



BOARD OF HEALTH

REGULATIONS & POLICIES

**Harwich, Massachusetts
June 2008**

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Part I

Sewage Disposal & Design

Town of Harwich

Board of Health Regulations

SEWAGE DISPOSAL REGULATIONS

These Regulations are adopted pursuant to 310 CMR 11.02 and 310 CMR 15.000 of the Massachusetts Environmental Code and supplements thereto.

PART 1 - PERMITS

The following Regulations are adopted by the Board of Health to supplement the provisions of Title 5 of the State Sanitary Code and shall be applicable to all subsurface sewage disposal systems installed in the Town of Harwich in addition to the provisions of said Title 5.

REGULATION

- 1.101 As provided by Title 5 Regulations 2.2, no person or firm shall engage in the construction, alteration, installation or repair of any individual sewage disposal system without first obtaining a Disposal Works Installers Permit from the Board of Health.
- 1.102 As provided by Regulations 2.1 and 2.4 of Title 5, no individual sewage disposal system shall be located, constructed, altered or installed without first obtaining a Disposal Works Construction Permit from the Board of Health.
- 1.103 As provided by Regulation 2.4 of Title 5, all applications for Disposal Works Construction Permits shall be accompanied by a plan of the proposed sewage disposal facilities and, if the applied for permit is issued, a copy of the approved plan shall be posted or available at the site of installation and a copy shall also be kept in the possession of the installer.
- 1.104 All work pursuant to a duly issued construction permit shall be performed in strict compliance with the provisions of Title 5 and these Regulations and in strict compliance with the approved plan.
- 1.105 No deviation from the approved plan will be permitted unless prior approval therefore is obtained from the Board. Deviation from the plan without such prior approval will be grounds for revocation of

said permit, and may result in the suspension or revocation of the installer's permit, as well as the removal of the installation. Other penalties may be imposed as provided by law.

PART 2 - DISPOSAL WORKS REGULATIONS

REGULATION

- 1.201 All single family dwellings shall be provided with a separate sewage disposal system and no sharing of a single family system by two or more dwelling units located on separate parcels of land will be allowed.
- 1.202 All two-family dwellings shall be provided with separate sewage disposal and plumbing systems for each of the two units. ¹ This section will not apply where sole ownership of the two-family dwelling exists.
- 1.203 In areas not zoned for multi-family dwellings, hotels or motels, in any case where such use may be authorized by variance or extension of a non-conforming use, the projected daily sewage flow for such use as computed by reference to the flow rate projections of this code shall not exceed the daily sewage flow which would be projected should the same parcel of land be developed for single family use to the extent allowed by applicable provisions of the Zoning Bylaw.
- 1.204 Multi-family dwellings located on land located in whole or in part in a water resource protection district as established by the Zoning Bylaw shall be provided with a tertiary sewage treatment plant, which plant complies with the following requirements:
 - a. The plant will be designed to remove sufficient nitrogen from the raw sewage so that the nitrogen loading rate from the total project will not exceed 24 pounds of nitrogen per 40,000 square feet of land area per year.
 - b. The plant must be approved by the Board of Health and by the Massachusetts Department of Environmental Quality Engineering, along with any other state or federal regulatory agency having concurrent jurisdiction over such facilities.
 - c. The system will be located on site based upon the findings resulting from a detailed hydro-geological study so as to prevent degradation of the aquifer at any public drinking water supply well to levels below standards established by the Environmental Protection Agency or its successors or

standards established by state agencies having jurisdiction of such systems, whichever standards are higher. In designing and locating discharge areas, special emphasis will be given to avoiding the possibility of creating a concentrated anaerobic plume which may mobilize other contaminants present in the soil.

- 1.205 Sewage treatment plants for multi-family dwellings as required by Regulation 1.204 above shall be subject to periodic maintenance and monitoring schedules as established by the Board of Health. In establishing such schedules, the Board will consider state, federal and industry guidelines when available.
- 1.206 In order to effectively prevent nitrogen overloading of the aquifer by multi-family dwellings in the water resource protection districts, no fertilizer shall be used on site at a rate exceeding 3 pounds (nitrogen) per 1,000 square feet of lot area per year and the total area of land under cultivation shall not exceed 8 percent of the total lot area.
- 1.207 In flood plain zoning districts as established by applicable law, the Board of Health shall require that new and replacement sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- 1.208 The Board of Health shall require that all new or replacement private water supply facilities located in flood plain districts be designed to minimize or eliminate infiltration of flood waters into the systems as well as assuring that effluent from sewer facilities does not infiltrate the water supply.
- 1.209 ² Design Flow Rates: Rescinded by the Board of Health 7/12/1995.
- 1.210 ³ All sewage disposal systems shall comply with the following distance requirements. The distance requirements for components not listed herein shall be governed by applicable provisions of Title 5 of the State Sanitary Code. The Board of Health may grant a variance from the distance requirements hereof if site conditions warrant, but in no case shall the Board allow a set-back variance to less than seventy-five (75) feet to the leaching facility.

<u>Component</u>	<u>Septic Tank (feet)</u>	<u>Leaching Facility (feet)</u>	<u>Building Sewer (feet)</u>	<u>Privy (feet)</u>
Surface water supplies (reservoirs) or tributaries to reservoirs, including open and subsurface drains; foundation drains and roof drains if final disposal is into tributaries	50*	100	50	100
Watercourses (as defined In Title 5), wetland as Recognized by Harwich Conservation Commission	50*	100	50	100
* All tanks less than 100 feet Shall be of monopour or plastic construction				

Adopted: 9/27/1989
Effective: 10/11/1989
Amended 12/16/2003
Effective: 2/1/2004

HARWICH BOARD OF HEALTH

Francis C. Sampson, Chairman
Stanley Kocot, MD
Linda Schultz
Marina Brock
Mary Jane Watson

1.211 ⁴ Any development, (including residential subdivisions, re-subdivision or ANR) with a septic system or systems, new or upgraded, designed to accommodate sewage flow of 2,000 gallons or more per day shall require a hearing before the Board of Health before a permit for construction of either the system or systems of any buildings or facilities which would use the system or systems can be used.

In applying for a permit, the applicant shall submit data which shall include but not be limited to the following: Hydro-geologic data in sufficient detail to determine direction of the groundwater flow, elevation of the groundwater, soil conditions, the environmental impact the disposal system will have on public or

private water resources, salt water estuaries, rivers, streams, fresh water ponds or wetlands.

Nitrogen loading calculations shall be submitted for development within the watersheds of salt water estuaries or Drinking Water Zone II and phosphorus impact evaluations for those within the watersheds for fresh water ponds including demonstration of the use of vertical separation and horizontal setbacks to maximize the attenuation of phosphorus in the soil; a written evaluation of the potential for the generation or use of toxic or hazardous waste on the site with a description of all such waste, which may reasonably be expected to be disposed of on the site and any such additional information deemed necessary by the Board of Health. Said data shall be prepared by a professional engineer, registered in Massachusetts whose qualifications to prepare such data shall be accepted by the Board of Health, and shall be submitted at the time of application.

The final report by the Massachusetts Estuaries Project (MEP) for the Pleasant Bay Alliance issued May, 2006, concludes that there is an excess of nitrogen from existing development. The report indicates that significant percentages of nitrogen must be removed from both existing and future development to restore and protect water quality. This report forms the scientific basis for Total Maximum Daily Limits (TMDL) imposed by DEP/EPA.

Therefore, as an interim measure and prior to the development and implementation of a Comprehensive Wastewater (nitrogen) Management Plan (CWMP) for Pleasant Bay, any development of a subdivision, re-subdivision or ANR, five lots or greater which is in whole or in part within the watershed of Pleasant Bay as defined in said report shall be served by a shared septic system that provides nitrogen removal technology. Removal limits shall be those approved by DEP for the technology proposed. The system may be located anywhere within the subdivision, including open space, if any, subject to all applicable rules, Regulations and laws.

If, after the hearing, the Board determines that the system or systems as designed would continue to create a negative environmental impact, the Board shall require the system or systems be redesigned so as to eliminate or mitigate said impact.

