



**Town of Arlington, Massachusetts**  
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## **Board of Health Minutes 05/15/2013**



**DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
**OFFICE OF THE BOARD OF HEALTH**

Town of Arlington

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Arlington, Massachusetts 02476

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**APPROVED**  
**Board of Health Meeting Minutes**  
**Wednesday, May 15, 2013**  
**Ground Floor Conference Room**  
**Arlington Senior Center**  
**5:30pm**

*Board Members in Attendance: Dr. Marie Walsh Condon, Dr. Michael Fitzpatrick (Chair), Mr. Kenneth Kohlberg*

Staff in Attendance: Christine Connolly, Director of Health and Human Services and James Feeney, Health Compliance Officer, Natasha Waden, Lead Health Compliance Officer, Gloria Ojimba, Intern.

Other: DJ Wilson, Tobacco Control Director, Public Health Liaison, Mass Municipal Association; Wesley Chin, Sub-regional tobacco control coordinator for Arlington, Belmont, Brookline, Newton and Watertown.

Public in attendance: Helene Falcon-Vermorel, Denis Dettling Kalthofer, Ulrike Dettling,

The February 6, 2013 meeting minutes were accepted as written and the April 3, 2013 meeting minutes were accepted with three revisions. Revisions requested included the following: Item II: additional language "Keeping of Hens" to identify the type of plan review. Item VII: replacement of the word "being" in sentence 8 with the word "beginning"; replacement of the word "abandon" in sentence 9 with the word "abandoned".

Hearing to Adopt: Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products. Inspector Waden provided the Board with a summary of the changes that had been made to the draft Regulation since the last meeting. Changes included the following: Section E #13 (a) a change in the language of the first sentence regarding the capping of permits; Section E #13 (b) this

section pertaining to reducing the number of permits over a five year period was removed; lastly, Section O #2, a new condition was added to include language about notifying other licensing authorities in the Town regarding tobacco sales violations. Connolly informed the Board that she was notified by a Selectperson regarding opposition of the Board's proposal to increase the age to purchase such products from 18 years to 21 years. Connolly asked DJ Wilson from the Massachusetts Municipal Association (MMA) to speak to this matter. DJ informed the Board that New York City's Mayor Bloomberg is supporting a city solicitor who is working to change the age to purchase tobacco products to 21 years old. He also explained that in the State of Massachusetts there are 3 or 4 other communities working towards making the same change. DJ explained that raising the age to purchase tobacco products is similar to the concept of raising the age to purchase alcohol; the purpose is to delay kids from getting addicted and delay a person's start to smoke date. DJ went on to explain some of the arguments from businesses are that there will be a loss of revenue, and kids will find alternative ways to purchase them, such as going to another Town. DJ also provided the Board with an updated list of municipalities that have required a minimum pricing for cigars and well as instituted tobacco sales bans at pharmacies. The Board thanked DJ for his information and moved on to discuss other parts of the Regulation. Board members requested the following revisions of the Regulation: additional language in the last sentence of Section D #3 "that appears" under the age of 27; removal of a specific time period "December" and "during the renewal period" in Section E #12 regarding when mandatory retailer trainings will be conducted; reformatting in Section E #13; Additional language and item in Section O to state that the Board reserves the right to revoke an operators Tobacco and Nicotine Delivery Product Sales Permit. Upon review, the Board voted unanimously to adopt the Regulation Restricting The Sale of Tobacco Products and Nicotine Delivery Products with the abovementioned corrections. Waden confirmed that the Regulation would take effect on July 1, 2013.

Agenda item III: Hearing to Adopt: Regulations Governing the Practice of Bodywork was moved to item IV. In its place, the Discussion pertaining Regulations Prohibiting Smoking in Work and Public Places was conducted. Inspector Waden informed the Board that this is the second copy of these regulations that have been presented to them. Waden explained that these Regulations are model regulations that were taken from the Massachusetts Municipal Association and that edits were made to them to tailor them to the Town of Arlington. Waden outlined the following changes that had been made: Section 3: the addition of the definition "Municipal Building"; Section 4 (c) (d): new language regarding prohibiting smoking around municipal buildings, childcare facilities and health care facilities. Dr. Walsh-Condon asked about including language that would prohibit smoking in parks and playgrounds. DJ Wilson explained that there is model language that could be included, and that there are other communities who have included this in their regulations. Further, he stated that in most cases a sign is posted in the playground, park or playing field that clearly states the area is non-smoking or smoke free. Both Dr. Fitzpatrick and Mr. Kohlberg agreed this language should be included. Dr. Walsh also pointed out that in Section 4 (c)(f) the word "food" should be changed to "foot". Mr. Kohlberg requested that the letter "t" in "town" and "s" in "section" should be capitalized throughout the Regulations. Additionally, he requested in the definition of Municipal Building, the word "municipality" be changed to "Town of Arlington". In Section 4 (b), additional language "the Town of" was requested in front of the word "Arlington". Lastly, Dr. Fitzpatrick requested that the language "this Section" in Section 5 (1) be changed to "Section 4". A lengthy conversation about prohibiting smoking on walking paths and the Arlington bike path was discussed. The Board decided it would be best to work on implementing the Regulations as written and perhaps work with other Town groups or organizations in the future to come up with solutions on how this could be regulated and enforced at a later time. Dr. Fitzpatrick accepted a question from a member of the public: Ms. Ulrike Dettling inquired about including language regarding smoke free housing. Inspector Waden, Director Connolly and Wesley Chin explained that moving to smoke free public housing is an initiative that has been discussed with the Arlington Housing Authority, which is the agency who oversees public housing in Arlington. Further, Connolly reported the Housing Authority is very interested in moving towards this, but are still trying to work out some details regarding the process. Waden addressed the Board and explained that all edits to these Regulations would be made for the next meeting. Furthermore, the Office will put together a press release notifying residents of a public hearing on these regulations for the next meeting on June 19, 2013. The Board agreed.

