the right to request a Hearing before the Board of Health. This request must be made by you, in writing, and filed within seven (7) days after the date this Order was served or actually received. Any affected party has a right to appear at said hearing.

Failure to comply with this order may result in additional penalties as permitted by law.

Signed by:



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**SHARON CAMERON  
DIRECTOR**

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Name:

As agent of the City of Peabody health department

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Date:

**Meeting Notes from the Regular Meeting of the Peabody Board of Health,  
February 28, 2019.**

In Attendance: Chairman Bernard Horowitz, Dr. Leigh Ann Mansberger, Thomas J. Durkin III; Health Department  
Director Sharon Cameron, and Recording Secretary Lisa Greene.

The meeting was held at 4:00 p.m. in the lower level conference room,  
Peabody City Hall, 24 Lowell Street, Peabody.

**Subject:** Meeting called to order and review and approval of minutes from January 24, 2019 meeting.

**Discussion:** BH called meeting to order at 4:06 p.m. and asked for vote to approve minutes from January 24<sup>th</sup> meeting. LM requested a correction to a typographical error in the minutes on page 2 under body art requirements, which was written as 10 hours and should have been 100 hours. All agreed and minutes were accepted with that correction.

**HEARINGS**

**Subject:** Hearing Regarding Application for Permit to keep up to 3 hens at 32 Margin Street.

**Discussion:** Applicant Mary Dickinson was present. BH asked why she wanted to keep chickens, to which MD replied that they were to be pets. She explained that they had gotten the hens the last summer and didn't realize that they need a permit. SC reported that Inspector John Yale had been out to the property after a complaint was received and said that the coop was in good condition but that it was too close to the neighbor's fence. MD replied that she would move the coop as soon as possible, and the Board reviewed the drawings of the site and planned location of the coop. Earl Gagnon and Patricia Gagnon, family members who also live with MD, were also present and said that they all would be taking care of the hens. SC reported that a neighbor had placed the complaint about the hens. Complainant Ernest Marchand of 4 Englewood was present and expressed concern about the permit being granted. EM said that he and his wife hear chickens clucking and dogs barking from that yard. He added that he is also concerned that there may be odors from the hens in the summer and wonder about where the owners were dumping the waste. MD replied that they had the chickens all last summer and he had not complained about odors. EM said that he did not think they had hens during the summer last year, and MD replied that they were purchased in June. BH pointed out that these permits are conditional and that should any problems arise the permit would be revoked. BH added that there are over 30 permits to own hens in Peabody, and they have brought in owners who are not following the rules and have revoked permits. SC added that the City is in the process of implementing new pest control regulations which may require animal permit holders to enlist professional pest control. MD replied that that she understands. LM moved to approve the permit, conditioned upon the owners moving the henhouse to the new location indicated on the drawing submitted by MD, with the move to be completed no later than April 15th. All agreed and permit was granted. SC asked MD to notify her office when the coop was moved so that an inspection can be scheduled to verify the placement.

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**HEARINGS**

**Subject:** Hearing regarding a request for variance from regulations of the Peabody Board of Health Restricting the Sale of Tobacco Products, to allow sales of other products while maintaining "adult only retail store" status.

**Discussion:** At 4:24 BH opened the hearing and Ketankumar Patel, owner of Peabody Smoke Shop, Inc., doing business as Main Street Smoke Shop, was in attendance. KP explained that he would like the variance because his establishment has been an adult only facility for at least 15 years, long before the ordinance was established, and he has been allowed to sell other items during that time. He has removed all other items from the store but lottery. His store will lose \$20,000 to \$25,000 in revenue if forced to discontinue lottery sales. BH asked SC if there was any history of violations at the store. SC invited Joyce Redford, Director of the North Shore Cape Ann Tobacco Control Program, to report on this issue. JR explained that it is a violation to allow youth to enter the establishment, and while there is no history of sales to youth, there have been instances where youth have been allowed to enter the

shop. Due to this history of violations, JR recommended that if a variance to the ordinance is granted, that it be for lottery alone and not any other convenience store items. TD asked JR to explain the reasoning behind the rule that nothing else can be sold at adult only tobacco establishments. JR explained that these establishments get to benefit from certain perks like selling flavored tobacco products, that convenience stores cannot, so they already have an edge over those stores. SC added that another reason the rule is in place is to ensure that the establishments do not have any items to entice children. BH stated that it seemed like having lottery sales in this type of store did not seem like a problem to him in general. SC told the board that the current situation was that they would need to change the rules if they want to allow this in these establishments as a rule, and that JR had provided language to amend their ordinance to allow for this, but added that they couldn't do that today since changing it required public notice as a regulatory change and that had not been advertised for public hearing. BH suggested that they could approve this variance due to the fact that they were selling both lottery and tobacco products from the start. Voted and unanimously approved. SC suggested that the language state that any 21 and over tobacco sales business that has been in business since 2012 or earlier shall be allowed to also sell lottery products as well. KP asked about if he decides to sell his business. BH replied that the new rules apply and no lottery sales would be allowed. SC added that when KP purchased the store the regulations allowed lottery in an adult only establishment, but for a new purchaser this would not be the case. KP asked about if it were true if there was a corporation change. SC replied that she would look into this and get back to KP. BH stated that the application for variance was approved and closed the hearing. A person in the audience who introduced himself as AJ explained that he and his classmate were studying Health Policy at Salem State and one assignment was to attend a board of health meeting. He asked why lottery sales were not allowed in 21 and over tobacco stores. BH explained that the regulations are written this way to try to control possible loopholes that would make it easier for people who are under 21 to purchase tobacco products.

## **BUSINESS**

### **Permitting Updates**

**Subject:** Review of list of Permits Issued in January 2019, vote to accept.

**Discussion:** Reviewed and voted to accept unanimously.

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### **Environmental Updates**

**Subject:** 176 Newbury Street

**Discussion:** BH reported that there had been a history of issues with the septic system at this site but the Board had voted in September of 2017 to extend the timelines on the order to connect to the city sewer system to the new owners of this property. BH read letter from SC to attorney Jason Panos which summarized the decisions of that meeting, including that the BOH was granting a stay of up to 2 years and the stipulations that the septic system be monitored monthly, that the BOH be notified of any changes to the management plan for the site. BH went on to explain that the board has now received a request from Scott Cameron, PE, on behalf of the property owners Pyramid Holders, which asks to reduce the inspection frequency at the site to annually. Scott Cameron was present and explained that when he had conducted his initial review of the septic systems at this location there had been a problem with one septic tank that had overflowed. Steps had been taken to connect the unit to a different septic tank, which was successful and he has not seen any issues of breakout since that was done. BH reference a suggested schedule submitted by Mr. SC for the system, and asked him to summarize. Mr. SC explained that there was very little in the tanks and that most need just pumping once per year, some need twice per year and one needs to be pumped 3 times per year. BH stated that it is required for all others to convert to city sewer but the Board gave a stay for this site, and now the Board is being asked to make changes to that stay, and asked why the Board should be asked to do this. Mr. SC explained that several options were on the table for the site, including a possible zoning