TOWN OF MASHPEE
BOARD OF HEALTH

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PART I: ARTICLE CREATING BOARD OF HEALTH

MARCH 1960

At a Special Town Meeting held, June 18, 1959, the following article was put before the townspeople and passed immediately.

ARTICLE 7: To see if the Town will vote to choose by ballot beginning with the annual election of March of 1960, three members to constitute a Board of Health under the provisions of General Laws, Chapter 41, Section1; provided that, at the 1960 election, members of the Board of Health shall be elected, one for a term of three years, one for term of two years and one for a term of one year; subsequent annual elections to choose one member for a term of threes, or take any other action thereon.

PART II: BOARD OF HEALTH FEE SCHEDULE

TOWN OF MASHPEE
BOARD OF HEALTH
2019
FEE SCHEDULE

SEWAGE/WATER

Percolation test.....$100.00
Percolation test No Show.....$100.00
Septic System Permits
- Repairs (Line and D-Box).....$100.00
- Residential (New Construction & Repairs, including Septic Tanks) $125.00
- Residential (Emergency Repairs) $250.00
- Septic Permit reinspection (after two) $25.00
- Commercial/Multi-unit 1500 gallon.....$100.00
  - 1000 gal. Add'l $25.00

Treatment Plant Engineering Consultant Services
- 20,000 gallons minimum .....$.15/gal.
- 20,000 – 40,000 gallons .....$.10/gal.
- 40,001 and over.....$.05/gal.
- Installer's Permit for the first 500 gallons $50.00
- Each additional 500 gallons or part thereof $10.00

Nitrogen Aggregation Loading Plan Review – Single Family Home……$250.00
Nitrogen Aggregation Loading Plan Third Part Review – Subdivisions……$TBD
Septic Installer's Examination $50.00
Septic Installer's License $100.00
Title V Inspection submittal and review
- Passing Report $25.00
- Failed/Further Evaluation/Conditional Pass Report $100.00

Water/Sewer Evaluation
- File Review Only $25.00
- File and Site Visit.....$75.00

Well Drilling Permit $50.00

PLAN REVIEW

Subdivisions
- 0- 20 lots $50.00
- 21- 50 lots $100.00
- Over 50 Lots $200.00

Retail Food/Food Service
- 0-2000 square feet.....$100.00
- Over 2000 square feet $200.00

Semi-Public/Public Swimming Pool/Spa $100.00

FOOD LICENSES (annual/seasonal)

Annual Renewal Applications received after December 31st of each year .....2x annual fee

Bakery…….....$100.00
Catering.....…….....$100.00
Farm Stand.....$25.00
Mobile Food.....$100.00
Food Peddler (door to door).....$50.00
Residential Kitchen.....$50.00
Food Service 0-50 seats $200.00
51 or more seats $300.00
Food Service re-inspection $50.00
Frozen Desserts.....$50.00
Retail Food 0- 2000 square feet.....$100.00
Each additional 1000 square feet $10.00
Retail Food <1000 square feet incidental to primary business $15.00
Temporary Food Permit (per day) $50.00
Wholesale Food Warehouse $100.00

LICENSES (Annual)

Bed & Breakfast (per unit).....$15.00
Body Art Facility $100.00
Body Art Practitioner.....$50.00
Bodywork Facility $100.00
Bodywork Therapist.....$50.00
Campground $50.00
Funeral Director.....$50.00
Health Spa $100.00
Lodging House/Motel $200.00
Pool/Whirlpool.....$100.00
Semi-Public/Public Swimming Pool/Spa re-inspect…….....$25.00
Recreational Camp (Day/Residential/Sports)…….....$100.00
Septage Pumper (per truck) $100.00
Stable (per horse) .....$50.00+$10/hs
Tanning Salon $100.00
Tobacco Sales $50.00
Trailer Parks $10.00
Trash Hauler (per company) $500.00

MISCELLANEOUS

Board of Health Regulation Book.....$25.00
Burial Permits $5.00
Housing Inspection **MRVP ONLY**
Initial Inspection $50.00
Re-inspection $15.00
Lead Determination $50.00

Radon Kits $15.00
Title V Book $15.00
Variance Request $40.00
Underground Storage Tank Registration $1.00
21E Environmental Research
First 15 minutes.....$50.00
Thereafter.....$50.00/hr.

PART III: BODY ART REGULATION

TOWN OF MASHPEE
BOARD OF HEALTH

BODY ART REGULATION

Section
124.01: Authority
124.02: Purpose and Scope
124.03: Definitions
124.04: Operation of Body Art Establishments
124.05: Exemptions
124.06: Public Notification Requirements
124.07: Client Records
124.08: Injury Reports
124.09: Records Retention
124.10: Preparation and Care of the Body Art Area
124.11: Sanitation and Sterilization Procedures
124.12: Requirements for Single Use Items
124.13: Permit Requirements
124.14: Complaints
124.15: Grounds for Denial of Permit
124.16: Grounds for Suspension of Permit
124.17: Grounds for Revocation of Permit, or Refusal to Renew Permit
124.18: Procedure for Hearing
124.19: Unauthorized Practice of Body Art
124.20 Severability
124.21 Effectiveness

124.01 Authority

105 CMR 124.000 is adopted under the authority of M.G.L. c.111 § 6.

124.02 Purpose and Scope

The Purpose of these regulations are to provide a method of infection control in Body Art Establishments located within the Town of Mashpee and to protect the general public from transmittal of blood borne pathogens under the authority conferred by M.G.L. c111 § 31.

124.03 Definitions

Aftercare means written instructions given to the client, specific to the body art procedure(s) rendered, about caring for the body art and surrounding area. These instructions will include information about when to seek medical treatment, if necessary.

Bloodborne Pathogens Standard means OSHA Regulations 29 CFR 1910.1030.

Board means the Board of Health, which has jurisdiction in the community in which a body art establishment is located including the Board or Officer having like powers and duties in towns where there is no Board of Health.

Body art means the practice of physical body adornment by permitted establishments and practitioners using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, and scarification. This

definition does not include practices that are considered medical procedures by the Board of Registration in Medicine in the Commonwealth, such as implants under the skin, which shall not be performed in a body art establishment.
Body Art Establishment or establishment means a specific place or premise that has been granted a permit by the Board, whether public or private, where the practices of body art are performed, whether or not for profit.
Body Art Practitioner or practitioner means a specified person who has been granted a permit by the Board to perform body art in a body art establishment that has been granted a valid permit by the Board.

Body piercing means puncturing or penetration of the skin of a person with pre-sterilized single-use needles and the insertion of pre-sterilized jewelry or other adornment thereto in the opening. This definition includes piercing of the outer perimeter of the ear, but does not include piercing of the earlobe with pre-sterilized single-use stud-and-clasp ear-piercing systems.

Branding means inducing a pattern of scar tissue by use of a heated material (usually metal) to the skin, making a serious burn, which eventually becomes a scar.

Client means any person who has requested a body art procedure at a body art establishment.

Contaminated Waste means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 Code of Federal regulations Part 1910.1030 (latest edition), knows as "Occupational Exposure to Bloodborne Pathogens", or as defined as "infectious or physically dangerous medical or biological waste" in accordance with 105 CMR 480.000: Storage and Disposal of Infectious of Physically dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII.

Cosmetic tattooing see "Tattooing"

Department means the Department of Public Health or its authorized representatives.

Disinfectant means a product registered as a disinfectant by the U.S. Environmental Protection Agency.

Disinfection means the destruction of disease-causing microorganisms or inanimate objects or surfaces, thereby rendering these objects safe for use or handling.

Ear piercing means the puncturing of the lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system following manufacturer instructions.

Equipment means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the operation of a body art establishment.

Hand sink means a lavatory equipped with hot and cold running water under pressure, used solely for washing hands, arms, or other portions of the body.

Hot water means water that attains and maintains a temperature of 110º-130ºF.

Instruments used for body art means hand pieces, needles, needle bars, and other instruments that may come in contact with a client's body or may be exposed to bodily fluids during body art procedures.

Invasive means entry into the client's body either by incision or insertion of any instruments into or through the skin or mucosa, or by any other means intended to puncture, break, or otherwise compromise the skin or mucosa.

Jewelry means any personal ornament inserted into a newly pierced area, which must be made of surgical implant-grade stainless steel; solid 14k or 18k white or yellow gold, niobium, titanium, or platinum; or a dense, low-porosity plastic, which is free or nicks, scratches, or irregular surfaces and has been properly sterilized prior to use.

Minor means any person under the age of eighteen (18) years.

Operator means any person who alone, jointly or severally with others owns, has care, charge, or control of any body art establishment as agent or lessee of the owner or as an independent contractor, but is not a body art practitioner.

Permit means approval in writing by the Board either (1) to operate a body art establishment or (2) to operate as a body art practitioner within a body art establishment. Approval is granted in accordance with 105 CMR 124.000 and is separate from any other licensing requirement that may exist within communities or political subdivisions comprising the Board's jurisdiction.

Person means an individual, any form or business or social organization or any other non-governmental legal entity, including, but not limited to corporations, partnerships, limited liability companies, associations, trusts or unincorporated organizations.

Physician means in individual registered by the Board of Registration in Medicine pursuant to M.G.L. c. 112 § 2 as a qualified physician.

Procedure surface means any surface of an inanimate object that contacts the client's unclothed body during a body art procedure, skin preparation of the area adjacent to and including the body art procedure, or any associated work area, which may require sanitizing.

Sanitization procedure means a process of reducing the numbers of microorganisms on cleaned surfaces and equipment to a safe level as judged by public health standards and which the Department has approved.

Sanitary means clean and free or agents of infection or disease.

Sanitized means effective disinfection treatment by a process using intermediate disinfectants for enough time to reduce the bacteria count including pathogens to a safe level on semi-critical or non-critical equipment.

Scarification means altering skin texture by cutting the skin and controlling the body's healing process in order to produce wounds, which result in permanently raised wheals or bumps known as keloids.

Sharps means any objects (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa, including, but not limited to, needle devices, lancets, scalpel blades, razor blades, and broken glass.

Sharps container means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation, and disposal and that is labeled with the International Biohazard Symbol.

Single use means products or items that are intended for one-time, one-person use and are disposed of after use on each client, including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups, and protective gloves.

Sterilize means the use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

Tattoo means the indelible mark, figure or decorative design introduced by insertion of dyes or pigments into or under the subcutaneous portion of the skin.

Tattooing means any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing.

Universal precautions means a set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers" in Morbidity and Mortality Weekly Report) (MMWR), June 23, 1989, Vol.38 No. S-6, and as "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures" in MMWR, July 12, 1991, Vol. 40, No. RR-8. This method of infection control requires the employer and employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other blood pathogens. Precautions include hand washing; gloving; personal protective equipment; injury prevention; and proper handling and disposal of needles, other sharp instruments, and blood and body fluid-contaminated products.

124.04 Operation of Body Art Establishments

Unless otherwise ordered or approved by the Board, each body art establishment shall be constructed, operated and maintained to meet the following minimum requirements:

(A) Physical Plant

1) All walls, floors, ceilings, and procedure surfaces within the body art establishment shall be smooth, free of open holes or cracks, light-colored, washable, and in good repair. Walls, floors, and ceilings shall be maintained in a clean condition. All procedure surfaces, including client chair/benches, shall be of such construction as to be easily cleaned and sanitized after each client.
2) All body art establishments shall be completely separated by solid partitions or by walls extending from floor to ceiling, from any room used for human habitation, any food establishment or room where food is prepared, any hair salon, any retail sales, or any other such activity that may cause potential contamination of work surfaces.
3) Effective measures shall be taken by the body art operator to protect against entrance into the establishment and against the breeding or presence on the premises of insects, vermin, and rodents. Insects, vermin, and rodents shall not be present in any part of the establishment, its appurtenances, or appertaining premises.
4) There shall be a minimum of 45 square feet of floor space for each practitioner in the establishment. Each establishment shall have an area that may be screened from public view for clients requesting privacy. Dividers, curtains, or partitions, at a minimum shall separate multiple body art stations.
5) The establishment shall be well-ventilated and provided with an artificial light source equivalent to at least 20 foot candles 3 feet off the floor, except that at least 100 foot candles shall be provided at the level where the body art procedure is being performed, and where instruments and sharps are assembled.
6) A separate, readily accessible hand-sink with hot and cold running water, under pressure, preferably equipped with wrist- or foot-operated controls and supplied with liquid soap, and disposable paper towels shall be readily accessible within the body art establishment. One hand - sink shall serve no more than three practitioners.
7) There shall be a minimum of one lavatory, excluding any service sinks, and one working toilet in a body art establishment.
8) At least one covered waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily, and solid waste shall be removed from the premises at least weekly. All refuse containers shall be lidded, cleanable, and kept clean.
9) All instruments and supplies shall be stored in clean, dry, and covered containers.
10) Practitioners who use ear-piercing systems must conform to the manufacturer’s directions for use and applicable U.S. Food and Drug Administration requirements.
11) Reusable cloth items shall be mechanically washed with detergent and dried after each use. The cloth items shall be stored in a dry, clean environment until used.
12) No animals of any kind shall be allowed in a body art establishment except service animals used by persons with disabilities (e.g. Seeing Eye dogs). Fish aquariums shall be allowed in waiting rooms and non-procedural areas.

(B) Information to be Kept on File

The following information shall be kept on file on the premises of a body art establishment and available for inspection by the Board:

1) Employee information
   a) full names and exact duties;
   b) date of birth;
   c) gender;
   d) home address;
   e) home/work phone numbers;
   f) identification photos of all body art practitioners;
   g) establishment information;
   h) establishment name;
   i) hours of operation
   j) owner's name and address;
2) A complete description of all body art procedures performed.
3) An inventory of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers and serial or lot numbers, if applicable. Invoices or orders shall satisfy this requirement.
4) A copy of these regulations.

(C) It shall be unlawful for any person to perform body art procedures unless such procedures are performed in a body art establishment with a current permit issued by the Board.

(D) Each body art practitioner must be a minimum of 18 years of age.

(E) Each practitioner shall perform all body art procedures in accordance with Universal Precautions set forth by the U.S. Centers for Disease Control and Prevention.

(F) Smoking, eating, or drinking or prohibited in the establishment.

(G) Operators/practitioners shall refuse service to any person who, in the opinion of the operator/practitioner, is under the influence of alcohol or drugs.

(H) The practitioner shall maintain a high degree of personal cleanliness, conform to hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, the practitioner must thoroughly wash their hands in hot running water with liquid soap, then rinse hands and dry with disposable paper towel. This shall be done as often as necessary to remove contaminants.

(I) In performing body art procedures, the practitioner shall wear disposable single-use gloves. Gloves must be changed if they become contaminated by contact with any unclean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed before the next set of gloves is donned. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable single-use gloves does not preclude or substitute for handwashing procedures as part of a good personal hygiene program.

(J) If, while performing a body art procedure, the practitioner's glove is pierced, torn, or otherwise contaminated, the procedure delineated in section (I) shall be repeated immediately. The contaminated gloves shall be immediately discarded, and the hands washed thoroughly (see I above) before a fresh pair of gloves is applied. Any item or instrument used for body art that is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.

(K) Contaminated waste as defined in this code, that may release liquid blood or body fluids when compressed or may release dried blood or body fluids when handled must be placed in an approved "red" bag marked with the International Biohazard Symbol. It must then be disposed in accordance with 105 CMR 480.00: Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII, or, at a minimum, in compliance with 29 CFR part 1910.1030, "Occupational Exposure to Bloodborne Pathogens". Used sharps ready for disposal shall be disposed of in approved sharps containers. Contaminated waste that does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled may be placed in a covered receptacle and disposed of through normal, approved disposal methods. Storage of contaminated waste on site shall not exceed 30 days, as specified in 29 CFR Part 1910.1030.

(L) No practitioner shall perform any body art procedure upon a client under the age of 18 years without the presence, consent, and proper identification of a parent, legal custodial parent, or legal guardian. Nothing in this section is intended to require a practitioner to perform any body art procedure on a person under 18 years of age regardless of parental or guardian consent.

(M) Any skin or mucosa surface to receive body art procedure shall be free of rash or any visible infection.

(N) The skin of the practitioner shall be free of rash or infection. No person or operator affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that that person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.

(O) Proof shall be provided to the Board of Health that all practitioners have completed the hepatitis B vaccination series prior to issuance of the permit.

124.05 Exemptions

(A) Physicians licensed in accordance with M.G.L. c. 112 § 2 who perform body art procedures as part of patient treatment are exempt from these regulations.

(B) Individuals who pierce only the lobe of the ear with a pre-sterilized single-use stud-and-clasp ear piercing system are exempt from these regulations.

124.06 Public Notification Requirements

(A) All establishments shall prominently display, and give to each client, a Disclosure Statement, provided by the Department, which advises the public of the risks and possible consequences of body art procedures.

(B) Verbal and written instructions, provided by the Department, for the aftercare of the body art procedure site shall be provided to each client by the operator/practitioner upon completion of the procedure.

1) The written instructions shall advise the client

a) on the proper cleansing of the area which received the body art;

b) to consult a health care provider for:
   1. unexpected redness, tenderness or swelling at the site of the body art procedure
   2. rash
   3. drainage at or from the site of the body art procedure
   4. fever within 24 hours of the body art procedure

2) address, and phone number of the establishment
3) these documents shall be signed and dated by both parties, with a copy given to the client and the operator retaining the original with all other required records.

(C) The facility permit holder shall also post in public view the name, address and phone number of the local Board of Health that has jurisdiction over this program and the procedure for filing a complaint.

124.07 Client Records

(A) Prior to performing any body art procedure, the body art practitioner shall request from the client, verbally and in writing, the following health history information:
1) history of diabetes;
2) history of hemophilia (bleeding);
3) history of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants, etc.;
4) history of allergies or adverse reactions to pigments, dyes, or other sensitivities;
5) history of epilepsy, seizures, fainting, or narcolepsy;
6) use of medications such as anticoagulants, which thin the blood and/or interfere with blood clotting.

(B) The practitioner shall have the client sign a Release Form confirming that the above information was obtained or that the practitioner attempted to obtain it. The client should be asked to disclose any other information that would aid the practitioner in evaluating the client's suitability for body art procedures.

(C) Each operator shall keep records of all body art procedures administered, including date, time, identification and location of the body art procedure(s) performed, and practitioner's name. All client records shall be confidential and be retained for a minimum of three (3) years and made available to the Board upon notification.

(D) Nothing in this section shall be construed to require the practitioner to perform a body art procedure upon a client.

124.08 Injury Reports

A written report of any injury, infection complication or disease to a client as a result of a body art procedure, or complaint of injury, infection complication or disease, shall be forwarded by the operator or practitioner to the Board which issued the permit and to the Department with a copy to the complainant or injured client within five working days of its occurrence or knowledge thereof. The report shall include:

(A) the name of the affected client;
(B) the name and location of the body art establishment involved;
(C) the nature of the injury, infection complication or disease;
(D) the name and address of the effected client's health care provider, if any;
(E) any other information considered relevant to the situation.

124.09 Records Retention

The body art establishment shall keep a record of all persons who have had body art procedures performed. The record shall include the name, date of birth, and address of the client, the date of the procedure, the name of the practitioner who performed the procedure(s), type and location of procedure performed, and signature of client, and, if the client is a minor, proof of parental or guardian presence and consent. Such records shall be retained for a minimum of three (3) years and shall be available to the Board upon request. The Board and the body art establishment shall keep such records confidential.

124.10 Preparation and Care of the Body Art Area

(A) Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding where the body art procedure is to be placed shall be washed with soap and water or an approved surgical skin preparation. If shaving is necessary, single-use disposable razors or safety razors with single-service blades shall be used. Blades shall be discarded after each use, and reusable holders shall be autoclaved after use. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.

(B) In the event of bleeding, all products used to stop the bleeding or to absorb blood shall be single use, discarded immediately after use in appropriate covered containers, and disposed of in accordance with 105 CMR 480.000.

124.11 Sanitation and Sterilization Procedures

(A) All non-single-use, non-disposable instruments used for body art shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water, a solution of household chlorine bleach as recommended by the CDC or by following the manufacturer's instructions to remove blood and tissue residue, and shall be placed in an ultrasonic unit operated in accordance with manufacturer's instructions.

(B) After being cleaned, all non-disposable instruments used for body art shall be packed individually in peel-packs and subsequently sterilized. All peel-packs shall contain either a sterilizer indicator or internal temperature indicator. Peel-packs must be dated with an expiration date not to exceed six (6) months.

(C) All cleaned, non-disposable instruments used for body art shall be sterilized in a steam autoclave or dry-heat sterilizer. The sterilizer shall be used, cleaned, and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of the sterilization unit must be available for inspection by the Board.

(D) Sterile equipment may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing. Sterilizers shall be located away from workstations or areas frequented by the public. If the body art establishment uses only single-use, disposable instruments and products, and uses sterile supplies, an autoclave shall not be required.

(E) Each holder of a permit to operate a body art establishment shall demonstrate that the sterilizer used is capable of attaining sterilization by monthly spore destruction tests. These tests shall be verified through an independent laboratory. The permit shall not be issued or renewed until documentation of the sterilizer's ability to destroy spores is received by the Board. These test records shall be retained by the operator for a period of three (3) years and made available to the Department upon request.

(F) All reusable needles used in body art procedures shall be cleaned and sterilized prior to use and stored in peel-packs. After sterilization, the instruments used in body art procedures shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.

(G) All instruments used for body art procedures shall remain stored in sterile packages until just prior to the performance of body art procedure. When assembling instruments used for body art procedures, the operator shall wear disposable medical gloves and use medically recognized techniques to ensure that the instruments and gloves are not contaminated.

(H) All inks, dyes, pigments, needles, and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions.

(I) The mixing of approved inks, dyes, or pigments or their dilution with potable water is acceptable. Immediately before a tattoo is applied, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single-use paper cups or plastic cups. Upon completion of the tattoo, these single cups or caps and their contents shall be discarded.

124.12 Requirements for Single Use Items

(A) Single-use items shall not be used on more than one client for any reason. After use, all single-use sharps shall be immediately disposed of in approved sharps containers and in accordance with 105 CMR 480.000.

(B) All products applied to the skin, including body art stencils, shall be single use and disposable. Acetate stencils may be re-used if approved by the Board. Sanitization procedures in accordance with 105 CMR 124.11 shall be performed between uses.

(C) Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to be tattooed with sterile gauze or other sterile applicator to prevent contamination of the original container and its contents. The applicator or gauze shall be used only once and then discarded.

124.13 Permit Requirements

Body art establishments shall submit a scale drawing and floor plan of the proposed establishment for a plan review by the Board, as part of the permit application process.

(A) Establishment Permit

1) No person, firm, partnership, joint venture, association, business trust, corporation or organized group of persons may operate a body art establishment except with a body art establishment permit issued by the Board.

2) Any person operating a body art establishment shall obtain an annual permit from the Board. The annual fee is $100.00 per body art establishment.

3) A permit for a body art establishment shall not be transferable from one place or person to another.

4) A current body art establishment permit shall be posted in a prominent and conspicuous area where clients may readily observe it.

5) The holder of a body art establishment permit must only hire practitioners who have complied with the practitioner permit requirements of this regulation.

(B) Body Art Practitioner Permit

1) No person shall practice body art procedures without first obtaining an operator permit from the Board. The annual fee is $50.00 per practitioner.

2) The practitioner permit shall be valid from the date of issuance and shall expire on December 31st of that year unless revoked sooner by the Board.

(C) Application for a practitioner permit shall include:

1) name;
2) date of birth;
3) gender;
4) residence address;
5) mailing address;
6) telephone number;
7) place(s) of employment as a practitioner;
8) training and/or experience;
9) proof of attendance at a bloodborne pathogen training program (or equivalent), given or approved by the Board.
   (a) The applicant shall provide documentation of attendance and completion of courses approved by the Board, or completion of an examination, on the following subjects:
      (i) anatomy
      (ii) skin diseases, disorders and conditions (including diabetes)
      (iii) infectious disease control, including waste disposal, handwashing, techniques, sterilization equipment operation and methods, and sanitization/disinfection/sterilization methods and techniques.
   (b) Examples of courses approved by the Board include courses such a "Preventing Disease Transmission" (American Red Cross) and "Bloodborne Pathogen Training" (U.S. OSHA). Training/courses provided by professional body art organizations or associations or by equipment manufacturers may also be submitted to the Board for approval.

(D) No permit shall be issued unless, following reasonable investigation by the Board, the body art establishment or practitioner has demonstrated compliance with the provisions of this section and all other provisions of these regulations.

(E) All permits shall be conditioned upon continued compliance with the provisions of this section as well as all applicable provisions of these regulations.

(F) All permits shall be posted in a prominent and conspicuous area where clients may readily observe them.

124.14 Complaints

(A) The Board shall investigate complaints received about an establishment or practitioner's practices or acts, which may violate any provision of the Board's regulations.

(B) If the Board finds that an investigation is not required because the alleged act or practice is not in violation of the Board's regulations, then the Board shall notify the complainant of this finding and the reasons on which it is based.

(C) If the Board finds that an investigation is required, because the alleged act or practice may be in violation of the Board's regulations, the Board shall investigate and if a finding is made that the act or practice is in violation of the Board's regulations, then the Board shall apply whatever enforcement action is appropriate to remedy the situation and shall notify the complaint of its action in this matter.

(D) Investigation of complaints may lead to enforcement actions including revocation, suspension, or refusal to renew a permit, by the Board.

124.15 Grounds for Denial of Permit

(A) The Board may deny a permit on any of the following grounds:
1) Failure to conform to the requirements of the Board's regulations;
2) Any actions or omissions which would indicate that the health or safety of the public would be at risk should a permit be approved;
3) Any previous violation of the Board's regulations;
4) Any attempt to practice or obtain a permit through fraud, deceit, or misrepresentation.
5) Criminal conduct which the Board determines to be of such a nature as to render the establishment or practitioner unfit to practice body art as evidenced by criminal proceedings resulting in a conviction, guilty plea, or please of nolo contendere or an admission or sufficient facts;
6) Other just and sufficient cause which the Board may determine would render the establishment or practitioner unfit to practice body art;
7) Practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability or mental inability;
8) Being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
9) Knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a permit; and,
10) Having been disciplined in another jurisdiction in any way by the proper permitting authority for reasons substantially the same as those set forth in the Board's regulations.

(B) Applicants denied a permit may reapply any time after denial.

124.16 Grounds for Suspension of Permit

The Board may summarily suspend a permit pending a final hearing on the merits on the question or revocation if, based on the evidence before it, the Board determines that an establishment and/or a practitioner is an immediate and serious threat to the public health, safety or welfare. The suspension of a permit shall take effect immediately upon written notice of such suspension by the Board.

124.17 Grounds for Revocation of Permit, or Refusal to Renew Permit

(A) The Board may revoke a permit or refuse to renew a permit on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for revocation or refusal to renew:
1) fraud or misrepresentation in obtaining a permit, or its renewal;
2) criminal conduct which the Board determines to be of such a nature as to render the establishment or practitioner unfit to practice body art as evidence by criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts;
3) violation of any rule or regulation of the Board governing the practice of body art;
4) other just and sufficient cause which the Board may determine would render the establishment or practitioner unfit to practice body art;
5) practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;
6) being habitually drunk or being dependent on, or a habitual user or narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
7) knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a permit;
8) continuing to practice while his/her permit is lapsed, suspended, or revoked;

9) having been disciplined in another jurisdiction in any way by the proper permitting authority for reasons substantially the same as those set forth in the Board's regulations, and;
10) refusing to practice body art on a person because of such person's race, creed, color, gender, age, disability, national origin, or sexual orientation.

(B) The Board shall notify an applicant, establishment or practitioner in writing of any violation of the Board's regulations, for which the Board intends to deny, revoke, or refuse to renew a permit. The applicant, establishment or practitioner shall have seven (7) days after receipt of such written notice in which to comply with the Board's regulations. The Board may deny, revoke or refuse to renew a permit, if the applicant, establishment or practitioner fails to comply after said seven (7) days.

124.18 Procedure for Hearing

(A) Suspension of Permit

1) Upon written request to the Board of Health, the establishment or practitioner shall be afforded an opportunity to be heard concerning the suspension of the permit by the Board.
2) Such a hearing shall be initiated pursuant to 801 CMR 1.00 et seq. (Standard Adjudicatory Rules of Practice and Procedure), no later than twenty-one (21) calendar days after the effective date of the suspension.
3) In cases of suspension of a permit, the hearing officer shall determine whether the Board has proved by a preponderance of the evidence that there existed immediately prior to or at the time of the suspension an immediate and serious threat to the public health, safety, or welfare. The hearing officer shall issue a written decision, which contains a summary of the testimony and evidence considered and the reasons for the decision.

(B) Denial, Revocation, or Refusal to Renew a Permit

1) A permit may be denied, revoked, or refused renewal only after a hearing conducted by the Board;
2) If the Board determines that a permit shall be denied, revoked, or not renewed pursuant to the Board's regulations, the Board shall initiate a hearing in accordance with 801 CMR 1.00 et. Seq.,
3) Following the hearing, the hearing officer shall issue a written decision that contains a summary of the testimony and evidence considered and the reasons for the decision.

124.19 Unauthorized Practice of Body Art

The Board shall refer to the appropriate District Attorney, the Attorney General, or other appropriate law enforcement agency any incidents of unauthorized practice of body art that come to its attention.

124.20 Severability

If any rule of provision contained herein is found to be unconstitutional or invalid by a Court of competent jurisdiction, the validity of the remaining rules and provisions will not be so affected.

124.21 Effectiveness

This regulation was adopted by the Board of Health on December 14, 2000 and shall become effective upon publication in the local newspaper.

Per Order Of,
THE MASHPEE BOARD OF HEALTH

Steven R. Ball, Chairman
John T. Doherty, Co-chairman
L. Glenn Santos, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

CATERING REGISTRATION FORM FOR SERVING MEALS

In accordance with the provisions of Chapter 94, Section 305A Chapter III, Section 5 of the Massachusetts General Laws and Article X, Regulation 21.3 of the Massachusetts Department of Public Health Sanitary Code and the Rules and Regulations of the Mashpee Board of Health.

> "Each Caterer prior to serving meals in the Town of Mashpee shall register with the Mashpee Board of Health on a form furnished by said Board seven (7) days before the service of said meal. The fee for each registration shall be $100.00."

Effective date June 16, 1978 fee amended as stated above on January 1, 1990

Per Order Of,
The Mashpee Board of Health

Charles F. Buckingham, Chairman
Roland L. Wilson, Co-Chairman
Charles H. Lawrence, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

RESTAURANT GREASE TRAPS

At its regularly scheduled meeting of March 14, 1988, under the authority of the Massachusetts General Laws, Chapter 111, Section 31, the Mashpee Board of Health adopted the following regulations:

1. All new applications submitted to the Board of Health for food service permits for the preparation and/or serving of food products must be accompanied by the following:

    a. Septic plans conforming to Title V of the Department of Environmental Quality Engineering and Mashpee Board of Health regulations including an adequately sized grease trap.

    b. Proof of a valid contract with a hauler licensed by the Board of Health to have the grease trap pumped according to Title V. The grease load must be transported to a location approved by the Department of Environmental Quality Engineering; the grease may not be discharged at the Mashpee landfill lagoons.

2. All current food service permit holders must comply with the provisions of Section 1B prior to the renewal of their food service permits.

Title V regulation 5.13 states:

"Grease traps shall be inspected monthly and shall be cleaned when the level of grease is 25% of the effective depth of the trap or at least every three months."

This regulation takes effect on the date following publication.

Per Order Of,
The Mashpee Board of Health

Charles F. Buckingham, Chairman
Roland L. Wilson, Co-Chairman
George R. Costa, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

BARE FEET

In accordance with the provisions of Chapter 111, Section 31, of the Massachusetts General laws, the following regulation is set forth by the Town of Mashpee, Board of Health.

Bare feet are prohibited within any establishment open to the public in the Town of Mashpee.

This regulation will take effect on May 4, 1979.

Per Order of the Board of Health,

Charles F. Buckingham, Chairman
Charles H. Lawrence
Roland L. Wilson

Leonore C. Anderson, Agent

May 4, 1979

PART IV: FOOD ESTABLISHMENTS
SECTION 4.00 BARE-HAND CONTACT

TOWN OF MASHPEE
BOARD OF HEALTH

BARE-HAND CONTACT

Due to numerous complaints regarding bare hand contact with READY-TO-EAT FOOD, the Board of Health, under the authority of The Federal Food Code, Annex 1 entitled 'Compliance and Enforcement" Section 8-811.10(B)(1), 105 CMR 590.000, of the Minimum Sanitation Standards For Food Establishments, State Sanitary Code, Article X Section 590.010(B) and General Administrative Procedures for the State Sanitary Code Chapter 1, 105 CMR 400.200(A) hereby adopts the following:

If an Agent of the Board of Health observes any food service handler preparing Ready-to-Eat food at a Mashpee licensed food establishment **without the use** of **TONGS, SPATULAS, SINGLE-USE GLOVES, DELI TISSUE OR DISPENSING EQUIPMENT** shall be documented on the inspection form as a violation (per the Federal Food Code, Section 3-301.11). Once the inspection has been completed, the owner will be notified of the violation(s) and immediately fined as follows:

1. $100.00 for the first offense
2. $200.00 for the second offense
3. Third offense and subsequent offense(s);
    a. The owners shall be required to appear before the Board of Health for a "show cause" hearing.

Payment shall be made to the Town Clerk office and shall be submitted **7 days** from the date of the violation.

Failure to pay the fine within the allotted time frame will result in court action and/or closure of the food establishment until said fines are paid.

Severability – Provisions of this regulation are severable and if any provision hereof shall be held invalid under any circumstances, such invalidity shall not affect any other provisions or circumstances.

This regulation was adopted January 10, 2007 and becomes effective on the date of publication.

PER ORDER OF,
THE BOARD OF HEALTH

Steven R. Ball, Chairman
Lucy B. Burton, Co-chairman
L. Glenn Santos, Clerk

Part IV: FOOD ESTABLISHMENTS

Section 5.00 FOOD ESTABLISHMENT INSPECTION AND ENFORCEMENT

TOWN OF MASHPEE
BOARD OF HEATLH
FOOD ESTABLISHMENT INSPECTION
AND ENFORCEMENT REGULATION

SECTION 1 – AUTHORITY:

In accordance with Chapter 94, Section 305A, Chapter III, Section 31 of the Massachusetts General Laws and Chapter X of the State Sanitary Code, the Mashpee Board of Health hereby adopts the following regulation.

SECTION II – FINDINGS AND PURPOSE:

WHEREAS, in the United States approximately 76 million cases of foodborne diseases, resulting in 325,000 hospitalizations and 5,000 deaths, are estimated to occur each year.

WHEREAS, inspections of food establishments are one of the most critical interventions in the prevention of foodborne illness. It assists the food operator in developing a clearer understanding of good food handling practices by identifying areas within their operations that have the greatest potential for the prevention of and spread of food-borne illness.