Hearing to Adopt: Regulations Governing the Practice of Bodywork:

Inspector Feeney provided the Board with a summary of the changes that had been made to the Regulations since the last meeting. Dr. Fitzpatrick raised the issue of Tuberculosis testing, and after discussions it was determined that eliminating the testing requirement would not endanger the public's health. Denis Dettling Kalthofer, Ulrike Dettling, and Dr. Walsh-Condon confirmed it does not seem to be. Dr. Walsh-Condon asked a question wanting to know if we should require in the Regulations that a professional notify the Health Department in the event of a homebound visit. Feeney responded by stating that when the applications are submitted, a question similar to this will be asked so that inspectors will know if they provide this service, as it may be difficult to manage if body worker notified us on every occasion of a home visit. Dr. Fitzpatrick asked if there was a date on the letter submitted by Valerie Voner regarding comments on the proposed bodywork regulations. Feeney explained that this letter was received via email and arrived shortly after the Board meeting on April 3, 2013. Dr. Fitzpatrick reported that it seems her concerns have already been addressed in the Regulations. Dr. Fitzpatrick acknowledged the email from Helene Falcon-Vermorel and asked Feeney if her question regarding whether or not a therapist would be required to stay until another therapist is finished

simply because the latter would have to follow different requirements. Feeney responded by stating that there may be situations, such as this, when a variance may be required from the Board. Dennis Dettling Kalthofer had a question for the Board in regards to “employees” vs. “independent contractors” in Section 8 #2 (a). Dennis Dettling Kalthofer indicated to the Board it would be almost impossible in some cases for an owner or renter to know what is going on behind a closed door. The result of this discussion is to re-evaluate the language regarding designation of all workers as employees, and to indicate clearly the Board reserves the right to hold the owner accountable for violations of the Regulations. Additionally, the Board asked that the following definitions be looked at and edited to address issues with accountability: “Establishment”, “Owner” and “Permit Holder.” There was also discussion as to what the definition of “in operation” was and how this would apply to the Regulations.

Environmental Updates: Inspector Waden provided the Board with the following updates: the Office is working with the Town Engineer and the Eastern Massachusetts Middlesex Mosquito Control Project to evaluate and get estimates for dredging some water areas that are overgrown with vegetation. The locations include an area on the bike path, McClennan Park, and Menotomy Rocks Park. Waden explained at this time the Office has not received confirmation on when water testing for toxic algae will begin at Spy Pond, but that the new signs will be posted by the end of the month. Waden informed the Board that the Medford Boat Club will be opening for the season on Memorial Day weekend and the Arlington Reservoir will open in mid-June. Waden stated that no camp applications have been received to date and that the Office continues to get calls about new hoarding cases. Director Connolly provided the Board with update on the following Town Meeting warrant articles: Town Meeting voted to approve a moratorium on medical marijuana dispensaries until the end of next June. Town Meeting did not approve the proposed zoning locations for marijuana dispensaries, but expects new zoning areas to be proposed next year at Town Meeting. Lastly, Connolly informed the Board the warrant article to ban water bottles was not approved by Town Meeting.

Restaurant Updates: Waden reported that the following establishments are currently under the plan review process: Nicola Pizza has submitted plans for a change of ownership; however, a meeting was held with the applicant and current owner to discuss renovations which need to be made to the establishment. The Office is waiting on additional plans from the applicant to address these concerns. Napoli Kitchen is changing ownership and will now be named Bill’s House of Pizza. Plans were submitted, but additional information is required for the Office to proceed. Additionally, Sono, a Japanese Restaurant to be located on Summer Street, and Retro Burger and Ice Cream, a restaurant to be located at 795 Mass Ave, have submitted plans and are currently under review. The applicant who proposed plans for Zocalo has withdrawn his application due to the amount of work that needs to be done in the establishment. Waden further explained that a meeting would be held with the current owner next week to discuss a plan of action to address the conditions at Zocalo. Lastly, Thai Moon, Frozland and Anthony’s Deli have opened for business.

No public comment.

Meeting adjourned at 7:29PM