Nothing within this Regulation shall prohibit approval, by the Board of Health for any applications involving the maintenance and/or repair of an existing subsurface sewage disposal system, providing said application does not involve a change of use or expansion. Where a change of use or expansion is involved, the applicant must demonstrate compliance with this Regulation.

Variations from this Regulation may be granted by the Board of Health only if the applicant: a. demonstrates to the satisfaction of the Board that a literal enforcement of this Regulation would involve substantial hardship, financial or otherwise to the petitioners (i.e., would deprive the landowner of all reasonable use of the lot in question); or b. proves to the Board that the project would not have a measurable environmental impact to any water resource.

The Board of Health will consider, but not be limited to, the following factors when reviewing a request for a variance:

- * That the applicant can demonstrate that he has taken every effort to protect environmental resources potentially affected by the proposed development
- * The implementation schedule for a Comprehensive Wastewater/Nitrogen Management Plan (CWMP)
- * The recommendations of the Water Quality Task Force (WQTF)

PENALTIES AND ENFORCEMENT

The Health Director is authorized to issue Notices of Violation, Cease and Desist Orders, or other administrative enforcement orders to compel compliance with the terms of these Regulations.

(A) NON-CRIMINAL DISPOSITION

Whoever violates any provision of these rules and Regulations may be penalized by a non-criminal method in the District Court pursuant to the provisions of M.G.L. c.40 §21D. for the purposes of this Regulation the following fine schedule will be imposed:

- * First offense – written warning
- * Second and subsequent offenses - \$100

Each day on which a violation exists shall be deemed to be a separate offense. The third offense at a single facility shall result in a hearing before the Board of Health to determine whether the Board shall consider revocation of the permit if applicable and/or file a criminal complaint.

(B) CRIMINAL COMPLAINT – as provided for in M.G.L. c.111 §31

Whoever violates any provision of these rules and Regulations may be penalized by indictment or complaint brought in the District Court. Except as otherwise be provided by law, and as the District Court may see fit to impose, the maximum penalty for any violation of these provisions shall be \$1,000 for each offense.

SEVERABILITY

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

Adopted: 11/18/1987
Amended: 8/17/1999
Effective: 3/15/2007
Published: 3/15/2007

HARWICH BOARD OF HEALTH

Stanley Kocut, MD, Chairman
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Alfred Hurst, MD

POLICY AND GUIDELINES FOR TITLE 5 **STATE SANITARY CODE**

In accordance with Chapter 111, Section 31 of the Massachusetts General Laws, the Board of Health hereby adopts the following Regulations:

1. Any building within the Town of Harwich shall not be converted, altered or repaired so as to enable its year-round use and shall not change its use unless the present existing septic system does comply with requirements of Title 5, 310 CMR 15.000, or the system be upgraded to comply with Title 5 and Harwich Board of Health Regulations.
2. A copy of the floor plan must be filed with the Board of Health.
3. In order to determine if the size of the septic system is adequate, the definition of a bedroom shall mean any portion of the dwelling which is so designed as to furnish the minimum isolation and privacy necessary for use as a sleeping area and includes but is not limited to: bedroom, den, study, sewing room, enclosed heated porch or family room; but does not include: bathroom, kitchen, dining room, halls, unfinished cellar, open deck, garage, unheated porch or living room.
4. ⁵ When determining maximum groundwater elevation, the United States Geological Survey (USGS) "Probable High Groundwater Levels on Cape Cod" calculation shall be utilized or other methods acceptable to the Board of Health. In areas subject to tidal influence – as indicated on the USGS Water-table Map October 1987 – groundwater levels shall be monitored over a full moon tidal cycle. Results shall be certified by a Massachusetts P.E./R.S. and submitted to the Board of Health.
5. Exit piping used in building sewers shall be in no case less than four (4) inches in size. Sewer piping extending 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 a minimum of schedule forty (40) polyvinyl chloride (PVC) piping only.
6. A disposal works construction permit shall be valid for a period of one year from the date of issuance. A permit may be renewed a maximum of two times. An expired permit will require re-application and compliance with current Board of Health Regulations.
7. A variance granted by the Board of Health from Title 5 or Harwich Board of Health Regulations shall be valid for a period of six months. If a disposal works construction permit is not applied for during that time frame, the variances shall be considered null and void.

8. ⁶ All variances granted by the Board of Health along with any Order of Conditions imposed shall be recorded at the Barnstable County Registry of Deeds by the applicant and a copy filed with the Town Clerk. This shall be completed prior to the issuance of a Certificate of Compliance.

Adopted: 11/29/1989
Effective: 12/13/1989

HARWICH BOARD OF HEALTH

Shirley Gomes, Chair
Marguerite Marion
John Sauvage

Amended: 8/15/1990
Effective: 11/7/1990

HARWICH BOARD OF HEALTH

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Richard D. Hoyer

POLICY REGARDING INTERPRETATION OF TITLE 5

In accordance with the Department of Environmental Protection letter of April 22, 1992, regarding interpretation of Title 5, the Harwich Board of Health will enforce the following policies:

1. Real Estate Transfer Regulation – Non-standard systems should be placed in the unacceptable category of the inspection form. Non-standard systems are not in compliance with Title 5 and will be required to be upgraded to current standards.

All purchase and sale agreements executed on or after September 1, 1992, will be required to comply with this policy. Systems rated standard-functioning will be considered valid for a period of not more than two years.

2. Review of building permits – In cases where an applicant for a building permit is seeking to enlarge, renovate, demolish, reconfigure existing space, or replace existing buildings, a review of the septic system will be required to determine compliance with Title 5 and Harwich Board of Health Regulations. Any system not in compliance with current standards will be required to upgrade the system.
3. Applications for Disposal Works Construction Permit – Effective September 1, 1992, any application to construct, alter, or repair a subsurface sewage disposal system shall be accompanied by a detailed site plan designed in accordance with 310 CMR 15.02(5).

Adopted: 7/29/1992
Effective: 9/1/1992

HARWICH BOARD OF HEALTH

Richard D. Hoyer
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Robert A. Germain
Bruce S. Campbell

TOWN OF HARWICH
REGULATIONS FOR THE SUBSURFACE
DISPOSAL OF SEWAGE

The following Regulations are promulgated under the authority of Chapter 111 Section 31 and Chapter 21A, Section 13 of the Massachusetts General Laws.

Part I - Environmentally Sensitive Area

The following shall be considered environmentally sensitive areas by the Board of Health:

- a. ⁷ Land area (whether developed or not) that borders on, and is within one hundred feet (100') of marshland, tidal flats, coastal dunes, barrier beaches, coastal banks, coastal beaches, surface water, bog or inland wetland as identified by the Harwich Conservation Commission;
- b. Land area containing maximum groundwater elevation (adjusted) which is 6 feet (6') or less below natural ground surface elevation in the area of installation;
- c. Existing or known future water supplies, and
- d. Terrestrial and/or aquatic plant/animal habitats of threatened or endangered species when certified by any agency that specializes in such taxonomy and/or environmental science. Credibility of the certifying agency shall be determined by the Board of Health.

Part II

Environmental variances from septic Regulations shall not be granted in environmentally sensitive areas, as defined in Part I above, except under exceptional circumstances.

Failed systems and/or upgrading of existing systems shall be exempt from this Regulation, provided there is no additional sewage flow (i.e. additional bedrooms) and/or no significant increase in habitable space or change in use that, in the Board's judgment has the potential to increase sewage flow.

Adopted: 9/27/1989
Effective: 10/11/1989
Amended 8/15/1990
Amended 12/16/2003
Amended: 2/1/2004

HARWICH BOARD OF HEALTH

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LEGAL NOTICE – TOWN OF HARWICH

At a meeting of the Board of Health held on December 16, 1987, the following policy was established:

“Any parcel which requires compliance with the Wetlands Protection Act and/or Town of Harwich Wetlands Protection Bylaw must obtain Conservation Commission approval before a hearing of the Board of Health.

Harwich Board of Health, The Harwich Oracle – January 13, 1988

Letter Dated October 7, 1987

To: Michael J. Pessolano, Town Planner/Grant Writer

From: Paula J. Champagne, R.S., C.H.O., Health Agent

Re: Request for Clarification Regarding Preliminary Subdivision Plans

As follows:

Dear Michael:

At the Board of Health meeting of September 30, 1987, the Board discussed your request for clarification regarding preliminary subdivision plans.