THEREFORE, to ensure that the community is provided with safe food and to reduce the potential for foodborne illnesses and the spread of communicable disease, the Board of Health hereby adopts the following regulation:

SECTION III - REGULATION:

1. Food Establishment Inspection Requirements:

   A. All core violations listed on the Food Establishment Inspection Report shall be corrected within **10 days** from receipt of the Food Establishment Inspection Report. A follow-up inspection at the end of the 10 day requirement will be conducted to ensure compliance with the "Order of Correction".

   B. All priority and/or priority foundation violations noted on the initial Inspection Report shall be corrected within **24 hours** from receipt of the Food Establishment Inspection Report. A reinspection shall occur after twenty-four (24) hours to document

correction of priority and/or priority foundation violations noted in the "Order of Correction".

C. Failure to comply with any priority or priority foundation violation during the specified time frame will result in a $50.00 fine payable at the time of reinspection.

D. Failure to comply with any core violation during the specified time frame will result in a $25.00 fine payable at the time of reinspection.

2. Probationary Requirements:

A. Food establishment license holders cited as having more than three priority and/or priority foundation violations noted on the Food Establishment Inspection Report "Order of Correction" shall be placed on the Food Establishment Probation List. The probationary food establishment shall be reinspected monthly thereafter until three (3) successive monthly inspections validate no priority and/or priority foundation violations whereupon they shall be removed from the Food Establishment Probation List.

B. Any priority and/or priority foundation violations noted on the Food Establishment Inspection Report during the probationary period shall commence a new three month probationary period.

C. Should a monthly inspection report of a food establishment on the Food Establishment Probation list disclose any priority and/or priority foundation violations, the food establishment owner shall be issued a $100.00 fine per priority or priority foundation violation.

D. Should a monthly inspection report of a food establishment on the Food Establishment Probation list disclose two (2) priority and/or priority foundation violations, the food establishment permit shall be suspended for a period of three days.

E. Should a monthly inspection report of a food establishment on the Food Establishment Probation list discloses three (3) priority and/or priority foundation violations, the food establishment permit shall be suspended for a period of five days.

F. Should a monthly inspection report of a food establishment on the Food Establishment Probation list disclose four (4) or more priority and/or priority foundation violations, the food establishment permit shall be permanently revoked.

G. Any food establishment remaining on the Probation list for a period of twelve (12) months shall appear before the Board for a "show cause" hearing.

3. Posting:

A. At all food establishments, at all times, the most recent Food Establishment Inspection Report shall be conspicuously posted and available for patrons review.

SECTION IV – SEVERABILITY

Each part of this regulation shall be construed as separate, if any section, paragraph, sentence, clause, phrase or word of this regulation shall be declared invalid for any reason; the remainder of this regulation shall remain in full force and effect.

SECTION V – EFFECTIVENESS

This regulation shall be adopted on June 11, 2008 and become effective upon the date of publication.

Per Order Of,
The Mashpee Board of Health

_____
Lucy B. Burton, Chairman

_____
Burton Kaplan,

TOWN OF MASHPEE
BOARD OF HEALTH
MOBILE FOOD REGULATION

1. AUTHORITY

Pursuant to Massachusetts General Laws, Chapter 111, Section 31, the Town of Mashpee Board of Health adopts the following mobile food service regulation, to promote food safety and to control temperature related hazards of potentially-hazardous foods served from a mobile food unit and for the express purpose of protecting the public at large and inhabitants of the Town of Mashpee.

2. PURPOSE

Foodborne illness, also foodborne disease and commonly called food poisoning, is any illness resulting from the consumption of food contaminated with infectious or toxic agents. Such contamination may arise from improper handling, preparation, or food storage. The action of monitoring food to ensure that it will not cause foodborne illness is known as food safety.

To further promote food safety and to control temperature related hazards of potentially-hazardous foods served from a mobile food unit, the Board of Health hereby adopts the following regulation:

3. JURISDICTION

A mobile food unit is defined as "a food service establishment that is vehicle-mounted or wheeled and is capable of being readily moveable."

4. REGULATION

1. Copies of the menu with details of food handling for potentially hazardous foods, a certified food manager's certification (e.g. ServeSafe), an allergy awareness certificate and a valid Hawkers and Peddlers License as required by Massachusetts General Law Chapter 101; sections 22 and 22A obtained from the Department of Public Safety, Division of Standards in Boston are required to be submitted with your permit application.

2. Written permission from a land owner is required prior to setting up a mobile food service. Check with the land owner and the Zoning Board of Appeals office to see that mobile food is allowed as a use on that property.

3. Restroom facilities must be available within 200 feet. If the bathrooms are operated by another business/facility, written permission must be obtained from that facility prior to operation.

4. Hot and cold running water in a 3-bay sink and separate hand sinks for mobile units with potentially-hazardous food are required.

5. Mechanical refrigeration is required for storage of potentially-hazardous foods.

6. Location and volume of potable water and sewage waste tanks must be specified on the application.

7. The source of drinking/cooking water must be specified on the application. Filling of water tanks shall be performed with dedicated water hoses only.

8. Operators of ice cream trucks shall provide a copy of their Police Department issued license to confirm required Criminal Offender Record Information/Sex Offender Record Information check.

9. Only the mobile food units that are fully enclosed shall be allowed to "prepare" potentially-hazardous foods in the field. *(For example: Placing a hot dog in a bun is not preparing food or even placing a chili topping on the dog is not preparation. Unenclosed carts may hold hot and cold potentially hazardous foods. Preparation is considered making the chili from scratch. Unenclosed carts cannot make the chili in the field. The chili must be cooked to temp, cooled and stored at the licensed commissary. The chili must be reheated to 165 degrees then held hot at 140 degrees in the field. Steam tables must not be used for reheating).*

10. A copy of the licensed Commissary's food establishment permit shall be provided upon annual permitting. A variance may be sought from this requirement but your menu and operations will be restricted accordingly.

11. All mobile food operations shall operate from a food establishment.

5. PENALTIES

Any person, establishment or person-in-charge, who violates any provision of this regulation, shall be punished according to the provisions of 105 CMR 590.014.

6. SEVERABILITY

If any provision of this regulation is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

7. EFFECTIVE DATE

This regulation was adopted on March 19, 2015 and was effective on October 2, 2015. The regulation was amended on March 21, 2019 to revise Section 6.4.11 to food establishment. The amendment shall be effective upon publication in a newspaper of general circulation.

Per Order Of,
MASHPEE BOARD OF HEALTH
Brian B. Baumgaertel, Chair
Laurel Almquist, Co-Chair
Mallory Langler, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

SEPTAGE DISPOSAL REGULATION

RATIONALE

On July 22, 1993, the Board of Health received notice from the Attorney General's office to stop accepting septage at the municipal lagoons within 30 – 60 days. Therefore, effective September 20, 1993, septage will no longer be accepted at the lagoons.

REGULATION:

Under the authority of 310 CMR 15:19(3), the Mashpee Board of Health hereby adopts the following regulation effective September 20, 1993:

All septage pumpers licensed to do business in the Town of Mashpee are hereby ordered to dispose of their loads at the Town of Barnstable's wastewater treatment plant until further notice, unless permission is requested in writing by a licensed septage hauler and granted in writing by the Mashpee Board of Health to use an alternate state approved disposal site. All Mashpee licensed septage haulers must obtain a license to do business from the Town of Barnstable, Board of Health in addition to the Mashpee license and abide by all pertinent state and local rules and regulations.

Per Order Of,
The Mashpee Board of Health

John T. Doherty, Chairman
Steven R. Ball, Co-chairman
Stephen J. Greelish, Clerk

PART V: HAULING REGULATIONS
SECTION 2.00 REFUSE VEHICLES

THE COMMONWEALTH OF MASSACHUSETS

Advance Copy 1983 Acts and Resolves

MICHAEL JOSEPH CONNOLLY, Secretary of State

Chapter 563.000 AN ACT RELATIVE TO RESTRICTIONS ON THE HOURS OF OPERATION FOR REFUSE VEHICLES.

Be It Enacted, etc., as follows:

Section 31A of chapter 111 of the General Laws is hereby amended by striking out the first sentence, as appearing in chapter 282 of the acts of 1937, and inserting in place thereof the following sentence: - No person shall remove or transport garbage, offal or other offensive substances through the street of any city or town without first obtaining a permit from the board of health of such city or town; provided, however, that no rules or regulations shall restrict the hours of the day when garbage, offal or other offensive substances may be collected in areas zoned for business, commercial or industrial use.

Approved December 12, 1983

PART V: HAULING REGULATIONS
SECTION 3.00 REFUSE REGULATION

TOWN OF MASHPEE
BOARD OF HEALTH

SOLID WASTE REGULATION

I. RATIONALE:

The responsibility for the control of removal, transport and disposal of solid wastes falls under the jurisdiction of local Boards of Health per Massachusetts General Law Section 31A and 31B of Chapter 111. Annual permits to transport refuse are issued by Boards of Health. Furthermore, these Sections grant local Boards of Health the authority to adopt and enforce regulations regarding transport and disposal.

II. AUTHORITY

Therefore under the authority of M.G.L. chapter 111 section 31B, the Board of Health of the Town of Mashpee hereby adopts the following amended regulation:

III. REGULATION

1. All refuse haulers must be licensed by the Board of Health, have a sticker affixed to each vehicle indicating the vehicle registration number and must comply with all local Board of Health regulations.

2. All haulers licensed by the Board of Health in the Town of Mashpee must transport their refuse loads to a state licensed solid waste facility.

3. The annual refuse hauler's license fee shall be set according to the Board of Health fee schedule.

4. All refuse hauling vehicles licensed by the Board of Health shall be inspected prior to permitting and are subject to inspection at any reasonable time by an agent or designated representative of the Board of Health to assure compliance with any provision of this regulation.

5. Garbage, Offal, refuse and other offensive substances shall be collected in residentially zoned areas between the hours of 7:00 am and 10:00 pm.

IV. PENALTIES; Any violation of any of this regulation will result in the following:

1. First offense shall result in a fine of $500.00, second offense $1,000.00, third offense $5,000.00. Any subsequent violation will result in revocation or suspension of the license to transport refuse in the Town of Mashpee as determined by the Board of Health.

2. Imposition of all other applicable fines as defined in M.G.L. chapter 111 section 31B.

V. SEVERABILITY:

In the event any section of these regulations 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.

VI. EFFECTIVENESS:

This regulation was originally adopted by the Mashpee Board of Health on April 11, 1991 (UCRTS); Amended on March 23, 2011 to add standardized penalties; Amended on November 6, 2014 due to closing of UCRTS and shall become effective upon publication in a newspaper of general circulation.

Per Order Of,

The Mashpee Board of Health

_____
Lucy Burton, Chairman

_____
Burton Kaplan, Co-chairman

_____
Kalliope Egloff, Clerk

Glen E. Harrington, R.S., CHO, Health Agent

Part V: HAULING REGULATIONS

Section 4.00 REFUSE CONTAINERS

TOWN OF MASHPEE
BOARD OF HEALTH
REFUSE CONTAINER REGULATION

WHEREAS: Intermediaries, "Brokers", are soliciting business for licensed trash haulers resulting in improper container company identification. In order to readily identify these container companies, pursuant to the Mass General Laws, Section 31A and 31B of Chapter 111, notice is hereby given that the following regulation has been adopted by the Town of Mashpee, Board of Health;

SECTION I - REGULATION

1. All trash haulers licensed in the Town of Mashpee shall have placards affixed to each refuse container (dumpster) indicating the owner(s) name, haulers servicing the refuse container, Broker's name of the refuse container(s) and the contact numbers. The placards shall be no less than ten by twelve inches in size with letters/numbers no less than three inches in height and of contrasting colors.
2. Enclose all exterior trash receptacles (dumpsters) with a minimum six foot (6') high fence to mitigate loose refuse.
3. Provide an impervious surface (e.g. asphalt or concrete) to capture potential spills of hazardous materials from impacting the surrounding environment.

SECTION II – ENFORCEMENT

1. For the purpose of enforcing this regulation, the Board of Health, Health Agent or any other designee of the Board of Health shall be the enforcing officer.

SECTION III - PENALTIES

1. Failure to comply with this regulation will result in the levy of fines of not more than $1,000.00 per offense.

SECTION IV - SEVERABILITY:

1. Each provision of this regulation shall be construed as separate to the end that if any provision, or sentence, clause or phrase thereof shall be held invalid for any reason, the remainder of that section and all other sections shall continue in full force and effect.

This regulation is adopted by the Board of Health on June 11, 2008 and will become effective upon the date of publication.

Per Order Of,
The Mashpee Board of Health

_____
Lucy B. Burton, Chairman

_____
Burton Kaplan, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

RIGHT-OF-WAY HERBICIDE USE

The following regulation is set forth by the Mashpee Board of Health under Chapter 111, Section 30A of the Massachusetts General Laws.

The use of herbicides to control growth on any right-of-way or road shoulders within the town of Mashpee is prohibited.

This regulation shall be effective May 21, 1982.

Per Order Of,
The Mashpee Board of Health

Charles H. Lawrence, Chairman
Roland L. Wilson
Charles F. Buckingham, Clerk

Leonore C. Anderson, Agent

TOWN OF MASHPEE
BOARD OF HEALTH

ANTI-SIPHONING

This regulation is created for the protection of ponds, streams, rivers, surface and subsurface waters of Mashpee.

PURPOSE:

The Mashpee Board of Health, pursuant to the authority conferred in Section 31 of Chapter 111 of the Massachusetts General Laws and in recognition of the fact that any contamination of the sole source aquifer, which provides drinking water to the general public, hereby adopts the following regulation:

REGULATION:

The siphoning of water from any bog, pond, river, stream, surface or subsurface body of water into a commercial water tank vehicle is prohibited in the Town of Mashpee.

EXCEPTION:

Local Fire Departments are excluded from this regulation.

EFFECTIVE DATE:

This regulation is adopted by the Mashpee Board of Health on April 29, 1993 and becomes effective upon the date of publication. This regulation replaces the "Regulation for the protection of ponds, streams, rivers, surface and subsurface waters of Mashpee", adopted August 24, 1989.

Per Order Of,
The Mashpee Board of Health

Stephen J. Greelish, Chairman
Steven R. Ball, Co-chairman
John T. Doherty, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

BODYWORK THERAPIES REGULATION

The following regulations are promulgated by the Town of Mashpee Board of Health, under the authority of Section 51, of Chapter 140, of the Massachusetts General Laws:

1. PURPOSE AND DEFINITION:
   For the purposes of these regulations:

   A. BODYWORK THERAPIES – Shall include Reflexology, Trager Approach, Ayurvedic Therapies, Rolf Structural Integration, Asian Bodywork Therapy, Acupressure (including Jin Shin Do and Tui Na), Shiatsu, Polarity and Reiki.

   B. BODYWORK - Shall mean manipulating and/or conditioning of part or parts of the body by manual, mechanical, or other means for purported health or medical treatment, or for the purpose of invigoration. The primary intent being to enhance or restore the health and well-being of the client.

   C. ESTABLISHMENT FOR BODYWORK PRACTICES – Shall mean the office, place of business, or premises where bodywork therapies are offered.

   D. APPROVED – Shall mean approved by the Board of Health of the Town of Mashpee, in accordance with the Massachusetts General Laws.

   E. APPROVED COURSES OF BODYWORK – Shall mean a course on the arts and sciences of bodywork therapies, which includes both theory and practice and is approved by the Board of Health of the Town of Mashpee, in accordance with accepted standards.

   F. BODYWORK PRACTITIONER – Shall mean the individual who practices bodywork therapies and techniques.

G. LICENSEE:

a. An individual who provides to the Board satisfactory proof that he/she has adequate professional training and liability insurance in their elected bodywork field.

b. Shall keep the client(s) well informed of procedures and methods that will be employed during the session.

c. Maintain the confidentiality of all client information, unless law or court order mandates disclosure.

d. Respect the inherent worth and act in the best interest of all clients.

e. Take precautions to do no harm to the physical, mental and emotional well being of their clients.

f. Maintain the right to refuse to treat any person in order to protect the mental, physical, emotional and professional boundaries and safety of the bodywork practitioner.

g. Conduct all business and professional activities with honesty and integrity.

h. Not engage in an interest, activity or influence that conflict with the practitioner's obligation to act in the best interest of their client(s).

2. <u>LICENSE REQUIREMENTS AND FEE:</u>

A. No person shall practice bodywork therapies at a facility licensed as a bodywork establishment or advertise or hold herself/himself out as being engaged in the business of performing bodywork in the Town of Mashpee without first obtaining a license from the Mashpee Board of Health. The license fee for each bodywork establishment shall be one hundred ($100.00) dollars annually and for each bodywork therapist fifty ($50.00) dollars. A license to an establishment and/or bodywork therapist is not transferable and shall be renewable annually on January 1st.

B. License shall automatically expire on December 31st of each year. Applications for renewal must be submitted at least 30 days prior to expiration date.

C. An application for licensure as a bodywork therapist shall be accompanied by written documentation as the Board may reasonably require in order determining whether the applicant is of good moral character.

D. All licensees shall operate from a licensed facility. Home visitation for the practice of bodywork requires a variance from the Board of Health. Criminal Offender Registry Information (CORI) and Sex Offender Registry Information (SORI) shall be requested at that time.

3. REQUIREMENTS FOR PERSONAL LICENSING: No person shall be licensed to practice bodywork or conduct in an establishment for bodywork unless the following requirements are met:

A. Be eighteen (18) years of age or older.

B. Be of good moral and ethical character.

C. Submit to the Board of Health a complete application form containing all information requested by said form.

D. Be a high school graduate.

E. The educational requirement includes a minimum 600 hour curriculum of massage or other accredited institution with a minimum of 45 contact hours of the bodywork therapy discipline in which the applicant is seeking to become licensed.

4. REQUIREMENTS FOR LICENSING OF AN ESTABLISHMENT: No establishment for bodywork shall be licensed hereunder unless it meets the following requirements:

A. Premises shall be well-lit, well-ventilated and properly heated when seasonally indicated.

B. There shall be an adequate supply of hot (min 110 degrees F) and cold running water at all times.

C. There shall be an approved toilet and washing facilities within the premises, readily available to the patrons and affording sufficient privacy.

D. Where patrons of both sexes are accommodated, adequate arrangements shall be made for separation of rooms, toilets and washing facilities used by each sex.

E. All rooms of the establishment, furniture and equipment therein shall be kept clean at all times.

F. Each room or enclosure used for bodywork services shall have at least one artificial light of not less than sixty (60) watts.

G. There shall be installed a heat and smoke detecting system approved by the Mashpee Fire Department.

H. There shall be adequate facilities for the cleaning and sterilizing of all equipment.

I. All rooms used for reception and treatment of patrons shall be arranged so as to afford adequate fire protection and shall have satisfactory means of egress in case of fire as approved by the Mashpee Building Inspector and Mashpee Fire Chief.

J. After each use all equipment, instruments, devices, robes, sheets, blankets, pillowcases, wearing apparel, towels, or other materials, which may come in direct contact with clients, shall be properly cleaned and sterilized.

K. No food or alcoholic beverages shall be served or consumed on the premises without a retail food, food establishment and/or common victualler's license.

5. EXCLUSIONS:

   A. Physicians, Chiropractors, Physical Therapists, Nurses, School Athletic Trainers, or Chiropodists (Podiatrists) registered in the Commonwealth are excluded. A person registered as a barber or an apprentice under the provisions of Section 87 T to 87 JJ, inclusive, of said Chapter 112 of the General Laws may practice facial and scalp therapies without obtaining a license.

   B. A person holding a valid license to practice bodywork therapies in any other city or town in the Commonwealth may, upon written orders of a physician, attend patients residing in Mashpee specified by the physician. The bodywork therapist shall, if requested, submit to the Board of Health copies of his/her license from another community and the physician's orders.

   C. ESTABLISHMENT EXCEPTIONS – Hospitals, Nursing and Convalescent Homes and other similarly licensed institutions where bodywork therapies may be performed are excluded from the definition of a Bodywork Therapies Facility.

6. DIRECT APPLICATION OF INSTRUMENTS TO SKIN PROHIBITED: Any instruments or device designed or used for direct application to the skin shall be sterilized prior to its application. The part of the body being treated shall be covered with a clean towel, or else the instrument shall be covered in a similar manner.

7. TREATMENT OF WOUNDS PROHIBITED: No sponge, stick or other article liable to convey infection shall be used to make application directly to the skin or any cut or wound.

8. TREATMENT OF PERSONS WITH SKIN DISEASE PROHIBITED:

A. No licensed individual shall treat any person afflicted with any skin eruption or other disease unless such persons have furnished a written certificate from a physician to the effect that the eruption of disease is not of a contagious or transmissible character.

B. A Bodywork Therapist may not practice bodywork therapy at any time that he or she has a rash, boil or open lesion, unless he or she has obtained a certificate from a physician certifying that the condition is not communicable.

9. CLEANING OF HANDS: Every person licensed to practice bodywork therapies shall thoroughly cleanse his hands by washing with soap and hot water immediately before and after treating a client.

10. DISPLAY OF LICENSE: All licensed bodywork facilities must display, in a conspicuous location, all licenses issued by the Mashpee Board of Health. All bodywork therapists employed at the licensed establishment must provide a copy of their Bodywork Therapist license to the proprietor of said establishment.

11. DESIGNATION OF NAME: No licensee shall operate under any name or conduct his/her business under any designation not specified in his license.

12. CHANGE OF ADDRESS: Every licensee shall notify the Board of Health prior to any change of address, home or business or name. Any new license or amendment to an existing license required because of the foregoing may be issued without discretion by the Board of Health.

13. INSPECTIONS: Every license shall permit the Board of Health or its agents or other town authorities acting in an official capacity to inspect his/her place of business and his/her work at any reasonable time.

14. HEARING IN CASES OF SUSPENSION OR REVOCATION OF LICENSE: The Board of Health may suspend or revoke any license granted for such cause as it deems sufficient. A person whose license has been suspended or revoked may within ten (10) days of the suspension of revocation of his/her license request, in writing, a hearing upon the cause or causes of such suspension or revocation. The Board of Health may set a time and place for said hearing.

15. PENALTIES/DISCIPLINARY ACTION: Whoever violates these regulations or hinders any duly authorized person from exercising the authority conferred hereunder or by general law shall be punished by a fine or not more than one hundred ($100.00) dollars per day per offense or imprisonment for not more than six (6) months, or both in accordance with Section 53 of Chapter 140 of the Massachusetts General Laws. The penalties set forth shall be supplemental and in addition to all other penalties imposed by the Board of Health by the General Laws, By-laws or otherwise.

16. SEVERABILITY: If any section, paragraph, sentence, clause or phrase of these rules and regulations shall be decided invalid for any reason whatsoever, such decision shall not

affect the remaining portions of these regulations which shall remain in full force and effect; and to this end the provisions of these regulations are hereby declared severable. The powers and authorities conferred upon the Board of Health hereunder are not intended to limit the authority of the board to act with respect to operation of an establishment under any other regulations of the Board of Health, the By-laws of the Town of Mashpee or the Massachusetts General Laws.

This regulation was adopted May 28, 2008 and will become effective upon the date of publication.

Per Order Of,
The Mashpee Board of Health

_____
Lucy B. Burton, Chair

_____
Burton Kaplan, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

RECYCLING REGULATION

A. Pursuant to Massachusetts General Law Chapter 111, Section 31B; all persons collecting trash in the Town of Mashpee shall obtain a permit from the Board of Health.

Trash hauling permits shall be valid for one calendar year, renewable annually on the first day of January subject to review and approval by the Board of Health. No permit shall be transferable except with the approval of the Board of Health.

B. All permitted haulers shall provide trash and recycling services in compliance with the State of Massachusetts Solid Waste Plan, Local and D.E.P. regulations and shall charge a **flat fee** for the collection and disposal of both trash and recyclables for single family homes, condominiums, apartments, schools, municipal, time share, trailer parks, commercial and housing complexes. Each permitted hauler shall offer to collect two (2) types of paper and one type of plastic. All permitted haulers are required to provide copies of weight slips or vendor receipts to document tons of recyclables collected and the number of customers served. Said report shall be submitted to the Town of Mashpee, Board of Health beginning one month from the application approval date and continuing each month during which the applicant holds a valid permit. Failure to provide this required information may result in suspension, modification or revocation of the permit.

C. Any member of the Board of Health, its agents or other person(s) designated by the Board of Health may enforce this section. Violation of any section in this regulation or the Department of Environmental Protection regulations by the permitted hauler, shall be grounds for suspension, modification, revocation and/or issuance of fines up to $300.00 for each offense.

D. An application fee of $500.00 shall be submitted with all applications.

Per Order Of,
The Mashpee Board of Health

Steven R. Ball, Chairman
John T. Doherty, Co-Chairman
Robert F. Cram, Clerk

Adopted April 28, l999
Effective July 1, l999

PART VIII: NUISANCE CONTROL REGULATIONS
SECTION 2.00 STATE ILLEGAL DUMPING ACT

THE COMMONWEALTH OF MASSACHUSETS

Advance Copy 1982 Acts and Resolves

MICHAEL JOSEPH CONNOLLY, Secretary of State

Chapter 130.000 AN ACT INCREASING THE PENALTIES FOR ILLEGAL DUMPING OF TRASH, REFUSE OR RUBBISH.

Be It Enacted, etc., as follows:

SECTION 1 - Section 16 of Chapter 270 of the General Laws is hereby amended by striking out the first paragraph, as amended by chapter 105 of the acts of 1979 and inserting in place thereof the following paragraph:

Whoever places, throws, deposits, discharges or causes to be placed, thrown, deposited or discharged any trash, bottles or cans, refuse, rubbish, garbage, debris, scrap, waste or any other material of any kind on a public highway or within twenty yards thereof, or on any other public land, or in or upon coastal or inland waters, as defined in section one of chapter one hundred and thirty-one, respectively, or within twenty yards of any such water, or on property of another, shall be punished by a fine of not more than two hundred dollars for the first offense and not more than one thousand dollars for each subsequent offense, and the court may require, in addition thereto, that rubbish, debris or materials. The permission of the owner of land to place, throw, deposit or discharge such trash, refuse, rubbish, garbage, debris, scrap, waste or any other material of any kind on such owner's land shall constitute a defense in any trial for such offense.

SECTION 2. - The last sentence of said section 16 of said chapter 270, as appearing in chapter 39 of the acts of 1974, is hereby amended by inserting after the word "agents", in line 8, the words: provided, however, that any person observing a violation of this section may file a petition for issuance of a complaint pursuant to this section with the clerk of the district court having jurisdiction or, in the city of Boston, with the clerk of the Boston municipal court department, and upon determining that probable cause exists therefore, such clerk shall issue such complaint.

Approved June 3, 1982

TOWN OF MASHPEE
BOARD OF HEALTH

USED TIRE DISPOSAL

Under the authority granted to Boards of Health through the provisions of Chapter 111, Section 31 of the amended Massachusetts General Laws, the Mashpee Board of Health has adopted the following set of regulations to control and ensure the proper disposal of used tires:

1. Used tires will be accepted at the Transfer Station from Mashpee residents who have a valid Transfer Station sticker.

2. These tires shall be logged in by the attendant. Residents must provide their name, sticker number and registration number.

3. Any resident who brings in more than two tires must provide proof of purchase of new tires.

4. Used tires must be de-rimmed. Rims may be disposed of at the metal pile as directed by the attendant.

5. Used tires will NOT be accepted from any business or service station engaged in the sale of tires. These establishments must dispose of used tires through a disposal company licensed by the Commonwealth to transport and dispose of used tires.

    a. These establishments must also keep a written log of the disposal of used tires indicating the date, the number of tires disposed of and the name of the disposal company. This log shall be presented to the Board of Health or its agents upon request.

Failure to comply with these regulations constitutes a violation of the "Illegal Dumping" by-law, which carries a three hundred dollar fine.

This regulation becomes effective upon publication.

Per Order Of,
The Mashpee Board of Health

Stephen J. Greelish, Chairman
John T. Doherty, Co-Chairman
George R. Costa, Clerk

TOWN OF MASHPEE

BOARD OF HEALTH

RODENT CONTROL REGULATION

SECTION 4.0:

4.1 Purpose
4.2 Authority
4.3 Definitions
4.4 Applicability
4.5 Regulation
4.6 Enforcement
4.7 Severability
4.8 Penalties
4.9 Effective Date

4.1 PURPOSE:

The purpose of this regulation is to prevent the spread of infectious and contagious diseases by rats, mice, and other rodents. This regulation requires property owners to take appropriate containment/ extermination measures to prevent rodent infestations that could adversely impact public health.

4.2 AUTHORITY:

The Mashpee Board of Health hereby adopts the following regulation in accordance with Massachusetts General Law Chapter 111, Sections 31 and 127A.

4.3 DEFINITIONS:

For the purpose of this regulation, the following words shall have the following meanings:

Licensed Massachusetts Extermination Company – A company with operators licensed by the Commonwealth of Massachusetts to perform rodent control, including baiting with pesticides specific to rodents in accordance with the Massachusetts Pesticide Bureau.

4.4 APPLICABILITY

This regulation shall apply to all properties within the Town of Mashpee.

4.5 REGULATION

(1) Prior to the issuance of any permit for demolition or razing of any building/structure, a Board of Health agent shall perform an inspection of the building/ structure and the parcel upon which it is located for evidence of the presence or infestation of rodents. If such evidence is observed by the agent, an executed contract from a licensed Massachusetts Extermination Company must be submitted by the property owner to the Board of Health at least thirty (30) days prior to the issuance of a demolition permit. If no such evidence of rodents is identified, this requirement to engage the services of an exterminator shall be waived.

(2) If such extermination action is deemed necessary by the Board of Health agent, the property owner will be responsible for engaging a licensed Massachusetts Extermination Company, at the owner's expense, to: 1) rid the building/structure to be razed or demolished and the remainder of the subject property of rodents and/or rodent-related nuisances, and 2) maintain appropriate rodent control measures until the building/structure is determined to be rodent-free.

(3) No building/structure shall be demolished or razed until the Board of Health or its agent/ designee certifies compliance with this regulation.

(4) Emergency Exemption– In the case of fire or natural disaster or other incident whereby a building/structure is rendered unsafe or deemed to constitute an imminent threat to public health and/or welfare, the Board of Health may order immediate or expedited demolition and/or removal of the building/structure without compliance herewith as an exemption to this regulation.

4.6 ENFORCEMENT:

The Mashpee Board of Health, pursuant to the provision of M.G.L. Chapter 111, Sections 31 and 127A hereby authorizes the Board of Health, its authorized agents/ designees, and/or the Building Inspector to assure compliance with and to enforce this regulation.

4.7 SEVERABILITY:

If any provisions of this regulation or the application thereof are held to be invalid by a court of competent jurisdiction, the invalidity shall be limited to said invalid provision and the remainder of the regulation shall remain valid and effective. Any part of this regulation subsequently invalidated by state law shall automatically be brought into conformity with the

new or amended law and shall be deemed effective immediately, without recourse to a public hearing.

4.8 PENALTIES:

(1) A person who violates this regulation shall be punished by a fine of Three Hundred ($300.00) Dollars per violation.

4.9 EFFECTIVE DATE:

This regulation will take effect upon publication in a newspaper of general circulation.

Per Order Of,

THE MASHPEE BOARD OF HEALTH

_____
Burton Kaplan, Chairman

_____
Kalliope Egloff, Co-Chairman

_____
Lucy B. Burton, Clerk

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) 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) Occupant- person who resides on premise, other than as a guest.

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

1. 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,

The Mashpee Board of Health

_____

Brian Baumgaertel, Chair

_____

Laurel Almquist, Co-chair

TOWN OF MASHPEE
BOARD OF HEALTH

SEPTIC PERMIT REQUIREMENTS REGULATION

The following regulations are set forth by the Mashpee Board of Health and replaces all previous Town of Mashpee Rules and Regulations with subsequent amendments, Mass. General Laws Ter. Ed. And are being adopted to supplement, clarify, modify, and augment the provisions of Title V of the State Environmental Code for basic requirements.

Regulation 1: ENFORCEMENT

For purposes of enforcing these regulations, the Health Agent, or designee, an Agent of the Board of Health, shall be the enforcing officer.

Regulation 2: DISPOSAL WORKS CONSTRUCTION PERMITS

No individual sewage disposal system or other means of sewage disposal shall be located, constructed, altered, repaired, or installed until a permit for its location, construction, alteration or repair of installation shall have been issued by the Board of Health. A fee shall be charged by the Board of Health at the time the application is made for a permit for construction and/or alternation and/or repair. The fee for new construction shall be $50.00 and for repair, (single family), $100.00. Fee for permits shall not be returned if construction or repair is abandoned.

A disposal Works Construction Permit shall be void if installation of a subsurface sewage disposal system is not completed within 12 months from the date of issue of such permit. A new permit may be issued by the board of Health following submission of a new application. New percolation tests, observation pits and plans may be required.

Regulation 3: APPLICATION FOR DISPOSAL WORK CONSTRUCTION PERMIT

Applications for permits to install, construct, or repair private sewage systems in the Town of Mashpee shall be submitted to the Board of Health Agent for approval. A plan of the proposed system prepared by a Registered Professional Engineer, should be submitted. The fee for a permit, made payable to the Town of Mashpee, shall be submitted upon approval by the Health Agent. The Agent of the Board of Health will order the issuance of all permits following approval.

Regulation 4: BUILDING ALTERATIONS

The owner or other person or persons having control over any existing building or buildings hereafter altered and added to, shall not commence construction under a building permit for living quarters until a permit for alteration of the sewage disposal system has first been obtained from the Agent of the Board of Health. Occupancy of any such construction shall not take place until a Certificate of Compliance has been issued by the Agent of the Board of Health as required under Regulation 7.

Regulation 5: USE

The use of an individual septage system by more than one property dwelling or other premises is prohibited. The sewage disposal facility shall be located on the property which it serves.

Regulation 6: DISPOSAL WORKS INSTALLERS PERMIT

No person or firm shall engage in the construction, alteration, installation, or repair of any individual sewage disposal system without first obtaining an Installer's permit from the Board of Health. Such permits shall expire at the end of the calendar year in which they are issued unless earlier revoked by the Board of Health.

Regulation 7: CERTIFICATE OF COMPLIANCE

A Certificate of Compliance signed by the Agent of the Board of Health, and relating to the design plans, materials and construction shall be submitted, upon completion of the installation of a private sewage system, to the installer.

Regulation 8: REQUIREMENTS FOR PLANS

A Registered Professional Engineer shall prepare the plan. The plan is to be submitted on a scale of no less than 1" – 30", which lies within 10' of any portion of the Sewage disposal system, and shall consist of the following:

A. The property and building to be served and the location of the proposed sewage disposal facilities; precise location of the manholes, clean-out plugs, location of any streams, drains, or known source of water supply within 200 feet of the disposal system.

The plan shall include existing and proposed contours of the land on a two-foot interval within the immediate area of the leaching facility.

Lot lines and distances necessary to satisfy requirements set forth in Regulation 9.

The plan shall include a detailed layout of the proposed system including invert, elevations of the septic tank, distribution box, leaching pipes or pits; including the spacing of pipes or pits. Size and gradation of stones used in the disposal field shall be noted.

