

**PEABODY BOARD OF HEALTH**

**Meeting Minutes of Public Hearing**

**Thursday, February 22, 2018**

Present at the commencement of the public hearing, on behalf of the Peabody Board of Health were: Bernard H. Horowitz, Chairman; Members Thomas J. Durkin, III, Leigh Ann Mansberger, M.D., MPH, and Director Sharon Cameron.

At 6:25 p.m., the public hearing was commenced on the proposed amendments to “Environmental Smoke Regulations”

Chairman Horowitz read the Notice of Public Hearing into the record, a copy of which is attached hereto.

The proposed amendments would clarify that the exemption allowing smoking in hotels/motels and in private clubs, under certain conditions, applies to tobacco products but not to marijuana, marijuana extracts, or products containing cannabis and/or Tetrahydrocannabinol.

Mr. Horowitz presented a summary of the reason for the public hearing to those in attendance at the hearing. He stated that certain motels and hotels allow smoking of tobacco products and vaping products and there are also 3 private clubs that allow that as well. These are clubs that were exempt because they had smoking allowed at the time the regulations were initially promulgated about 20 years ago going back to 1995, 1996.

The question has now been raised about recreational smoking of marijuana in locations exempt from the smoking ban. BH discussed some differences between alcohol and marijuana as intoxicants, including that a bartender can regulate the number of drinks served to a patron who appears to be intoxicated. However, there is no ready measure for levels of marijuana intoxication, and this difficulty is compounded when marijuana is also consumed with alcohol. There is also concern that non-smoking bystanders in a club with inadequate ventilation may be impaired by second-hand marijuana smoke.

The Board of Health’s job is to promote health as best they can. They are asking for testimony on the matter. The concerns with hotels and motels is that if people come in to smoke, the rooms can become smoking dens, and there are also concerns about smoking residuals left in the environment.

Mr. Horowitz read into the record the written testimony from the Chief of Police Thomas Griffin and Mayor Edward A. Bettencourt, Jr, copies of which are attached hereto.

In addition to the written testimony attached from Chief Griffin and Mayor Bettencourt, the Board of Health received written testimony from the North Shore Cape Ann Tobacco Policy Program, Program Director Joyce Redford. Mr. Horowitz also referenced materials from the

Mass. Association for Prevention Alliance and testimony to the Cannabis Control Commission from the Massachusetts Department of Public Health.

Comments from the Board: None.

Comments from the public:

Caroline “Lola” Busta, President of the United Polish Organization of Peabody and representing St. Michael’s Polish Club spoke and stated that she is in agreement with the Mayor and Chief of Police for all the same reasons. Additionally, their club often hosts children’s parties. Smoking is not allowed upstairs in the hall, especially due to the presence of children. She would be totally against having marijuana smoking in club. She noted the rule previously stated that applies to bartenders knowing how much a person has had to drink. They look out for that. She expressed her support of the amendments proposed by the Board of Health.

Mr. Robert Ogiba, the Vice President of St. Mike’s Club was also present and representing the club. He agrees as well. He has a lot of functions upstairs. They are speaking for St. Mike’s in stating that they agree with the Board of Health’s proposed amendment to not allow an exemption to permit smoking of marijuana in clubs, especially in light of the fact that they have kids coming in for functions.

Kelly McGovern, President of Italian-American Citizens’ Club of Peabody was also in attendance at the hearing. She asked: What is the rule today for the smoking of marijuana? Are they allowed to smoke it? Can they puff on a vape pen with marijuana oil?

Mr. Horowitz clarified that even if the Board of Health regulation allows an exemption, the 3 affected clubs could make club rules that are more stringent.

Ms. McGovern states that club members are split. Some want no smoking and are confused about whether vaping devices contain marijuana or tobacco. Out in the parking lot there is puffing on pens containing liquid cannabinoid oils, which is similar to vapor for nicotine. Does she approach and say no puffing?

The Board stated that there are no regulations at this point to say they cannot vape inside the members-only area of the club. The regulations are in reference to inside a private club where they are separated from public access and have key card access for members. Smoking and vaping are currently allowed under control of the club for member-only access. In more public areas (including outside parking lots), the exemption allowing smoking/vaping does not apply. Function halls are not exempt from the current smoking regulation because this is not a members-only area with restricted access.

Mr. Horowitz stated that proposed state regulations may restrict whether establishments may allow alcohol at the same time as they serve or allow consumption of marijuana. If those regulations pass, that may further limit what the clubs may allow. The draft state regulations are expected to be finalized before July.

Mr. Horowitz clarified that there is not currently a local regulation to prohibit smoking/vaping marijuana in the club. The club leadership can enforce such a restriction as the owner. If the proposed amendment is adopted, it will be effective in about 30 days. The Board of Health is putting forth this amendment as there is a real concern of health risks associated with the smoking of marijuana in a club bar/closed environment.

Kelly McGovern stated that as a club owner, she does not support allowing people to smoke/vape marijuana inside the club. Some members may know more than she does about it, and she appreciates the guidance.

Anne Marie Twiss, Secretary to the Board for the Italian American Citizens Club was also in attendance at the hearing.

The amendment to the regulation was summarized by Bernard Horowitz.

**MOTION:** made by Leigh Ann Mansberger to accept proposed amendments to “Environmental Smoke Regulations;” said motion was seconded by Tom Durkin and unanimously approved.

Set an effective date of: March 30, 2018. The Health Department will publicize adoption of the amendments.

Submitted by Darryl Ann McCarthy

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