For consideration of future preliminary plans submitted to the Board of Health the following policy will apply:

The general locus of septic systems and water supply (if private wells are to be used) should be noted on each lot. This will enable the Board to determine if the lots are adequate for setback requirements, wetland protection, and protection of private water supplies prior to Planning Board review.

Cc: Board of Health

REAL ESTATE TRANSFER REGULATION

The Harwich Board of Health adopts the following Regulation under the authority of MGL Chapter 111, §31. This Regulation was adopted on June 8, 1988 and shall become effective for all deeds recorded on or after November 1, 1988. This Regulation shall be required in addition to all items covered in 310 CMR 15.999 Title 5 Sections 15.301 – 15.340 “System Inspections”.

PURPOSE

To protect the public health of the inhabitants of the Town of Harwich from potential and present sources of pollution to groundwater or fresh and salt water resources from existing sewage disposal systems.

REGULATION

Prior to selling, conveying or transferring title to real property situated in the Town of Harwich, the owner shall have an inspection of the existing residential, commercial or industrial sewage disposal system. The inspection may only be performed by a Registered Professional Engineer, Registered Sanitarian, or a System Inspector. Only system inspectors who have successfully passed the Department of Environmental Protection Certification and the Harwich Board of Health exam will be allowed to perform inspections.

The open inspection of existing commercial and residential sewage disposal systems shall be the responsibility of the owner of the property prior to real estate transfer.

If it is determined by the Board of Health that the system constitutes a danger to the public health, the Board shall order the owner to make repairs or replace the system.

STANDARDS

For the purpose of this Regulation, reference is made to the standards and provisions of Title 5 of the State Environmental Code, 310 CMR 15.000 and to existing Regulations of the Harwich Board of Health governing the disposal of sewage and design of septic systems.

In order for a system inspection to obtain a satisfactory rating of “passes” the system must conform to all aspects of 310 CMR 15.000 and Harwich Board of Health Regulations with the following exceptions:

1. Distance to Maximum Groundwater Elevation – All systems must conform to the following:

All septic system installations granted a disposal works construction permit prior to March 31, 1995 (1978 Title 5 and Harwich Regulation compliance) will be required to demonstrate a four foot separation to maximum high groundwater. All septic systems granted a disposal works construction permit after March 30, 1995 (1995 Title 5 and Harwich Regulation compliance) will be required to demonstrate a five foot separation to maximum groundwater.

For purposes of this Regulation, maximum groundwater must be calculated in accordance with Cape Cod Commission Technical Bulletin 92-001 “Estimation of High Ground-Water Levels for Construction and Land Use Planning – A Cape Cod Massachusetts, Example” – Updated 1991.

2. Non-standard systems (i.e. systems comprised in whole or in part of cesspools) are not grand-fathered and their continuance will not be allowed.
3. Owners of systems failing to meet the requirement of this Regulation will be required to correct any deficiencies identified regardless of whether a transfer is completed or the property is removed from the sales market.

For guidance, inspectors should refer to the document “Town of Harwich – Reference Chart for Certified Inspectors Engineers & Sanitarians Performing Septic System Inspections for Real Estate Transfer Purposes”, (6/4/97 et seq.)

INSPECTION PROTOCOL

1. The DEP Subsurface Sewage Disposal System Inspection Form shall be the approved form. In addition, Town of Harwich “Addendum to DEP Septic System Inspection Report” (6-4/97 et seq.) shall be filed with every report.
2. An open inspection of all components of the system will be required. If a component can not be found or uncovered after a reasonable search, the inspector must provide evidence for the system’s success or failure.
3. The inspection should take place not more than 180 days nor less than 30 days prior to the transfer of property. The Board of Health must receive the signed inspection form within seven days of the inspection. In addition, the inspector should give copies to the owner and to any buyer or broker identified with the transfer. In the event there is no buyer at time of inspection, copies must be given by the owner to the buyer preferably before the property is put under agreement.
4. All systems shall be classified according to the following criteria:
 - a. Passes – System meets all requirements of Title 5 and Harwich Regulations.

- b. Conditionally Passes – System meets requirements of Title 5 and Harwich Regulations; however, minor repairs are necessary. Ex: garbage disposal not allowed; septic tank not watertight; tees missing, system distribution unequal.
 - c. Needs Further Evaluation by Local Approving Authority – (system inadequate for intended use) i.e. inadequate size; system location such as not on same lot; within 100 feet of wetlands or well; excessive pumping.
 - d. Fails – Criteria not met, Ex: Cesspools present; lack of required separation to groundwater; evidence of overflow or overload to system.
5. If the inspection shows evidence of a failed system, such as sewage on the ground surface or sewage draining into any waterways or wetlands, the Board of Health shall determine within 14 days after receiving the inspection form whether or not the system constitutes a danger to the public health and whether and to what extent the system should be repaired or replaced. The Board of Health shall notify the owner by certified mail within seven days of its determination, accompanied by any order requiring the system to be repaired or replaced.
6. If the inspection shows the system to be conditionally passed or needs further evaluation, the Board of Health shall decide within 14 days after receiving the inspection form whether or not the system constitutes a danger to the public health and whether and to what extent the system should be repaired, replaced or be subject to further inspection as the Board deems appropriate under the circumstances. The Board of Health shall notify the owner by certified mail within seven days of its determination accompanied by any order requiring the system to be repaired, replaced or subject to further inspection.
7. The amount of allowable time for the repair, replacement or further inspection shall be 45 days from receipt of the notice of violation.
8. Alternative to Inspection – The Board of Health will allow a property to be transferred without the inspection or installation provided that an escrow account covering the cost of replacement has been established. A notarized statement signed by all parties indicating financial responsibility shall be filed with Board. In no case shall the completion date be greater than 45 days beyond the date of transfer (see form “Town of Harwich Real Estate Transfer Regulation Alternative to Inspection”).

ENFORCEMENT & PENALTIES

The Health Director is authorized to issue Notices of Violation, Cease and Desist Orders, or other administrative enforcement orders to compel compliance with the terms of these Regulations.

1. Non-criminal Disposition – Whoever violates any provision of these Regulations may be penalized by a non-criminal method in the District Court pursuant to the provisions of MGL Chapter 40 § 21D. For the purposes of this Regulation the following fine schedule will be imposed:

First Offense: Written Warning

Second Offense: \$50.00

Third Offense: \$100.00

Fourth and subsequent Offenses: \$300.00

2. Criminal Complaint – As provided in MGL Chapter 111 § 31 – Whoever violates any provision of these rules and Regulations may be penalized by indictment or complaint brought in the District Court except as may be otherwise provided by law and as the District Court may see fit to impose, the maximum penalty for any violation of these provisions shall be \$1,000 for each offense.

SEVERABILITY

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

VARIANCE PROCEDURE

Variances from this Regulation may be granted by the Board of Health after a hearing at which the applicant establishes both of the following:

1. The enforcement thereof would do manifest injustice;
1. A variance contemplated from these Regulations will not in the opinion of the Board of Health adversely affect the purposed intent of this Regulation.