Location and depth of the observation pits, location and results of percolation tests. The elevation of the highest water table and soil log must be shown and recorded on the plan.

The plan shall be submitted in duplicate. The identity, location, and elevation of the benchmark shall be shown on the plan. Provisions will be made on the plan for endorsement of approval of the Board of Health Agent. No permit shall be issued until the plan has been endorsed accordingly.
A cross section showing elevations drawn through the property lines and house foundation wall, septic tank and leaching field or pits, including the centerline of the street if the system is in front of the house.

Dwellings with expansion attics shall provide a septic system according to the total number of finished bedrooms.

The plan shall be stamped by the Professional Engineer certifying that the proposed installation complies with the zoning laws and regulations of the Town of Mashpee.

Regulation 9: LOCATION OF DISPOSAL FACILITIES

Distance: The location of the disposal facilities shall be such as to provide between it and the components listed in the following table not less than the distances stated:

COMPONENT	SEPTIC TANK	LEACHING FIELD PIT/DIFFUSORS
Well or Suction Line	50 feet	100 feet
Water Supply Line (pressure)	10 feet	10 feet
Property Line	10 feet	10 feet
Surface water supplies or Tributaries including open And subsurface drains	100 feet	100 feet
Watercourses, including Streams, ponds, open Subsurface drains		
Single	25 feet	75 feet

Multiple	25 feet	100 feet
Edge of Fill	25 feet	
Downhill slope steeper Than one vertical to Three horizontal	50 feet	

All grades of roads in subdivision adjoining water within Mashpee shall be not less than six feet (6') above the mean high water of lakes, ponds, streams, tidal waters, flats and all tributaries of such tidal waters and flats.

Foundations of dwellings shall be not less than two feet (2') above the lowest point of the road or roads adjoining each lot. This provision may be waived by the Agent of the Board of Health, upon determination that no adverse effect will result. On land adjoining lakes, ponds, streams, drainage ditches, tidal waters, flats and all tributaries of such tidal waters and flats, the sewage disposal system shall comply with the Commonwealth of Massachusetts, D.E.Q.E., Title V, and said systems shall terminate not less than one hundred feet (100') from the point at least two feet (2') above mean high water or to a greater height where conditions warrant it, for single family dwellings, and one hundred feet (100') for multiple dwellings. No fill shall be deposited when water the table is within two feet (2') of the original grade. Where fill is deposited it shall be in compliance with regulations of D.E.Q.E., Title V.

Regulation 9.1:

Permits for on-site sewage disposal or water supply may be approved for construction when located within Zones all "A" and all "V", as designated as F.I.A. Flood Hazard Boundary Map numbers H & I, 1; through H & I, 14; effective October 6, 1976, on file with the Town Clerk the Board of Health, the Planning Board and the Building Inspector, when it is demonstrated by the applicant that in the event of flooding to base flood elevations such facilities are designed to minimize contamination. Any new or replacement water supply system or sanitary sewerage system within such area shall be designed to minimize or eliminate infiltration of floodwaters. Applicant shall also comply with provisions of the Massachusetts Department of Environmental Quality Engineering, Title V.

Regulation 9.2:

The minimum leaching area per bedroom shall be 125 sq. ft. when a leaching field is utilized as final dissemination of sewage. This area shall be increased according to regulation of Title V of the Massachusetts Department of Environmental quality Engineering where a garbage disposal is installed.

Regulation 10: <u>TESTS</u>

Complete data used in determining the percolation rate shall be shown on the plan. All percolation tests shall be conducted in accordance with the requirements of Title V, of the Department of Environmental Quality Engineering.

One or more observation spits shall be excavated in the area of the proposed system. THE DEPTH OF THE PITS SHALL BE AT LEAST FOUR FEET BELOW THE BOTTOM OF THE PROPOSED LEACHING FACILITY. A soil log, which shall be taken from the observation pits, must be recorded on both the application and the plan.

Percolation tests shall be performed on each lot where a septic system is to be constructed. This information shall be recorded on the plan.

All percolation tests are to be performed in the presence of a professional Engineer approved by the Public Health Agent. Prior notices of at least forty-eight (48) hours of excavation and test must be provided.

In general and at the discretion of the Agent of the Board of Health, percolation tests must be conducted and high water elevations shall be determined, during the high water time of the year. Soil with an average percolation rate slower than **15 minutes per inch** will be considered unsuitable for the subsurface disposal of sewage by the Board of Health.

Regulation 11: SEPTIC TANKS

Construction of leaching facilities in clean granular fill is permissible when the following conditions exists:

When the impervious material can be excavated to pervious material below and be replaced with clean fill per Regulation 2.15 of Title V of the State Environmental Code, and the underlying pervious strata is a least four feet thick.

Where a depth of at least four feet of pervious material is natural soil can be maintained below the bottom of the leaching area. Excavation will not be allowed into impervious material without penetrating into pervious material as in (A) above.

Regulation 13: INSPECTION

The Board of Health requires that all construction be inspected by the Agent of the board of Health before back filling. Prior notice of at least twenty-four (24) hours for said inspection must be provided to said Agent. Certificate of Compliance will not be issued unless all construction has been completed in accordance with the approved pan and required inspections.

Regulation 14: MAINTENANCE

Every owner or agent of premises in which there are any private sewers, individual sewage disposal systems or other means of sewage disposal shall keep the sewer and disposal system in good repair and shall have such works cleaned or repaired at such times as ordered by the Board

of Health. Should the owner or agent of the premises fail to comply with such an order, the Board of Health may cause the works to be cleaned and repaired and all expenses incurred will be paid by the owner.

Regulation 15: EXPANSION

Plans submitted for approval shall contain an additional area reserved for future expansion of the disposal field at least equal to the area of the disposal field. Said expansion area must conform to all requirements of these regulations and to Article XI of the State Sanitary Code. The expansion area is to be kept open and may not be built upon with the exception of movable structures such as tool houses, and above-ground swimming pools may not be constructed which would preclude the expansion area for conforming with the minimum distances established in Regulation 9.

Regulation 16: FURTHER REGULATIONS

The Mashpee Board of Health reserves the right to adopt further regulations as deemed necessary, or restrict or delete any of the above regulations in the best interest of the Town of Mashpee.

These Board of Health regulations are subject to the various provisions set forth in Title V of the State Sanitary Code.

Regulation 17: EFFECTIVE DATE

These regulations shall take effect on July 27, 1977.
No regulations shall be enforced retroactively.

Regulation 18: SEVERABILITY NOTICE

If any section, paragraph, sentence, clause, phase, or work of these regulations shall be judged invalid for any reason whatsoever, that decision shall not effect any other portion of these regulations, which shall remain in full force and effect; and to this end the provisions of these regulations are hereby declared severable.

Per Order of,
The Mashpee Board of Health

Charles F. Buckingham, Chairman
Roland L. Wilson, Co-Chairman
Harriet C. Daly, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

FLOOD PLAIN REGULATION

The minutes of the Board of Health for May 10, 1976 show that the Board of Health for the Town of Mashpee on that date voted with the advice of the Town Counsel to comply with the Planning Boards request to add to the Board of Health regulations the following:

The Board of Health in reviewing all proposed water and sewer facilities to be located in the Flood Plain District established under the Zoning By-Laws shall require:

1. New and replacement water supply systems to be designed to minimize or eliminate infiltration of floodwaters into the systems.
2. New and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from systems into the flood waters.

Per Order Of,
The Mashpee Board of Health

Charles F. Buckingham, Chairman
Roland L. Wilson, Co-Chairman
Harriet C. Daly, Clerk

Recommended suggestions include:

1. All septic tanks shall be secured with cast iron covers with bolts and rubber gaskets.

2. All septic tanks shall be sealed according to the manufacturer's specifications.

3. Uplift calculations shall be provided on all septic site and design plans.

4. All septic tanks shall be monolithic (seamless).

Innovative technologies units shall be consistent with the above requirements

TOWN OF MASHPEE
BOARD OF HEALTH

SEWER PIPE DIAMETER REGULATION

Effective November. 1, 1978, all piping used in building sewers shall in no case be less than four (4) inches in diameter. Sewer pipes running through the building foundation to the septic tank and from the septic tank through the distribution box to the leaching facility shall be constructed of cast iron or schedule 40 PVC only. Other types of pipe are not authorized.

Inlet and outlet pipes running into the septic tank, distribution box and leaching pits shall be sealed when installation is completed and before inspection.

Per Order Of,

Charles F. Buckingham
Roland L. Wilson
Charles H. Lawrence

Anderson Agent
November 1, 1978

TOWN OF MASHPEE
BOARD OF HEALTH

SEPTIC SYSTEM COVERS

REGULATION

Acting under Chapter 111, Section 31, of the Massachusetts General Laws, the following Board of Health regulation is effective January 8, 1980. All septic tanks cesspools and leaching pit covers on existing and new individual sewerage disposal system shall be of sound and durable materials.

Cement covers shall be free of cracks and chips and in good repair. Septic systems having covers at grade level shall be of cement or steel manhole. Cement covers must be a minimum of 24 inches in diameter and weigh at least 150 pounds. It shall be set flush to the ground and not tilt when stepped upon. The rim of a steel manhole cover shall be firmly cemented in and the steel cover removable only with the use of some type of implement. For safety purposes, a cement cover may be used on top of a steel cover.

Failure to comply with this regulation is punishable by a fine of twenty ($20.00) dollars.

Per Order Of,
The Mashpee Board of Health

Charles H. Lawrence, Chairman
Charles F. Buckingham
Roland L. Wilson

Leonore C. Anderson, Health Agent
January 11, 1980

TOWN OF MASHPEE
BOARD OF HEALTH

COMMERCIAL SEPTIC SYSTEMS

The following regulations are set forth by the Mashpee Board of Health and are in addition to all previous Town of Mashpee, Board of Health Rules and Regulations with subsequent amendments. These regulations are ADOPTED IN ACCORDANCE WITH THE PROVISIONS OF Chapter 111, Section 31, as amended, of the Massachusetts General Laws Ter. Ed. and are being adopted to supplement, clarify, modify and augment the provisions of Title V of the State Environmental Code. The applicants shall refer to the Massachusetts Environmental code for basic requirements.

SECTION 5.1 – ENFORCEMENT

For the purpose of enforcing these regulations, all members of the Board of Health, Health Agent, or any other designee of the Board of Health shall be the enforcing officer.

SECTION 5.2

In all dwellings where soil conditions require compliance with 15.11(9), 15.12(9), 15.13(9), 15.14(9) and 15.15(7) of Title V, the reserve area shall be developed at the same time as the primary leaching area and a valve will be installed between the system in such a manner as to allow alternate use of the leaching facilities.

SECTION 5.3

In multi-unit buildings, the reserve leaching area shall be developed at the same time as the primary area and a valve shall be installed in such a manner as to allow the alternate use of leaching facilities. The minimum distance from the reserve area to the primary shall be no less than 10'. Trenches shall meet Title V requirements Section 15.251(4).

SECTION 5.4

In all industrial and commercial buildings, the reserve leaching area will be developed at the same time as the primary area and a valve will be installed in such a manner to allow the alternate use of the leaching facilities.

SECTION 5.5

In multi-unit dwellings, industrial and commercial buildings, septic systems will be inspected on an annual basis, records shall be kept and copies delivered to the Board of Health; when the level of the solids reaches 2/3 of the height to the "T", the system must be pumped. The inspection is to be done by a qualified engineer, sanitarian or certified septic inspector and recorded copies are to be delivered to the Board of Health no later than thirty days following the inspection. The inspection is to be performed during the months of May through October each year.

SECTION 5.6 – FURTHER REGULATIONS

The Board of Health reserves the right to adopt further regulations as deemed necessary, or restrict or delete any of the above regulations in the best interest of the Town of Mashpee. These Board of Health regulations are subject to the various provisions set forth in Article XI of the State Sanitary Code.

SECTION 5.7 - SEVERABILITY NOTICE

If any section, paragraph, sentence, clause, phrase or word of these regulations shall be judged invalid for any reason whatsoever, that decision shall not affect any other portion of these regulations, which shall remain in full force and effect; and to this end the provisions of these regulations are hereby declared severable.

SECTION 5.8 - EFFECTIVE DATE

These regulations will take effect on December 28, 1981. With the exception of Regulation #6 no regulation shall be enforced retroactively.

SECTION 5.9 – VIOLATIONS

Whoever violates any of the provisions of the foregoing regulations, shall be punished by a fine upon conviction in a Court of Law, of no less than $10.00 per day or more than $500.00 per day. Each day a violation continues after notice, from the Board of Health or an Agent of the Board of Health of the existence of the violation, shall constitute a separate violation.

Per Order Of,
The Mashpee Board of Health

Steven R. Ball, Chairman
MaryRose Grady, Co-chairman
L. Glenn Santos, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

COMMERCIAL SEPTIC SYSTEM NITROGEN LOADING

The following regulations are set forth by the Mashpee Board of Health and are in addition to all previous Town of Mashpee Rules and Regulations with subsequent amendments. These regulations are adopted in accordance with the provisions of Chapter 111, section 31 as amended, of the Massachusetts General Laws Ter. Ed. and are being adopted to supplement, clarify, modify and augment the provisions of Title V of the State Environmental Code and to protect the aquifer of the Town of Mashpee. The applicant shall refer to the Massachusetts Environmental Code for basic requirements.

The developer of a multi-unit or cluster zone development shall provide to the Board of Health their complete development of usage including all contiguous properties and including a projected future usage. The sum of the sewage effluent shall be the aggregate of the development should this flow factor reach or exceed 15, 000 gallons per day or the nitrogen loading factor surpass 16 lbs./40,000 sq. ft./year, as per 208 Water quality and Management Plan EIS for Cape Cod, the effluent return to the aquifer shall be of drinking quality.

FURTHER REGULATIONS:

The Board of Health reserves the right to adopt further regulations as deemed necessary, or restrict or delete any of the above regulations in the best interest of the Town of Mashpee. The Board of Health Regulations are subject to the various provisions set forth in Title V of the State Environmental Code.

SEVERABILITY NOTICE:

If any section, paragraph, sentence, clause, phrase or word of these regulations shall be judged invalid for any whatsoever, that decision shall not affect any other partition of these regulations, which shall remain in full force and effect; and to this end the provisions of these regulations are hereby declared severable.

EFECTIVE DATE:

These regulations shall take effect upon the date of publication.

VIOLATIONS:

Whoever violates any of the provisions of the forgoing regulations shall be punished by a fine, upon conviction in court, of not less that $10.00 or more than $200.00 each day a violation continues after notice of the Board of Health or the Agent of the Board of Health of the existence of violations.

Per Order Of,
The Mashpee Board of Health

Charles H. Lawrence, Chairman
Roland L. Wilson, Co-chairman
Charles E. Buckingham, Clerk

Published March 9, 1984

TOWN OF MASHPEE
BOARD OF HEALTH

SEPTIC SYSTEM ADDITIVE REGULATION

In accordance with the provision of Chapter 111, Section 31, of the Massachusetts General Laws, and in order to protect our sole source aquifer, the Town of Mashpee Board of Health, prohibits the use of all septic tank cleaners of cesspool cleaners containing any of the following:

1. Methylene Chloride
2. Orthodichlorobenzene
3. 1,1,1, Trichloroethane
4. Napthalene
5. H2S04, HCL
6. Or any other acid solution

This regulation will become effective July 20, 1983.

Per Order Of,

Charles H. Lawrence, Chairman
Roland L. Wilson, Co-chairman
Charles F. Buckingham, Clerk

Leonore C. Anderson, Agent
July 20, 1983

THE COMMONWEALTH OF MASSACHUSETS

Advance Copy 1983 Acts and Resolves

MICHAEL JOSEPH CONNOLLY, Secretary of State

Chapter 536.000 AN ACT ESTABLISHING UNIFORM PROCEUDRES FOR INDIVIDUAL SEWAGE DISPOSAL SYSTEM APPLICATIONS.

Be It enacted etc., as follows:

Chapter 111 of the General Laws is hereby amended by inserting after section 31D the following section:

Section 31E. - Any health officer or board of health for any city, town or district, whose authority includes the issuance of permits for construction, maintenance or alteration of individual sewage disposal systems for residential buildings of not more than four dwelling units, shall act upon a completed application for such permit to construct, maintain, or alter such systems within forty-five days from the date upon which such completed application is filed with said health officer or board of health. If a determination on a completed application is not rendered within forty-five days by the appropriate health officer or board of health, then said permit shall be deemed to have been granted.

For the purpose of this section, a completed application shall include, but not be limited to, information satisfactory to any local board of health regarding the number of deep observation holes, all percolation test results and a plan, which meets the requirements of the State Sanitary Code, and any local health regulation. Such application shall be considered filed on the date upon which a completed application is presented by the person who is seeking the permit, to the health officer, board of health or agent thereof.

For the purpose of this section, "action on a completed application" shall mean approval of said application and issuance of the permit to construct, maintain, or alter, or disapproval of said application with a written statement of the reasons for such disapproval. The written statement of reasons, in the case of disapproval, shall be sent to the applicant by first class mail, postage prepaid and shall include the information necessary in order to ascertain why the application or the proposed subsurface sewage disposal system or both fail to comply with local or state code requirement*s*.

Nothing contained in this section shall be deemed to exempt the applicant from the regulations promulgated under the provisions of section thirteen of chapter twenty-one A.

Approved December 6, 1973

TOWN OF MASHPEE
BOARD OF HEALTH

LEACHING DISTANCE REQUIREMENTS

The following regulations are set forth by the Mashpee Board of Health and are in addition to all previous Town of Mashpee Rules and Regulations with subsequent amendments. These regulations are adopted in accordance with the provisions of Chapter 111, section 31, as amended, Massachusetts General Laws and are being adopted to supplement, clarify, modify and augment the provisions of Title V of the State Environmental Code.

LEACHING REQUIREMENTS

3.7 Distances (1) (2) – No disposal facility shall be closer than the distances stated to the components listed in the following table. The distance shall be increased where required by conditions peculiar to a location.

COMPONENT	SEPTIC TANK (Feet)	LEACHING FACILITY (Feet)	BUILDING SEWER (Feet)	PRIVY (Feet)
Well or suction line	50	150 (1)	(3)	100 (1)
Water supply line (pressure)	(4)	(4)	(4)	(4)
Property line	10	10		30
Cellar wall or inground swimming pool	10	20		30
Surface water supplies, reservoirs or tributaries to reservoirs, including open and subsurface drains	50 (2)(5)	100 (1)(2)(5)(5)		100 (1)(2)(5)
Watercourses	25 (2)(5)	100 (2)(5)		50 (2)(5)
Subsurface drains	25	25		
Leaching catch basin or Dry well		25		
Downhill slope – measured				

from the top of the leaching facility 150 x (times) the slope (expressed as a fraction)

(1) 150 feet is a minimum acceptable distance and no variance shall be granted for a lesser distance except with prior written approval of the Board of Health. 100 feet is a minimum acceptable distance and no variance shall be granted for a lesser distance except with prior written approval from the Department of Environmental quality Engineering.

(2) All distances shall be measured from the average of the mean annual flood elevation in inland areas and from mean high water in coastal areas.

(3) 10 feet if constructed of durable corrosion resistant material with watertight joints, or 50 feet if any other type of pipe is used.

(4) It is suggested that the disposal facilities be installed at least 10 feet from the 18 inches below water supply lines. Wherever sewer lines cross water supply lines both pipes shall be constructed of Class 150 pressure pipe and should be pressure tested to assure water tightness.

(5) The applicant should be aware of his obligation to comply with the requirements of the Wetlands Protection Act B.L., C131, S40.

This regulation shall become effective February 8, 1985.

Per Order Of,
Mashpee Board of Health

Charles H. Lawrence, Chairman
Roland L. Wilson, Co-Chairman
Charles F. Buckingham, Clerk

Leonore C. Anderson, Agent

TOWN OF MASHPEE
BOARD OF HEALTH
INCREASE IN HABITABLE SPACE REGULATION

At its regularly scheduled meeting of November 9, 1987, under the authority of the Massachusetts General Laws, Chapter 111, Section 31, the Mashpee Board of Health adopted the following regulation.

The intent of the Board is to protect ground and surface waters in the Town of Mashpee. Therefore, all building applications for **additions or alterations** to existing **habitable** areas of a dwelling shall be accompanied by a septic plan drawn by a sanitarian or professional engineer denoting that a Title V septic system exists or that one shall be installed to accommodate the existing dwelling and its addition or alteration.

A **habitable** room as defined in Chapter II of the Massachusetts Sanitary Code, Minimum Standards for Human Habitation, is every room or enclosed floor space used or intended to be used for living, sleeping cooking or eating purposes, **excluding** rooms containing toilets, bathtubs or showers and **excluding** laundries, pantries, foyers, corridors, closets and storage spaces.

Further examples of **habitable** rooms include but are not limited to: Kitchens, bedrooms, living and dining rooms, dens, studies, libraries, sewing rooms, offices, play and recreation rooms, sun and florida rooms, etc.

VARIANCES - from this regulation require a hearing by the Board and must be requested in writing at the time of application. A floor plan showing the existing and addition or alteration must also accompany the application.

This regulation takes effect on the date following publication.

Per Order Of,
The Mashpee Board of Health

Charles F. Buckingham, Chairman
Roland L. Wilson, Co-chairman
George R. Costa, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

SOIL STABILITY REGULATION

Notice is hereby given that the following regulation has been adopted by the Town of Mashpee Board of Health, under the provisions of Massachusetts General Laws, Chapter 111, Section 31 and 127A.

SOIL STABILITY

No newly constructed septic systems, nor expansion of existing septic systems shall be permitted within 150 feet of any area where there is active shifting of sands or earth. The delineation of such areas shall be shown on a plan drawn by a Professional Registered Engineer and verified by the Mashpee Conservation Commission or its agent. These areas shall include:

a. Coastal Beaches, to include any unconsolidated sediment subject to wave, tidal and coastal storm action which forms the gently sloping shore of any body of salt water and includes tidal flats. Coastal beaches extend from the mean low water line landward to the dune line, coastal bank line or the seaward edge of existing manmade structures, when these structures replace one of the above lines, whichever is closest to the ocean;

b. Coastal dunes, to include any natural hill, mound or ridge of sediment landward of a coastal beach deposited by artificial means for the purpose of storm damage prevention or flood control;

c. Barrier beaches, to include any low-lying strip of land generally consisting of coastal beaches and coastal dunes extending roughly parallel to the trend of the coast. It is separated from the mainland by a narrow body of fresh, brackish or salt water or a marsh system. A barrier beach may be joined to the mainland at one of both ends;

d. Coastal banks composed of unconsolidated sediment, to include the seaward face or side of any elevated landform, other than a coastal dune, which lies a the landward edge of a coastal beach, land subject to tidal action, or other wetland. These banks are exposed to vigorous wave action and through that action serve as a major continuous source of sediment for beaches, dunes and barrier beaches as well as other landforms caused by coastal processes. Coastal banks with previously existing man-made structures such as seawalls, riprap, revetments and bulkheads are exempt from this provision.

Variances from this regulation may, at the Board of Health's discretion, require satisfactory documentation from a hydrogeologist or professional sanitary engineer at the applicant's expense.

This regulation shall take effect on the date following publication.

Per Order Of,
The Mashpee Board of Health

George R. Costa, Chairman
Stephen J. Greelish, Co-Chairman
John T. Doherty, Clerk

September 21, 1989

TOWN OF MASHPEE
BOARD OF HEALTH

DEPTH TO GROUNDWATER REGULATION

Under the authority of the Massachusetts General Laws, Chapter 111, Section 31, and as authorized in Title V of the State Environmental Code, as amended and adopted on July 1, 1977, and in an effort to better protect the drinking water supply and thus the health and welfare of the residents of Mashpee, the Board of Health hereby adopts the following regulation:

> The depth of **naturally** occurring pervious soil between the bottom of the leaching facility and **groundwater**, adjusted if applicable, shall be a minimum of four (4) feet;
>
> Therefore, mounded systems proposed in order to **create** this four-foot separation are not permitted.

This regulation is adopted by the Board of Health on September 13, 1990 and will take effect upon the date of publication.

Per Order Of,
The Mashpee Board of Health

Stephen J. Greelish, Chairman
John T. Doherty, Co-Chairman
George R. Costa, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

REGULATIONS GOVERNING THE INSTALLATION AND USE OF DUAL BLACK/GREY WATER SEPTIC SYSTEMS FOR SINGLE FAMILY RESIDENCES

The Mashpee Board of Health, pursuant to the authority conferred under Section 31 of Chapter 111 of the Massachusetts General Laws and in recognition of the environmental advantage of certain alternative/innovative septic system technologies, hereby adopts the following regulations:

DEFINITIONS:

Blackwater: Wastewater from toilets, urinals and any drains equipped with garbage grinders.

Greywater: Ay putrescible wastewater discharged from domestic activities including but not limited to washing machines, sinks, showers, bath tubs, dishwashers or other source except toilets, urinals and any drains equipped with garbage grinders.

REGULATIONS:

1. The Board of Health hereby approves the use of composting toilets for the collection and disposal of blackwater with the following conditions:

    a. The composting compartment must be inspected annually by a Department of Environmental Protection (DEP) approved inspector of composting systems. A copy of the inspection report shall be submitted to the Board of Health within 30 days of the inspection.
    b. The composted material shall be removed at intervals according to the manufacturer's specifications. The compost shall be transported by a DEP approved hauler AND disposed of at a DEP approved location.

2. In recognition of the fact that the majority of pathogenic organisms are found in blackwater, while some still exist in greywater, the Board of Health approves the following greywater discharge systems and conditions:

    a. The filtered greywater may be discharged internally into a DEP and Board of Health approved greenhouse absorption system OR;

b. The filtered greywater may be discharged externally into a DEP and Board of Health approved soil absorption system with nitrogen removal capability.
c. The soil absorption system shall be located a minimum of 75 feet from any wetland or bordering vegetated wetland as verified by the Mashpee Conservation Commission. This contrasts with the standard setback requirement of 100 feet for the traditional Title V soil absorption system in recognition of the lower pathogenic content in greywater.
d. The bottom of the soil absorption system shall be a minimum of 4 feet above groundwater, adjusted if applicable.
e. If there does not exist a minimum of 4 feet of naturally occurring permeable soil between the bottom of the leaching facility and groundwater, then there shall exist a minimum of 2 feet of naturally occurring permeable soil between the bottom of the soil absorption system and groundwater with an additional 3 feet of naturally occurring permeable soil below the groundwater elevation.
f. The leaching area requirement for the greywater discharge system may be reduced to 60% of the standard Title V area requirement.
g. The soil absorption system and the greywater filtering system must be inspected annually by a DEP approved greywater discharge system inspector. The filters must be replaced at intervals according to the manufacturer's specifications. A copy of the inspection report must be submitted to the Board of Health within 30 days of the inspection.
h. No garbage grinders shall be allowed to be installed. Therefore a septic tank is not required.
i. For new construction, a standard Title V system must be approvable on-site. This standard Title V system must meet State requirements only.
j. Plans for gray/blackwater septic systems must be drawn by a licensed professional engineer or registered sanitarian.
k. Any variance from these regulations must be submitted in writing by the plan designer and will be considered by the Board of Health on a case-by-case basis.
l. Failure to submit the annual inspection reports to the Board of Health within 30 days of their completion shall constitute a determination by the Board of Health that the system is in failure. The Board may, at which time, hire an inspector to conduct the inspection with all associated costs borne by the owner. Failure to pay for these costs will result in the board's condemnation of the septic systems and the placing of a lien against the property.

These regulations have been adopted by the Board of Health on August 10, 1995 and shall become effective on the date of publication.

Per Order Of,
The Mashpee Board of Health
John T. Doherty, Chairman
Robert F. Cram, Co-Chairman
Steven R. Ball, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

REGULATION TO PROTECT WATER QUALITY IN THE TOWN OF MASHPEE FOR ALL PROPERTIES

1.0) PURPOSE

Water quality in certain areas of the Town of Mashpee is degraded. Excessive nitrogen loading in our watersheds has been identified as a major cause of this degradation. The primary source of excess nitrogen is wastewater from the on-site septic systems. This regulation is promulgated in an effort to decrease the amount of nitrogen contributing from septic systems.

2.0) AUTHORITY

This regulation is adopted by the Board of Health of the Town of Mashpee, Massachusetts, acting under the authority of Chapter 111, Section 31 and Chapter 21A, Section 13 of the Massachusetts General Laws and under Title 1 and Title 5 of the State Environmental Code (310 CMR 11.00 and 15.000).

3.0) DEFINITIONS:

On-site sewage disposal system or systems: a privy, cesspool, septic tank, holding tank, grease trap, sewerage treatment device or other structure, together with any associated sewer and/or leaching facilities, that is used to treat and dispose of sewage from any building or structure. The components of these systems typically consist primarily of subsurface structures.

Facility: Reference 310 CMR 15.002 definition of "facility".

4.0) APPLICABILITY

This regulation shall apply to all facilities with on-site sewage disposal systems located in the Town of Mashpee with a design flow in excess of 600 gallons per day.

5.0) NEW SYSTEMS

All new systems shall be designed to achieve no greater than 19 milligrams per liter (MG/L) total nitrogen concentration in the effluent via secondary treatment of an approved innovative/alternative septic system. Systems shall be tested and reported on a quarterly basis by means of obtaining an effluent sample from the distribution box or pump chamber (post-treatment) to determine if they are meeting the 19 MG/L total nitrogen standard.

5.1) EXISTING SEPTIC SYSTEMS

At the time of transfer of title of an existing facility served by a septic system, or in the event of the failure of or emergency repairs to any septic system, the septic system shall be upgraded to achieve no greater than 19 milligrams per liter (MG/L) total nitrogen concentration in the effluent via secondary treatment of an approved innovative/alternative septic system. Systems shall be tested and reported according to the Board of Health on a quarterly basis by means of obtaining an effluent sample from the distribution box or pump chamber (post-treatment) to determine if the effluent is meeting the 19 MG/L total nitrogen standard.

6.0) VARIANCE

The Town of Mashpee Board of Health, in any particular case, may vary the application of any provision of this regulation, when, it its opinion:

1.) Such action is in the public interest and not inconsistent with the intent and purpose of the State Environmental Code and this regulation.

2.) Strict enforcement would cause undue hardship and manifest injustice.

3.) The same degree of environmental protection required under Title 5 (310 CMR 15.000) and this regulation can be achieved without strict application of the particular provisions. The burden of proof shall rest with the applicant as to all elements required for the approval of any variance. Any request for a variance must be in writing to the Board of Health and shall be acted on in accordance with procedures for the granting of a variance under Town of Mashpee, Board of Health regulations. A condition of variance approval shall be that the property shall be connected to sewer once available.

7.0) ENFORCEMENT

The Town of Mashpee, Board of Health, as permitted under the provision of Chapter 111, Section 31 and under Title 1 (310 CMR 11.00), may issue administrative enforcement orders, violation notices, requests for compliance and other documents and correspondence to enforce the provisions of this regulation. The Board may pursue criminal or non-criminal prosecution or civil litigation or both in the courts of the Commonwealth of Massachusetts to enforce the provisions of this regulation.

8.0 PENALTIES

Any penalty for failure to comply with any provision of this regulation shall be governed by Massachusetts General Laws, Chapter 111, Section 31. Each day of violation shall constitute a separate offense. Further, the Town of Mashpee, Board of Health, after notice to and after a public hearing thereon, may suspend, revoke or modify any license issued by the Board for due cause.

9.0) SEVERABILITY

Each part of this regulation shall be construed as separate, if any section, paragraph, sentence, clause, phrase or word of this regulation shall be declared invalid for any reason; the remainder of this regulation shall remain in full force and effect.

10.0) EFFECTIVE DATE

This regulation shall be effective once published in a newspaper of general circulation. Original approval on July 1, 1999. Amended March 6, 2014.

Per Order Of,

Mashpee Board of Health

Kalliope Egloff, Chair
Lucy B. Burton, Co-Chair
Burton Kaplan, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH
INNOVATIVE/ALTERNATIVE ON-SITE SEPTIC SYSTEMS REGULATION

PURPOSE

The Mashpee Board of Health promulgates the following regulation for the use of Alternative Septic Systems within the Town of Mashpee. While the Board of Health recognizes Alternative Septic Systems as an opportunity to maintain and improve the quality of groundwater and surface water resources, they consider the proper management of such systems as necessary to protect the public health and the environment. The purpose of this regulation is to ensure the proper maintenance, operation and performance tracking necessary to both protect the public health and the environment and to assist the Board of Health in a continuing way to evaluate the efficacy of alternative septic systems.

II. AUTHORITY

These regulations shall be effective on or after [date adopted], and so remain until modified or amended by the Board of Health. They are enacted by the Mashpee Board of Health under authority which includes but is not limited to one or more of the following: Massachusetts General Laws, Chapter 111, Sections 31, 122, 122A, 127, 143, 155, 187, 188, 310 CMR 15.00, and 310 CMR 11.00; Board of Health Regulations are an exercise of police power under which the various levels of government are responsible for protection of the public health, safety and welfare.

III. DEFINITIONS

Alternative Septic Systems – Systems designed to provide or enhance on-site sewage disposal which either do not contain all of the components of an on-site disposal system constructed in accordance with 310 CMR 15.100 through 15.293 or which contain components in addition to those specified in 310 CMR 15.100 through 15.293 and which are proposed to the local approving authority and/or the Department of Environmental Protection for remedial, pilot, provisional, or general use approval pursuant to 310 CMR 15.280 through 15.289.

Approval Letter – A letter issued by the Massachusetts Department of Environmental Protection pursuant to 310 CMR 15.280-15.289 specifying the type of system and type of approval granted by that Department. The letter is signed, dated and bear the period of approval.

General Use Approval – An approval of an alternative septic system by the Massachusetts Department of Environmental Protection in accordance with 310 CMR 15.288, and having an Approval Letter issued by the Department.

Provisional Use Approval – An approval of an alternative septic system by the Massachusetts Department of Environmental Protection in accordance with 310 CMR 15.286, and having an Approval Letter issued by the Department.

Remedial Use Approval – An approval of an alternative septic system by the Massachusetts Department of Environmental Protection in accordance with 310 CMR 15.284, and having an Approval Letter issued by the Department.

IV. APPLICABILITY

This regulation shall apply to all on-site sewage disposal systems located or proposed to be located in the Town of Mashpee.

