

**TOWN OF MASHPEE  
BOARD OF HEALTH**

**NUISANCE REGULATION**

**I. PURPOSE**

The mission of the Board of Health is to protect the health, safety and welfare of the public and the environment by preventing and eliminating nuisances. The Board of Health of the Town of Mashpee hereby adopts the following regulation:

**II. AUTHORITY**

This regulation is promulgated under the authority of Massachusetts General Law Chapter 111, Sections 31, 122 and 127B.

**III. DEFINITIONS**

- a. Blighted – Any building, structure, or parcel of land that contributes to unsanitary or unsafe conditions and is a public health nuisance, including properties which are detrimental to health, safety, and welfare of the public, environment, and integrity of the Town of Mashpee. Where there is trash, graffiti, site deterioration, abandonment, dilapidation, deterioration, harborage for pests, or with the existence of any other condition that endangers life or properties by fire or any other causes.
- b. Nuisance – Source of filth or causes of sickness or distress within a town, or on board of vessels within the harbor of such town, which may be injurious to the health, safety, and wellbeing of the public and the environment. Nuisance includes, but is not limited to, the following acts or conditions which may be injurious to the health, safety and well-being of the public: air, noise, sewage, refuse, housing and human habitation, potential for spread of disease from rodents, insects, livestock and from any previous mentioned and unmentioned causes, hazardous materials and hazardous waste.
- c. C) Owner – Any person who alone or severally with others has legal title to a parcel of land with or without buildings, structures, or occupants. This definition shall include any mortgagee in possession, or agent, trustee, or person appointed by a court.
- d. D) Occupant – Person who resides on premise, other than as a guest.
- e. E) Property – Parcel of land with or without occupants, structures, buildings, regardless of zoning district.

**IV. REGULATION**

1. No person shall cause, continue, maintain or permit any nuisance to exist.

2. The Board of Health shall issue an order to abate the nuisance based upon existing law, regulation and/or by-law which shall be in accordance with existing scientific and medical bases.

#### V. ENFORCEMENT

1. The Board of Health Agent or his/ her designee shall be responsible for enforcing this regulation and shall cause written notice identifying the property, the existence of a nuisance and order for abatement and removal within a specified time period, to be issued to the owner and/or occupant of the property where the nuisance exists and/or the person causing, permitting or maintaining such nuisance and/or post a copy of the notice on the property where the nuisance exists.
2. Failure to correct within the specified time frame described by the written order of the enforcing authority will result in further action against the property owner. Further action shall include the Board of Health entering the property to abate and remove the nuisance if an imminent hazard exists. The person causing, permitting or maintaining such nuisance shall be liable for costs of abatement and/or removal. Costs incurred may include labor, supplies, disposal, construction costs, and other fees to eliminate any violation of this regulation.
3. Any violation of any of this regulation will result in the following:
  - a. Fines may be issued by the Board of Health through its agent for violations of this regulation in accordance with non-criminal disposition pursuant to the Massachusetts General Laws Chapter 40 §21D. For first violations, the fine shall be one hundred dollars (\$100.00); for the second violations, the fine shall be two hundred dollars (\$200.00); for the third violations the fine shall be three hundred dollars (\$300.00). Each day of each offense shall constitute a separate offense.
  - b. Nonpayment of charges to abate or remove the nuisance by the Town may result in a municipal charges lien pursuant to Chapter 40 §58 of the Massachusetts General Laws.
  - c. The Mashpee Board of Health may institute other proceedings, including criminal penalties, in any court of competent jurisdiction and pursue any remedy or relief afforded by law.
  - d. Each day's failure to correct violations shall constitute a separate offense of this regulation. Penalties shall be payable to the Town of Mashpee and shall not exceed one thousand dollars per day.

#### VI. PROCEDURE FOR HEARINGS

The owner to whom any order has been served may request a hearing before the Board by filing with the Board within seven (7) days after the order was served, a written petition requesting a hearing on the matter. Upon receipt of such petition the Board shall set a time and place for such hearing and shall inform the owner thereof in writing. The hearing shall be commenced not later than thirty (30) days after the day on which the order was served. At the hearing, the owner

shall be given the opportunity to be heard and to show why the order should be modified or withdrawn. After the hearing, the Board shall sustain, modify or withdraw the order and shall inform the owner in writing of its decision. If the Board sustains or modifies the order, it shall be carried out within the timeframe allotted in the original order or in the modification.

#### VII. SEVERABILITY

In the event any section of this regulation is judged invalid in a court of law, such section shall be severed from the remaining sections, which shall remain in full force and effect.

#### VIII. EFFECTIVENESS

This regulation was adopted by the Mashpee Board of Health on May 10, 2018 and shall become effective upon publication in a newspaper of general circulation (May 25, 2018).

Per Order Of,  
Mashpee Board of Health

Brian Baumgaertel, Chair  
Laurel Almquist, Co-Chairman