Adopted at a meeting of the Board of Health on 6/8/1988

Effective date: 11/1/1988

Amended: 3/22/1989

10/26/1989

4/30/1997

6/10/1998

Effective: 7/1/1998

HARWICH BOARD OF HEALTH

Anne Welch, Chairman

Alfred Hurst, MD

Patricia Vasconcellos-McKenzie

Ronald E. Hindman

Robert A. Germain

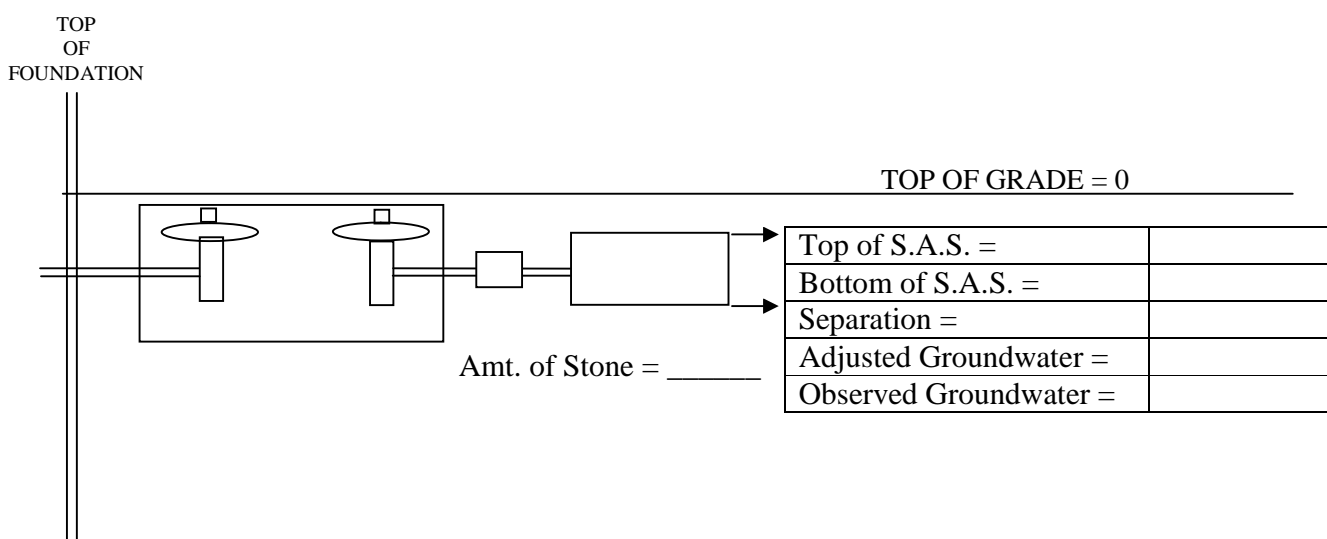
**TOWN OF HARWICH
ADDENDUM TO DEP SEPTIC INSPECTION REPORT**

Inspection Location _____ Map & Parcel _____

5. Is there a 4' separation (1978 code) or a 5' separation (1995 code) Yes____ No____
between the bottom of the S.A.S. and adjusted groundwater?

Indicate how groundwater was verified:

USGS Maps _____ Engineers letter on file _____ Hand auger _____
& Groundwater (post 1995 installation)
Contour Map



6. Town Water (__) or Private Well (__).
Distance from nearest septic system component: _____

7. Wetlands or surface water within 100' of septic system? Yes ____ No ____
Distance from nearest septic system component: _____

8. Type of pipe used in system
PVC ____ Orangeberg ____ Other _____

9. Sanitary tees or baffles in place (Yes – No – N/A?)
 Septic tank inlet _____
 Septic tank outlet _____
 Pump chamber inlet _____
 D-box inlet if pumped system _____
 Grease trap inlet _____
 Grease trap outlet _____
 Risers – 1978 code within 12 inches of grade on septic tank ____
 Risers – 1995 code within 6 inches of grade on all components ____
 One inspection port on S.A.S. (1995 code) _____



TOWN OF HARWICH BOARD OF HEALTH
732 Main Street
Harwich, MA 02645
(508)430-7509

**REAL ESTATE TRANSFER REGULATION ALTERNATIVE TO
INSPECTION**

Waiver – The parties involved acknowledge that the sewage disposal system at the property being transferred is not in compliance with current Title 5 and Harwich Board of Health Regulations. In lieu of expenditure to identify an unacceptable disposal system the parties desire to seek a waiver from the inspection requirement and initiate design and installation plans in accordance with current standards.

LOCATION _____

DATE OF TRANSFER _____

SELLER Name _____

Mailing Address _____

Attorney _____

BUYER Name _____

Mailing Address _____

Attorney _____

ENGINEER/SANITARIAN _____

INSTALLER _____

EXPECTED DATE OF INSTALLATION: _____

In no case shall the completion date be greater than 45 days beyond the date of transfer. A notarized statement signed by all the parties indicating financial responsibility shall accompany this request.

DESIGN, OPERATION AND MAINTENANCE OF SMALL WASTEWATER TREATMENT FACILITIES

AUTHORITY: The Board of Health of the Town of Harwich, Commonwealth of Massachusetts, acting under the authority of Chapter 111, Section 31 of the Massachusetts General Laws and any amendments additional thereto, and by any other power thereto enabling, and acting there-under and in accordance therewith, have, in the interest of an for the preservation of the public health, duly made and adopted the following Regulations effective upon publication.

PURPOSE: To protect the groundwater and surface waters (fresh and saline) of the Town from contamination by effluents originating from privately owned small wastewater treatment plant (SWWTP's).

These Regulations herein do not and are not intended to cover all aspects of engineering design, operation, and maintenance of SWWTP's. Rather, they outline the specific Board of Health interests and policies that may not be adequately reflected in other existing Regulations, policies and manuals. Where local Regulations or specifications herein are more strict, they shall prevail. Where Regulations or specifications or guidelines of other political subdivisions or agencies of jurisdiction or as included herein are more strict, they shall prevail.

APPLICABILITY: To all small wastewater treatment plants proposed for the town and all interim or temporary wastewater disposal systems that may be used at facilities that will eventually use small wastewater treatment plants.

1.00 PERMIT REQUIREMENTS

1.10 DISPOSAL WORKS CONSTRUCTION PERMIT

No system or facility to be used for treating, neutralizing, stabilizing, or disposing of wastewater from homes, public buildings, commercial or industrial buildings, or any types of establishments, shall be located, constructed, installed, operated, altered, or repaired until a DISPOSAL WORKS CONSTRUCTION PERMIT for such shall have been issued by the Board of Health. No construction of any building or facility which relies upon such wastewater systems or facility shall be allowed until a DISPOSAL WORKS CONSTRUCTION PERMIT shall have been issued by the Board of Health to the responsible party. Responsible party shall mean the developer, project proponent, condominium association, or any other party approved by the Board of Health.

Such system or facility as regulated herein shall include, but not be restricted to SEWERS serving such facility, WASTEWATER PUMPING STATIONS,

WASTEWATER TREATMENT WORKS, ALL WASTEWATER TREATMENT OPERATIONS, SLUDGE TREATMENT AND MANAGEMENT, DISINFECTION, ADVANCED WASTE TREATMENT, SUBSURFACE DISPOSAL AND LAND TREATMENT, WASTEWATER RECYCLING AND RE-USE.

Such system or facility as regulated herein shall be referenced as SMALL WASTEWATER TREATMENT PLANT (SWWTP).

1.20 CERTIFICATE OF COMPLIANCE AND OPERATIONS PERMIT

No SWWTP as permitted herein shall be placed in service, nor shall new buildings or facilities or additions to existing buildings or facilities which rely upon such SWWTP be occupied or used until the Board of Health has issued a CERTIFICATE OF COMPLIANCE AND AN ANNUAL OPERATIONS PERMIT. (The definition of operations permit are the conditions set forth in this Regulation and any other conditions that may be set forth by the Board of Health.)

1.30 SERVICE AREA AND LIMITATIONS

The SWWTP shall not serve a volume of sewage flow from any subject project in excess of the aggregate volume that would be generated by each lot, which could have constructed upon it, a septic system installed and operated in full compliance with Title 5, the state environmental code and the Regulations of the Board of Health.

2.00 SUBMITTALS

2.10 APPLICATIONS, REPORTS, PLANS, DATA, DOCUMENTS

A copy of all applications, reports, plans, specifications, data, and supporting documents required by these Regulations and by the Regulations of any other agency in connection with the approval or operation and maintenance of the subject facility shall be submitted to the Board of Health. In the case of requests for a Board of Health action, such materials shall be submitted a minimum of 90 days prior to the date upon which an action by the Board of Health is desired. In the case of submittals to other agencies, all material shall be submitted to the Board of Health at the time of submittal to that agency. A Board of Health Disposal Works Construction Permit will not be issued prior to approval by the Massachusetts Department of Environmental Quality Engineering. Other submittals shall be made in accordance with schedules as specifically designated by the Board of Health.

SIX copies of all reports/information shall be given to the Board of Health.