V. REGULATION

1. Application Requirements

   a) All applications for installation of Alternative Septic Systems shall include a copy of the most recent Approval Letter for the technology being proposed. The application for a Disposal System Construction Permit shall clearly indicate the approval under which the applicant wishes to submit the application. Any application submitted without the Approval Letter shall be considered incomplete.
   b) All applications for installation of Alternative Septic Systems shall include a copy of the Service Contract that identifies the name of the company being retained by the owner of record for the maintenance services. No Certificate of Compliance shall be issued until a service contract, signed by an authorized person from the maintenance contractor is submitted to the Board of Health. The service contract must meet the requirements specified in the technology Approval Letter.
   c) All systems failing to meet a 75 foot setback from surface waters (including lakes, ponds, streams and creeks), freshwater or coastal wetlands, bordering vegetated wetlands, salt marshes, inland and coastal banks (whichever of the preceding resource areas is closest), or other resource areas as defined in Mashpee Board of Health Regulations and Chapter 172 of the Mashpee Code shall specify the installation of an alternative septic system with a disinfection unit for the effluent prior to discharge to the leaching facility. Residential alternative septic systems installed in nitrogen sensitive areas (embayments or DEP Zone II groundwater contribution areas) shall remove nitrogen to a standard of <19 mg/L of total nitrogen. Commercial properties with alternative septic systems within nitrogen sensitive areas (embayments or DEP Zone II groundwater contribution areas) shall remove nitrogen to a standard of <25 mg/L of total nitrogen. All applications specifying an alternative

septic system and disinfection unit shall include the technical specifications of the unit and their requirements for maintenance. Disinfection shall achieve a reduction of fecal coliform to less than 200 colonies per milliliter of fecal coliform per 100 milliliters of sample.

2. Installation Requirements

   a) All electrical components of alternative septic systems shall be supplied with a run-time meter that indicates the duration of time in which power is supplied to the system.
   b) All maintenance components of the Alternative Septic System, including but not limited to disinfection units, pumps, filters, alarms, level floats, and inspection covers shall be made accessible. A representative from the Alternative Septic System company shall demonstrate to the System Designer on record accessibility to said components prior to the issuance of a Certificate of Compliance.

3. Monitoring Requirements

   a) All alternative septic systems approved for installation by the Board of Health shall be monitored and maintained according to requirements stated in the respective DEP Approval Letter. Laboratory sampling shall be determined at the discretion of the board.
   b) All disinfection units shall be monitored, maintained and tested annually for fecal coliform for the life of the system. The monitoring and testing of disinfection units shall be stated in an operations and maintenance contract with a minimum timeframe of one year by a DEP certified Class II wastewater treatment plant operator. The contract shall be provided to the Board of Health prior to issuance of the Certificate of Compliance or according to Section 4(a).
   c) All required analysis shall be performed by a laboratory certified by the Department of Environmental Protection for the parameters analyzed.
   d) Effluent tee filters shall be monitored and maintained according to manufacturer's recommendations but at a minimum of annually.
   e) Sampling shall be performed from a sampling point after treatment (the distribution box or in the case of pressure distribution from the pump chamber). The access point shall be at grade and secured against unauthorized entry.
   f) Pressure distribution: Systems installed with pressure distribution shall be inspected annually by a Class II wastewater treatment plant operator via an annual written contract. The contract and inspection report shall be provided per Section 4(a).

4. Reporting Requirements:

   a) In addition to reporting requirements specified in Approval Letters issued by the Massachusetts Department of Environmental Protection, reports of all monitoring and maintenance of alternative septic systems shall be submitted to the Mashpee

Board of Health and the Barnstable County Department of Health and the Environment, Superior Courthouse, Route 6A, Barnstable Massachusetts 02630. Reports shall be submitted quarterly during the period required for monitoring.

b) Maintenance reports shall specify the run time of all electrical components. This shall be expressed in daily run time and shall be calculated using readings from the run time meter. All calculations shall be shown in the submitted report.
c) Water use shall be reported in gallons for the period between maintenance/inspection events.

5. Humus/Composting Toilets – Conditions For Use

Humus/Composting Toilets are certified for non-remedial use subject to the conditions set forth at 310 CMR 15.289(3)(a), where a system in full compliance with 31- CMR 15.000 and Mashpee Board of Health regulations could otherwise be installed on the site.

6. Dewatered Percolation Tests

Dewatered Percolation Tests are prohibited in the town of Mashpee.

VI. VARIANCE

The Mashpee Board of Health, in any particular case and following a public hearing, may vary any provision of this regulation when, in its opinion, any of the following exists:

a) The same degree of environmental protection required under Title 5 and this regulation may be achieved without strict application of the particular provision or provisions requested to be modified.
b) Strict enforcement of a provision would cause undue hardship and manifest injustice.
c) Such a variance is in the public interest and not inconsistent with the intent or purpose of Title 5 or this regulation.

VII. ENFORCEMENT

The Town of Mashpee Board of Health, under the authority of Chapter 11, Section 31, 310 CMR 11.00, and other governing law may issue administrative enforcement orders, violation notices, and other documents to enforce the provisions of this regulation. In addition, the Board of Health may pursue criminal or non-criminal prosecution, civil litigation or a combination of these in the courts of the Commonwealth of Massachusetts to enforce the provisions of this regulation.

VIII. PENALTIES

Any penalty for failure to comply with any provision of this regulation shall be governed by applicable Massachusetts General Laws, including Chapter 111, Section 31. Each day of the

violation shall constitute a separate offense. Further, the Board of Health, after notice to and after public hearing thereon, may suspend, revoke or modify any license or permit issued for due cause.

IX. SEVERABILITY

If any provisions of this regulation or the application thereof are held to be invalid by a court of competent jurisdiction, the invalidity shall be limited to said provision and the remainder of the regulation shall remain valid and effective. Any part of this regulation subsequently invalidated by state law shall automatically be brought into conformity with the new or amended law and shall be deemed effective immediately, without recourse to a public hearing.

X. EFFECTIVENESS

This regulation was originally adopted by the Board of Health on November 16, 2000. The amendment was adopted on June 27, 2019 and shall become effective upon publication in the newspaper of local circulation.

Per Order Of,
MASHPEE BOARD OF HEALTH

Brian Baumgaertel, Chairman
Laurel Almquist, Co-chairman
Mallory Langler, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

BEDROOM DEFINITION

Under the authority of the Massachusetts General Laws, Chapter 111, Section 31, and as authorized in Title V of the State Environmental Code, as amended and adopted on November 3, 1995, in an effort to further protect the Zone II Water Recharge Areas in the Town of Mashpee and to reduce the presence of nitrogen entering into our Cape Cod Rivers, Bays and Estuaries, the Board of Health hereby further defines the Title V definition of a bedroom as follows:

BEDROOM - A room providing privacy and;

(a) Floor space of no less than 70 square feet with at least one 30" wide x 6'6" high entranceway as required under Section 3606.11.2 of the Massachusetts State Building Code and the Massachusetts State Sanitary Code 105 CMR 410.400(B)

(b) A room located on another level of a dwelling, which is accessible solely by a staircase within and/or outside of the dwelling.

Rooms with six (6') entranceways and/or rooms consisting of three (3) walls and 1/2 wall not exceeding 42" in height shall **NOT** be considered a bedroom. A floor plan shall be provided for all Board of Health permits including building permits.

Per Order Of,
The Mashpee Board of Health

MaryRose Grady, Chairman
L. Glenn Santos, Co-chairman
Stephen R. Ball, Clerk

Town of Mashpee

BOARD OF HEALTH

SEPTIC SYSTEM INSPECTION REGULATION

In accordance with Chapter 111, Section 31 of the Massachusetts General Laws and in order to further clarify the State Environmental Code Title V, subsection 310 CMR 15.303 Septic Systems Failing to Protect the Public Safety and the Environment, the Board of Health hereby adopts the following regulation.

A. REGISTRATION:

All Massachusetts State Certified Septic Inspectors shall register with the Board of Health to inspect septic systems within the Town of Mashpee. At the time of registration, and thereafter on an annual basis, the inspector shall provide the Board of Health with a copy of their state certification. Upon registration, an agreement shall be signed between the septic inspector and the Board of Health, which states that upon conviction of any fraudulent information, documentation or misrepresentation or excessive violation of inspection guidelines and regulations shall be cause for revocation or suspension of the local license to inspect septic systems.

B. COMPONENT FAILURE

1. A soil absorption system must have enough remaining liquid capacity to accommodate twenty-four (24) hours retention time below the inlet invert tee or approved effective depth of component. Should the cesspool or leaching pit not have the required capacity, the system shall be deemed in failure.

C. CERTIFIED SEPTIC INSPECTORS:

1. A certified septic inspector who has failed a soil absorption system shall not conduct upgrades, repairs or emergency repairs without the Board of Health or its agents certifying the system in failure.

2. All "Failures" identified during a transfer of property inspection must be certified in failure by an Agent of the Board of Health in the field.

3. Upon transfer of property, if the dwelling is serviced by a domestic well and has not be tested in the previous twelve (12) months, a new water quality analysis report shall be submitted to the Board of Health with the inspection report. The Board of Health may also require a Volatile Organic Compound test to be performed. This test shall be performed at

the discretion of the Board of Health or its agents. (See Board of Health regulation Part XIX, section 4.00.)

4. All inspection reports shall include the following:

    A. Risers shall be brought to within 6" of grade for access to septic tanks, distribution boxes and for chambered type of soil absorption systems. Four (4) inch observation ports shall be installed on all plastic chambered style soils absorption systems.

    B. The driveway location shall be denoted on the "As Built" section of the inspection form.

    C. Should records on file at the Board of Health fail to indicate the amount of stone surrounding the soil absorption system, the inspector shall, at the time of the inspection, probe the soils surrounding the absorption system. This information shall be noted in Part A, page 1 of the inspection report under comments.

    D. All inspection ports and piping shall be shown on the "As Built" section of the inspection report.

    E. The calculated groundwater elevation shall be noted on the inspection form.

    F. All domestic wells shall be located from two fixed, known positions (such as a septic component) and denoted on the "As Built" section of the inspection report.

D. INSPECTIONS:

1. All "Conditionally Passed" and "Needs Further BOH Evaluation" septic inspections shall be repaired prior to transfer of property. A licensed septic installer shall consult with and obtain a permit from the Board of Health to perform the repair. The installer shall contact the Board of Health for all required repair inspections.
2. A septic inspection may be required in accordance with 310 CMR 15.301(9) or any change in footprint of a structure due to renovations, alterations or additions. The septic inspection shall be performed in accordance with Title V and the Mashpee Board of Health Regulations. All soil absorption systems must be inspected prior to property transfer and must in accordance with Board of Health requirements.

3. If a violation of the 1978 or 1995 State Environmental Code Title V is identified, the inspector shall report the violation in the "Certification Statement" section of the inspection report entitled "Needs Further Evaluation by the Local Approving Authority". Soil absorption systems are not required to be identified as H-10 or H-20 loading. Loading of septic tanks, grease traps, pump chambers and distribution boxes must be determined. The Board of Health shall respond within 14 days of inspection submittal.

4. At the time of the inspection of a septic system for title transfer, soil absorption systems documented by the Septic Inspector to have less than 4 feet of naturally occurring pervious material between the bottom of the soil absorption systems and estimated seasonal high groundwater (per 310 CMR 15.101, 102 & 103) shall be considered as "failed" by regulation. The "failed" system(s) shall be upgraded to conform to 310 CMR 15.00 of the State Environmental Code, Title V, "Minimum Requirements for the Subsurface Disposal of Sanitary Sewage and Town of Mashpee Board of Health Regulations.

5. Septic tanks identified during septic inspections that are rated H-10 loading and are **30** years of age or more from the date of installation shall be evaluated for structural integrity using the following criteria. Inlet and outlet tees shall be excavated and inspected. The entire exterior surfaces of the tank do not need to be excavated. It is understood that the visible portions of the tank at the accessible manholes will be used for the inspection. Should any of the following criteria be observed by the certified septic inspector, the septic tank shall be replaced with a Title V compliant tank:

    a) The septic tank shall be pumped (if the tank has not been pumped in the previous two years) after initial solids levels are obtained so that the interior of the tank may be inspected and for maintenance.
    b) One inch loss of concrete due to decay and/or crumbling at waterline or surfaces of the tank. The tees may be replaced with a permit if the remainder of the tank is considered sound.
    c) Inlet and/or outlet tees or baffle walls have "fallen off" due to decay.
    d) Cracks that are observed extending through the wall and/or top of the tank. Observed bulging or sagging walls or ceiling of tank.
    e) Exposed reinforcement bars indicated by rust-colored lines inside the septic tank.
    f) The tank is leaking as observed by a liquid level (not expected by evaporation – greater than 4") below the outlet invert.

6. All H-10 septic tanks buried greater than four (4) feet below grade shall be replaced.

E. ENFORCEMENT:

The Town of Mashpee, Board of Health, as permitted under the provision of Chapter 111, Section 31 and under Title 1 (310 CMR 11.00) authorizes the Board of Health to require compliance with this regulation in its entirety. Non-compliance will deem the inspection report incomplete. A re-inspection of the system will be required with a subsequent revised inspection report, which shall be submitted to the Board of Health.

F. PENALTIES:

Failure to comply with this regulation will result in revocation of the certified septic inspector's license to perform septic system inspections in the Town of Mashpee, issuance of fines and/or court action.

G. SEVERABILITY:

Each part of this regulation shall be construed as separate, if any section, paragraph, sentence, clause, phrase or word of this regulation shall be declared invalid for any reason, the remainder of this regulation shall remain in full force and effect.

H. EFFECTIVENESS:

This amendment was adopted by the Board of Health on July 10, 2013.

Per Order Of,
The Mashpee Board of Health
Kalliope Egloff, Chairman
Lucy Burton, Co-chairman
Burton Kaplan, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

MONITORING OF ALTERNATIVE SEPTIC TECHNOLOGIES

In considering permitting the use of various alternative septic treatment technologies in the town of Mashpee, there may exist specific local circumstances, which warrant the Board to require more stringent conditions for the installation and monitoring of these alternative systems than may be required by the Massachusetts Department of Environmental Protection. As allowed under M.G.L. Chapter 11, Section 31 and as required by the revised 310 C.M.R. 15.00, Sections 15.285(2d), 15.286(5) and 15.288(4) which become effective March 31, l995, the Board of Health of the town of Mashpee hereby reserves the right to impose any additional conditions or monitoring requirements it views as necessary to ensure the safe performance of any alternative septic system which the Board agrees to permit in the town of Mashpee.

The regulation is adopted on February 23, l995 and becomes effective on the date of publication.

Per Order Of,
Mashpee Board of Health

Steven R. Ball, Chairman
John T. Doherty, Co-Chairman
Robert F. Cram, Sr., Clerk

TOWN OF MASHPEE

BOARD OF HEALTH

REGULATION
UPGRADING SYSTEMS CONSISTING OF ONE OR MORE CESSPOOLS

SECTION:

19.1 Purpose

19.2 Authority

19.3 Regulation

19.4 Enforcement

19.5 Severability

19.6 Penalties

19.7 Effectiveness

19.1 PURPOSE:

Protection of our coastal water resources has increasingly become a priority for Massachusetts's oceanfront communities. Drinking water supplies, shellfish beds and surface water bodies are endangered. This regulation is promulgated to ensure groundwater quality is protected for its highest use for present and future generations.

19.2 AUTHORITY:

In order to further clarify the State Environmental Code Title V, subsection 310 CMR 15.303 Septic Systems Failing to Protect the Public Safety and the Environment, the Mashpee Board of Health, acting under the authority of Chapter 111, Section 31 and Chapter 21A, Section 13 of the Massachusetts General Laws, the Board of Health hereby adopts the following regulation.

19.3 REGULATION:

Upon publication of this regulation, all cesspools shall be deemed automatically failed and shall be upgraded to conform with 310 CMR 15.00 of the State Environmental Code, Title V, "Minimum Requirements for the Subsurface Disposal of Sanitary Sewage" and Town of Mashpee Board of Health regulations at the following thresholds:

1. Prior to transfer of property title or;
2. A septic inspection, completed by a state licensed septic inspector.
3. Prior to the issue of a certificate of occupancy for a proposed expansion in the existing footprint of a residential dwelling or commercial structure.

19.4 ENFORCEMENT:

The Town of Mashpee, Board of Health, as permitted under the provision of Chapter 111, Section 31 and under Title 1 (310 CMR 11.00) authorizes the Board of Health to require compliance with this regulation.

19.5 SEVERABILITY:

If any provisions of this regulation or the application thereof are held to be invalid by a court of competent jurisdiction, the invalidity shall be limited to said provision and the remainder of the regulation shall remain valid and effective. Any part of this regulation subsequently invalidated by state law shall automatically be brought into conformity with the new or amended law and shall be deemed effective immediately, without recourse to a public hearing.

19.6 PENALTIES:

Failure to comply with this regulation will result in the levy of fines of not less than $100.00 per day per offense but not more than $300.00 per day per offense. Each day's failure to comply with the provision of this regulation shall constitute a separate violation.

19.7 EFFECTIVENESS:

This regulation will take effect upon majority vote by the Board of Health.

Per Order Of,
THE MASHPEE BOARD OF HEALTH
L. Glenn Santos, Chairman
Steven R. Ball, Co-Chairman
Lucy B. Burton, Clerk

Town of Mashpee
Board of Health
Distribution Boxes

SECTION 1 - PURPOSE

The Mashpee Board of Health has promulgated the following regulation for the use of H-20 loading distribution boxes in the town of Mashpee. The purpose of this regulation is to ensure the proper maintenance, operation and performance of septic systems to both protect the public health and the environment.

SECTION 2 - AUTHORITY:

This regulation shall be effective upon publication in a local newspaper, and so remain until modified or amended by the Board of Health. It is enacted by the Mashpee Board of Health under authority which includes but is not limited to one or more of the following: Massachusetts General Laws, Chapter 111, Sections 31, 122, 122A, 127, 143, 155, 187, 188, 310 CMR 15.00, and 310 CMR 11.00; Board of Health Regulations are an exercise of police power under which the various levels of government are responsible for protection of the public health, safety and welfare.

SECTION 3 - APPLICABILITY:

This regulation shall apply to all on-site sewage disposal systems located or proposed to be located in the Town of Mashpee.

SECTION 4 - REGULATION:

1. All distribution box installations (new and replacement repairs) performed by licensed Mashpee septic installers shall be H-20 vehicle load rating.
2. The installation of plastic distribution boxes are prohibited in the Town of Mashpee.

SECTION 5 – VARIANCE:

The Mashpee Board of Health in any particular case and following a public hearing may vary any provision of this regulation when, in its opinion:

1. The same degree of environmental protection required under Title 5 and this regulation may be achieved without strict application of the particular provision or provisions requested to be modified.
2. Strict enforcement of a provision would cause undue hardship and manifest injustice

3. Such a variance is in the public interest and not inconsistent with the intent or purpose of Title 5 or this regulation.

SECTION 6 – ENFORCEMENT:

The Town of Mashpee Board of Health, under the authority of Chapter 111, Section 31, 310 CMR 11.00, and other governing law may issue administrative enforcement orders, violation notices, and other documents to enforce the provisions of this regulation. In addition, the Board of Health may pursue criminal or non-criminal prosecution, civil litigation or a combination of these in the courts of the Commonwealth of Massachusetts to enforce the provisions of this regulation.

SECTION 7 – PENALTIES:

Any penalty for failure to comply with any provision of this regulation shall be governed by applicable Massachusetts General Laws, including Chapter 111, Section 31. Each day of the violation shall constitute a separate offense. Further, the Board of Health, after notice to and after public hearing thereon, may suspend, revoke or modify any license or permit issued for due cause.

SECTION 8 - SEVERABILITY:

If any provisions of this regulation or the application thereof are held to be invalid by a court of competent jurisdiction, the invalidity shall be limited to said provision and the remainder of the regulation shall remain valid and effective. Any part of this regulation subsequently invalidated by state law shall automatically be brought into conformity with the new or amended law and shall be deemed effective immediately, without recourse to a public hearing.

SECTION 9 – EFFECTIVENESS:

This regulation is adopted by the Board of Health on December 11, 2013 and shall become effective upon publication in the local newspaper.

Per Order Of,

The Mashpee Board of Health

Kalliope Egloff, Chair
Lucy B. Burton, Co-Chair
Burton Kaplan, Clerk

PART X: PHARMACEUTICAL REGULATION

TOWN OF MASHPEE
BOARD OF HEALTH
TO PROMOTE OPTIMUM PHARMACEUTICAL CARE IN THE TOWN OF MASHPEE

In response to medication distribution issues, regarding continuing quality improvement initiatives that could be implemented in all pharmacy practice settings to promote optimum pharmaceutical care, the Board of Health believes that adoption and institution of this regulation will result in improved performance, increased patient safety and enhanced pharmacy medication delivery and storage systems in general.

In accordance with the provisions of Chapter 111, Section 31, of the Massachusetts General laws, the following regulation is set forth by the Town of Mashpee, Board of Health.

All Pharmacists' or their designated employee(s) shall inspect the following on a weekly basis:

1. The expiration date on all medication stock bottles
2. Inspect the expiration date on the medication containers in the refrigerator or freezer.

3. Identify short dated items with a colored label indicating expiration date.

All Pharmacists' or their designated employee(s) shall comply with the following:

1. All outdated stock or stock with an expiration date that does not allow sufficient time for dispensing by the pharmacy or use by the patient shall be segregated from other stock and either prepared for return to the manufacturer or destroyed and documented.

2. All Pharmacies with refrigeration and/or freezer units utilized to store medication shall record the temperature of the interior of the refrigeration and/or freezer unit with a liquid thermometer, compared with a Standard calibrated at the National Institute of Standards and Technology (NIST). The Pharmacist or designated employee shall maintain a daily temperature log for the refrigeration and/or freezer unit twice daily, once in the morning and once in the afternoon. The temperature log shall be posted in close proximity to the refrigeration area for convenience and shall be provided upon inspection by agent of the Board of Health.

3. Expiration dates shall be reviewed on all products prior to completing the filling and dispensing of medication.

PENALTIES:

Any owner/operator who fails to comply with the provisions of this regulation will result in the levy of fines of not less than $100.00 per day per offense but not more than $300.00 per day per offense. Each day's failure to comply with the provisions of this regulation shall constitute a separate violation. Further, the Board of Health, after notice to and after public hearing thereon, may suspend, revoke or modify any license or permit issued for due cause.

SEVERABILITY:

If any provision of this regulation is declared invalid, the other provisions thereof shall not be affected.

EFFECTIVENESS:

This regulation is adopted by the Board of Health, upon publication in a newspaper of general circulation, within the Town of Mashpee.

Per Order Of,
The Mashpee Board of Health

MaryRose Grady, Chairman
L. Glenn Santos Co-chairman
Steven R. Ball, Clerk

PART XI: PRIVY REGULATION

TOWN OF MASHPEE
BOARD OF HEALTH
TO CONTRACTORS AND BUILDERS

Temporary Privies or "Port-O-Johns" shall be installed on all building lots in developed areas before starting to build, for the convenience of the labor force.

The Board of Health shall enforce this regulation.

Per Order Of,
The Mashpee Board of Health

Charles F. Buckingham, Chairman
Roland L. Wilson, Co-Chairman
Harriet C. Daly

TOWN OF MASHPEE
BOARD OF HEALTH

POOL WATER ANALYSIS REQUIREMENT

At its regularly scheduled meeting of March 14, 1988, under the authority of the Massachusetts General Laws, Chapter 111, Section 31, the Mashpee Board of Health adopted the following regulation:

In order to ensure that the water quality is suitable for use as a public or semi-public pool, prior to the issuance of a pool permit, the Board of Health or its agent shall take a water sample to be analyzed for the following bacteria: Coliform, Heterotrophic Plate Count and Pseudomonas.

This analysis shall be conducted prior to the opening of the pool and hot tub and every other month thereafter.

It shall be the responsibility of the licensee to notify the Board of Health that it is prepared for inspection and water analysis in sufficient time for the laboratory work to be completed prior to the opening of the pool(s) and/or hot tub(s).

This regulation takes effect on the date following publication.

Per Order Of,
The Mashpee Board of Health

Charles F. Buckingham, Chairman
Roland L. Wilson, Co-Chairman
George R. Costa, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

Restricting the Sale of Tobacco Products

A. Statement of Purpose

Whereas there exists conclusive evidence that tobacco smoking causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat[1];

Whereas the U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin[2] and the Surgeon General found that nicotine exposure during adolescence, a critical window for brain development, may have lasting adverse consequences for brain development,[3] and that it is addiction to nicotine that keeps youth smoking past adolescence.[4]

Whereas a Federal District Court found that Phillip Morris, RJ Reynolds and other leading cigarette manufacturers "spent billions of dollars every year on their marketing activities in order to encourage young people to try and then continue purchasing their cigarette products in order to provide the replacement smokers they need to survive" and that these companies were likely to continue targeting underage smokers[5];

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[1] Center for Disease Control and Prevention, (CDC) (2012), *Health Effects of Cigarette Smoking Fact Sheet.* Retrieved from*:*

[2] CDC (2010), *How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease.* Retrieved from: http://www.cdc.gov/tobacco/data_statistics/sgr/2010/.

[3] U.S. Department of Health and Human Services. 2014. *The Health Consequences of Smoking – 50 Years of Progress: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 122. Retrieved from: http://www.surgeongeneral.gov/library/ reports/ 50-years-of-progress/full-report.pdf.

[4] Id. *at* Executive Summary p. 13. Retrieved from: http://www.surgeongeneral.gov/library/reports/50-years-of-progress/execsummary.pdf

[5] United States v. Phillip Morris, Inc., RJ Reynolds Tobacco Co., et al., 449 F.Supp.2d 1 (D.D.C. 2006) at Par. 3301 and Pp. 1605-07.

Whereas more than 80 percent of all adult smokers begin smoking before the age of 18, more than 90 percent do so before leaving their teens, and more than 3.5 million middle and high school students smoke;[6]

Whereas 18.1 percent of current smokers aged <18 years reported that they *usually* directly purchased their cigarettes from stores (i.e. convenience store, supermarket, or discount store) or gas stations, and among 11th grade males this rate was nearly 30 percent ;[7]

Whereas the Institute of Medicine (IOM) concludes that raising the minimum age of legal access to tobacco products to 21 will likely reduce tobacco initiation, particularly among adolescents 15 – 17, which would improve health across the lifespan and save lives.[8]

Whereas cigars and cigarillos, can be sold in a single "dose;" enjoy a relatively low tax as compared to cigarettes; are available in fruit, candy and alcohol flavors; and are popular among youth[9];

Whereas the 2015 MA Youth Risk Behavioral Survey (YRBS) results show that 10.4% of high school students had smoked cigars on at least one day of the 30 days before the survey, and 44.8% have tried vaping. 23.7% of which have tried vaping in the 30 days prior to the survey[10];

Whereas research shows that increased cigar prices significantly decreased the probability of male adolescent cigar use and a 10% increase in cigar prices would reduce use by 3.4%[11];

Whereas 59% of high school smokers in Massachusetts have tried flavored cigarettes or flavored cigars and 25.6% of them are current flavored tobacco product users; 95.1 % of 12 – 17 year olds who smoked cigars reported smoking cigar brands that were flavored;[12]

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[6] SAMHSA, Calculated based on data in 2011 National Survey on Drug Use and Health and U. S. Department of Health and Human services (HHA).

[7] CDC (2013) Youth Risk Behavior, Surveillance Summaries (MMWR 2014: 63 (No SS-04)). Retrieved from: www.cdc.gov.

Washington DC: The National Academies Press, 2015.

[8] IOM (Institute of Medicine) 2015. *Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products.*

[9] CDC (2009), *Youth Risk Behavior, Surveillance Summaries* (MMWR 2010: 59, 12, note 5). Retrieved from: http:www.cdc.gov/mmwr/pdf/ss/ss5905.pdf.

[10] *2015 MA Youth Risk Behavior Survey retrieved from http://www.doe.mass.edu/sfs/yrbs/ .*

[11] Ringel, J., Wasserman, J., & Andreyeva, T. (2005) *Effects of Public Policy on Adolescents' Cigar Use: Evidence from the National*

Youth Tobacco Survey. American Journal of Public Health, 95(6), 995-998, doi: 10.2105/AJPH.2003.030411 and cited in *Cigar, Cigarillo and Little Cigar Use among Canadian Youth: Are We Underestimating the Magnitude of this Problem?*, J. Prim. P. 2011, Aug: 32(3-4):161-70. Retrieved from: www.nebi.nim.gov/pubmed/21809109.

[12] Massachusetts Department of Public Health, 2015 Massachusetts Youth Health Survey (MYHS); Delneve CD et al., Tob Control, March 2014: Preference for flavored cigar brands among youth, young adults and adults in the USA.

Whereas the Surgeon General found that exposure to tobacco marketing in stores and price discounting increase youth smoking; [13][14]

Whereas the federal Family Smoking Prevention and Tobacco Control Act (FSPTCA), enacted in 2009, prohibited candy- and fruit-flavored cigarettes,[14] largely because these flavored products were marketed to youth and young adults,[15] and younger smokers were more likely to have tried these products than older smokers[16], neither federal nor Massachusetts laws restrict sales of flavored non-cigarette tobacco products, such as cigars, cigarillos, smokeless tobacco, hookah tobacco, and electronic devices and the nicotine solutions used in these devices;

Whereas the U.S. Food and Drug Administration and the U.S. Surgeon General have stated that flavored tobacco products are considered to be "starter" products that help establish smoking habits that can lead to long-term addiction;[17]

Whereas the U.S. Surgeon General recognized in his 2014 report that a complementary strategy to assist in eradicating tobacco related death and disease is for local governments to ban categories of products from retail sale;[18]

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[13] U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 508-530, *www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf*.

[14] U.S.C. § 387g.

[15] Carpenter CM, Wayne GF, Pauly JL, et al. 2005. "New Cigarette Brands with Flavors that Appeal to Youth: Tobacco Marketing
Strategies." *Health Affairs*. 24(6): 1601–1610; Lewis M and Wackowski O. 2006. "Dealing with an Innovative Industry: A Look at Flavored Cigarettes Promoted by Mainstream Brands." *American Journal of Public Health*. 96(2): 244–251; Connolly GN. 2004. "Sweet and Spicy Flavours: New Brands for Minorities and Youth." *Tobacco Control*. 13(3): 211–212; U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 537, *www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf*.

[16] U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 539, *www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf*.

[17] Food and Drug Administration. 2011. *Fact Sheet: Flavored Tobacco Products*, *www.fda.gov/downloads/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/UCM183214.pdf*; U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 539, *www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf*.

[18] *See* fn. 3 at p. 85.

Whereas the U.S. Centers for Disease Control and Prevention has reported that the current use of electronic cigarettes, a product sold in dozens of flavors that appeal to youth, among middle and high school students tripled from 2013 to 2014;[19][20]

Whereas 5.8% of Massachusetts youth currently use e-cigarettes and 15.9% have tried them;[21][22]

Whereas the Massachusetts Department of Environmental Protection has classified liquid nicotine in any amount as an "acutely hazardous waste";[21]

Whereas in a lab analysis conducted by the FDA, electronic cigarette cartridges that were labeled as containing no nicotine actually had low levels of nicotine present in all cartridges tested, except for one[23];

Whereas according to the CDC's youth risk behavior surveillance system, the percentage of high school students in Massachusetts who reported the use of cigars within the past 30 days is 10.8% in 2013; [24]

Whereas data from the National Youth Tobacco Survey indicate that more than two-fifths of U.S. middle and high school smokers report using flavored little cigars or flavored cigarettes;[25]

Whereas the sale of tobacco products is incompatible with the mission of health care institutions because these products are detrimental to the public health and their presence in health care institutions undermine efforts to educate patients on the safe and effective use of medication, including cessation medication;

Whereas educational institutions sell tobacco products to a younger population, who is particularly at risk for becoming smokers and such sale of tobacco products is incompatible with the mission of educational institutions that educate a younger population about social, environmental and health risks and harms;

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[19] Centers for Disease Control & Prevention. 2015. "Tobacco Use Among Middle and High School Students — United States, 2011–

[20] ," *Morbidity and Mortality Weekly Report (MMWR)* 64(14): 381–385;

[21] Massachusetts Department of Public Health, 2015 Massachusetts Youth Health Survey (MYHS)

[22] CMR 30.136

[23] Food and Drug Administration, *Summary of Results: Laboratory Analysis of Electronic Cigarettes Conducted by FDA*, available at: http://www.fda.gov/newsevents/publichealthfocus/ucm173146.htm.

[24] *See* fn. 7.

[25] King BA, Tynan MA, Dube SR, et al. 2013. "Flavored-Little-Cigar and Flavored-Cigarette Use Among U.S. Middle and High School Students." *Journal of Adolescent Health*. [Article in press], *www.jahonline.org/article/S1054-139X%2813%29004151/abstract*.

Whereas the Massachusetts Supreme Judicial Court has held that " . . . [t]he right to engage in business must yield to the paramount right of government to protect the public health by any rational means"[26].

Now, therefore it is the intention of the **Mashpee** Board of Health to regulate the sale of tobacco products.

B. **Authority**

This regulation is promulgated pursuant to the authority granted to the Mashpee Board of Health by Massachusetts General Laws Chapter 111, Section 31 which states "Boards of health may make reasonable health regulations".

C. **Definitions**

For the purpose of this regulation, the following words shall have the following meanings:

Adult-only retail tobacco store: An establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale but not for resale, tobacco products and tobacco paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the minimum legal sales age is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the Mashpee Board of Health.

Blunt Wrap: Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers regardless of any content.

Business Agent: An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

Characterizing flavor: A distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or wintergreen, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

Cigar: Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1.

[26] Druzik et al v. Board of Health of Haverhill, 324 Mass.129 (1949).

Component part: Any element of a tobacco product, including, but not limited to, the tobacco, filter and paper, but not including any constituent.

Constituent: Any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacturing or packaging of the tobacco product. Such term shall include a smoke constituent.

Coupon: Any card, paper, note, form, statement, ticket or other issue distributed for commercial or promotional purposes to be later surrendered by the bearer so as to receive an article, service or accommodation without charge or at a discount price.

Distinguishable: Perceivable by either the sense of smell or taste.

Educational Institution: Any public or private college, school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.

Employee: Any individual who performs services for an employer.

Employer: Any individual, partnership, association, corporation, trust or other organized group of individuals that uses the services of one (1) or more employees.

Flavored tobacco product: Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

Health Care Institution: An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under M.G.L. c. 112 or a retail establishment that provides pharmaceutical goods and services and is subject to the provisions of 247 CMR 6.00. Health care institutions include, but are not limited to, hospitals, clinics, health centers, pharmacies, drug stores, doctor offices, optician/optometrist offices and dentist offices.

Liquid Nicotine Container: A bottle or other vessel which contains nicotine in liquid or gel form, whether or not combined with another substance or substances, for use in a tobacco product, as defined herein. The term does not include a container containing nicotine in a cartridge that is sold, marketed, or intended for use in a tobacco product, as defined herein, if the cartridge is prefilled and sealed by the manufacturer and not intended to be open by the consumer or retailer.

Listed or non-discounted price: The higher of the price listed for a tobacco product on its package or the price listed on any related shelving, posting, advertising or display at the place where the

tobacco product is sold or offered for sale plus all applicable taxes if such taxes are not included in the state price, and before the application of any discounts or coupons.

Minimum Legal Sales Age (MLSA): The age an individual must be before that individual can be sold a tobacco product in the municipality.

Non-Residential Roll-Your-Own (RYO) Machine: A mechanical device made available for use (including to an individual who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the individual's own personal consumption or use) that is capable of making cigarettes, cigars or other tobacco products. RYO machines located in private homes used for solely personal consumption are not Non-Residential RYO machines.