2.20 DISPOSAL WORKS PERMIT FEE AND PROFESSIONAL REVIEW FEE

Prior to the issuance of a disposal works construction permit by the Board of Health for the installation of a SWWTP or any other sewage disposal system not covered by Title 5 of the Massachusetts State Environmental Code, an independent registered civil/sanitary engineer will be retained by the Board of Health to conduct a review of the planned sewage disposal system. To offset the cost of this review to the town, the applicant will be assessed a fee in addition to the disposal works construction permit fee, commensurate with the complexity of the planned disposal system and the time required to adequately review the plans and specifications, and the expected impacts to groundwater and surface waters. (Two percent of the design and construction costs of the plant or \$3,000, whichever is greater). The applicant will pay the fee at the time of application. Any unused portion shall be refunded after the successful review of the first annual operations report by the Board of Health. (Suggestion: this fee could be placed in an escrow account within the town for easy accounting.)

3.00 GENERAL PROJECT PLANNING REQUIREMENTS

Certain basic principles shall be considered early in the planning and design process in order to ensure that the SWWTP development process will meet all requirements.

3.10 ENVIRONMENTAL COMPATIBILITY

The plans for the proposed system or facility shall take into account all aspects of public health and environmental quality protection. Efforts shall be taken to preserve public and private water supplies and their zones of contributions, watershed or recharge areas to surface water bodies, potential water supplies, private property, wetlands, wildlife habitat, recreational sites, historic sites, and natural beauty.

The design shall be prepared so as to have the least possible adverse impact on the public health and the environment.

The project proposal shall include evidence that the wastewater system or facility will result in the least adverse impact on the public health or the environment as compared with other possible wastewater management alternatives for the project.

3.20 GENERAL DISCHARGE AND TREATMENT REQUIREMENTS

No discharge from a SWWTP shall result in degradation of ground or surface waters in a manner inconsistent with their proposed use. The existing characteristics of the immediate and final receiving waters must be considered to ensure against degradation in excess of all applicable federal, state, and

local water quality standards. There shall be no discharge into any wetland, stagnant waters, lakes or streams.

3.30 HYDROGEOLOGICAL INVESTIGATION

The applicant shall submit a hydrogeological survey report, prepared by a qualified geotechnical engineer or hydrogeologist to show the impact of the subsurface discharge of the SWWTP on groundwater. The report shall include a determination of the flow direction, contaminant levels, nutrient loading to public water supplies as well as surface water bodies, extent of wastewater discharge plume, ground and surface waters affected, and the location of public and private water supplies as well as all expected effects on the supplies. This analysis shall be performed for the SWWTP design plan and also for any other wastewater or disposal strategy for the project to be served.

3.40 WETLANDS AND FLOOD PLAINS

No portion of the SWWTP shall be located within 100 feet of wetlands or the “100-year Flood Plain” as defined by the state and local authorities.

No portion of the subsurface disposal works for a SWWTP shall be located less than 100 feet from a wetland or the “100-year Flood Plain”. No component of the treatment plant, except for underground piping, shall be constructed less than four (4) feet above the estimated highest groundwater level as calculated by the USGS methodology. Such distances are considered “minimum” and may be increased by the Board of Health if specific site conditions warrant.

3.50 GENERAL SITING AND DESIGN REQUIREMENTS

SWWTP design shall include attenuation of odor or noise problems to protect both the operator and the public.

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3.51 DISTANCES

No portion of the SWWTP shall be located less than the following distances stated to the components listed as follows:

MINIMUM ACCEPTABLE SEPARATION DISTANCES IN FEET		
Component	Subsurface Tank Sewer, or Force Main	Leaching Area
Water Supply Lines	25	25
Subsurface Drain	25	100
Surface Water *	100	100
Wetland *	100	100
Catch Basin	25	25
Public Well	400	400
Private Well	100	400*

*These distances may be required to be greater if the hydrogeological evaluation indicates that contamination will occur at the stated distance.

3.60 ULTIMATE DISPOSAL OF SLUDGE AND SOLIDS

Provision for final or ultimate disposal of sludge and solids shall be in a manner approved by the Board of Health, prior to the issuance of any Board of Health permit. The estimated quantity must be stated. If sludge and solids are to be disposed of off-site, the final destination must be established prior to issuance of any permit. The applicant must demonstrate to the satisfaction of the Board of Health, that the destination for the sludge and solids is in compliance with all applicable, federal, state and local Regulations and also that it will reliably be available for such purpose for the length of time that its use is required by the SWWTP.

3.70 TREATMENT PLANT RELIABILITY

The SWWTP shall be planned and designed so as to provide for maximum reliability at all times. The facility shall be capable of operating satisfactorily during power failures, reduced power periods, peak loads, flooding, equipment failure, and maintenance shutdowns.

The Board of Health shall receive a written certification from the engineer and/or equipment supplier that the SWWTP is capable of meeting all effluent limits.

Following completion of the SWWTP the manufacturer should review and certify in writing to the Board of Health that the equipment installed is capable of providing the treatment level required.

Multiple units or dual compartments with unit drains may be required for all processes, including disinfection facilities, so that draining, cleaning, repairing, or replacing and other maintenance can be provided without omitting any treatment processes, in zones of contributions, recharge of watershed areas, or other sensitive areas as determined by the Board of Health.

3.80 DISINFECTION

The SWWTP must be designed and constructed to allow for disinfection of the SWWTP effluent by ultraviolet radiation or ozonation. The use of disinfection equipment shall be determined by the Board of Health.

3.90 ODOR CONTROL

The SWWTP must be designed and constructed to allow for odor control by activated carbon filtration. The use of this odor control equipment shall be determined by the Board of Health.

4.00 SUBSURFACE DISPOSAL FACILITIES

4.10 GROUNDWATER

The bottom interface of any subsurface disposal or leaching facilities shall be located a minimum of four (4) feet above the maximum elevation of the groundwater or saturated soil zone as determined by the USGS methodology, where appropriate. However, this vertical separation distance between the bottom of the leaching facility and top of the maximum groundwater level must be maximized to the extent possible. This elevation shall include consideration of the mounding effect of the groundwater caused by the discharge of the SWWTP effluent. Such analysis shall be calculated using generally acceptable analytical or numerical methods. When geologic conditions permit, the “Hantush” formula and procedure may be used. When the assumption of that procedure can not be met to derive a reliable result, it shall be required to utilize such method as finite differential equations for groundwater flow and elevation.

4.20 DISTANCE TO IMPERVIOUS LAYER

The bottom interface of any subsurface disposal or leaching facilities shall be located a minimum of ten (10) feet above the elevation of an impervious soil layer. Impervious soil shall be defined as having a percolation rate of greater than 20 minutes per inch.

4.30 THICKNESS OF PERMEABLE SOIL

A depth of at least four (4) feet of naturally occurring permeable soil shall be maintained below the bottom of the leaching area. To be considered permeable, the soil shall have a percolation rate of 20 minutes per inch or less.

5.00 GROUNDWATER MONITORING

5.10 INSTALLATION

The permittee shall install, at a minimum, groundwater monitoring wells in accordance with the following:

One up-gradient cluster of three monitoring wells;

Two down-gradient clusters of three monitoring wells each;

One monitoring well for groundwater level only near the center of the leaching works;

Screen depths for the cluster wells shall be set at elevations such that at least two screen depths will yield samples at times of seasonal low groundwater (e.g. September sampling period);

Such locations shall be as approved by the Board of Health and as indicated appropriate from the results of the hydrogeological investigation. Monitor wells shall be installed and in place prior to issuance of the CERTIFICATE OF COMPLIANCE AND ANNUAL OPERATIONS PERMIT. Additional monitoring wells or requirements may be required at the discretion of the Board of Health.

Monitoring shall begin one year before the start up of the SWWTP to give background information on the groundwater quality. All parameters in Section 6.12 shall be analyzed once during that year and those parameters listed as daily, weekly, or monthly in Section 6.12 shall be analyzed quarterly for that year.

5.20 GROUNDWATER ELEVATION

The permittee shall determine and provide the Board of Health, in continuous graph form, with elevations of the water table to the nearest one-hundredth of a foot in all monitor wells on a monthly basis, along with the current separation distance between the bottom of the leaching facility and the water table.

6.00 EFFLUENT LIMITS AND TESTING REQUIREMENTS

Effluent limitations shall be as required by DEQE Regulations for Class I groundwaters. All groundwaters are considered to be in this classification unless proved to be otherwise following procedures set forth by DEQE.

6.10 WASTEWATER

6.11 TREATMENT PLANT INFLUENT

The influent to the treatment plant shall be sampled and tested weekly for 5-Day-Biochemical Oxygen Demand (B.O.D.) and Total Suspended Solids. This should be performed by a DEQE certified laboratory.

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6.12 TREATMENT PLANT EFFLUENT

<u>TEST FREQUENCY</u>	<u>PARAMETERS</u>
DAILY	Flow – continuous Specific Conductance pH
WEEKLY (composite sample)	5-day Biochemical Oxygen Demand (B.O.D.) Total Suspended Solids (T.S.S.) Coliform Bacteria Fecal Coliform Bacteria
MONTHLY	Total Kjeldahl Nitrogen Ammonia Nitrogen Nitrate Nitrogen Total Dissolved Solids Sodium Phosphorous
SEMI-ANNUALLY	Oil and Grease Volatile Organic Compounds (USEPA Procedure #624)
ANNUALLY	Arsenic Copper Barium Zinc Cadmium Mercury Chromium Silver Potassium Fluoride Selenium Lead Total Trihalomethane
5 YEARS	Pesticides Radioactivity
Daily, Weekly, and Monthly Samples	to be composite samples and all others will be grab samples.
All sampling and analyses, except for the daily and weekly frequency tests which will commence at time of plant startup, shall be performed initially at 60 days after plant startup and at the stated frequency thereafter. The analyses must be performed by a DEQE certified laboratory.	

6.20 GROUNDWATER MONITOR WELLS

Monitor well testing in the up-gradient and down gradient wells shall be performed semi-annually in the months of April and September for all parameters designated above as semi-annually, monthly, weekly, or daily. Testing for other parameters shall occur during the month of April at the stated frequency. On an annual basis or upon written request from the permittees, the Board of Health may review the sampling frequency and the tested parameters and may modify either or both if it deems it necessary.

7.00 OPERATION

7.10 OPERATOR

A certified waste water treatment plant operator having the grade appropriate for the plant shall be retained by the permittee. Such operator shall spend a minimum of three (3) hours per day at the plant. When conditions warrant as may be determined by the Board of Health, additional hours shall be required. Such operator shall be designated the chief operator and shall be responsible for the operation of the SWWTP. The Board of Health shall receive a copy of the responsible party's contract with the operator.

7.20 BACK-UP OPERATOR

A second certified waste water treatment plant operator, having the same grade as the chief operator shall be available in the absence of the chief operator. The Board of Health shall receive a copy of the responsible party's contract with the back-up operator.

7.30 OPERATIONAL GUARANTEE

Prior to issuance of the CERTIFICATE OF COMPLIANCE AND ANNUAL OPERATIONS PERMIT, the permittee shall provide security in an amount specified by the Board of Health to guarantee the operation of the SWWTP for a period of at least one year. The security shall provide the salaries, operational costs, and cost for immediate replacement, if necessary, of any major unit operation of the plant, or in the event of plant failure to operate, an amount sufficient to cover the costs of hauling 100 percent of the waste water to another facility for disposal for a one year period. Security may be in the form of a cash guarantee or a performance bond to cover listed costs.

8.00 REPORTING

A registered sanitary engineer shall be hired by the responsible party to oversee the plant operations and make quarterly site inspections, as well as prepare a quarterly and an annual written report. The report shall summarize operating results, plant status, problems experienced, and any plant modifications necessary. The engineer shall also appear before the Board of Health on an annual basis to discuss the facility's performance and other pertinent issues. Five copies of all reports and laboratory data shall be sent to the Board of Health. In addition, all groundwater monitoring reports required through the DEQE permit conditions shall also be sent to the town and summarized in the engineering report. All data should be in continuous graph form where appropriate.

9.00 ENFORCEMENT

The Board of Health shall review annually, or as necessary, the operations permit and may suspend, modify, revoke, or add additional conditions prior to the issuance of the annual operating permits.

10.00 VIOLATIONS

Violations of this Regulation are subject to penalties of Massachusetts General Laws Chapter 111, Section 31, after a Board of Health hearing. Each violation shall constitute a separate penalty, and each day shall constitute a separate violation.

11.00 VARIANCES

While it is recognized that certain modifications or exceptions may be necessary where justified in unusual situations, any such modifications or exceptions may only be provided by application for variance to the Board of Health. Any variances of these Regulations issued by the Board of Health shall comply with the provisions outlined in the state environmental code, Title 5.

12.00 SEVERABILITY

If any part or portions of these Regulations to be adjudicated as invalid, the adjudication shall apply only to the material so adjudged, and the remaining rules and Regulations shall be deemed valid and of full force and effect.

Adopted: 11/16/1988
Effective: 11/30/1988
Date Published: 11/30/1988

HARWICH BOARD OF HEALTH

Shirley A. Gomes
Carol A. Topolewski
Marguerite E. Marion

REGULATION FOR BOARD OF HEALTH
MONITORING OF
ALTERNATIVE SEPTIC TECHNOLOGIES

In considering the use of various alternative septic technologies in the Town of Harwich the Board of Health recognizes that there may be specific 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 Department of Environmental Protection. As allowed under M.G.L. chapter 111, section 31 and as required by the revised 310 CMR 15.000 sections 15.285 (2d), 15.286 (5) and 15.288 (4) which become effective March 31, 1995 the Board of Health of the Town of Harwich 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 Harwich.

Effective 3/29/1995

HARWICH BOARD OF HEALTH

Anne Welch, Chair
John Sauvage
Robert Germain
Bruce Campbell
Patricia Vasconcellos-McKenzie

MONITORING OF INNOVATIVE/ALTERNATIVE ON-SITE SEWAGE TREATMENT SYSTEMS

As allowed under M.G.L. Ch. 111, sec. 31 the Board of Health of the Town of Harwich hereby requires that owners and operators of all innovative/alternative sewage treatment technologies and all systems where the soil absorption system is designed for pressure distribution of effluent must report the results of all operation, maintenance, and monitoring activities to Barnstable County Department of Health and the Environment. Such reporting must be performed in the manner specified by the Barnstable County Department of Health and the Environment and must occur within 30 days after each maintenance or monitoring event. Further, when a system operator performs a system inspection and finds that a sewage treatment technology has malfunctioning components which have been compromised the systems ability to treat sewage as designed, the operator shall report on the system's status and any planned corrective actions to the Board of Health and the Barnstable County Department of Health and the Environment within 48 hours of inspection.

Adopted: 3/29/1995
Effective Date: 3/29/1995

HARWICH BOARD OF HEALTH

Anne L. Welch, Chair
John E. Sauvage
Bruce S. Campbell

Amended: 5/24/2005 Hearing – 5/24/2005
Adopted: 5/24/2005
Effective Date: 7/1/2005

HARWICH BOARD OF HEALTH

Stanley Kocot, MD, Chair
Mary Jane Watson
Eric Winer
Robert Insley, MD
Sandra Barry

MEMO FROM PAULA J. CHAMPAGNE, HEALTH DIRECTOR- HARWICH HEALTH DEPARTMENT

To: Property Owner
From: Paula J. Champagne, Health Director
Date: August 27, 2003
Re: I/A Technology Operation and Maintenance Requirements

This memo will serve to summarize protocol for the permit and installation process that the Board of Health will require for all innovative/alternative system designs. (Please note changes from previous policy are emboldened).

- A copy of executed contract with a certified treatment plant operator for oversight and quarterly maintenance inspection is to be submitted as part of the application process. The minimum length of service shall be 2 years, continuous service is required and renewal contracts must be submitted as soon as available. Contract wording is to include sampling and reporting requirements.
- Operation and maintenance manuals to be submitted as part of the application process.
- The construction is to be certified by the design engineer and manufacturer representative including preliminary testing of the unit and a water test of the pressure dosed leaching facility if utilized.
- **Effluent limits shall be 30mg/1 respectively for BOD and Suspended Solids. In nitrogen sensitive areas such as Zone II's, nitrogen limits shall be those approved by DEP for the technology used.**
- The following sampling regime will be required, **which it should be noted are more stringent than DEP protocol. Inspections remain a quarterly requirement for all systems:**

Year round facilities – for the first year of operation effluent sampling to occur monthly for the first three months of operation and then quarterly. One of the samplings shall include the influent. **Thereafter samples shall be taken semi-annually** with the influent included on one sampling run. Parameters to include: pH, TSS, BOD, ammonia, nitrates, TKN and **total** phosphorous. Fecal coliform will be required for any systems with disinfection units.