Permit Holder: Any person engaged in the sale or distribution of tobacco products who applies for and receives a tobacco product sales permit or any person who is required to apply for a Tobacco Product Sales Permit pursuant to these regulations, or his or her business agent.

Person: Any individual, firm, partnership, association, corporation, company or organization of any kind, including but not limited to, an owner, operator, manager, proprietor or person in charge of any establishment, business or retail store.

Self-Service Display: Any display from which customers may select a tobacco product, as defined herein, without assistance from an employee or store personnel.

Schools: Public or private elementary or secondary schools.

Smoke Constituent: Any chemical or chemical compound in mainstream or side-stream tobacco smoke that either transfers from any component of the tobacco product to the smoke or that is formed by the combustion or heating of tobacco, additives or other component of the tobacco product.

Smoking Bar: An establishment that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises and is required by Mass. General Law Ch. 270, §22 to maintain a valid permit to operate a smoking bar issued by the Massachusetts Department of Revenue. “Smoking bar” shall include, but not be limited to, those establishments that are commonly known as “cigar bars” and “hookah bars”.

Tobacco Product: Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; or electronic cigarettes, electronic cigars, electronic pipes, electronic hookah, liquid nicotine, “e-liquids” or other similar products, regardless of nicotine content, that rely on vaporization or aerosolization. “Tobacco product” includes any component or part of a tobacco product. “Tobacco product” does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation

product or for other medical purposes and which is being marketed and sold or prescribed solely for the approved purpose.

Vending Machine: Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes cigarettes or any other tobacco products, as defined herein.

D. **Tobacco Sales to Persons Under the Minimum Legal Sales Age Prohibited**

1. No person shall sell tobacco products or permit tobacco products, as defined herein, to be sold to a person under the minimum legal sales age; or not being the individual's parent or legal guardian, give tobacco products, as defined herein, to a person under the minimum legal sales age. **The minimum legal sales age in Mashpee is 21.**

2. Required Signage:

a. In conformance with and in addition to Massachusetts General Law, Chapter 270, Section 7, a copy of Massachusetts General Laws, Chapter 270, Section 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be provided by the Massachusetts Department of Public Health and made available from the Mashpee Board of Health. The notice shall be at least 48 square inches and shall be posted conspicuously by the permit holder in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than 4 feet or greater than 9 feet from the floor. The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post any additional signs required by the Massachusetts Department of Public Health. The owner or other person in charge of a shop or other place used to sell hand rolled cigars must display a warning about cigar consumption in a sign at least 50 square inches pursuant to 940 CMR 22.06 (2) (e).

b. The owner or other person in charge of a shop or other place used to sell tobacco products that rely on vaporization or aerosolization, as defined herein as “tobacco products”, at retail shall conspicuously post a sign stating that “The use of tobacco products, including e-cigarettes, at the workplace is prohibited by local regulation.” The notice shall be no smaller than 8.5 inches by 11 inches and shall be posted conspicuously in the retail establishment or other place in such a manner so that they may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor.

3. Identification: Each person selling or distributing tobacco products, as defined herein, shall verify the age of the purchaser by means of a valid government-issued photographic identification containing the bearer's date of birth that the purchaser is 21years old or older. Verification is required for any person under the age of 27.

4. All retail sales of tobacco products, as defined herein, must be face-to-face between the seller and the buyer and occur at the permitted location.

5. No person under the age of 16 shall sell or handle any tobacco products**.**

E. **Tobacco Product Sales Permit**

1. No person shall sell or otherwise distribute tobacco products, as defined herein, within the Town of
   Mashpee without first obtaining a Tobacco Product Sales Permit issued annually by the Mashpee Board of Health. Only owners of establishments with a permanent, non-mobile location in Mashpee are eligible to apply for a permit and sell tobacco products, as defined herein, at the specified location in Mashpee**.**

2. As part of the Tobacco Product Sales Permit application process, the applicant will be provided with the Mashpee regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco product sales regarding federal, state and local laws regarding the sale of tobacco and this regulation.

3. Each applicant who sells tobacco products is required to provide proof of a current Tobacco Retailer License issued by the Massachusetts Department of Revenue, when required by state law, before a Tobacco Product Sales Permit can be issued.

4. A separate permit, displayed conspicuously, is required for each retail establishment selling tobacco products, as defined herein. The fee for which shall be determined by the Mashpee Board of Health annually.

5. A Tobacco Product Sales Permit is non-transferable. A new owner of an establishment that sells tobacco products, as defined herein, must apply for a new permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.

6. Issuance of a Tobacco Product Sales Permit shall be conditioned on an applicant’s consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation.

7. A Tobacco Product Sales Permit will not be renewed if the permit holder has failed to pay all fines issued and the time period to appeal the fines has expired and/or the permit holder has not satisfied any outstanding permit suspensions.

8. Maximum Number of Tobacco Product Sales Permits.

a. At any given time, there shall be no more than 18 Tobacco Product Sales Permits issued in Mashpee **(**reduced by the number of permits not renewed pursuant to subsection (b) below)**.** No permit renewal will be denied based on the requirements of this subsection except any permit holder who has failed to renew his or her permit within thirty (30) days of expiration will be treated as a first-time permit applicant.

b. As of December 28, 2018**,** any permit not renewed either because a retailer no longer sells tobacco products, as defined herein, or because a retailer closes the retail business, shall be returned to the Mashpee Board of Health and shall be permanently retired by the Board of Health and the total allowable number of Tobacco Product Sales Permits under paragraph 9(a) shall be reduced by the number of the retired permits.

c. Applicants who purchase an existing business that holds a current Tobacco Product Sales Permit at the time of the sale of said business must apply within sixty (60) days of such sale for the permit held by the Seller if the Buyer intends to sell tobacco products, as defined herein. The new application shall not be considered a transfer of an existing tobacco sales permit or a new permit per subsection (a) of section 8 of the regulation. The new application shall be submitted for the existing, current permit for the same, existing permanent location.

F. **Cigar Sales Regulated**

1. No person shall sell or distribute or cause to be sold or distributed a single cigar.

2. No person shall sell or distribute or cause to be sold or distributed any original factory-wrapped package of two or more cigars, unless such package is priced for retail sale at $5.00 or more.

3. This Section shall not apply to:

a. The sale or distribution of any single cigar having a retail price of two dollars and fifty cents ($2.50) or more.

b. A person or entity engaged in the business of selling or distributing cigars for commercial purposes to another person or entity engaged in the business of selling or distributing cigars for commercial purposes with the intent to sell or distribute outside the boundaries of Mashpee**.**

4. The **Mashpee** Board of Health may adjust from time to time the amounts specified in this Section to reflect changes in the applicable Consumer Price Index by amendment of this regulation.

G. **Sale of Flavored Tobacco Products Prohibited**

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, except in smoking bars and adult-only retail tobacco stores.

H. **Prohibition of the Sale of Blunt Wraps**

No person or entity shall sell or distribute blunt wraps in Mashpee**.**

I**.** **Free Distribution and Coupon Redemption**

No person shall:

1. Distribute or cause to be distributed, any free samples of tobacco products, as defined herein;

2. Accept or redeem, offer to accept or redeem, or cause or hire any person to accept or redeem or offer to accept or redeem any coupon that provides any tobacco product, as defined herein, without charge or for less than the listed or non-discounted price; or

3. Sell a tobacco product, as defined herein, to consumers through any multi-pack discounts (e.g., "buy-two get-one-free") or otherwise provide or distribute to consumers any tobacco product, as defined herein, without charge or for less than the listed or non-discounted price in exchange for the purchase of any other tobacco product.

4. Sections 2 and 3 shall not apply to products, such as cigarettes, for which there is a state law prohibiting them from being sold as loss leaders and for which a minimum retail price is required by state law.

J. **Out-of-Package Sales**

1. The sale or distribution of tobacco products, as defined herein, in any form other than an original factory-wrapped package is prohibited, including the repackaging or dispensing of any tobacco product, as defined herein, for retail sale. No person may sell or cause to be sold or distribute or cause to be distributed any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.

2. A retailer of Liquid Nicotine Containers must comply with the provisions of 310 CMR 30.000, and must provide the **Mashpee** Board of Health with a written plan for disposal of said product, including disposal plans for any breakage, spillage or expiration of the product.

3. All retailers must comply with 940 CMR 21.05 which reads: "It shall be an unfair or deceptive act or practice for any person to sell or distribute nicotine in a liquid or gel substance in Massachusetts after March 15, 2016 unless the liquid or gel product is contained in a child-resistant package that, at a minimum, meets the standard for special packaging as set forth in 15 U.S.C.§§1471 through 1476 and 16 CFR §1700 et. Seq."

K. **Self-Service Displays**

All self-service displays of tobacco products, as defined herein, are prohibited. All humidors including, but not limited to, walk-in humidors must be locked with the exception of self-service displays that are located in adult-only retail tobacco stores.

L. **Vending Machines**

All vending machines containing tobacco products, as defined herein, are prohibited.

M. **Non-Residential Roll-Your-Own Machines**

All Non-Residential Roll-Your-Own machines are prohibited.

N. **Prohibition of the Sale of Tobacco Products by Health Care Institutions**

No health care institution located in **Mashpee** shall sell or cause to be sold tobacco products, as defined herein. No retail establishment that operates or has a health care institution within it, such as a pharmacy, optician/optometrist or drug store, shall sell or cause to be sold tobacco products, as defined herein.

Prohibition of the Sale of Tobacco Products by Educational Institutions

No educational institution located in **Mashpee** shall sell or cause to be sold tobacco products, as defined herein. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

O. **Incorporation of Attorney General Regulation 940 CMR 21.00**

The sale or distribution to tobacco products, as defined herein, must comply with those provisions found at 940 CMR 21.00 ("Sale and Distribution of Cigarettes, Smokeless Tobacco Products, and Electronic Smoking Devices in Massachusetts").

P. **Violations**

1. It shall be the responsibility of the establishment, permit holder and/or his or her business agent to ensure compliance with all sections of this regulation. The violator shall receive:

a. In the case of a first violation, a fine of at least one hundred dollars ($100.00).

b. In the case of a second violation within 48 months of the date of the current violation, a fine of at least two hundred dollars ($200.00) and the Tobacco Product Sales Permit shall be suspended for five (5) consecutive business days, at the board's discretion.

c. In the case of three or more violations within a 48 month period, a fine of three hundred dollars ($300.00) and the Tobacco Product Sales Permit shall be suspended for thirty (30) consecutive business days at the board's discretion.

d. In the case of four violations or repeated, egregious violations of this regulation within a 48 month period, the Board of Health shall hold a hearing in accordance with subsection 4 of this section and may permanently revoke a Tobacco Product Sales Permit.

2. Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the Tobacco Product Sales Permit for thirty (30) consecutive business days.

3. In addition to the monetary fines set above, any permit holder who engages in the sale or distribution of tobacco products while his or her permit is suspended shall be subject to the suspension of all Board of Health issued permits for thirty (30) consecutive business days.

4. The Mashpee Board of Health shall provide notice of the intent to suspend or revoke a Tobacco Product Sales Permit, which notice shall contain the reasons therefor and establish a time and date for a hearing which date shall be no earlier than seven (7) days after the date of said notice. The permit holder or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision and the reasons therefor in writing. After a hearing, the Mashpee Board of Health may suspend or revoke the Tobacco Product Sales Permit if the Board of Health finds that a violation of this regulation occurred. For purposes of such suspensions or revocations, the Board shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All tobacco products, as defined herein, shall be removed from the retail establishment upon suspension or revocation of the Tobacco Product Sales Permit. Failure to remove all tobacco products, as defined herein, shall constitute a separate violation of this regulation.

R. **Non-Criminal Disposition**

Whoever violates any provision of this regulation may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D or by filing a criminal complaint at the appropriate venue.

S. **Separate Violations**

Each day any violation exists shall be deemed to be a separate offense.

T. **Enforcement**

Enforcement of this regulation shall be by the Mashpee Board of Health or its designated agent(s).

Any resident who desires to register a complaint pursuant to the regulation may do so by contacting the **Mashpee** Board of Health or its designated agent(s) and the Board shall investigate.

U. **Severability**

If any provision of this regulation is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

V. **Effective Date**

This regulation shall take effect on December 28, 2018 and after publication in a newspaper of general circulation.

Per Order Of,
MASHPEE BOARD OF HEALTH

Brian Baumgaertel, Chairman
Laurel Almquist, Co-Chairman
Mallory Langler, Clerk

Adopted by the Board of Health
November 25, 2011
Revised: June 23, 2016, September 1, 2016, November 8, 2018

PART XIII: SMOKING REGULATION
Section 2.00 PROHIBITING SMOKING IN WORKPLACES and PUBLIC PLACES

TOWN OF MASHPEE
BOARD OF HEALTH

SECTION 2.1

The purpose of this regulation is to protect the health of the employees and general public in the town of Mashpee.

SECTION 2.2

This regulation is promulgated under the authority granted to the Mashpee Board of Health pursuant to Massachusetts General Laws Chapter 111, Section 31 that "[b]oards of health may make reasonable health regulations." It is also promulgated pursuant to Massachusetts General Laws Chapter 270, Section 22(j) which states in part that "[n]othing in this section shall permit smoking in an area in which smoking is or may hereafter be prohibited by law including, without limitation: any other law or . . . health . . . regulation. Nothing in this section shall preempt further limitation of smoking by the commonwealth . . . or political subdivision of the commonwealth."

SECTION 2.3

As used in this regulation, the following words shall have the following meanings, unless the context requires otherwise:

Compensation: money, gratuity, privilege, or benefit received from an employer in return for work performed or services rendered.

E-Cigarette: Any electronic device, not approved by the United States Food and Drug Administration, composed of a mouthpiece, heating element, battery and/or electronic circuits that provides a vapor of liquid nicotine to the user, or relies on vaporization of any liquid or solid nicotine. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

Employee: an individual or person who performs a service for compensation for an employer at the employer's workplace, including a contract employee, temporary employee, and independent contractor who performs a service in the employer's workplace for more than a *de minimus* amount of time.

Employer: an individual, person, partnership, association, corporation, trust, organization, school, college, university or other educational institution or other legal entity, whether public, quasi-public, private, or non-profit which uses the services of one (1) or more employees at one (1) or more workplaces, at any one (1) time, including the town of Mashpee.

Enclosed: a space bounded by walls, with or without windows or fenestrations, continuous from floor to ceiling and enclosed by one (1) or more doors, including but not limited to an office, function room or hallway.

Municipal Building: Any building or facility owned, operated, leased or occupied by the municipality.

Public Place: Any building, facility or vehicle owned, leased operated or occupied by the municipality, including school buildings and grounds; any enclosed area open to the general public including, but not limited to, recreational fields/playgrounds, retail stores, retail food stores, supermarkets, libraries, museums, theaters, banks, laundromats, indoor sports arenas, auditoriums, inns/hotel/motel lobbies, private and public educational facilities, shopping malls, common areas of residential buildings, public restrooms, lobbies, staircases, halls, exits, entrance ways, elevators accessible to the public, public mass transit conveyances and indoor platforms and enclosed outside platforms, open meetings of a governmental body as defined in section 11A of Chapter 30A, section 23A of Chapter 39 and section 9F of Chapter 34, and licensed child-care locations.

Smoking (or smoke): the lighting of a cigar, cigarette, pipe or other tobacco product or possessing a lighted cigar, cigarette, pipe or other tobacco or non-tobacco product designed to be combusted and inhaled.

Smoking bar: an establishment that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises and is required by Mass. General Law Ch. 270, §22 to maintain a valid permit to operate a smoking bar issued by the Massachusetts Department of Revenue. "Smoking bar" shall include, but not be limited to, those establishments that are commonly known as "cigar bars" and "hookah bars".

Workplace: an indoor area, structure or facility or a portion thereof, at which one (1) or more employees perform a service for compensation for an employer, other enclosed spaces rented to or otherwise used by the public; and where the employer has the right or authority to exercise control over the space.

Terms not defined herein shall be defined as set forth in M.G.L. Ch. 270, §22 and/or 105 CMR 661. To the extent any of the definitions herein conflict with M.G.L. Ch. 270, §22 and 105 CMR 661, the definition contained in this regulation shall control.

SECTION 2.4: SMOKING PROHIBITED

(a) It shall be the responsibility of the employer to provide a smoke free environment for all employees working in an enclosed workplace.

(b) Smoking is hereby prohibited in Mashpee in accordance with M.G.L. Ch. 270, §22 (commonly known as the "Smoke-free Workplace Law).

(c) Pursuant to M.G.L. Ch. 270, §22(j) smoking is also hereby prohibited in:
   1. outdoor seating areas that do not comply with M.G.L. Ch. 270, §22, 105 CMR 661.200 and/or are located within ten (10) feet of any doorway, any ventilation intake fixture, and/or any window of the establishment;
   2. smoking bars;
   3. the area within thirty (30) feet of any municipal building doorway, ventilation intake fixture or any window, except that this shall not apply to a smoker transiting through such thirty foot area nor to a smoker approaching a municipal building with the intention of extinguishing a tobacco product; and
   4. the Mashpee Public Library structure and on its grounds.
   5. Public places.

(d) The use of e-cigarettes is prohibited wherever smoking is prohibited per M.G.L. Ch. 270, §22 and Section 4(c) of this regulation.

SECTION 2.5: ENFORCEMENT

(1) An owner, manager, or other person in control of a building, vehicle or vessel who violates this section, in a manner other than by smoking in a place where smoking is prohibited, shall be punished by a fine of:

   i. $100 for the first violation;
   ii. $200 for a second violation occurring within two (2) years of the date of the first offense; and
   iii. $300 for a third or subsequent violation occurring within two (2) years of the second violation.

(2) Each calendar day on which a violation occurs shall be considered a separate offense.

(3) This regulation shall be enforced by the Board of Health and its designees.

(4) Violations of Section 4 shall be disposed of by a civil penalty using the non-criminal method of disposition procedures contained in Section 21D of Chapter 40 of Massachusetts General Law without an enabling ordinance or by-law.

(5) If an owner, manager or other person in control of a building, vehicle or vessel violates this regulation repeatedly, demonstrating egregious noncompliance as defined by regulation of the Department of Public Health, the Board of Health may revoke or suspend the license to operate and shall send notice of the revocation or suspension to the Department of Public Health.

(5) Any person may register a complaint to initiate an investigation and enforcement with the Board of Health, the local inspection department of the equivalent.

SECTION 2.6: SEVERABILITY

If any paragraph or provision of this regulation is found to be illegal or against public policy or unconstitutional, it shall not effect the legality of any remaining paragraphs or provisions.

SECTION 2.7: CONFLICT WITH OTHER LAWS OR REGULATIONS

Notwithstanding the provisions of Section 4 of this regulation nothing in this regulation shall be deemed to amend or repeal applicable fire, health or other regulations so as to permit smoking in areas where it is prohibited by such fire health or other regulations.

SECTION 2.8: EFFECTIVE DATE

This regulation shall be effective once advertised in a newspaper of general circulation.

Per Order Of,
The Mashpee Board of Health
Kalliope Egloff, Chairman
Lucy B. Burton, Co-Chairman
Burton Kaplan, Clerk

PART XIV: STABLE REGULATIONS

TOWN OF MASHPEE
BOARD OF HEALTH

STABLE REGULATIONS

UNDER THE AUTHORITY OF MASSACHUSETTS GENERAL LAWS, CHAPTER 111, SECTION 31, THE MASHPEE BOARD OF HEALTH HEREBY ADOPTS THE FOLLOWING REGULATIONS:

1. No person shall erect, occupy or use for a stable any building or land for the housing of horses and/or ponies in the town of Mashpee, unless such use is authorized and licensed by the Board of Health and is in compliance with the zoning by-law of the town of Mashpee.

2. License fee shall be $5.00 for each horse and/or pony, effective January 1st of each calendar year.

3. No stable may be constructed within the town of Mashpee unless a stable license is first obtained from the Board of Health. The construction of stables shall be in conformity with the Mashpee Building Code.

4. Stables will conform to the following:

   a. There shall be adequate ventilation in every stable.

   b. There shall be at least two (2) windows in every stable.

   c. Each equine shall have its own stall in a stable. Each stall shall be of adequate size, so that any horse and/or pony shall have room to comfortably lie down or stand up.

   d. There shall be adequate drainage either natural or artificial.

   e. The flooring shall be of such construction as to support the intended loading and shall be maintained in such a manner as to provide a clean and dry area.

   f. There shall be an adequate water supply for watering the animals, for fire control and for cleaning the premises. The water shall be tested for potability annually by a State certified laboratory and a copy of the analysis shall be submitted to the Board of Health prior to issuance of license.

   g. There shall be a separate room or loft for storage of grain and other dry feed.

Land, on which horses or ponies are pastured, shall be fenced in such a manner as to prevent any damage to property of abutters. Fencing shall be sufficient strength and height to restrain the animals at all times.

5. No horse or pony shall be allowed to be pastured on any land unless said area is fifty feet (50') from a home or dwelling.

6. Any owner or keeper of a horse or pony must provide stabling facilities for same. No horse or pony shall be allowed to remain out of doors at all times, without having access to proper shelter.

7. No person, company or corporation shall erect, occupy or use a building for a livery or horse or pony stable for the keeping of horses or ponies unless such stable or building is more than 200 feet from a church or school building and is more than 50 feet from a building that is used as a dwelling or home.

8. Owners of stables housing horses or ponies must clean the manure from the stable at least once a day.

    a. No manure or used bedding material shall remain outside the barn unless collected in compost piles or picked up regularly by a manure collection firm.

    b. The manure or used bedding stockpiled for collection shall be adequately covered to eliminate odor, flies or other nuisance.

    c. Compost piles shall be a minimum distance of 150 feet from any private well, 400 feet from any public well and 200 feet from any wetland.

9. Any person, company or corporation engaged in or desiring to engage in the business of slaughtering horses for the purpose of rendering them shall apply to the Board of Health for a license as required by the Massachusetts General Laws, Chapter 111, Section 154.

10. The Mashpee Board of Health reserves the right to make any decision on situations or problems that arise in regards to health or housing conditions that are not covered by these regulations.

11. All dead horses and/or ponies shall be disposed of at the direction of the animal inspector and/or Board of Health.

12. Upon written request, the Board of Health may vary the applicability of one or more of these regulations, if the Board finds that the regulation(s) causes undue hardship and that the granting of the variance(s) would not be detrimental to the public health. All variances granted shall be in writing and shall be subject to additional conditions, as the Board of Health may deem necessary.

INSPECTION:

Inspections will be conducted at least annually and shall be expected during reasonable hours. The Board of Health, its Agent or the Animal Inspector or his/her Assistant shall conduct the inspections. Failure to correct cited violations may result in the revocation of the permit.

SEVERABILITY:
In the event any of these regulations shall be deemed invalid, any such regulation(s) shall be severed from the others, which shall remain in full force and effect.

PENALTIES:
Any person, agent or firm who is found in violation of these regulations may be punished by a fine of not more than $200.00 per day the violation(s) continue.

These regulations shall become effective on the date following publication.

March 20, 1989

Per Order Of,
The Mashpee Board of Health

George R. Costa, Chairman
Stephen J. Greelish, Co-Chairman
Roland L. Wilson, Clerk

THE COMMONWEALTH OF MASSACHUSETS

Advance Copy 1981 Acts and Resolves

MICHAEL JOSEPH CONNOLLY, State Secretary

Chapter 750.000

AN ACT RELATIVE TO THE EFFECT OF THE STATE ENVIRONMENTAL CODE ON CERTAIN SUBDIVISION PLANS.

Be It Enacted, etc., as follows:

SECTION 1. - Chapter 111 of the General Laws is hereby amended by inserting after section 127 0, inserted by chapter 132 of the acts of 1980, the following section:

Section 127P - Whenever a person has submitted a subdivision plan, or a preliminary subdivision plan which is followed within seven months by a definitive plan, or a plan referred to in section eighty-one P of Chapter forty-one, the land shown on such plan shall be governed by provisions of the state environmental code, or of the provisions of local board of health regulations which differ from said code, which are in effect at the time of first submission of said plan. Said provisions shall apply during the time such plan is being processed, including the time required to pursue or await the determination of an appeal relative to said plan. If such plan is approved, or if it is found such approval under the subdivision control law is not required, such provisions shall apply for a period of three years from the date of the endorsement of such approval or from the endorsement that approval under the subdivision control law is not required.

SECTION 2 - Section one shall apply to subdivision plans submitted after the effective date of this act.

Approved January 2, 1982

TOWN OF MASHPEE
BOARD OF HEALTH

RULES AND REGULATIONS GOVERNING SUNTANNING ESTABLISHMENTS

The following regulation is set forth by the Mashpee Board of Health and are in addition to all previous Town of Mashpee Rules and Regulations with subsequent amendments. These regulations are adopted in accordance with the provisions of Chapter 111, Section 31, as amended, in the Massachusetts General Laws.

REGULATIONS:

1. Shield to prevent users from coming in contact with the lamps and physical aids to keep the user the proper exposure distance.

2. More accurate timers to turn-off the lamps after no more than ten minutes, unless F.D.A. variance is acquired and presented for longer time.

3. Protection against electrical shocks and fires.

4. Physical aids, such as handrails, to help prevent falls. Floors must be of impervious material to assure proper cleaning for good hygiene, also, which provides adequate traction for wet or bare feet.

5. Maintenance of the temperature in booths below 100° Fahrenheit.

6. Tanning booths shall have prominently displayed, easily readable warnings that state: "**DANGER – ULTRAVIOLET RADIATION, FOLLOW INSTRUCTIONS, AS WITH NATURAL SUNLIGHT, OVEREXPOSURE CAN CAUSE EYE INJURY AND SUNBURN, REPEATED EXPOSURE MAY CAUSE PREMATURE AGING OF THE SKIN AND SKIN CANCER. MEDICATIONS OR COSMETICS APPLIED TO THE SKIN MAY INCREASE YOUR SENSITIVITY TO ULTRAVIOLET LIGHT. CONSULT A PHYSICIAN BEFORE USING LAMP IF TAKING MEDICATION OR IF YOU BELIEVE YOURSELF SENSITIVE TO SUNLIGHT. PREGNANT WOMEN SHOULD CONSULT WITH THEIR OBSTETRICIAN.**"

7. Each suntanning booth shall have for the patron's usage goggles of sufficient quantity to protect the user's eyes from the direct exposure to the sunlamp. Protective eyewear must protect from ultraviolet radiation and allow adequate vision.

8. Contingency plans for emergencies:

    A. The Board of Health requires the owner or operator of said establishment to set aside an area to be designated as an emergency aid station. There will be a trained attendant on duty all hours that said activity is in actual operation. The Board of Health will require a non-pay telephone to be installed in the emergency aid station and first aid equipment that they deem necessary to ensure the safety of the general public.

If any paragraph, sentence, clause, phrase or word of these rules and regulations shall be declared invalid for any reason whatsoever, the decision shall not affect any other portion of these rules and regulations, which shall remain in full force and effect and to this end the provision of these rules and regulations are hereby declared severable.

The effective date of this regulation will be July 5, 1985.

Per Order Of,
The Mashpee Board of Health

Charles H. Lawrence, Chairman
Roland L. Wilson, Co-chairman
Charles F. Buckingham, Clerk

PART XVI: TANNING REGULATIONS
SECTION 2.00 TANNING FACILITIES

TOWN OF MASHPEE
BOARD OF HEALTH

AMENDMENT TO SUNTANNING ESTABLISHMENT REGULATIONS

The following regulation is set forth by the Mashpee Board of Health and is in addition to all previous Town of Mashpee Rules and Regulations with subsequent amendments. This regulation is adopted in accordance with the provisions of Chapter 111, Section 31, as amended, Massachusetts General Laws.

Rules And Regulations for operators of suntanning booth establishments within the Town of Mashpee:

1. A sign must be prominently displayed in each booth or bed stating the following:
   a) "DANGER-ULTRAVIOLET RADIATION, FOLLOW INSTRUCTIONS. AS WITH NATURAL SUNLIGHT, OVEREXPOSURE CAN CAUSE EYE INJURY AND SUNBURN, REPEATED EXPOSURE MAY CAUSE PREMATURE AGING OF THE SKIN AND SKIN CANCER. MEDICATIONS OR COSMETICS APPLIED TO THE SKIN MAY INCREASE YOUR SENSITIVITY TO ULTRAVIOLET LIGHT. CONSULT A PHYSICIAN BEFORE USING LAMP IF TAKING MEDICATION OR IF YOU BELIEVE YOURSELF SENSITIVE TO SUNLIGHT. PREGNANT WOMEN SHOULD CONSULT WITH THEIR OBSTETRICIAN".

2. The owner/operator of an establishment shall have in each booth:

   a) Adequate ventilation.
   b) Handrails.
   c) Impervious floors.
   d) Accurate timers to turn-off the lamps after no more than 10 minutes.
   e) Shields to prevent users from coming in contact with the lamps.
   f) Temperature gauges to ensure that the temperature remains below 100 degrees Fahrenheit.

3. The owner/operator of an establishment shall:
   a) Maintain an adequate supply of goggles to protect the user from direct exposure to sun lamps and ultraviolet radiation.

b) Distribute to each member, prior to the use of the unit, a list of allergic reactions to medications contained in the suntan unit manual.
c) Disinfect each unit prior to every use.
d) Obtain the consent of the Board of Health as to the method of disinfection.
e) Obtain a consent form signed by each member to ensure that they have read and understood all rules and risks prior to the use of the unit.

4. The owner/operator of an establishment shall set-aside an area to be designed as an emergency aid station, with first aid equipment available, as the Mashpee Board of Health deems necessary. There will be a trained attendant on duty all hours that the establishment is in actual operation. A non-pay telephone will be installed in the emergency aid station.

Any paragraph, sentence, clause, phrase or word of these rules and regulations shall be declared invalid for any reason whatsoever, the decision shall not effect any other portion of these rules and regulations, which shall remain in full force and effect and to this end the provision of these rules and regulations are hereby declared severable.

The effective date of this regulation will be **July 5, 1985**.

Per Order Of,
The Mashpee Board of Health

Roland L. Wilson, Chairman
Charles H. Lawrence, Co-chairman
Charles F. Buckingham, Clerk

TOWN OF MASHPEE

BOARD OF HEALTH

TANNING ESTABLISHMENT REGULATION

SECTION:

3.1 Purpose
3.2 Authority
3.3 Definitions
3.4 Applicability
3.5 Regulation
3.6 Enforcement
3.7 Severability
3.8 Penalties
3.9 Effectiveness

3.1 PURPOSE:

The purpose of this regulation is to provide a greater degree of protection to the health and welfare of children under the age of eighteen (18) when they are exposed to ultra-violet radiation. Scientific data suggests these measures are necessary. The United States Department of Health and Human Services has classified exposure to sun lamps or tanning beds as "known to be carcinogenic to humans' and states the longer the exposure, the greater the risk, especially to people exposed before the age of 30 years." Further, the American Academy of Dermatology Association (AADA) has stated: "with the rising incidence of melanoma and non-melanoma skin cancer in the United States, and the scientific evidence incriminating the use of tanning equipment for non-medical purposes, the AADA encourages the implementation of state and local legislation regulating tanning parlors…Unless and until the FDA bans the sale and use of tanning equipment for non-medical purposes, the AADA supports the following requirements for indoor tanning facilities: No minor should be permitted to use tanning devices."

3.2 AUTHORITY:

In accordance with Massachusetts General Law Chapter 111, Section 31 and Chapter 127A, the Mashpee Board of Health hereby adopts the following regulation to supplement the provisions of the State Public Health Code as it relates to Tanning Facilities set forth at General Law Chapter 111 section 207, et seq... and 105 CMR 123.000, et seq.

3.3 DEFINITIONS:

For the purpose of this regulation, the following words shall have the following meanings:

Tanning Facility: Any location, place, area, structure or business which provides access to tanning devices.

Tanning Device: Any equipment used for tanning the skin that emits ultraviolet radiation, including, but not limited to, a tanning booth, tanning bed or sunlamp which includes high pressure tanning lamps. Tanning devices also include any accompanying equipment, including, but not limited to, protective eyewear, timers and hand rails.

Phototherapy Device: Equipment that emits ultraviolet radiation and is used by health care professionals in the treatment of disease.

3.4 APPLICABILITY

This regulation shall apply to all Tanning facilities except for those facilities having a phototherapy device used by or under the supervision of a licensed physician who is trained in the use of such phototherapy device.

3.5 REGULATION

A. No person under the age of eighteen (18) shall use a tanning device in a tanning establishment.
B. No employees of tanning establishments shall be less than 18 years of age.

3.6 ENFORCEMENT:

The Town of Mashpee, Board of Health, as permitted under the provision of Chapter 111, Section 31 and under Title 1 (310 CMR 11.00) authorizes the Board of Health to require compliance with this regulation.

3.7 SEVERABILITY:

If any provisions of this regulation or the application thereof are held to be invalid by a court of competent jurisdiction, the invalidity shall be limited to said provision and the remainder of the regulation shall remain valid and effective. Any part of this regulation subsequently invalidated by state law shall automatically be brought into conformity with the new or amended law and shall be deemed effective immediately, without recourse to a public hearing.

3.8 PENALTIES:

(1) If an owner, manager or other person who violates this regulation shall be punished by a fine of:

iv. $50.00 for the first violation;
v. $100 for a second violation occurring within two (2) years of the date of the first offense; and

vi. $200 for a third or subsequent violation occurring within two (2) years of the second or previous violation.

(2) This regulation shall be enforced by the Board of Health and its designees.

(6) Violations of Section 3.8 shall be disposed of by a civil penalty using the non-criminal method of disposition procedures contained in Section 21D of Chapter 40 of Massachusetts General Law without an enabling ordinance or by-law.

(4) Repeated, egregious noncompliance as defined by regulation of the Department of Public Health, the Board of Health may revoke or suspend the license to operate, with proper notice given to permit holder, for a period of up to 30 days. Notice of the revocation or suspension shall be sent to the Department of Public Health.

3.9 EFFECTIVENESS:

This regulation will take effect upon publication in a newspaper of general circulation.

Per Order Of,

THE MASHPEE BOARD OF HEALTH

Kalliope Egloff, Chairman
Lucy B. Burton, Co-Chairman
Burton Kaplan, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

FLOOR DRAIN REGULATION

WHEREAS:

- Floor drains in industrial and commercial facilities are often connected to a plumbing system leading to a leaching structure (e.g. dry well, cesspool, leach field) or a conventional septic system; and

- Poor management practices and accidental and/or intentional discharges may allow petroleum and other toxic or hazardous materials into these drainage systems in facilities managing these products; and

- Improper maintenance or inappropriate use of these systems may allow the passage of contaminants or pollutants entering the drain to discharge from the leaching structure or septic system to the ground; and

- Discharges of hazardous wastes and other pollutants to floor drains leading to leaching structures and septic systems have repeatedly threatened surface and groundwater quality throughout Massachusetts; and

- Surface and groundwater resources in the Town of Mashpee contribute to the town's drinking water supplies;

The Town of Mashpee adopts the following regulations, under its authority as specified in Section II, as a preventative measure for the purpose of;

1. Preserving and protecting the Town of Mashpee's drinking water resources from discharges of pollutants to the ground via floor drains; and

2. Minimizing the threat of economic losses to the town due to such discharges.

SECTION II – SCOPE OF AUTHORITY

The Town of Mashpee Board of Health adopts the following regulation pursuant to authorization granted by M.C.L. c.llls. 31 and s. 122. The regulation shall apply, as specified herein, to all applicable facilities, existing and new, within the Town of Mashpee.

SECTION III – DEFINITIONS

For the purpose of this regulation, the following words and phrases shall have the following meanings:

Commercial and Industrial Facility: A public or private establishment where the principal use is the supply, sale and/or manufacture of services, products or information, including but not lim9ited to: manufacturing, processing, or other industrial operations, service or retail establishments; printing or publishing establishments; research and development facilities, small or large quantity generators of hazardous waste; laboratories; hospitals.

Department: The Massachusetts Department of Environmental Protection

Discharge: The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, incineration, or placing of toxic or hazardous material or waste upon or into land or water so that such hazardous waste or any constituent thereof may enter the land or waters of the Commonwealth. Discharge includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any onsite leaching structure or sewage disposal system.

Floor Drain: An intended drainage point on a floor constructed to be otherwise impervious which serves as the point of entry into any subsurface drainage, treatment, disposal, containment, or other plumbing system.

Leaching Structure: Any subsurface structure through which a fluid that is introduced will pass and enter the environment, including but not limited to, drywells, leaching catch basins, cesspools, leach fields, and oil/water separators that are not watertight.

Oil/Water Separator: A device designed and installed so as to separate and retain petroleum based oil or grease, flammable wastes as well as sand and particles from normal waste while permitting normal sewage or liquid wastes to discharge into the drainage system by gravity. Other common names for such systems include MDC traps, gasoline and sand traps, grit and oil separators, grease traps and interceptors.

Toxic or Hazardous Material: Any substance or mixture of physical, chemical or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water of the Town of Mashpee. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis and all substances defined as Toxic or Hazardous under Massachusetts General Laws (MGL), Chapter 21C and 21E or Massachusetts Hazardous Waste regulation (310 CMR 30.000) and also include

such products as solvents, thinner, and pesticides in quantities greater than normal household usage.

Use of Toxic or Hazardous Materials: The handling, generation, treatment, storage, or management of toxic or hazardous materials.

SECTION IV – PROHIBITIONS

With the exception of discharges that have received (or have applied and will receive) a Department issued permit prior to the effective date of this regulation, no floor drain(s) shall be allowed to discharge, with or without pretreatment (such as an oil/water separator), to the ground, a leaching structure, or a septic system in any industrial or commercial facility if such floor drain in located in either:

A. An industrial or commercial process area,

B. A petroleum, toxic or hazardous materials and/or waste storage area, or

C. A leased facility without either A or B of this section, but in which the potential for a change of use of the property to a use which does have either A or B is, in the opinion of the Board of Health or its agent(s), sufficient to warrant the elimination of the ground discharge at the present.

SECTION V – REQUIREMENTS FOR EXISTING FACILITIES

A. The owner of a facility in operation prior to the effective date of this regulation with a prohibited (as defined under Section IV) floor drain system shall:

    1. Disconnect and plug all applicable inlets to and outlets from (where possible) applicable leaching structures, oil/water separators, and/or septic systems;

    2. Remove all existing sludge in oil/water separators, septic systems and where accessible, leaching structures. Any sludge determined to be a hazardous waste shall be disposed of in accordance with state hazardous waste regulations (310 CMR 30.000). Remedial activity involving excavation and/or soil or groundwater sampling must be performed in accordance with appropriate Department policies;

    3. Alter the floor drain system so that the floor drain shall be either;

        a) Connected to a holding tank that meets all applicable requirements of the Department policies and regulations, with hauling records submitted to the Mashpee Board of Health at the time of hauling.

b) Connected to a municipal sanitary sewer line, if available, with all applicable Department and local permits; or

c) Permanently sealed. (Any facility sealing a drain shall be required to submit for approval to the Mashpee Board of Health a hazardous waste management plan detailing the means of collecting, storing and disposing of any hazardous waste generated by the facility, including any spill or other discharge of hazardous materials or wastes.)

B. Any oil/water separator remaining in use shall be monitored weekly, cleaned not less than every 90 days, and restored to proper conditions after cleaning so as to ensure proper functioning. Records of the hauling of the removed contents of the separator shall be submitted to the Mashpee Board of Health at the time of hauling.

C. Compliance with all provisions of this regulation must be accomplished in a manner consistent with the Massachusetts Plumbing, Building and Fire Code requirements.

D. Upon complying with one of the options listed under Section V.A.3, the owner/operator of the facility shall notify the Department of the closure of said system by filing the Department's UIC Notification Form, which may be obtained by calling the Department at (617) 292-5770. A copy of which must also be sent to the Mashpee Board of Health.

SECTION VI - EFFECTIVE DATES FOR ALL FACILITIES

The date of adoption of this regulation is February 26, 1998. The effective date of this regulation shall be the date of publication in the local press.

A. Existing Facilities:

1. Owners/Operators of a facility affected by this regulation shall comply with all of its provisions within 120 days of the effective date.

2. All applicable discharges to the leaching structures and septic systems shall be discontinued immediately through temporary isolation or sealing of the floor drain.

B. New Facilities:

1. As of the effective date of this regulation, all new construction and/or applicable change of use within the Town of Mashpee shall comply with the provisions of this regulation.

2. Certification of conformance with the provisions of this regulation by the Board of Health shall be required prior to issuance of use and occupancy permits.

3. The use of any new oil/water separator shall comply with the same requirements as for existing systems as specified above in Section V.B.

SECTION VII – PENALTIES

Failure to comply with the provisions of this regulation will result in the levy of fines of not less than $200.00, but not more than $1000.00. Each day's failure to comply with the provisions of this regulation shall constitute a separate violation.

SECTION VIII – SEVERABILITY

Each provision of this regulation shall be construed as separate to the end that if any provision, or sentence, clause or phrase thereof shall be held invalid for any reason, the remainder of that section and all other sections shall continue in full force and effect.

Per Order Of,
The Mashpee Board of Health

Steven R. Ball, Chairman
John T. Doherty, Co-Chairman
Robert F. Cram, Clerk

TOWN OF MASHPEE
BOARD OF HEATH

UNDERGROUND STORAGE TANK REGULATION

At its regularly scheduled meeting of March 14, 1988, under the authority of the Massachusetts General Laws, Chapter 111, Section 31, the Mashpee Board of Health adopted the following regulation.

WHEREAS; leaking underground storage tanks pose an immediate and serious threat to Cape Cod's sole source aquifer, and,

WHEREAS; the Town of Mashpee does not have records to locate all such tanks installed with the Town,

THEREFORE; under Chapter 111, Section 31, of the Massachusetts General Laws, the Mashpee Board of Health hereby adopts the following revised regulation to protect the ground and surface waters from contamination with liquid, toxic or hazardous materials.

DEFINITIONS: "Toxic or hazardous materials" shall be defined as all liquid hydrocarbon products including, but not limited to, gasoline, fuel and diesel oil, and any other toxic or corrosive chemicals, radioactive materials or other substances controlled as being toxic or hazardous by the Division of Hazardous Waste of the Commonwealth of Massachusetts, under the provisions of Massachusetts General Laws, Chapter 21C, Section 1, et. seq.

The following regulations apply to all underground toxic or hazardous material storage system:

Section 1 – Installation of Underground Storage Tanks (UST)

1. (1) Following the effective date of this regulation, the installation of all underground storage tanks for fuel oil (heating oil), shall be prohibited in the Town of Mashpee.

Section 2 – Tank Registration

The following regulations shall apply to all underground tanks:

a) Containing toxic or hazardous materials as defined above, which are not currently, regulated under 527 CMR 9.24 – "Tanks and Containers".

b) Containing fuel oil, whose contents are used exclusively for consumption on the premises, and to
c) Underground farm and residential tanks of 1,100 gallon capacity, or less, used for storing motor fuel for non-commercial purposes.

2. (1) Owners shall file with the Board of Health, on or before July 1, 1988, the size, type, age and location of each tank and the type of fuel or chemical stored in them. Evidence of date of purchase and installation, including Fire Department permit, if any, shall be included along with a sketch map showing the location of such tanks on the property. Upon registering the tank with the Board of Health, the tank owner will receive a permanent metal or plastic tag, embossed with a registration number unique to that tank. This registration tag must be affixed to the fill pipe in such a location as to be visible to any distributor when filling the tank and to any inspector authorized by the town. A fee of **$1.00** will be charged to cover the cost of the tag.

2. (2) Effective July 1, 1988, every petroleum and other chemical distributor, when filling an underground storage tank, shall note on the invoice or bill for the product delivered, the registration number appearing on the tag affixed to the tank which was filled. Every petroleum and other chemical distributor shall notify the Board of Health of the existence and location of any unregistered or untagged tank, which they are requested to fill. Such notification must be completed within two (2) working days of the time the distributor discovers that the tank registration tag is not affixed to the fill pipe.

2. (3) Prior to the sale of a property containing an underground storage tank, the Fire Department must receive from the current owner a change of ownership form from the registration of the underground storage tank. Such form can be obtained from the Fire Department.

Section 3 – Testing

3. (1) The tank owner shall have each tank and its piping tested for tightness fifteen (15) years after installation and annually after twenty (20) years. A tank shall be tested by any final or precision test, not involving air pressure, that can accurately detect a leak of 0.05 gallons/hour, after adjustment for relevant variables, such as temperature change and tank end deflection, or by any other testing system approved by the Board of Health, as providing equivalent safety and effectiveness. Piping shall be tested hydrostatically to 150% of the maximum anticipated pressure of the system. Certification of the testing shall be submitted to the Board of Health by the owner, at the owner's expense. Those tanks subject to the testing requirements of this regulation shall submit the certification of testing to the Board of Health by July 1st of the year of testing. Tanks, which are currently tested under the provisions of 5327 CMR 9.18, are exempt from this section.

Section 4 - Report of Leaks or Spills

4. (1) Any person who is aware of a spill, loss of product, or unaccounted for increase in consumption, which may indicate a leak, shall report such spill, loss or increase immediately to the head of the fire Department and to the Board of Health.

<u>Section 5</u> – Enforcement

5. (1) Any owner or operator who violates any provision of this regulation shall be subject to the penalties provided under M.G.L. Chapter 111, section 31, as amended. Each day during which such violation continues shall constitute a separate violation. Upon request of the head of the Fire Department or the Board of Health, the licensing authority and Town Counsel shall take any legal action as may be necessary to enforce the provisions of this regulation.

<u>Section 6</u> - Costs

6. (1) In every case, the owner shall assume the responsibility for costs incurred necessary to comply with this regulation.

<u>Section 7</u> – Variances

7. (1) Variances from this regulation may be granted by the Board of Health after a hearing at which the applicant establishes the following:

a) The enforcement thereof would do manifest injustice
b) Installation or use of a underground storage tank will not adversely affect public or private water resources.

In granting a variance, the Board will take into consideration the direction of the ground water flow, soil conditions, depth to groundwater, size, shape and slope of the lot and existing and known future water supplies.

<u>Section 8</u> – Severability

8. (1) Provisions of this regulation are severable and if any provision hereof shall be held invalid under any circumstances, such invalidity shall not affect any other provisions or circumstances.

This regulation will take effect on July 1, 1988

Per Order Of,
The Mashpee Board of Health

Charles F. Buckingham, Chairman
Roland L. Wilson, Co-Chairman
George R. Costa, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

WELL PERMIT REQUIREMENTS

Under the provision of Chapter 111, Section 31, of the Massachusetts General Laws, the Board of Health has adopted the following regulation:

Effective immediately anyone drilling a private well, which will provide the primary source of water to a dwelling or building and such water is to be used for human consumption, must file a current Well Driller's Certificate, issued by the Commonwealth of Massachusetts, with the Board of Health.

Prior to drilling of a private well within the Town of Mashpee for the purpose described herein, a permit must first be obtained from the Board of Health. Upon applying for a permit the driller must submit a plot plan of the lot or area showing the exact location of where the well is to be drilled, the location of the individual sewage disposal system on the lot or area and the sewage systems on immediate abutting lots. A distance of not less than 100 feet must be maintained between the well and all subsurface sewage disposal systems in the area. A private well can only be utilized to service those dwellings on a single lot or single bounded area. The use of a single well to supply water to buildings on two or more lots is unauthorized. The regulations covering the authority and operation of Community or Non-Community water systems are covered in the "Drinking Water Regulations of Massachusetts", which became effective on June 24, 1977.

After the well is in, the driller must bring into the Board of Health the "Water Well Completion Report". A water sample must be taken on all new wells and repairs. The cost of a permit for drilling of a new well or repairing an existing well shall be $15.00.

No variances will be granted from these regulations and permits are non-transferable.
Failure to comply with the provisions contained herein shall be punishable by a fine of $100.00.

Per Order Of,
The Mashpee Board of Health

Charles H. Lawrence, Chairman
Roland L. Wilson
Charles F. Buckingham

TOWN OF MASHPEE
BOARD OF HEALTH

PUBLIC WATER SUPPLY REQUIREMENTS

Under the authority of the Massachusetts General Laws, Chapter 111, Section 31, the Board of Health has adopted the following regulation in an effort to better protect the public health of the residents of Mashpee:

Whereas, there are known and documented areas of groundwater contamination within the Town of Mashpee and;

Whereas, there may be future areas of groundwater contamination unknown at present;

Therefore, the Board of Health, at its discretion, may require single family, multi-family or commercial structures to connect to a community public water supply.

This regulation is adopted by the Board of Health on September 13, 1990 and shall become effective upon the date of publication.

Per Order Of,
The Mashpee Board of Health

Stephen J. Greelish, Chairman
John T. Doherty, Co-Chairman
George R. Costa, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

MORATORIUM ON GROUNDWATER WELLS

Under the authority of Massachusetts General Laws, Chapter 111, Section 31, the Board of Health of Mashpee adopts the following regulation in an effort to better protect the public health and welfare of the citizens and visitors in the Town:

REGULATION:

Residential well located in documented or anticipated areas of groundwater contamination as defined by the Board of Health are herewith restricted from use for any purpose, including drinking, any agricultural use (lawn watering, gardening, livestock watering, irrigation of crop land, etc.), washing vehicles, pool filling, etc. This moratorium includes groundwater wells owner by residents currently connected to a public water supply.

A Massachusetts Licensed Well Driller must decommission the affected wells and written evidence thereof must be submitted to the Board of Health.

PURPOSE:

This regulation seeks to prevent any inadvertent exposure to contaminated groundwater, which may present a potential health risk to the residents and visitors of Mashpee. Residential well waters in documented or potentially affected areas of groundwater pollution pose a possibility of exposure pathways to humans. Ingestion, inhalation and dermal exposure are potential pathways. This potential risk necessitates this regulation.

Adopted by the Board of Health on April 23, 1998. This regulation will become effective upon the date of publication in the press.

Per Order Of,
The Mashpee Board of Health

Steven R. Ball, Chairman
John T. Doherty, Co-Chairman
Robert F. Cram, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

AMENDMENT TO MORATORIUM ON GROUNDWATER WELLS

Under the authority of Massachusetts General Laws, Chapter 111, Section 31, the Board of Health of Mashpee adopts the following regulation in an effort to better protect the public health and welfare of the citizens and visitors in the Town:

REGULATION:

Existing and future residential wells located in documented or anticipated areas of groundwater contamination as defined by the Board of Health are herewith restricted from use for any purpose, including drinking, any agricultural use (lawn watering, gardening, livestock watering, irrigation of crop land, etc.) washing vehicles, pool filling, etc. This moratorium includes groundwater wells owner by the residents currently connected to a public water supply.

A Massachusetts Licensed Well Driller must decommission the affected wells and written evidence thereof must be submitted to the Board of Health.

PURPOSE:

This regulation seeks to prevent any inadvertent exposure to contaminated groundwater, which may present a potential health risk to the residents and visitors of Mashpee. Residential well waters in documented or potentially affected areas of groundwater pollution pose a possibility of exposure pathways to humans. Ingestion, inhalation and dermal exposure are potential pathways. This potential risk necessitates this regulation.

Adopted by the Board of Health on April 23, 1998. This regulation will become effective upon the date of publication in the press.

THE BOARD OF HEALTH

The original intent of the Board of Health was clarified on July 15, 1999, by inserting the words **"Existing and Future"** in the first paragraph of the regulation. The Board of Health approved this amendment to the regulation on July 29, 1999.

Per Order Of,
The Mashpee Board of Health

Steven R. Ball, Chairman
John T. Doherty, Co-Chairman
Robert F. Cram, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

WELL WATER ANALYSIS REQUIREMENT

As its regularly scheduled meeting of November 9, 1987, under the authority of the Massachusetts General Laws, Chapter 111, Section 31, the Mashpee Board of Health adopted the following regulation:

> In order to ensure that a lot serviced by a private or public non-community well possesses potable water, a drinking water analysis shall have to be performed by an approved laboratory prior to the Board of Health's endorsement of a building permit.
>
> The water analysis report is valid for one year from date of receipt by the Board of Health. A current and valid water analysis report is required by the Board of Health prior to its endorsement of an occupancy permit.
>
> The Board of Health may require that a Volatile Organic Compound (VOC) analysis (known as E.P.A. 624) be performed if the Board feels there is a danger of volatile organics present in groundwater.

This regulation takes effect on the date following publication.

Per Order Of,
The Board of Health

Charles F. Buckingham, Chairman
Roland L. Wilson, Co-Chairman
George R. Costa, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

KENNEL REGULATION

Under the authority of Massachusetts General Laws, Chapter 111, Section 31, the Mashpee Board of Health hereby adopts the following regulations:

SECTION 1 – FINDINGS AND PURPOSE:

WHEREAS; An infrastructure is necessary to ensure animals originating from a given area are healthy and free of communicable diseases; and

WHEREAS; Animals are being sold with abnormalities and without verifiable health certificates; and

WHEREAS; Immediate action is required to institute a sound animal management system so that the risks of harm to the health and well being of animals as well as the human population can be protected; and

NOW THEREFORE; The Mashpee Board of Health hereby adopts the following Kennel Regulation:

SECTION 1 – DEFINITIONS:

Board of Health: Shall be hereinafter referred to as "the Board"

Kennel: An establishment or dwelling maintained and/or advertised for the purpose of breeding, selling, or engaged in training dogs, boarding dogs or producing one or more litters per year. And, further defined as any property in which more than three dogs reside.

Kennel License: The licensing period shall be January 1st to December 31st inclusive. The annual kennel license shall be issued through the Town Clerk's office to a kennel which has demonstrated compliance with the requirements of this regulation and all applicable regulations of the General

Laws of Massachusetts, Title XX Public Safety and Good Order, Chapter 140, Section 136A, 137A and 137C respectively.

Owner: Any person possessing, harboring, keeping, having an interest in, or having control or custody of a dog or dogs and in whose name the kennel license is issued. If the animal is owned by a person under the age of eighteen (18) years of age, that person's custodial parents or legal guardian(s) shall be responsible for complying with all requirements of this regulation.

Keeper: The owner, person or group of individuals retained by the owner to possess, harbor, control or have custody of a dog(s) and who provides for care of the dogs sheltered within the licensed kennel.

Kennel Inspector: Shall mean the Natural Resources Officer, Animal Control Officer, Animal Inspector, Agent of the Board or such other qualified party as may be designated by the Board.

Shelter: An enclosed outdoor structure secured against unlawful entry which provides for the safety and well-being of the dogs. It shall offer an adequate covering for protection against the elements and shall be kept warm and dry. Said structure shall also be of adequate size for the comfort and well-being of the dog or dogs enclosed within the shelter.

Veterinary Hospital: - Shall not be considered a kennel unless it contains an area for the selling of dogs or for the boarding of dogs for other than medical or surgical purposes, in which case it shall make formal application to the Board for a kennel license.

SECTION II – Exemptions:

1. For the purposes of this regulation, Canine ("Doggie") Day Care is not deemed a kennel however; overnight boarding of more than three (3) dogs shall constitute meeting the kennel definition.

SECTION III - Kennel License Requirements:

1. As of January 1, 2008, all kennels shall comply with any applicable zoning requirements.
2. Prior to applying for a kennel license, all kennel applicants shall obtain approval through the Site Plan Review Committee. The applicant shall provide to the Site Plan Review Committee the location, size and number of kennels existing and/or proposed.
3. Application for a kennel license shall require written approval from the Board.
4. The Board shall forward their conditional approval to the Site Plan review Committee. All conditions set forth by the Board shall be incorporated into the kennel license.
5. The owner/operator shall license the kennel with the Town Clerk within fourteen (14) days of approval by the Site Plan Review Committee.
6. The kennel license shall specify the name of the owner, property owner, kennel and keeper(s) and the location of the kennel;
    a. Proof of Vaccination
        1. All puppies less than twelve (12) weeks of age shall be administered the first distemper vaccination in the distemper series.

2. All puppies/dogs twelve (12) weeks or older shall be administered the rabies vaccination.
3. The owner of a puppy/dog shall not be required to provide verification of vaccination to this section if such owner provides a written statement from a veterinarian indicating that the dog of such owner should not be given such vaccination because of a standard veterinary contraindication and that such dog does not show symptoms of the disease or diseases for which such vaccination is contraindicated.

7. Adequate outdoor shelter shall be provided for all puppies/dogs housed outside.
8. The holder of a license for a kennel shall provide and cause each dog kept therein to wear, while it is at large, a collar or harness of leather or other suitable material, to which shall be securely attached a tag upon which shall appear the number of such kennel license, the name of the town issuing such license and the year of issue.

SECTION IV - Record Keeping Requirements:

1. Every boarding kennel, business or establishment shall maintain and make available for inspection records for each dog utilizing such facility for a minimum period of twelve (12) months from the last day of such utilization indicating; the owner's name, address, telephone number and emergency contact; duration of stay, services provided and proof of vaccinations or veterinarian's statements that vaccination is contraindicated.
2. Every boarding kennel, business or establishment shall maintain vaccination records of each puppy/dog for a period of one (1) year from the date of vaccination. Records shall be made available upon request of the kennel inspector.

SECTION V - Inspection

1. All kennels, businesses or establishments shall maintain their kennel in a clean and sanitary manner. Violations of this section may result in relocation of the dogs/puppies to an outdoor sheltered area of the property per the Board's and Kennel Inspector's agreed upon decision.
2. The Kennel Inspector(s) shall conduct an inspection of the boarding kennel, business or establishment prior to the issuance of a kennel license on an annual basis or as necessitated ensuring such facility's compliance with the provisions of this regulation.

SECTION VI - Public Nuisance

1. Upon petition of two (2) or more residents in the neighborhood of the kennel, filed with the Board, setting forth that they are aggrieved or annoyed to an unreasonable extent by one (1) or more dogs at a kennel located in the town because of excessive barking or vicious

disposition of such dog or dogs or other conditions connected with the kennel that constitute a public nuisance, the Board shall, within ten (10) days of the filing of such petition, give notice to the Police Chief and all parties concerned that a public hearing will be held within ten (10) days by the Board after the date of such notice. Within seven (7) days after the public hearing, the Board and Police Chief shall make an order either revoking or suspending such kennel license or otherwise regulating the operation of said kennel or shall dismiss such petition.

2. Within ten (10) days after receiving such determination and order of the Board, the holder of the kennel license may bring a petition in a court of competent jurisdiction.
3. The Kennel Inspector(s) may periodically inspect the premises where the kennel license has been revoked and shall notify the Board if she/he finds that the kennel continues to be maintained on the premises.

SECTION VII - Enforcement:

1. Enforcing designees for this regulation are the Animal Inspector, Natural Resources Officer, Animal Control Officer, Health Agent or Board of Health designee.

SECTION VIII - Penalties:

1. Any owner or operator of a kennel that violates any provision of this regulation shall be fined:
    a. One hundred ($100.00) dollars for the first offense.
    b. Three hundred ($300.00) for the third offense.
    c. Five hundred ($500.00) for every offense thereafter.

Such fine is to be assessed on a per-dog-found-on-the-premises basis of said violator. Each day on which any violation exists shall be deemed to be a separate offense.

If, in the judgment of the Kennel Inspector, the kennel is found not to be meet the requirements of this regulation, M.G.L. Chapter 111, Section 122, The State Sanitary Code 105 CMR 410.000 or where a violation of zoning requirements and/or a special permit exists, the Kennel Inspector shall notify the Board in writing which may result in fines and/or court action. The Board may also impose additional conditions upon the operation of said kennel.

SECTION IX - Severability:

1. Each provision of this regulation shall be construed as separate to the end that if any provision, or sentence, clause or phrase thereof shall be held invalid for any reason, the remainder of that section and all other sections shall continue in full force and effect.

SECTION X - Effective date:

1. This regulation was adopted by the Board of Health on November 7, 2007 and shall become effective upon publication.

Per Order Of,
The Board of Health
Lucy B. Burton, Chairman
L. Glenn Santos, Co-chairman

PART XXI: HOUSING REGULATIONS
Section 1.00 Manufactured Housing Community/Mobile Home Park Community

MANUFACTURED HOUSING COMMUNITY/MOBILE HOME PARK COMMUNTY REGULATIONS

Purpose:

The purpose of this regulation is to provide rules for the licensing, construction, and operation of Manufactured Housing/Mobile Home Park Communities in order to protect the health and safety of the occupants of those communities and the general public in the Town of Mashpee.

Authority:

This regulation is adopted under the authority of Massachusetts General Laws Chapter 140, Section 32B and Chapter 111, Section 31, and any other power or authority relating thereto.

Definitions:

The following terms have the meanings indicated:

APPENDAGE includes any awning, deck, or other addition attached to a manufactured home, and any shed, structure, or other combination of materials upon a manufactured home site necessitating pilings, footings, or a foundation.

BOARD means the Mashpee Board of Health or its designated representative.

LICENSEE means an operator who holds a current Manufactured Housing Community/Mobile Home Park Community license from the Mashpee Board of Health issued under M.G.L. c. 140, section 32 B.

MANUFACTURED HOME means a structure, built in conformance with the National Manufactured Home Construction and Safety Standards, which is transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 feet or more in length, or when erected on site, contains 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling unit,

with or without a permanent foundation, when connected to the required utilities, and includes plumbing, heating, air conditioning, and electrical systems contained therein.

MANUFACTURED HOME SITE (LOT) means a parcel of land within a Manufactured Housing Community on which manufactured homes, their appendages, are or may be located and over which a tenant has possessory or other legal or equitable rights or interests.

MANUFACTURED HOUSING COMMUNITY/MOBILE HOME PARK COMMUNITY means any lot or tract of land upon which three or more manufactured homes occupied for dwelling purposes, including any buildings, structures, fixtures and equipment used in connection with manufactured homes, are located.

MOBILE HOME means any dwelling, located within a Manufactured Home Community/Mobile Home Park Community constructed prior to the 1976 National Manufactured Home Construction and Safety Standards.

OPERATOR/PROPERTY MANAGER means a person who directly or indirectly owns, conducts, controls, manages, or operates any Manufactured Housing Community/Mobile Home Park Community, and/or his, her, or its agents or employees or assigns.

PERSON means every individual, partnership, corporation, including a municipal corporation, firm, trust, association or the agent or agents of any of them, including a lessee, or licensee, carrying on an activity governed by these regulations.

I. EXISTING AND PROPOSED MANUFACTURED HOUSING COMMUNITY/MOBILE HOME PARKS:

A. LICENSE REQUIREMENTS:

1. No person may operate or manage, directly or indirectly,, a Manufactured Housing Community/Mobile Home Park Community unless that person holds a valid license issued by the Board, pursuant to its authority under these regulations and applicable provisions of Massachusetts General Laws Chapter 140, §§32A through S.

2. No Manufactured Housing Community/Mobile Home Park Community shall operate without a designated property manager to oversee daily operations to ensure it is operated and maintained in compliance with this regulation and all applicable State and local regulations. The property manager or his/her designee shall be present at the Manufactured Home Community/Mobile Home Park Community from 8:00 a.m. to 5:00 p.m. daily Monday through Friday. On an annual basis, the property manager shall provide to the Board and all owners/tenants a current emergency contact number that will allow the Board and/or owners/tenants to directly contact the property manager at all times.

3. The applicant for an original or a renewal license for a Manufactured Housing Community/Mobile Home Park Community shall be the owner of the land on which the community exists or is proposed to be located. In the event that the owner is a corporation, partnership, limited liability company or other title holding entity, the application must be executed by an officer, member or partner of such entity who is legally authorized to bind the owner to the terms and conditions of the license.

4. Every application for an original license shall be submitted on a form promulgated by the Mashpee Board of Health, shall include detailed plans, and shall incorporate, at least, the following information and references:

    a. The name of the Manufactured Housing Community and a detailed description of its boundaries; all plans must include a North arrow, date and scale of the proposed site plan.

    b. The name and address of the record owner and the engineer.

    c. A statement as to whether any variance or waiver of the provisions of this regulation is requested.

    d. A statement as to whether a license with conditions is requested.

    e. Designation of a person or persons who will be available at the Manufactured Housing Community from 8:00 a.m. to 5:00 p.m. daily Monday through Friday and by appointment and who will be authorized to accept on behalf of the licensee any notice, order, directive, letter, or other documents issued by the Board.

    f. A copy of all current or proposed rules and regulations promulgated by and for the Community, and a certificate that they have been submitted to the appropriate Commonwealth of Massachusetts authorities on a stated date pursuant to M.G.L. c. 140 section 32 L (5) and a statement that said rules and regulations were either approved or not disapproved.

    g. An estimate of the proposed costs of establishing the community.

    h. The Applicant shall, as a condition of any license issued hereunder, comply with all State, Municipal and Board of Health regulations and other applicable local by-laws.

    i. An application for a renewal license shall be filed annually, not later than November 15th of the year prior to the year for which the application is made and shall contain the following information:

        i. The number of occupants in each manufactured home/mobile home and the location or address of every manufactured home/mobile home in the community as of the date of the application.

ii. The current source(s) of water supply, the method of sewage disposal, the method of refuse disposal and recycling protocols.

iii. A copy of the existing and any proposed new rules for the Community.

iv. Any other information, plans, permits or approvals that the Board may require in the interest of the health and safety of the occupants.

j. Any request (including at time of application for a renewal license) for modification, expansion, or addition of manufactured housing/mobile park home spaces or lots to an existing Manufactured Housing Community/Mobile Home Park Community, shall require notification to the Board in writing and must comply with Mashpee Zoning By-Laws Chapter 174-48 and 174-48.1 and all other applicable State and local regulations. The Board of Health shall review any such application or request at a regularly scheduled public hearing.

k. The Mashpee Board of Health may grant a renewal license for the calendar year without a public hearing, unless the application is filed under paragraph (j), above. In that event, with respect to any requested modification, expansion, or addition, the provisions of § 4 (j) shall be met. The Mashpee Board of Health shall grant a conditional renewal license, subject to the compliance by the Licensee with all applicable statutes, rules, and regulations throughout the previous license term. .

l. Upon approval of the application by the Board conditionally or otherwise, it shall issue an appropriate license, which shall be valid through December 31st of the year for which the license is issued.

B. WATER SUPPLY REQUIREMENTS:

1. The operator shall provide verification, to the satisfaction of the Board, that it has a supply of potable water sufficient in quantity and pressure to meet the needs of residents. Said water supply source may be a public water system, or any other source that the Board determines is adequate, does not endanger the health of any potential user and meets the requirements of 310 CMR 22.00: Drinking Water Regulations.

2. The water distribution system shall be adequate to provide a minimum of 30 pounds per square inch of pressure at each manufactured home connection.

C. REFUSE DISPOSAL REQUIREMENTS:

1. All Manufactured Housing Communities/Mobile Home Park Communities shall offer recycling services in conformance with the Commonwealth of Massachusetts Solid Waste Plan and all local and Department of Environmental Protection regulations.

2. The storage, collection and disposal of refuse and recyclable materials in each Manufactured Housing Community/Mobile Home Park Community shall be managed so as to create no health hazards, rodent harborage, insect breeding areas, accident/ fire hazards or air pollution.

3. All refuse and recyclable materials shall be stored in covered, watertight and rodent-proof containers, one of which shall be located not more than 500 feet from each manufactured home site. Containers shall be provided in sufficient number and capacity to properly store all refuse and recyclable materials. Racks or holders shall be provided for all containers, which shall be designed to prevent containers from being over-turned, to minimize spillage and container deterioration. To facilitate maintaining a clean area around the refuse and recycling containers, compliance with Part V Section 4.00 of the Board of Health regulations shall be required.

4. It is the responsibility of the Community management to provide for collection and transportation of all refuse and recyclables in covered containers and covered vehicles by a carrier licensed by the Board to conduct business in the Town of Mashpee. All refuse and recyclable materials shall be collected at least once weekly so that no nuisance conditions will be created.

D. FIRE PROTECTION, GAS APPLIANCES AND GAS PIPING, WIRING, ELECTRICAL FACILITIES AND PLUMBING/HEATING REQUIREMENTS:

1. The regulations and standards of the Massachusetts Fuel Gas Code (248 CMR 6.00), Massachusetts Plumbing and Gas Fitters Code (Sections 1.00 – 10.00), Massachusetts Electrical Code (527 CMR) and Fire Prevention MGL Chapter 148 shall apply for every Manufactured Housing Community/Mobile Home Park Community.

2. Oil tanks located on Community property shall be the responsibility of the park owner/operator/licensee. Said responsibility includes the purchasing, maintenance and replacement of any such tanks. The owner/operator of the Community shall not require or request a mobile home unit owner or potential buyer to purchasing an oil tank to circumvent this regulation. Oil shall be provided to Community residents according to 105 CMR 410.00, Chapter II of the Sanitary Code.

II. MANUFACTURED HOUSING COMMUNITIES CONSTRUCTED SUBSEQUENT TO THE PROMULGATION OF THIS REGULATION;

1. Every Manufactured Housing Community shall be located in an area suitable for the maintenance of proper sanitary facilities. This area shall be graded to insure proper drainage of surface water, and to prevent formation of surface pools of stagnant water or swampy areas. No Manufactured Housing Community shall be located less than 200 feet from a public way or highway.

2. A minimum of 6,600 square feet of land shall be provided for each manufactured home site. The lot shall not be less than 60 feet in width and 110 feet in depth. Each lot corner shall be marked with permanent markers. For "double wide homes", sectional homes, or homes greater than 19' in width: the minimum lot size shall be 7700 square feet (not less than 70’ in width and 110' in length).

3. A manufactured home and all appendages shall be at least 20 feet from the front line of the area provided for the manufactured home, which front line shall border on a Manufactured Housing Community street. Each manufactured home and its appendages shall be at least 12 feet from its lot lines to the sides and 10 feet from its lot lines to the rear of the lot designated for each manufactured home or the Manufactured Housing Community's property line.