Seasonal Facilities – start up/opening inspection required by the operator; effluent sampling to **occur within one month of opening and bimonthly thereafter up to a maximum of two samples.** One sample round must consist of influent and effluent samples. Same testing parameters as for year round facilities.

The property owner acknowledges receipt of a copy of these requirements.

Signature _____ Date _____

HEALTH REGULATIONS BANNING THE FUTURE USE OF SEPTIC TANK AND CESSPOOL CLEANERS

The Board of Health finds that groundwater supplies of this town and the health of citizens dependent on those supplies may be jeopardized by organic chemicals leaching into the ground from use of septic tank and cesspool cleaners containing such chemicals. Since Harwich is totally dependent on its groundwater resources, the continued use of these compounds constitutes a potential threat to the public health of the residents of Harwich.

Therefore, the Harwich Board of Health hereby adopts the following Regulations pursuant to its authority within Massachusetts General Law Chapter 111, Section 31:

1. From the thirtieth day onward after adoption of this Regulation, it shall be unlawful in this town to distribute or to use any septic system or cesspool cleaner that is listed in Section 2 below.
2. No substance which has a pH of less than 4.3 or greater than 8.2; nor any organic solvent; nor any substance which has been classified by a Massachusetts state or federal agency as a toxic substance shall be discharged into any portion of a subsurface sewage disposal system for the purpose of cleaning or unclogging said system. Examples of such substances would include but are not limited to products containing: Methylene Chloride, Orthodichlorobenzene, 1,1,1 Trichloroethane, Trichloroethylene, and Acids.
3. As may be necessary for the enforcement of these Regulations, the Board will use its power to inspect premises, to notify of violations, and to seek civil injunctive relief or fines against violators.

Adopted 10/14/1987

HARWICH BOARD OF HEALTH

Shirley A. Gomes
Juliana Peterson
Carol A. Topolewski

FACTS
ABOUT SEPTIC AND CESSPOOL CLEANING
COMPOUNDS

1. Three major chemicals commonly used for the “de-clogging” of septic systems and cesspools are 1,1,1 Trichloroethane, Methylene Chloride and Orthodichlorobenzene. These organic compounds are listed with the E.P.A. as toxic, mutagenic and suspected to be carcinogenic.
2. These chemicals when introduced into a septic system move directly into the groundwater and are very persistent in the environment.
3. Use of these chemicals are unnecessary in a septic tank system if the system is properly operated and maintained.
4. Chemical “de-cloggers” are only short term remedies and therefore constitute an unnecessary threat by toxic pollutants to the groundwater.
5. Based on New York State guidelines for organic contamination in drinking water, the recommended amount of a well known organic cleaner (one gallon) can cause 20 million gallons of drinking water to be unsafe for consumption.
6. Since Cape Cod is totally dependent on its groundwater resources the continued use of these compounds constitutes a potential threat to the public health of the residents of Cape Cod.
7. In a statement issued February 1986, the Department of Environmental Quality Engineering took the following stand, “The department does not recommend nor approve the use of any additives for the maintenance or rehabilitation of septic systems but recommends more frequent pumping as a means to prevent premature system failures”.

SEPTAGE WASTE DISPOSAL REGULATIONS

REGULATION

Purpose – The purpose of this Regulation is to insure the safe and sanitary disposal of the contents of all privies, cesspools and septic tanks originating in the town of Harwich.

- 1.301 All septage waste carriers are required to obtain and renew annually a permit to dump, transport and dispose of said waste from the Board of Health. Said permit shall be valid from January 1 to December 31 of the year in which it is issued and may be revoked for cause after a hearing.
- 1.302 Only waste from septic tanks, cesspools, privies and leaching basins may be disposed of at the approved locations. All other forms of liquid wastes shall only be disposed of at a location and in a manner consistent with state Regulations determined by the Board of Health.
- 1.303 All septage haulers licensed by the Town of Harwich shall dispose of all contents of privies, cesspools and septic tanks originating in Harwich at a state approved facility as the Board of Health may authorize.
- 1.304 All haulers are required to comply with all applicable Regulations governing the type of waste and disposal procedures as outlined in 310 CMR 15.500 and those adopted by the receiving unit.
- 1.305 All septage waste haulers and disposers shall provide the facility with a waste report for each disposal system serviced. Said report will be on a card provided by the facility and shall contain all necessary information as required by the Board of Health and facility for accurate record keeping.
- 1.306 The Board of Health, after a hearing, may suspend or revoke the license of any septage waste carrier found to have violated the Regulations contained in this section. If revoked, a license may only be reinstated upon reapplication and payment of a new licensing fee.

Adopted: 9/9/1992

Revised: 1/3/1995

Effective: Upon Publication

HARWICHBOARD OF HEALTH

Anne L. Welch, Chair

John E. Sauvage

Robert A. Germain

Patricia Vasconcellos-McKenzie

Bruce S. Campbell

MEMO FROM PAULA J. CHAMPAGNE, HEALTH DIRECTOR HARWICH HEALTH DEPARTMENT

To: System Designers
From: Paula J. Champagne, Health Director
Date: 8/30/2000
Re: Septic System Variance Requests

There has been some confusion as to the protocol for filing of variances that I hope this memo will clarify.

I. QUICK FACTS

- * There is a \$100 filing for Board of Health hearings (Board of Health adopted filing fee effective 1/1/2006)
- * Abutter notification per Title 5 – direct abutters only; mailed at least 10 days prior; verification (abutters’ list and “green cards” brought to the hearing. Call the office to secure advance meeting dates.
- * Submittal package to consist of: 6 sets of the blueprint, a floor plan, and cover letter which outlines each specific variance requested, the date the plan will be before the Conservation Commission if applicable, the reason for the variance request (transfer, alteration, voluntary upgrade, etc.) and how the specifics of 310 CMR 15.410 will be met. To secure placement on the agenda all materials must be submitted to the office by noon, fourteen (14) days prior to the meeting.
- * All projects must have completed Conservation Commission review prior to a hearing with the Board of Health. **Effective Immediately:** plans submitted to the Board of Health for review shall contain the approval signature of the Conservation Commission.
- * A letter stating the variances granted and conditions will be issued for all projects. This requires the owner’s signature and is to be recorded at the Registry of Deeds with a copy to the Board of Health prior to the issuance of a permit.

II. BOARD OF HEALTH PRIORITIES FOR GRANTING VARIANCES

- * All sideline setback variances should be exhausted prior to requesting environmental variances.
- * Be aware of the Regulations for environmentally sensitive areas (no variances for new construction, extensive scrutiny for expansions). The

Board will impose restrictions on all variances in these circumstances relative to any increased use/expansion of the property.

- * The Board requests that any application in need of environmental variances be designed to achieve maximum pollutant attenuation. The design should consider upgrading traditional Title 5 systems to the best practicable technology consistent with the watershed setting and Board of Health rules. For example, at a minimum, effluent filters on the septic tank and pressure dosing of the Soil Absorption System should be incorporated.

III. PROJECT REVIEW

- * The Board *strongly* advises an administrative review of the project with the Health Director prior to the filing request. It is hoped that this will eliminate the need for continued hearings due to incomplete submittals and help to streamline the variance process.

Reviewed by the Board of Health 8/30/2000

TO: ALL SUBSURFACE SEWAGE DISPOSAL INSTALLERS

The following requirements shall be met by the Installer for the final inspection of all subsurface sewage disposal systems both for “new construction” and for repair or replacement systems:

1. The system shall be completely “uncovered” for the purpose of inspection.
2. The “house sewer” shall be connected to the septic tank.
3. An “as-built” card shall be left for the Inspector showing sufficient tie-ins with the septic tank(s), D box(es), and leaching systems to locate these items in the future.
4. Deviations from the plan must have approval of the Design Engineer/Sanitarian and of the Town Inspector.