4. Hydrants conforming to the specifications and requirements of the Mashpee Planning Board subdivision rules and regulations shall be located within a 250 foot radius of every manufactured home occupying a lot in every Manufactured Housing Community established on or after the effective date of these regulations or the expansion of an existing community on or after that date, except that where the water supply system available to the community does not provide at least a 6-inch water main, a 2-inch frost-protected water riser shall be installed within 150 feet of each manufactured home or building.

5. All plumbing installed in a Manufactured Housing Community/Mobile Home Park Community on or after the effective date of this regulation shall conform to this Regulation and the Massachusetts Plumbing Code (248 CMR) requirements.

6. Open space facilities, including recreation and parking facilities, are required in every Manufactured Housing Community to the extent that they shall be considered necessary by the Site Plan Review Committee to meet the needs of the number of occupants the Community is designed to serve.

A. Manufactured Housing Community Streets:

1. Every Manufactured Housing Community street shall be 50 feet wide, with the traveled way being paved to a minimum of 24 feet in width. If off-street parking facilities are provided, the overall street or right-of-way width may be reduced to 40 feet. There shall be no dead-end streets without adequate provisions for a turn-around for motor vehicles. Each turn-around shall be adequately paved and shall have a paved diameter that meets the Fire Department's requirements for access for their emergency vehicles.

2. All street construction and layouts shall be subject to the approval of the Mashpee Board of Health which approval shall be based upon the requirements of the Town of Mashpee Subdivision Rules and Regulations, By-laws and Planning Board approval.

B. Manufactured Housing Community Sanitary Sewer, Storm Drains and Water Systems:

1. The design and construction of Manufactured Housing Community sanitary sewers, storm drains and water systems shall be subject to the approval of the Mashpee Board of Health. Approval shall be based upon the requirements of the Town of Mashpee By-laws, Subdivision Rules and Regulations, Planning Board, Mashpee Water District, Title 5 of the State Environmental Code (310 CMR 15.000), and DEP Storm Water Management Policy.

C. Manufactured Housing Community Street Lighting:

1. Street lighting shall be provided for each Manufactured Housing Community street and shall be not less than 0.75 foot-candles of light installed at intervals of 150 feet, measured at the base of the luminary.

D. Manufactured Home Space:

1. Every manufactured home sited in a Manufactured Housing Community/Mobile Home Park Community on or after the effective date of these regulations shall contain at least 150 square feet of floor space for the first occupant and at least 100 square feet of floor space for each additional occupant, the floor space to be calculated on the basis of total habitable room area.

2. In each such home, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space; every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant.

III Waivers

The Board of Health may, in its discretion, waive compliance with a particular requirement of this regulation when:

1. The enforcement of the regulation would result in manifest injustice; and

2. The applicant has proved that the same degree of protection of the public health, safety and welfare can be achieved without strict application of the particular provision. Any alternative means of protection shall be detailed and documented by the applicant to the satisfaction of the Board of Health.

IV Inspection, Notices, Hearings:

1. The Board shall from time to time inspect each Manufactured Housing Community/Mobile Home Park Community in the Town of Mashpee, in order to assure that the health and safety of the Community occupants and of the general public is secured.

2. The Board, or its Agents, may enter upon any private or public property at reasonable times for the purpose of inspecting and investigating conditions relating to the enforcement of these Regulations. As a condition of any License issued hereunder, the Owner or Licensee of a Manufactured Housing Community/Mobile Home Park Community and the occupant of each home contained therein or the person in charge thereof, shall allow the Board, or its Agents, free access to such premises at reasonable times for the purpose of inspection.

3. If any owner, occupant, or other person refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and free access to any part of the Manufactured Housing Community/Mobile Home Park Community, where an inspection under this Regulation is requested, the Board may seek, in a court of competent jurisdiction, a search warrant to apprise the owner, occupant, or other person concerning the nature of the inspection and justification for it, and may seek the assistance of authorized officers in serving said warrant.

4. Whenever the Mashpee Board of Health determines that any condition or practice in a Manufactured Housing Community/Mobile Home Park Community violates any provision of this Regulation or applicable state law, it shall issue a written notice of violation to the person licensed to operate the Community, ordering the condition or practice to be corrected within the time frame specified in said notice.

5. The notice shall be served, in person or by registered or certified mail return receipt requested, on the Licensee or on the person authorized to accept service for the Manufactured Housing Community/Mobile Home Park Community in the original or any renewal application. .If service is made on the person authorized, and that person is not the licensee, a copy shall be sent to the licensee by first class mail, addressed to the

Licensee's address as given in the most recent application for the Manufactured Housing Community license/Mobile Home Park Community license.

6. The Licensee or other person upon whom notice has been served may request a hearing by filing a petition in the Board of Health's office within 7 days after service of the notice. The petition shall state the grounds upon which the hearing is requested. Upon receipt of a petition, the Board shall set a time and place for hearing not later than 30 days after the date the petition was filed, shall give the petitioner notice thereof, and shall publish at least one notice thereof in a newspaper of general circulation in the Town of Mashpee.

7. At the hearing, the petitioner shall be given an opportunity to be heard and to show why the original notice should be modified or withdrawn. After the hearing, the Mashpee Board of Health shall make findings as to compliance with the provisions of these Regulations and shall issue a written notice by personal service or first class mail, sustaining, modifying or withdrawing the original notice.

8. If no hearing is requested and the conditions stated in the original notice are not corrected, or upon failure to comply with any notice sustaining or modifying an original notice, the Mashpee Board of Health may take action to suspend or revoke the license, or to seek an injunction or any other legal remedy, or to impose any penalty authorized by law.

9. As an alternative, the Mashpee Board of Health may proceed to a suspension or revocation hearing by giving reasonable notice thereof by publication once in a newspaper of general circulation in the Town of Mashpee pursuant to Massachusetts General Laws, Chapter 140, section 32 B.

V Emergency Action

1. Whenever the Mashpee Board of Health, upon notice as provided in Section IV (4), states that an emergency exists and that immediate action is required to protect the public health, the person to whom the notice is directed shall, within 24 hours, undertake action necessary to correct the conditions creating the emergency. That person may petition for a hearing as provided in Section IV (6), but such a petition is not cause for delay in correcting the emergency.

3. If a person fails to correct an emergency situation in the time specified by the Board, the Board of Health may immediately suspend the license until such time as the emergency situation has been corrected, or the Board may undertake measures to correct the emergency situation. All expenses incurred thereby shall constitute a debt due to the Town of Mashpee upon completion of the correction, and the rendering of the account therefore to the owner or his or her authorized agent, and shall be recoverable from the owner or authorized agent.

VI Maintenance of Facilities; Curtailment of Services:

1. All facilities and utilities for Manufactured Housing Communities/Mobile Home Park Communities shall be maintained in good repair, free from defects, and in compliance with all applicable health and safety laws, and applicable Board of Health Regulations and orders. All violations shall be corrected in accordance with Section IV (4) of this regulation. All requisite licenses and permits shall be obtained by the Owner and/or occupant when they are required to perform the work necessary to correct any violations (such as, but not limited to, building, plumbing and wiring permits). The appropriate code enforcement officials must certify that the work has been completed in accordance with applicable laws and regulations. **Properly licensed personnel (such as, but not limited to, plumbers, electricians, and construction supervisors) must be used to perform maintenance where required by law.**

2. No owner or operator of a Manufactured Housing Community/Mobile Home Park Community shall cause any service, facility, equipment or utility which is required to be made available under these Regulations or otherwise by law to be removed from or shut off from a manufactured home, Manufactured Housing Community, Mobile Home or Mobile Home Park Community except for such temporary period as may be necessary during repairs or alterations, or during temporary emergencies, when curtailment is approved by the Mashpee Board of Health.

3. Whenever it is necessary to shut off or curtail the use of a utility to make general repairs or alterations, each manufactured home owner/Mobile Home Park owner, and the Board, shall be notified, in writing, by the Manufactured Housing Communities/Mobile Home Park Communities management of the curtailment at least 12 hours in advance of its anticipated duration, or by such alternative means of notification as may be approved by the Board of Health. This requirement shall not apply to any emergency situation involving a utility, such as a broken water line, where an immediate shut-off is necessary to prevent serious property damage. The Manufactured Housing Communities/Mobile Home Park Communities management shall immediately notify all affected manufactured home owners/Mobile Home Park owners of the emergency shut-off or curtailment and its approximate duration, provided that the emergency repairs will require more than one hour.

4. Whenever it is necessary to shut off the water supply in a Manufactured Housing Community/Mobile Home Park Community for normal repairs or alteration(s), the management of the Manufactured Housing Community/Mobile Home Park Community shall notify the Mashpee Fire Department and Mashpee Board of Health at least 12 hours in advance with an estimate of its duration. For an emergency shut-off and repairs, the Community management shall notify the Mashpee Fire Department and Mashpee Board of Health immediately following its occurrence.

VII Penalty:

Whoever, himself or by his servant or agent, or as the servant or agent of any other person or firm or corporation, violates any of the provisions of this regulation shall be subject to a fine(s) of up to $1,000.00 as imposed by the Mashpee Board of Health, and/or court action. Each day of any unresolved continuing violation, after written notice thereof, shall be considered a separate violation for the purposes of this section.

VIII Severability:

If a court determines that any provision of these Regulations is invalid or unenforceable, the other provisions hereof shall not be affected thereby, and shall continue in full force and effect.

IX Effective Date:

This regulation becomes effective upon Board of Health approval and subsequent publication in a newspaper of general circulation in the Town of Mashpee.

Per Order of,
The Mashpee Board of Health

Burton Kaplan, Chairman
Kalliope Egloff, Co-Chairman
Lucy B. Burton, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

ELECTRONIC FILING REGULATION

PURPOSE:

The Mashpee Board of Health hereby adopts this regulation to increase efficiency in administration of public health, conform to the Paper Reduction Act of 1995 and the Public Records Law Massachusetts General Law Chapter 4 Section 7 (26).

AUTHORITY:

This regulation is adopted in accordance with Massachusetts General Law Chapter 111 Section 31.

REGULATION:

All submittals made to the Board of Health shall be in accordance with the requirements below. The documents subject to the regulation shall include but are not limited to the following: Septic Inspection reports, monthly wastewater treatment plant discharge reports, submittals for board review and any documents at the discretion of the Board of Health.

Submittal Requirements:

1. Text documents shall be in Adobe Acrobat (.pdf) format.
2. Scans shall be clearly readable, free of streaking, smudging or excessive speckling.

ENFORCEMENT:

The Board of Health shall not issue any Certificates of Compliance or Occupancy until all submittals are provided according to this regulation.

PENALTIES:

Penalty for failure to comply with any provision of this regulation shall be governed by Massachusetts General Laws, Chapter 111, Section 31. Each day of violation shall constitute a separate offense. Further, the Town of Mashpee, Board of Health, after notice to and after a public hearing thereon, may suspend, revoke or modify any license issued by the Board for due cause.

SEVERABILITY

Each part of this regulation shall be construed as separate, if any section, paragraph, sentence, clause, phrase or word of this regulation shall be declared invalid for any reason; the remainder of this regulation shall remain in full force and effect.

EFFECTIVE DATE:

This regulation is adopted by the Board of Health on May 11, 2011 and shall become effective upon publication in the newspaper of general circulation.

Per Order of,

The Mashpee Board of Health

Kalliope Egloff, Chairman

Lucy B. Burton, Co-Chairman

Burton Kaplan, Clerk

Part XXIII Section 1.00 – Synthetic Drug Regulation

TOWN OF MASHPEE

BOARD OF HEALTH

SYNTHETIC DRUGS

A. Statement of Purpose:

WHEREAS, it has been reported by various agencies that synthetic cannabinoids, synthetic stimulants and synthetic psychedelic/hallucinogens have been linked to serious physical effects resulting in hospitalization and death when ingested, inhaled or otherwise introduced into the human body. These synthetic cannabinoids, synthetic stimulants and synthetic psychedelic/hallucinogens pose health, safety, and welfare issues for the residents of Mashpee.

B. Authority:

This regulation is promulgated pursuant to the authority granted to the Mashpee Board of Health by Massachusetts General Laws Chapter 111, Section 31 that "Boards of Health may make reasonable health regulations."

C. Definitions:

As used in this regulation, the following terms shall have the meaning ascribed to them below:

Person: An individual, corporation, partnership, wholesaler, retailer or any licensed or unlicensed business.

Synthetic Marijuana: (i) any substance as defined by 2l U.S.C. §812(d), excluding "marijuana" as such term is defined in Massachusetts General Laws chapter 94C §1, 21 U.S.C. §812(d) notwithstanding; or;.(ii) any one or any combination of the following cannabinoids, or, a substance containing any one or combination of the following cannabinoids: JWH-018, JWH-073,CP-47,497, JWH-200, or, cannabicyclohexanol; or, (iii) vegetable material that has been chemically treated and is possessed, sold, or, purchased, with the intent that it will, despite any labeling to the contrary, be consumed by humans, for the purpose of voluntary intoxication, said vegetable material typically having a retail price of over five dollars per ounce and contained within packaging indicating that the content is not for human consumption, which, if consumed, may induce an effect or effects of intoxication similar to a controlled substance or imitation controlled substance, said effect or effects to include elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, dulling of the senses or nervous system, or, distortion of audio, visual or mental processes.

Synthetic Marijuana Analogue: A substance: (i) the chemical structure of which is substantially similar to the chemical structure of synthetic marijuana; (ii) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of synthetic marijuana; or (iii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of synthetic marijuana.

Consumed: Introduced into the human body by any manner including but not limited to inhalation and ingestion.

D. Prohibited Activity:

(1) No person shall sell, offer to sell, distribute, gift, or, publicly display for sale, any synthetic marijuana or synthetic marijuana analogue.

(2) This Regulation shall apply regardless of whether the synthetic marijuana or synthetic marijuana analogue is described as tobacco, herbs, incense, spice, bath salts, plant food or any blend thereof, and, regardless of whether the substance is marketed for the purpose of being smoked or ingested, and, regardless of whether the substance is marked "not for human consumption".

E. Penalty for Violation:

(1) In the case of a first violation, a fine of one hundred dollars ($100).

(2) In the case of a second violation, a fine of two hundred dollars ($200).

(3) In the case of a third or more violations, a fine of three hundred dollars ($300).

F. Enforcement:

(1) Enforcement of this regulation shall be by the Mashpee Board of Health or its designee, including the Mashpee Police Department.

(2) This regulation may be enforced by filing a criminal complaint in the District Court.

(3) Any resident who desires to register a complaint pursuant to the regulation may do so by contacting the Mashpee Board of Health or its designee and the Board shall investigate.

(4) In the case of further violations or repeated, egregious violations of this regulation within a 24 month period, the Board of Health may revoke a Tobacco Product Sales Permit or other permit held by the violator.

G. Severability:

If any provision of this regulation is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

H. Effective Date:

This regulation shall take effect immediately upon publication of a summary in a newspaper of general circulation in the Town of Mashpee, which date shall be posted on the front page of this regulation.

Adopted: October 15, 2015
Advertised: February 12, 2016

Per Order of the Mashpee Board of Health

Burton Kaplan, Chairman
Kalliope Egloff, Co-Chair
Lucy B. Burton, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH
REGULATIONS RESTRICTING THE SALE OF MARIJUANA

A. Statement of Purpose

Whereas, the citizens of Massachusetts voted in November of 2012 to approve the legal cultivation, processing, distribution, sale, and use of marijuana through Chapter 369 of the Acts of 2012, An Act for the Humanitarian Medical Use of Marijuana; and the regulation of the use and distribution of marijuana not medically prescribed on November 8, 2016, pursuant to Chapter 344 of the Acts of 2016, as amended by Chapter 55 of the Acts of 2017, an Act to Ensure Safe Access to Marijuana; and

Whereas, the Acts and state regulations at 105 CMR 725.600 and 935 CMR 500.000 allow for lawful local oversight and regulation, including local inspection and fee requirements; and

Whereas, the prevention of the illegal sale and use of marijuana, particularly involving youth, is a public health priority and within the legal authority of boards of health to protect public health, safety, and welfare; and

Whereas, the Massachusetts Supreme Judicial Court had held that ". . . [t]he right to engage in business must yield to the paramount right of government to protect public health by any rational means."[27]

Whereas, the Town of Mashpee aims to abide by the purpose of this law and ensure that Registered Marijuana Dispensaries and Marijuana Establishments abide by further regulations to ensure the public health and public safety of our Town.

Now therefore, it is the intention of the Town of Mashpee Board of Health to regulate the sale of marijuana.

B. Authority

This Regulation is promulgated pursuant to the authority granted to the Mashpee Board of Health by M.G.L. c. 111, §31, that "Boards of Health may make reasonable health regulations".

[27] Druzik et al v. Board of Health of Haverhill, 324 Mass. 129 (1949).

C. Definitions

Unless otherwise indicated, terms used throughout this Regulation shall be defined as they are in 935 CMR 500.000, 105 CMR 725.000, and in General Law, Chapter 94, §1.

Adult-Only Retail Tobacco Store shall mean an establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale but not for resale, tobacco products and tobacco paraphernalia, in which the sale of other products or offer of services is merely incidental, and in which the entry of persons under the minimum legal sales age is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to the issued by the Mashpee Board of Health.

Board of Health shall mean the Mashpee Board of Health and its designated Agents.

Board of Health Agent shall mean the Director of Public Health and any Town employee designated by the Board of Health, which may include Mashpee Board of Health staff, law enforcement officers, fire officials and code enforcement officials.

Business Agent shall mean an individual who has been designated by the owner or operator of any Marijuana Establishment to be the manager or otherwise in charge of said establishment.

Certificate of Registration shall mean the certificate issued by the Department that confirms that a Registered Marijuana Dispensary (RMD), caregiving institution, or independent testing laboratory has met all applicable requirements pursuant to St. 2012, c. 369 and 105 CMR 725.000 and is registered by the Department. An RMD may be eligible for a provisional or final certificate of registration. This may also include a Permit which is the certificate issued by the Commission that confirms that a Marijuana Establishment has met all applicable requirements pursuant to St. 2012, c. 334, as amended by St. 2017, c.55 and 935 CMR 500.000. A Marijuana Establishment may be eligible for a provisional or final Permit.

Department shall mean the Department of Public Health.

Dispensary Agent shall mean a board member, director, employee, executive, manager, or volunteer of an RMD, who is 21 years of age or older. Employee includes a consultant or contractor who provides on-site services to an RMD related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of marijuana.

Edible Marijuana Products or Edible Marijuana-Infused Products shall mean a Marijuana-Infused Product (MIP) that is to be consumed by humans by eating or drinking.

Fee shall mean the Permit cost established by the Mashpee Board of Health's Fee Schedule, which has been assessed in order to support execution of the responsibilities set forth in this Regulation.

Operating Permit shall mean the annual certificate(s) issued to any marijuana-related business by the Mashpee Board of Health including, but not limited to, Marijuana Establishments which sell, cultivate, deliver, or otherwise commercially distribute marijuana or marijuana products within the Town of Mashpee according to Section E of these regulations. There are two classifications of Operating Permit – those for adult-use Marijuana Establishments and those for Medical Use Treatment Centers.

Laboratory Agent shall mean an individual who has been designated by the owner or operator of a Marijuana Establishment, other than an RMD or retail facility, to be the manager or otherwise in charge of said establishment.

Limited Access Area shall mean a building, room, or other indoor or outdoor area on the registered premises of an RMD or Marijuana Establishment where marijuana, MIPs, or marijuana by-products are cultivated, stored, weighed, packaged, processed or disposed, under the control of an RMD or Marijuana Establishment, with access limited to only those designated RMD or Marijuana Establishment Agents.

Local Permitting Authority, as referenced in this Regulation, shall mean the Mashpee Board of Health.

Marijuana or Marihuana shall mean all parts of any plant of the genus Cannabis, not excepted below, and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in Section 1 of Chapter 94C; provided that "Marijuana" shall not include: 1) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; 2) hemp; or 3) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products; or 4) marijuana rendered unusable in accordance with 725.105(J)(3)(c). Marijuana also includes marijuana products except where the context clearly indicates otherwise.

Marijuana Accessories shall mean equipment, products, devices, or materials of any kind that are intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana into the human body.

Marijuana Establishment shall mean a marijuana cultivator, independent testing laboratory, research facility, marijuana product manufacturer, marijuana retailer, or any other type of marijuana-related business permitted by the Cannabis Control Commission pursuant to 935 CMR

500.050 as a marijuana cultivator, craft marijuana cooperative, marijuana product manufacturer, independent marijuana testing laboratory, storefront marijuana retailer, delivery-only marijuana retailer, marijuana primary social consumption establishment, marijuana mixed-use social consumption establishment, marijuana research facility, marijuana transporter and marijuana micro-business.

Marijuana Establishment Agent shall mean a board member, director, employee, executive, manager, or volunteer of a Marijuana Establishment, who is 21 years of age or older. Employee includes a consultant or contractor who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of marijuana.

Marijuana Products shall mean products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Medical Marijuana Treatment Center shall mean an entity registered under 105 CMR 725.100 to be known as an RMD, that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

Operating Permit Holder shall mean a person engaged in the operation of a Marijuana Establishments, as defined in this regulation, who applies for and receives an Operating Permit pursuant to this regulation, or his/her Business Agent.)

Minimum Legal Sales Age shall mean the age an individual must be before that individual can be sold a marijuana product in the municipality.

Non-Residential Roll-Your-Own (RYO) Machine shall mean a mechanical device made available for use (including to an individual who produces rolled marijuana products solely for the individual's own personal consumption or use) that can make rolled marijuana products. RYO machines located in private homes used for solely personal consumption are not Non-Residential RYO machines.

Person shall mean any individual, firm, partnership, association, corporation, company or organization of any kind, including but not limited to an owner, operator, manager, proprietor, or person in charge of any establishment, business, cultivation property or retail store.

Registered Marijuana Dispensary (RMD) see Medial Marijuana Treatment Center.

Registered Qualifying Patient shall mean a qualifying patient who has applied for and received a registration card from the Department.

Registration Card means a Medical Use of Marijuana Program identification card issued by the Department to a registered qualifying patient, personal caregiver, institutional caregiver, Dispensary Agent or Laboratory Agent. The registration card facilitates verification of an individual registrant's status. The registration card allows access into appropriate elements of a Department-supported, interoperable database in which detailed information regarding certifications and possession criteria are stored. The registration card facilitates identification for the Department and law enforcement authorities of those individuals who are exempt from Massachusetts criminal and civil penalties for the medical use of marijuana in compliance with 105 CMR 725.000 and St. 2012, c. 369.

Self-Service Display shall mean any display from which customers may select marijuana or a marijuana-infused product without assistance from an establishment.

Vending Machine shall mean any automated or mechanical self-service device which, upon insertion of money, tokens or any other form of payment, dispenses or makes marijuana products.

D. Marijuana Sales to Persons Under the Minimum Legal Sales Age Prohibited

1. No person shall sell marijuana or permit marijuana, as defined herein, to be sold to a person under the minimum legal sales age; or give marijuana products, as defined herein, to a person under the minimum legal sales age. The minimum legal sales age in **Mashpee** is 21 years of age.
2. Each person selling or distributing marijuana products, as defined herein, shall verify the age of the purchaser by means of a valid government-issued photographic identification card, containing the bearer's date of birth verifying that the purchaser is 21 years of age or older.
3. All retail sales of marijuana products shall be face-to-face between the seller and the buyer and shall occur at the permitted location, unless and until delivery of adult-use marijuana products is authorized and permitted under state regulation, and then only in strict compliance with all applicable rules and regulations, as well as the age limitation set forth herein.

E. Permit to Operate a Marijuana Establishment

1. No person shall operate a marijuana-related business or sell, cultivate, deliver, or otherwise commercially distribute marijuana or marijuana products within the Town of Mashpee without first obtaining a Permit to Operate Marijuana Establishment (hereinafter referred to as "Operating Permit" or "Permit") issued annually by the Board

of Health. Only Marijuana Establishments with a permanent, non-mobile location in Mashpee, meeting zoning restrictions, are eligible to apply for an Operating Permit to maintain a supply of marijuana or marijuana products at the specified location in Mashpee, except that transportation and delivery of marijuana shall occur between Marijuana Establishments only. Permits for delivery to locations other than a Marijuana Establishment shall be issued after further guidance from the Cannabis Control Commission. Upon request, the chain-of-custody and GPS tracking shall be provided to the Board of Health.

2. As part of the Permit application or renewal process, the applicant will be provided with this Regulation. Each applicant is required to sign a statement declaring that the applicant has read said Regulation and shall certify that they are in compliance with all local and state laws, regulations, bylaws or ordinances, and be prepared to show proof if requested. That applicant shall be responsible for instructing any and all Marijuana Establishment Agents who will be responsible for sales, as to ensure full compliance. A copy of this Regulation must be retained on site at the permitted facility.

3. All Marijuana Establishments must have and follow a set of detailed operating procedures which are submitted to the Board of Health prior to issuance of a new Permit. For annual renewals thereafter, it is the responsibility of the owner/ operator to provide to the Town any changes to the business or written operating procedures, inclusive of 105 CMR 725.105 and/or 935 CMR 500.105.

4. All applicants for Operating Permits must acknowledge that the sale of all other products by a marijuana-related business must be merely incidental. Therefore, it is specifically prohibited for a Marijuana Establishment to:

    a. Be in possession of a Liquor License and/ or Common Victualler License, or otherwise sell or serve alcohol at the Permitted dispensary or establishment; and

    b. Prepare, sell, vend, or provide foods to the public, for on-premises consumption, which are not considered MIPs; and (which includes MIPs)

    c. Sell tobacco products and/or Nicotine Delivery Products or be in possession of a Tobacco Sales Permit; and

    d. No Marijuana Establishment is permitted to be a Massachusetts lottery dealer.

5. Permits will be classified as adult-use or medical-use and tailored to include the specific types of business conducted (cultivator, retail, manufacturer, testing laboratory, other). A separate Permit, conspicuously displayed, is required for each classification and location of a Marijuana Establishment and/or medical marijuana treatment center where the owner is approved by the state to cultivate, dispense, or prepare marijuana or MIPs. An Operating Permit Holder may possess two Permits for the same address if they participate in both adult-use and the medical marijuana program.

6. Each applicant for a local Permit to sell, cultivate, prepare, deliver or otherwise distribute marijuana or MIPs in the Town of Mashpee is required to provide proof of a valid Permit issued by the Cannabis Control Commission before any Operating Permit(s) can be issued.

7. Applicants agree to comply with the Security Requirements for Marijuana Establishments (935 CMR 500.110) and/or Security Requirements for RMDs (105 CMR 725.110) and to promptly provide information or video recordings to any law enforcement official or Board of Health Agent who requests such recording.

8. All Permit Holders must utilize digital ID scanners to check identification.

9. A Permit is non-transferable. The Board of Health must be notified of any changes, in accordance with 935 CMR 500.104 and/or 105 CMR 725.100. Any such change or conversion shall not be permitted until approved in writing by the Board of Health or their authorized Agent, and the appropriate fees paid. No new Permit(s) will be issued unless and until all outstanding violations or penalties incurred by the previous Permit Holder are satisfied in full.

10. Issuance and maintaining a Permit shall be conditioned on the Permit Holder's:

    a. Consent to unannounced, periodic inspections of the establishment by the Board of Health or their authorized Agent, including business conducted off site; and

    b. Ongoing compliance with current local and state laws, rules, regulations, and policies regarding marijuana sales; and

    c. Agreement that any Marijuana Establishment may be subject to business hours as determined by the Board of Health.

11. No Permit shall be issued, renewed, converted, or modified until it is voted on and approved by the Mashpee Board of Health. Permits shall not be granted if the facility has unresolved compliance issues, unpaid fines, unpaid taxes, and/or has not satisfied any outstanding Permit suspensions.

12. The number of marijuana retail establishments shall be determined per the Mashpee By-Law. After receiving a completed application for a Permit, including the required fee and any requests for relief, the Board of Health shall act on said application.

13. The application fee for a Permit is nonrefundable. This fee may not be prorated and is subject to change annually.

Adult Use Marijuana Retailer	**$300.00**
Adult Use Marijuana Retailer of edible MIPs	(+$100.00 per retail food fee)

Medical Marijuana Treatment Center/ Registered Marijuana Dispensary engaging in Retail Sale	$300.00
Marijuana Cultivator including Craft Marijuana Cooperatives	Tier I $300.00 (includes Microbusiness) Tier 2 $400.00 (5,001-10,000 SF) Tier 3-11 $600.00 (>10,000 SF)
Marijuana Product Manufacturer	$300.00
Research Facility	$300.00
Testing Laboratories	$300.00

14. All Permits, unless otherwise established by the Board of Health, expire annually on December 31st.

F. Marijuana Sales by Marijuana Establishments

1. No person shall sell marijuana from any location in the Town of Mashpee other than from a Marijuana Establishment that possesses a valid Operating Permit issued by the Board of Health for that type of business.
2. Limited Access Areas shall be restricted to specifically authorized personnel, and meet the requirements found at 105 CMR 725.110(C) and/or 935 CMR 500.110(D). Records on persons who access these areas must be maintained and provided to any law enforcement official or Board of Health Agent upon request.
3. Excluding transactions at RMDs, which are in accordance with the provisions of 105 CMR 725.100(A)(6), relative to patients with documented, verified financial hardship, no person shall:
    a. Distribute, or cause to be distributed, any free samples of marijuana or marijuana products;
    b. Accept or redeem, offer to accept or redeem, or cause or hire any person to accept or redeem, or offer to accept or redeem, any coupon that provides any marijuana product without charge;
    c. Gift marijuana or marijuana products to a consumer contingent upon the sale of any other product or item; and
    d. Allow any retail sales to take place other than face-to-face with the Marijuana Establishment Agent present.
4. No person under the minimum sales age of 21 shall be permitted to enter an establishment with an Operating Permit except those individuals in possession of a

registration card demonstrating that the individual is a registered qualifying patient with the Medical Use of Marijuana Program if the establishment is co-located with a medical marijuana treatment center.

G. Marijuana Establishment Operating Requirements

A list of the current Marijuana Establishment Agents, management, and employees shall be provided at the time of renewal to the Board of Health.

1. A copy of the Cannabis Control Commission inspections shall be provided to a Board of Health Agent, upon request.
2. A Permit will not be renewed if the Permit Holder has failed to pay all fines issued, and the time period to appeal the fines has expired, and/or the Permit Holder has not satisfied any outstanding Permit suspensions or violations.
3. Dispensary Agents and Marijuana Establishment Agents must present their state Registration Card to any law enforcement official or Board of Health Agent who questions the Dispensary or Establishment Agent concerning their marijuana-related activities.

H. Incorporation of 105 CMR 500.000 and 105 CMR 590.000

1. The manufacture of all edible marijuana products and food products containing marijuana for adult use shall be conducted in a state-Permitted marijuana manufacturing facility and in accordance with all applicable state regulations.
2. Marijuana Establishments and Agents within the Town of Mashpee shall comply with 105 CMR 500.000, "Good Manufacturing Practices for Food", 105 CMR 590.000, "Minimum Sanitation Standards for Food Establishments", and any other local food service permit requirement which may be applicable to edible marijuana products**.**
3. The sale or distribution of edible marijuana products in any form other than an original factory-wrapped package is prohibited, including the repackaging or dispensing of any edible marijuana product or MIP for retail sale.
4. Marijuana-Infused Products which are products infused with marijuana that are intended for use or consumption including, but not limited to, edible products, ointments, aerosols, oils and tinctures, when created or sold by an RMD, shall not be considered a food or a drug as defined in M.G.L. c. 94, §1 and are therefore exempt from §J (1-3) of this Regulation.

I. Compliance with Local and State Laws

1. All cultivation, processing, manufacturing, delivery, sale, and use of marijuana shall be conducted in compliance with all local and state laws, ordinances, regulation or policies applicable to similar activities.

2. The smoking of any marijuana is prohibited in locations governed by the Massachusetts Smoke-Free Workplace Law (M.G.L. c. 270 §22) and by any local laws or regulations that further ban smoking and electronic cigarette use.

3. In no instance shall an Operating Permit be issued to any establishment within five hundred (500) feet of the grounds of or within a public or private school where children attend classes in preschool programs, on school grounds, kindergarten programs, or grades one (1) through twelve (12), inclusive, on a school bus, or in any youth center, on playgrounds and at public and semi-public bathing beaches. The 500-foot distance shall be measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed Marijuana Establishment.

4. Marijuana Establishments shall be located in commercial or industrial-zoned properties where the potential for exposure to residential properties shall be minimized through conditions set forth by the Board of Health.

5. The Board of Health may require mitigation plans for reducing odor and ensuring compliance with nuisance laws for certain types of marijuana-related businesses. For example, odors from cultivation and manufacture of MIPs using solvents, and noise from chillers, shall be evaluated and required to provide a mitigation/control plan with conditions at the discretion of the Board.

6. Research, testing, including laboratory, and manufacturing facilities of Recreational Marijuana shall comply with the following:

    a. No recreational marijuana business may use metals, butane, propane, or other solvent or flammable product, or produce flammable vapors, to process or test marijuana unless the process used and the premises are verified as safe and in compliance with all applicable codes by a qualified industrial hygienist; and

    b. The Board of Health shall require the business to obtain verification from a qualified industrial hygienist that the manner in which the business producing or testing marijuana complies with all applicable laws, and does not produce noxious or dangerous gases or odors, or otherwise create a danger to any person or entity in or near the business.

7. Infusing or otherwise adding cannabinoid extract in alcoholic beverages is considered adulteration of alcohol under M.G.L. c. 270, §1, and it is prohibited to manufacture and/or sell alcoholic beverages containing any cannabinoid extracts, including

tetrahydrocannabinol ("THC") and cannabidiol ("CBD"), regardless of whether it is derived from the cannabis plant or industrial hemp.

8. Open air cultivation for commercial or industrial purposes shall be located to provide a 1000 foot buffer of undeveloped land from the growing area.

J. Variances

1. A variance from this Regulation may be requested in writing to the Board of Health, and may be granted by the Board after a hearing, at which time the applicant establishes the following:
   a. Strict enforcement of this Regulation would do manifest injustice; and
   b. The granting of a variance shall not in any way impair the public health and safety or the environment.
2. The Board of Health may impose any conditions, safeguards, and/or other limitations on a Permit or variance when it deems it appropriate to protect the public health and safety or the environment.
3. The Board of Health shall have 60 days to act on written requests for relief from this Regulation.

K. Enforcement and Penalties

1. Authority to inspect Marijuana Establishments for compliance and to enforce this Regulation shall be held by the Board of Health, its designees, and the Mashpee Police Department.
2. Any person may register a complaint under this Regulation to initiate an investigation and enforcement with the Board of Health and/or its designees. The receipt of five (5) confirmed complaints from different facilities, within a 30-day period, for a single odor source shall require the Board to issue an order to mitigate the odor source.
3. Unscheduled compliance inspections shall be conducted at a minimum of two (2) inspections annually.
4. It shall be the responsibility of the Permit Holder, his or her Business Agent or Permit Holder to ensure compliance with all sections of this Regulation pertaining to his or her distribution of marijuana and/or marijuana products. The violator shall receive:
   a. In the case of a first violation, a fine of three hundred dollars ($300.00).
   b. In the case of a second violation within 18 months of the date of the current violation, a fine of three hundred dollars ($300.00) and the Permit may be suspended for fourteen (14) consecutive business days.

c. In the case of three (3) or more violations within an 18 month period, a fine of three hundred dollars ($300.00) and the Permit may be suspended for up to thirty (30) consecutive business days.

d. In the case of four (4) violations, or repeated, egregious violations, the Board of Health may hold a hearing to permanently revoke the Permit.

5. Refusal to cooperate with inspections pursuant to this Regulation shall result in the suspension of the Permit for thirty (30) consecutive business days.

6. In addition to the monetary fines set above, any Permit Holder who engages in the sale or distribution of marijuana or marijuana products while his/her Permit is suspended shall be subject to the suspension of all town-issued permits and Permits for thirty (30) consecutive business days.

7. The Board of Health shall provide notice of the intent to suspend a Permit, which notice shall contain the reasons therefor and establish a time and date for a hearing, which date shall be no earlier than seven (7) days after the date of said notice. The Permit Holder or its Business Agent shall have an opportunity to be heard at such hearing, and shall be notified of the Board's decision and the reasons therefore in writing. After a hearing, the Board shall suspend the Permit if it finds that a violation of this Regulation occurred. For purposes of such suspensions, the Board shall make the determination, notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All marijuana and marijuana products shall be removed from the retail establishment upon suspension of the Permit. Failure to remove all marijuana and marijuana products shall constitute a separate violation of this Regulation.

8. Whoever violates any provision of this Regulation may be penalized by the non-criminal method of disposition as provided in M.G.L., c. 40, §21D or by filing a criminal complaint at the appropriate venue. Each day any violation exists shall be deemed to be a separate offense.

L. Severability

If any provision of these Regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

M. Effective Date

This Regulation was originally adopted on April 4, 2019 (not published) and amended on May 16, 2019, and shall take effect upon publication in a newspaper of local circulation.

Per Order Of:
MASHPEE BOARD OF HEALTH

Brian Baumgaertel, Chair
Laurel Almquist, Co-Chair
Mallory Langler, Clerk

PART XXIV – Poultry and Fowl
SECTION 1.00 – Poultry Regulation

TOWN OF MASHPEE
BOARD OF HEALTH
POULTRY REGULATION

Viruses, predators, birds of prey, rodents and insects are all a serious threat to poultry. Domestic poultry are especially vulnerable to the highly pathogenic avian influenza. The keeping of poultry is allowed when and as permitted by the Board of Health at locations which meet current zoning requirements. The Board of Health hereby adopts the following regulation:

I. **AUTHORITY:** Massachusetts General Laws, Chapter 111, Section 31 and Chapter 125, Section 15.

II. **DEFINITIONS:**

a. Poultry – Domesticated animals of the poultry family including but not limited to chickens, hens, turkeys, roosters, ducks, geese, pheasants, guinea fowl, peafowl, partridges, quail, pigeons, doves, etc. For the purpose of this regulation, ratites (ostriches, emus and large flightless birds) shall be included as members of the poultry family.
b. Noise – A sound made by poultry that is plainly audible at a distance of one hundred fifty (150') feet or more from which it is produced at a time after 10:00 pm and before 8:00 am.

III. **POULTRY REGISTRATION:** The registration period shall be January 1st to December 31st inclusive. The annual poultry registration shall be submitted on an on-line application form at the Board of Health website. The Poultry Registration is not transferable.

IV. **RESTRICTIONS:**

a. No rooster shall be kept or maintained on the registered premises unless the property is 5 acres or more.
b. The number of poultry shall comply with the Mashpee Zoning By-Laws.

V. **LOCATION**: Coops, hutches, runs, buildings or other type structures, used to house or maintain poultry shall be located:

a. Not less than 25 feet from any dwelling used for human habitation.
b. Not less than 150 feet from any potable domestic well.

c. 10 feet from any adjoining property lines or the lines of any public or private road on a parcel of 5 acres or less.
d. 150 feet from any adjoining property lines or the lines of any public or private roadway on a parcel of 5 acres or more.

VI. **BUILDINGS:** All coops, hutches, buildings, or other such structures used to house or maintain poultry shall be properly constructed, designed, arranged, located and maintained with proper ventilation to maintain a dry environment and adequate space for ease of cleaning and proper living conditions for the poultry. All outside enclosures shall be covered (solid roof, netting, chain-link-fence, etc).

VII. **MAINTENANCE:** The interior of coops, hutches, buildings or other such structures shall be cleaned as necessary so a nuisance does not occur. Nests or roosts shall be movable and shall be cleaned frequently.

VIII. **STORAGE OF FEED/GRAIN:** All poultry feed and/or grain shall be maintained in watertight metal, plastic or concrete containers and maintained in a clean and sanitary manner. Feeding troughs shall be cleaned on a regular basis and also be maintained in a clean and sanitary condition.

IX. **MANURE STORAGE AND DISPOSAL:** Waste matter shall be removed on a regular basis to maintain a sanitary facility. A ventilated, watertight storage facility constructed of concrete or other material approved by the Board of Health, shall be provided for the storage of all poultry waste matter.

X. **COMPOSTING:** Board of Health approval shall be obtained prior to allowing composting on-site.

XI. **WATER SUPPLY:** A supply of potable drinking water shall be made available at or near the facility for the purposes of feeding and cleaning.

XII. **RESTRICTED TO PREMISES:** Poultry shall not be allowed to stray or forage outside the area of the facilities so provided.

XIII **INSPECTION OF PREMISES:** The Animal Inspector or duly authorized agent, acting in an official capacity for the Board, shall inspect the facilities on an annual basis or as necessary to ensure such facility's compliance with the provisions of this regulation.

XIV. **NUISANCE:** The keeping of poultry shall not cause a nuisance in accordance with MGL Chapter 111, Section 122. Sounds meeting the noise definition in Section II of this regulation shall be considered a nuisance. Repeated, documented violations of noise between 10:00 pm and 8:00 am shall be considered a nuisance. Abatement orders including, but not limited to, removal of the rooster form the property may be issued.

XV. **ENFORCEMENT:** Enforcement designees for this regulation are the Animal Inspector or any duly authorized agent, acting in an official capacity, for the Board.

XVI. **PENALTIES:** Whoever violates this regulation or hinders any duly authorized person from exercising the authority conferred hereunder or by local or general laws shall be punished by a fine of not more than twenty-five ($25) dollars per day for the first offense, fifty ($50) dollars per day for the second offense and one hundred ($100.00) dollars per day for the third offense, and any subsequent offense.

XVII. **SEVERABILTY:** If any section, paragraph, sentence, clause or phrase of these rules and regulations shall be decided invalid for any reason whatsoever, such decision shall not affect the remaining portions of this regulation which shall remain in full force and effect; and to this end the provisions of this regulation are hereby declared severable.

XVIII. **VARIANCES:** The Board of Health may, in its discretion, waive compliance with a particular requirement of this regulation when:

1. The enforcement of the regulation would result in manifest injustice; and
2. The applicant has proved that the same degree of protection of the public health, safety and welfare can be achieved without strict application of the particular provision. Any alternative means of protection shall be detailed and documented by the applicant to the satisfaction of the Board of Health.

This regulation was adopted by the Board of Health on June 28, 2019 and shall become effective upon publication in a newspaper of general circulation.

Per Order Of,
MASHPEE BOARD OF HEALTH

Brian Baumgartel, Chair
Laurel Almquist, Co-Chair
Mallory Langler, Clerk

PART XXV – Section 1.00
Short-Term Rental Regulation

TOWN OF MASHPEE
BOARD OF HEALTH
SHORT-TERM RENTAL REGULATION

1. PURPOSE

The purpose of this regulation is to protect the health, safety, and welfare of both the occupant(s) of rental housing units and the general public and to maintain the quality of life in residential neighborhoods. The regulation will assist the Board of Health in the enforcement of state and local health and safety laws or regulations and provide a method for correcting violations when conditions require immediate attention, in particular, situations associated with recreational tenancy in the Town of Mashpee.

2. AUTHORITY

This regulation is adopted under the authority of Massachusetts General Laws Chapter 140, Section 32B; Chapter 111, Section 31; and Chapter 111 Section 127A.

3. DEFINITIONS

a) ***Applicant*** – any owner(s) who makes a formal application/registration with the Board of Health for a Rental Certificate.

b) ***Dwelling*** – any building or area in a building used or intended for use for human habitation including, but not limited to, apartments, condominiums, cottages, guest houses, one-, two- or multi-unit residential buildings and rooming houses, but not including any facility licensed under any state housing or local housing laws or bylaws, including affordable housing facilities.

c) ***Occupant*** – Anyone entitled for a period of, at minimum, one night to the use or possession, or the right to use or possession, of a rental property designed and normally used for sleeping and living purposes, or the right to the use or possession of the furnishings or the services and accommodations accompanying the use and possession of such rental property, regardless of whether such use and possession is as a lessee, tenant, or licensee.

d) ***Owner(s)*** – any person who, alone or severally with others, has legal title to any dwelling, dwelling unit, rooming unit, or parcel of land, vacant or otherwise.

e) ***Person*** – any individual, partnership, real estate trust, corporation, limited liability company, firm, condominium owner's organization, mortgagee in possession, owner's representative, association or group, including a governmental unit, other than the Town of Mashpee or any of its agencies, or other person appointed by a court.

f) ***Rental Property*** – an owner-occupied, tenant-occupied, or non-owner occupied property including, but not limited to, an apartment, house, cottage, condominium, timeshare condominium, or other furnished accommodation that is not a hotel, motel, lodging house, or bed and breakfast establishment where 1) at least one room or unit is rented to an occupant or sub-occupant for a period of at least one night but not more than 31 consecutive calendar days; and 2) all accommodations are reserved in advance.

Timeshare Condominium – A resort condominium established pursuant to MGL c. 183A and c. 183B in which each unit is separated by written agreement into shared ownership for the exclusive right of use, possession or occupancy by multiple owners for separate designated time periods of less than a year in accordance with a fixed or floating time schedule on a periodically recurring basis for years, solely for vacation use purposes, whether such use, possession or occupancy is subject to either: (a) a timeshare estate, in which the ownership or leasehold estate in property is devoted to a timeshare fee (tenants in common, time span ownership, interval ownership) or a timeshare lease; or (b) other timeshare use, including any contractual right of exclusive occupancy which does not fall within the definition of timeshare estate, including, but not limited to, a license or certificate of use, prepaid hotel reservation, club membership, limited partnership or vacation bond.

4. RENTAL PROPERTY REQUIREMENTS

a) It shall be the responsibility of the property owner(s) to ensure full compliance with the Town of Mashpee Rental Property Bylaw, the Mashpee Board of Health Short-Term Rental Regulation, and any other applicable state and local health and safety laws or regulations.

b) It shall be the responsibility of the property owner(s) to register with the Department of Revenue and to obtain a Certificate of Registration for each property they offer for short-term rental in the Town of Mashpee.

c) In accordance with Section C of the Rental Property Bylaw (Section 106-8), the Board of Health shall determine the number of bedrooms and occupancy of the rental property and report the number of bedrooms and occupants on the Rental Certificate. Occupancy shall be based upon two people per bedroom.

d) Timeshare Condominiums. In consideration of the unique legal and administrative attributes of Timeshare Condominiums, for purposes of implementing the Rental Property Bylaw the following requirements shall apply to qualifying Timeshare Condominium units:

(1) A Timeshare Condominium containing two (2) units or more shall apply to the Board of Health for a Rental Certificate pursuant to §D of the Rental Property Bylaw if any week or longer time period within a unit which is a part of the Timeshare Condominium is to be rented or may be made available for rental as a dwelling by any owner thereof at any time in the ensuing calendar year.

(2) Upon issuance, a Rental Certificate for a Timeshare Condominium Property shall cover all units identified in the Application for Rental Certificate and it may be renewed with respect to said units by the December 31st of each successive year thereafter.

(3) The Manager or other agent of the Timeshare Condominium applying for said Rental Certificate shall pay a single annual Registration Fee of $25.00 for the Rental Certificate or the annual renewal thereof.

(4) The Board of Health shall annually conduct inspections of 20% (rounded up) of the units identified within each Timeshare Condominium, upon consultation with the Timeshare Condominium's management relative to designation of units to be inspected and dates of inspection. The Board of Health shall, notwithstanding its obligation to consult with the Timeshare Condominium management as provided above, retain the right provided by §G of the Rental Property Bylaw to inspect said 20% of Timeshare Condominium units annually at reasonable times and to request any other inspectional service personnel inspections (Building, Electrical, Plumbing and Fire) at the Timeshare Condominium Property as the Board shall deem appropriate. All interior inspections shall be conducted in the company of the owner(s), occupant(s) or management representative(s) of the Timeshare Condominium.

(5) In the event that the Board of Health determines that a unit within the Timeshare Condominium which was not inspected within the past five years is presently being rented or has been rented within the current calendar year, the Board, at its discretion, may notify the Timeshare owner and/or manager that an inspection thereof shall be conducted.

(6) The Rental Certificate applicant shall be responsible for payment of a $75.00 inspection fee f**or each Timeshare Condominium unit** inspected by the Board of Health.

(7) All other terms of the Rental Property Bylaw and this Regulation not expressly modified or excluded hereby shall remain applicable to Timeshare Condominiums.

5. RENTAL CERTIFICATE

The following information shall be provided on the Rental Certificate:

a) The owner(s) name, address, and telephone number.

b) The number of dwelling units and the number of bedrooms in each dwelling unit.

c) The maximum number of occupants, as defined in Section C1 of the Rental Property Bylaw, which may be permitted in each dwelling unit.

d) The name, address, and telephone number(s) of the responsible individual(s) who will be available to respond to emergencies and requests for assistance from owners, occupants, or Town of Mashpee staff within 24 hours of being contacted.

e) A summary of other laws, by-laws, and regulations that are applicable to the rental of dwelling units within the Commonwealth. The summary is provided to the owner(s) and occupant(s) as an advisory of the requirements for proper conduct, safety, and public health.

6. APPLICATION FOR RENTAL CERTIFICATE

An owner of a dwelling which is rented for residential use shall provide the Board of Health with a rental application which includes their current residential address and telephone number. If the owner is a corporation, the name, address, and telephone number of the president or legal representative of the

corporation shall be provided. If the owner is a realty trust or partnership, the name, address, and telephone number of the managing trustee or partner shall be provided. If the owner is not available to provide access or to service the occupant(s) or Town of Mashpee in a timely manner, the owner shall designate one or more responsible individuals who can be reached, and who shall be available at all times (twenty-four hours per day, seven days per week) to respond to emergencies and requests for assistance from occupant(s) or Town of Mashpee staff. Said designated individual shall respond to a notification of emergency within 24 hours of being contacted by owner(s), occupant(s), or Town of Mashpee staff. The name, address, and telephone number of the responsible individual(s) so designated shall be provided on the application.

7. INSPECTIONS

a) Dwelling units covered by this regulation shall be subject to inspection at reasonable times by the Board of Health and its agents. The Board, at its discretion, may request other inspectional service personnel (Building, Electrical, Plumbing and Fire Departments) to accompany them to the property for inspection. All interior inspections shall be done in the company of the owner(s), occupant(s) and/or the representative of either. If the dwelling unit is occupied, reasonable notice shall be provided.

b) Required inspections by inspection services personnel shall occur prior to issuance of a Rental Certificate, with routine inspections to be conducted once annually thereafter. Within the first year of adoption, temporary rental certificates shall be issued by the Board of Health, at their discretion, to allow the Code Compliance Inspector to schedule inspections in a timely manner.

c) Health inspections shall be performed in accordance with Chapter II of the State Sanitary Code 105 CMR 410.000.

8. VARIANCE

The Mashpee Board of Health, in any particular case and following a public hearing, may vary any provision of this regulation when, in its opinion, any of the following exists:

a) The applicant has proved the same degree of protection of the public health, safety and welfare can be achieved without strict application of the particular provision or provisions requested to be modified. Any alternative means of protection shall be detailed and documented by the applicant to the satisfaction of the Board of Health.
b) Strict enforcement of a provision would cause undue hardship and manifest injustice.
c) Such a variance is in the public interest and not inconsistent with the intent or purpose of Chapter II of the State Sanitary Code or this regulation.

9. SEVERABILITY

If any provisions of this regulation or the application thereof are held to be invalid by a court of competent jurisdiction, the invalidity shall be limited to said provision and the remainder of the regulation shall remain valid and effective. Any part of this regulation subsequently invalidated by state law shall automatically be brought into conformity with the new or amended law and shall be deemed effective immediately, without recourse to a public hearing.

10. EFFECTIVENESS

This regulation shall become effective upon publication in a newspaper of general circulation.

Per Order Of,

MASHPEE BOARD OF HEALTH

Brian Baumgaertel, Chair
Ernest Virgilio, Co-Chair
Kripani Patel, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

CERTIFICATE OF USE AND OCCUPANCY POLICY

NOTICE TO ALL BOARD OF HEALTH LICENSE/PERMIT HOLDERS

Prior to the renewal of the following permits and licenses;

Retail Food
Food Service
Motels/Boarding Houses
Trailer Parks
Recreational Camps
Schools
Nursing Homes
Public/Semi-Public Pools

The owner shall, upon request, submit proof of a valid Certificate of Use and Occupancy and where applicable proof o a valid Certificate of Inspection. It is the owner's responsibility to make the necessary arrangements with the Mashpee Building Department to ensure that this document(s) is current and available to the health agent upon request.

The Board of Health adopted this policy on August 2, 1990.

Stephen J. Greelish, Chairman
John T. Doherty, Co-Chairman
George R. Costa, Clerk

Elias A. McQuaid, Agent
Orin O. Evans, Assistant Agent

TOWN OF MASHPEE
BOARD OF HEALTH

EMERGENCY SEPTIC REPAIR PLAN POLICY

Once the Board of Health certifies a septic system in failure, a licensed installer may submit a repair plan for Board of Health approval. The Board of Health acts as the engineer and conducts the inspection of the repair construction.

In the event where due to topography, groundwater elevation and/or a pump system is required, (other than on-site setback variances), repair plans must be submitted by a Professional Civil Engineer or Registered Sanitarian.

The Board of Health adopts this Policy on December 19, 1996.

Robert F. Cram, Chairman
Steven R. Ball, Co-Chairman
John T. Doherty, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

SEPTIC SYSTEM FAILURE POLICY

AUTHORITY OF THE BOARD OF HEALTH:

105 CMR 400.200 of Chapter 1 of the State Sanitary Code and 310 CMR 11, Title 1 of the Environmental Code grant local Boards of Health the authority, in accordance with the provisions of the Massachusetts General Laws, Chapter 111, Section 31, to dispense with ordinary enforcement procedures in the interest of protecting the public health in emergency situations. The Board may, without notice or hearing, issue an order citing the existence of the emergency and requiring remedial action to be taken, as the Board of Health deems necessary. Notwithstanding any other provision of this code, any person to whom such order is directed shall comply therewith within the time specified in such order.

DEFINITION OF A SEPTIC SYSTEM FAILURE:

1. A septic system shall be deemed in failure when any component does not function as intended. Any septic system which causes effluent to be discharged to the surface of the ground, to any waterway or wetland or that has to be pumped more than twice in ninety days or three times in twelve months shall be deemed to be in failure.

2. A septic or dosing tank shall be deemed in failure when it cannot retain sewage.

3. A siphon or pump shall be deemed in failure when it no longer doses sewage to the disposal area or when it no longer meets the requirements of Title V of the State Sanitary Code, Section 15.09.

4. A distribution box shall be deemed in failure when it no longer retains effluent or when it no longer distributes sewage evenly.

5. A leaching facility shall be deemed in failure when it discharges sewage to the surface of the ground, to a watercourse or wetlands or when it no longer permits the infiltration of effluent to the soil.

6. A sewer pipe shall be deemed in failure when it becomes clogged, fractured, uncemented, disconnected or no longer holds or transports sewage to its intended component.

CERTIFICATION OF FAILURE:

When a sewage disposal system failure exists or is suspected, it shall be the responsibility of the Board of Health, or its agents, to investigate said failure and certify the existence of an emergency if it is determined that one exists. A copy of the certification letter shall be sent to the property owner, the tenant, if any, and the Building Inspector. The certification letter shall specify a time limit for initiation of the repair work.

OWNER'S RESPONSIBILITY:

The property owner shall:

1. Secure the services of a licensed septic installer to perform the soil and perk testing as required by the Board, or its agents, and the repair work as approved by the Board.

2. Agree to have the repair work initiated within the time limit stated on the certification letter.

3. Agree that any subsequent additions or alterations to the dwelling may require the services of a Registered Professional Engineer to certify that the existing system is adequate for the intended addition/alteration.

INSTALLER'S RESPONSIBILITY:

The licensed septic installer shall:

1. Perform soil and perk tests in the presence of a Board of Health Agent, as required by the Agent.

2. Prepare and submit for the Board of Health review an Application for Disposal Works Construction Permit and a detailed and scaled plan of the proposed sewage disposal repair, along with the appropriate fee. This plan shall conform to Title V and local Board of Health regulations.

3. Submit variance requests, along with the appropriate fee, if applicable, in writing to the Board for their consideration.

4. Install the sewage disposal system according to the approved plan and make all necessary arrangements for inspections by the Health Agent with reasonable advance notice (prior to installation for soil and groundwater determination AND prior to backfilling.

5. Provide to the Board of Health an "as built" drawing which shall accurately depict distances from the dwelling to the access ports of the septic system components.

BOARD OF HEALTH RESPONSIBILITY:

Upon receipt of the application for permit and the proposed repair plan, along with the appropriate fee, the Board of Health and/or the Agent shall:

1. Witness a deep hole and perk test.

2. Review the plan for conformance to Title V and local regulations. Make any necessary recommendations and changes.

3. Issue a sewage works construction permit once the plan is approved.

4. Perform all necessary inspections, which shall include at least one inspection prior to the installation of the leaching facility for soil suitability and groundwater elevation determination and one final inspection prior to backfilling.

5. Issue a Certificate of Compliance to the installer upon completion of the work, final inspection and receipt of the "as built" drawing. NOTE: The issuance of the Certificate of Compliance does not guarantee that the sewage disposal system will continue to function properly indefinitely. It simply indicates that the system was installed according to the approved plan, Title V, local regulations and the approved variances, if applicable. It is the owner's responsibility to ensure that no substance or overload is introduced to the system, which may hinder its proper functioning. The Board of Health recommends periodic pumping of the septic tank to prevent solids from entering and clogging the leaching facility.

The Board of Health adopted this policy on March 6, 1989.

George R. Costa, Chairman
Roland L. Wilson, Co-Chairman
Stephen J. Greelish, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

ADDENDUM TO THE SEPTIC SYSTEM FAILURE POLICY

No person or firm shall engage in the construction, alteration, installation or repair of any sewage disposal system which services a commercial or multi-unit building without plans for such work having been submitted to the Board of Health by a professional registered engineer or other professional authorized by law to prepare such plans. Once the plans have been approved by the Board of Health, the installer must apply for and be issued a Disposal Works Construction Permit by the Board of Health.

An "as built" drawing must be prepared by the installer and certified by the design engineer who must also inspect the work performed prior to backfilling.

The Board of Health adopts this addendum on August 9, 1990

Stephen J. Greelish, Chairman
John T. Doherty, Co-Chairman
George R. Costa, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

WETLANDS DELINEATION POLICY

TO AL PROFESSIONAL ENGINEERS AND REGISTERED SANIARIANS:

- All wetlands must be flagged in the field and shown on the plans submitted to the Board of Heath for approval. These flags must be numbered both on the plans and on the stakes.

- The Conservation Officer will verify all wetland delineations.

- All deep hole observation pits within 100 feet of a wetland must be bermed with a row of staked hay bales to protect against run-off toward the wetland.

Adopted on June 27, 1989

George R. Costa, Chairman
Stephen J. Greelish, Co-Chairman
John T. Doherty, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

WETLANDS DEFINITION POLICY

On February 6, 1992, the Board of Health adopted the following wetlands definition policy:

All current and future Board of Health regulations referencing distances to wetlands shall be interpreted to define wetlands in the same fashion as the Mashpee Conservation Commission's regulations (in effect at the time of filing before the Board of Health) as promulgated under Chapter 172 of the Mashpee Code (note – setback distances from inland banks will be measured from the lower boundary of such banks as defined in Section 18A of the regulations in Chapter 172).

Stephen J. Greelish, Chairman
Steven R. Ball, Co-Chairman
John T. Doherty, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

BENCHMARK POLICY

A benchmark elevation must be established on a permanent object and shown on all subsurface disposal system plans.

This benchmark must be visible for all disposal system component locations and the foundation sewer outlet site. The benchmark must be located where it will not be destroyed during the septic system installation period.

The elevation of the groundwater, if encountered and the elevation of the bottom of the leaching facility shall be recorded on the "as built" plan relative to the permanent benchmark elevation.

Engineers and installer shall verify the elevation of all components of the subsurface disposal system at the time of installation, prior to backfilling and certification.

The installer must have a properly calibrated transit or engineer's level setup on-site during the installation of the subsurface disposal system.

This Policy was adopted August 9, 1990.

Stephen J. Greelish, Chairman
John T. Doherty, Co-Chairman
George R. Costa, Clerk

COMMONWEALTH OF MASSACHUSETS

DEPARTMENT OF ENVIRONMENTAL PROTECTION

THE STATE ENVIRONMENTAL CODE

MINIMUM REQUIREMENTS FOR THE SUBSURFACE DISPOSAL OF SANITARY SEWAGE

1995

TITLE 5
OUTDOOR SHOWERS DISCHARGE GREYWATER

GREY WATER: Any putrescible wastewater discharged from the domestic activities including but not limited to washing machines, sinks, showers, bath tubs, dishwashers, or other source except toilets, urinals and any drains equipped with garbage grinders

SANITARY SEWAGE: Grey water and black water from domestic, commercial and other non-industrial sources.

SANITARY SEWER: Any system of pipes, conduits, pumping stations, force mains and all other structures or devices used for collecting and conveying wastewater to a public or private treatment works.

According to 310 CMR 15.303, direct or indirect discharge of sanitary sewage to the surface of the ground is considered failing to protect public health and safety and the environment.

THEREFORE: All new outdoor showers must be plumbed into domestic septic system.

TOWN OF MASHPEE
BOARD OF HEALTH

REQUIREMENTS PRIOR TO BUIDING PERMIT ISSUE

1. Plans for the septic systems are to be submitted by a Professional Engineer in compliance with Title V to the Board of Health.

2. Percolation and Soil examination tests in compliance with Title V are to be submitted to the Board of Health.

3. If the site is within 100 feet of the Wetlands or Water (tidal or pond), a request for determination and/or a "Letter of Intent" shall be filed with the Conservation Commission.

4. The Town will shortly be enforcing the Flood Plain By-Laws and the Home Builder should be made aware of building and septic requirements under these By-Laws.

The forgoing information can give you the outline of things, further and particular information is available at the Board of Health office.

This Policy was adopted on July 26, 1978.

Charles F. Buckingham, Chairman
Roland L. Wilson, Co-Chairman
Charles H. Lawrence, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

VARIANCE APPROVAL BY BOARD OF HEALTH AGENTS

For Failed Systems Only:

1. Emergency repairs according to new Installer Certification Form.

2. Setbacks from the soil absorption system and septic tank to cellar wall, town-owned street property line (private property lines requires 10-day notification and public hearing).

3. Soil absorption system to private well if over 100 feet is provided and the area was developed under state regulation prior to the local 150' requirement.

New Construction:

1. Approval of Innovative/Alternative technologies and operation and maintenance contracts.

This policy was approved to form by the Board of Health on May 29, 2003.

Steven R. Ball, Chairman
MaryRose Grady, Co-Chairman
L. Glenn Santos, Clerk

POLICIES

TITLE 5
SECTION 11.00 SEPTIC INSPECTION POLICY

TOWN OF MASHPEE
BOARD OF HEALTH

SEPTIC INSPECTION POLICY

ALL septic system installations shall now be inspected by an agent of the Board of Health as well as the designing engineer or assigned agent.

Failure to contact the Board of Health for the final inspection of each new, upgrade or repair of the soil absorption system will result in fines and the following:

1. All soil absorption system components shall be exposed for the inspection.
2. The certificate of compliance shall be withheld until the final inspection is performed.
3. A representative of the installer's company shall be present during the inspection.
4. "As-Built" cards shall be completed by the time of the inspection. A sketch shall be provided on the reverse side of the "As Built" card.

All installations must be made in strict conformance with Title V requirements. The following Title V regulations shall be strictly enforced for installations.

1. Risers to within 6" of grade for all septic tanks, distribution boxes and chambers.
2. Inspection ports shall be 6" to grade for infiltrator systems.
3. Clean stone, no fines.
4. H-20 components required within 10' of areas subject to vehicle loading.
5. Carbon filters on all vents. (Recommended)

Steven R. Ball, Chairman
MaryRose Grady, Co-Chairman
L. Glenn Santos, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

SOIL ABSORPTION SYSTEM RETENTION POLICY

It is the policy of the Mashpee Board of Health that a cesspool or leaching pit must have enough remaining liquid capacity to accommodate twenty-four (24) hours retention time below the inlet tee. The inspector shall measure the remaining capacity (πr x depth)(7.5 gallons/cubic foot): (110 gallons per bedroom per day). Should the cesspool or leaching pit not have this capacity, the system shall be deemed in failure.

This policy is adopted on October 23, 1997.

Steven R. Ball, Chairman
John T. Doherty, Co-Chairman
Robert F. Cram, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

WELL AND SEPTIC PERMITTING POLICY

Upon septic plan approval by a Health Agent, a well permit will be issued to the well driller. Prior to building permit sign-off, the well driller is required to submit a well water completion log and satisfactory water analysis.

As of January 1, 1990, the board of Health has amended the fee for all well permits as follows: $25.00 per permit.

This policy was adopted on February 8, 1990.

George r. Costa, Chairman
Stephen J. Greelish, Co-Chairman
John T. Doherty, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

IRRIGATION, MONITORING AND DOMESTIC WELL POLICY

A WELL PERMIT MUST BE OBTAINED FROM THE Mashpee Board of Health for the installation and repair of ALL wells including irrigation and monitoring wells.

Please note that no permits will be issued for drinking water nor irrigation wells in the Briarwood, Horseshoe Bend Way/Tri-Town Circle, High Sachem Estates and Cotuit Corners subdivisions.

The Policy was adopted on May 23, 1994.

Steven R. Ball, Chairman
John T. Doherty, Co-Chairman
Robert F. Cram, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

TEMPORARY FOOD VENDING POLICY

Applicants who wish to serve free samples of food or sell any food at a fixed location for a period of time of not more than fourteen (14) consecutive days in conjunction with a single event or celebration shall apply for a temporary food permit from the Board of Health. The application must include the proposed menu and be submitted at least fourteen (14) days prior to the event date. All food concessions must be licensed and inspected prior to opening. Any food concession failing to meet public health standards will be immediately closed and the permit will be revoked.

Applicants who request a permit to serve or sell food from an outdoor booth, table, or cart for more than fourteen (14) consecutive days will not be approved. Also, applicants who request to operate a temporary booth, table or cart which would not be operating in conjunction with a single event or celebration will not be approved. The Board of Health in any particular case may vary this requirement.

Temporary food establishment operators shall comply with the mandatory food protection management certification requirement in accordance with 105 CMR 590.003, except that the board of health may waive the requirement if the sponsor of a temporary event has employed at least one full time employee (FTE) in charge in accordance with 105 CMR 590.003, who is not a vendor. The FTE is responsible for monitoring safe food handling practices and initiating corrective actions to ensure compliance with 105 CMR 590.000.

FOOD PROTECTION MANAGEMENT CERTIFICATION EXEMPTIONS: Non-profit temporary food establishments (for events such as bake sales and church dinners), food establishments selling only of prepackaged food and limited preparation of non-potentially hazardous foods (i.e. hot dogs).

FEE: The fee is $25.00/day per cart, table, and booth for profit and non-profit organizations. Organizations selling the food in order to donate the funds to charity are not charged a fee.

Applicants who wish to sell or serve potentially hazardous foods shall demonstrate compliance with the following criteria:

A.) **Sink/Handi-wipes/Sanitizers: -** If there is no handwash or utensil sink on the cart, table or booth; said cart, table or booth shall contain moist sanitizing "alcohol-wipes" and liquid hand

sanitizers. A chlorine sanitizing solution of 50 p.p.m. must be used to clean utensils and cleanable surfaces.

B.) **Floor/Roof: -** All food stands must have a floor and a sloped roof. Roof may be plywood or secured tarpaulin.

C.) **Tongs/Disposable Napkins/Gloves: -** For preparing and serving "ready-to-eat" foods (without using bare hands).

D.) **Refrigeration/Coolers: -** Electronic refrigerator or coolers with ice packs and ice to keep potentially hazardous foods below 41 degrees F. Food must be thawed in a refrigerator or cooler or as part of the cooking process.

E.) **Thermometers (stem-type): -** For testing the internal temperature of potentially hazardous foods.

F.) **Refuse Container: -** Each stand must have two (2) lined and covered trash cans.

G.) **Sneeze Guards: -** For the protection of unwrapped foods from the public and patrons during preparation and serving.

H.) **Covers/Plastic Wrapping: -** To keep unwrapped food covered during storage or display.

I.) **Potentially Hazardous Food: -** All stands serving potentially hazardous food must have facilities to maintain proper food temperatures. Food items may not be kept longer than four (4) hours unless maintained hot, (above 140 degrees F.), or cold, (below 41 degrees F.) then they must be discarded. Hot foods must be kept in heated chafing dishes, crock-pots or portable steam tables to maintain the 140-degree temperature.

This Policy was adopted on May 16, 2002.

The Board of Health:

John T. Doherty, Chairman
L. Glenn Santos, Co-chairman
Steven R. Ball, Clerk

TOWN OF MASHPEE
BOARD OF HEALTH

SOFT SERVE ICE CREAM

BACTERIAL COUNTS:

No frozen dessert, ice cream mix, ice milk mix or frozen yogurt mix shall be sold which has not been previously pasteurized.

No person shall manufacture, deliver or have in possession with intent to sell a frozen dessert, ice cream mix, ice milk mix, or frozen yogurt mix which has a standard plate count in excess of 50,000 colonies per gram, and which contains more than ten colonies of the organisms of the coliform group per gram as determined by the Standard Methods of the American Public Health Association in use at the time of the examination.

- A manufacturer of a frozen dessert shall have a standard plate count and a standard coliform count analysis by an approved laboratory at least quarterly.

Envirotech Labs (508) 888-6460 will perform the quarterly tests or you may use a lab of your choice.

RESULTS SHALL BE SUBMITTED TO THE BOARD OF HEALTH

TOWN OF MASHPEE
BOARD OF HEALTH

LANDFILL ODOR CONTROL POLICY

In an effort to avoid potential fly and odor problems, the Board of Health will no longer accept manure at the landfill compost pile.

This Policy was adopted on July 21, 1998.

Robert F. Cram, Chairman
Steven R. Ball, Co-Chairman
John T. Doherty, Clerk