REASONS:

1. The system must be left uncovered to determine the adequacy of tees, slopes, depths of pits, stone relation of the system to the lot lines, etc.
2. The house sewer must be connected to the septic tank with sufficient slope to drain the plumbing to the septic tank; if you can't see it you can't approve it.
3. As-built cards are required since most systems require some deviation from the plan when constructed. Further, tie-ins are necessary to locate septic tanks for pumping and for the construction of repairs.
4. Deviations from the approved plans may place the system too close to groundwater, or other lines, conduits, etc.

As-built cards may be left under the D box cover.

Voted at a public meeting of the Board of Health 6/19/1984

HARWICH BOARD OF HEALTH

Donn B. Griffin
J. Norman Gledhill, Jr.
Juliana Peterson

**LETTER TO GEORGE ARSENAULT
FROM HARWICH BOARD OF HEALTH
JULY 23, 1985**

George Arsenault
c/o Gable Construction
55 Main Street
Harwich Port, MA 02646

SUBJECT: Title 5, Sub-surface Disposal Installations- Change in Piping Standards

Dear George:

It has been found that the thinner wall piping presently permitted in sub-surface disposal systems has a tendency to deform and deflect upon backfilling and is also subject to fracture if care isn't used in backfilling. Therefore, the Board of Health will be requiring as of August 1, 1985, the following new standard for piping:

SCHEDULE 40 PLASTIC PIPE will be required throughout all sub-surface sewage disposal systems.

HARWICH BOARD OF HEALTH

Freeman Allison
Juliana Peterson
J. Norman Gledhill, Jr.

ESTABLISHMENT OF FEES

At a public meeting of the Board of Health held on Wednesday, September 30, 1987, the Board voted to establish the following fee for re-inspection; said fee to become effective upon date of publication, October 14, 1987.

INSPECTIONS

⁸ “A re-inspection fee of thirty dollars (\$30.00) will be assessed for any re-inspection required of a new or repaired individual sewage disposal system that was found on the initial inspection to be incomplete or in violation of 310 CMR 15:000, Title 5, Minimum Requirements for the Sub-surface disposal of sanitary sewage, or in violation of the Harwich Board of Health Regulations.”

HARWICH BOARD OF HEALTH
Shirley A. Gomes
Juliana Peterson Carol Topolewski, MD

The Harwich Oracle 10/14/1987

**MEMO FROM PAULA J. CHAMPAGNE, HEALTH
DIRECTOR - HARWICH HEALTH DEPARTMENT
November 1, 1989**

To: All Licensed Sewage Disposal Works Installers
From: Paula J. Champagne, Health Agent
Re: Request for Final Inspections

In an effort to better meet the needs of sewage system installers and to ensure smooth operation of the Health Office, we find it necessary to establish some guidelines regarding requests for final inspections.

As you are aware, our staff of 1½ is not always available to inspect on an as-needed basis due to diversification and demand of other duties. In an effort to meet the needs and prevent any long-term waiting for inspections, leaving machinery on site over night; effect immediately, we will require an advance notification of inspection.

At a meeting of the Board of Health on October 26, the Board voted to institute the following policy: "A minimum of 24 hours will be required to schedule final inspections of sewage disposal systems. It shall be necessary to request an inspection from the Health Office by noon the previous day. Effectively immediately, this policy will be strictly enforced unless specific arrangements are approved by the Health Agent."

As a reminder, final inspections are performed at the end of the day (after 3:00 PM) unless site conditions warrant partial inspections and other arrangements are approved by the Health Agent. In addition, it would facilitate operations if you would request final inspections by permit number.

We thank you for your cooperation in advance on this matter and hope that this new policy should alleviate some of the backlog that has been created on inspections.

C: Board of Selectmen

**MEMO FROM PAULA J. CHAMPAGNE, HEALTH
DIRECTOR - HARWICH HEALTH DEPARTMENT
August 5, 1992**

To: Engineers and Sanitarians, Real Estate Agents, Septic System
Installers and Other Interested Parties
From: Paula J. Champagne, Health Director
Re: Policy Regarding Interpretation of Title 5 and Existing Cesspools

The Department of Environmental Protection issued a letter on April 22, 1992 to all Boards of Health in the Commonwealth regarding the non-grandfathered status of cesspools. The DEP has determined that existing cesspools are not in compliance with current Title 5 standards and efforts should be made to upgrade on behalf of local Boards of Health whenever possible.

In keeping with the Department of Environmental Protection policy statement, The Harwich Board of Health has reviewed its current practices and Regulations over the past several weeks and have determined that the following policies are to be put into effect. These changes have been determined by the Board of Health to be necessary in an effort to meet compliance with the state Regulations.

1. Real Estate Transfer Regulation: All cesspools will be required to be upgraded to Title 5 and Harwich Board of Health standards.
2. Review of Building Permits: Systems not in current compliance will be required to upgrade whenever an applicant is seeking to enlarge, renovate, demolish, reconfigure existing space or replace existing buildings.
3. All applications for disposal works construction permits will be required to also submit a plan designed in accordance with 310 CMR 15.02(5) (certified plan will be required in all cases).

These changes will take effect on submittals effective September 1, 1992. A copy of the policy statement is included for your information and review.

In order to incorporate the policy changes for the Real Estate Transfer Regulation, a revised inspection form has been adopted for use. Under separate cover, a copy of the revised inspection form will be mailed to all engineers and sanitarians.

Kindly contact this office if you require any further information on this matter.

MEMO FROM PAULA J. CHAMPAGNE, HEALTH DIRECTOR - HARWICH HEALTH DEPARTMENT

February 7, 1995

To: All Sewage System Installers
From: Paula J. Champagne, Health Director
Re: Request for Final Inspections

A number of people seem to have forgotten the guidelines established in 1989 for the scheduling of final inspections. Due to limited staff we found it necessary to institute a policy to efficiently accommodate all requests. The same is true today, in fact conditions have further deteriorated. Since 1989, our field staff has increased only 4 hours per week while our duties and requirements have escalated. We would appreciate your cooperation on this matter to help us efficiently perform our duties.

1. Requests All requests for inspections must be filed with the office by 2:00 pm the day before the inspection is needed. This is important in the event that an inspector will not be available and you will be told of the next available spot. The only exception will be when a partial inspection is necessary in order to facilitate continued operation. The office will only acknowledge requests filed by the installer and no other parties to eliminate confusion (i.e. realtors, homeowners).
2. Inspections All inspections will be conducted after 3:00 pm daily. Due to our scheduling constraints, it is more efficient for staff to consolidate all septic inspections into one trip.
3. As-Builts Required to be filed for all installations. Please make arrangements to drop off the card before the inspections or leave it at the D box. If this process does not improve shortly, we will be forced to deny requests for inspections pending receipt of past due cards.
4. Re-inspection Fees A \$30 re-inspection fee will be charged in all instances that require us to return due to installer error, incompleteness or failure to cancel an inspection. Please remember that the sewer line must be connected in order for us to complete the inspection. All systems having pumps for us to test require a specific appointment with the installer present and access to the dwelling should be arranged.

MEMO FROM PAULA J. CHAMPAGNE, HEALTH DIRECTOR - HARWICH HEALTH DEPARTMENT

May 31, 2000

To: System Installers
From: Paula J. Champagne, Health Director
Re: Department Policies Regarding Septic System Installations

I would like to take this opportunity to review a number of items that have been overlooked or forgotten in recent months regarding septic system installation, requests for final inspections, and issuance of the Certificate of Compliance.

1. Signed Plan Please be sure to work from a set of signed plans to be certain that no further revisions have been added. We require engineering revisions on upwards of 20% of plans submitted for review so bid plans and final approved plans may differ. We also occasionally may add minor adjustments and/or inspection requirements of which you need to be aware.
2. Inspection Requests All requests for final inspections must be called to the office the day before the inspection is needed. When calling for inspections please have the permit number available. Inspections are conducted between 2:30 pm and 4:00 pm only. This policy has been in effect for over 10 years, yet seems to be the cause of much confusion. Due to limited staff resources and demand for services we must adhere to this schedule to efficiently accommodate all requests for service. Please do not seek out the inspector individually to coerce them into accommodating your request. As usual we will attempt to be available as needed when a partial inspection is necessary due to space constraints.
3. Schedule Inspections Specific appointments should be made to meet the inspector on site if the installation involves a pump chamber or a pressure dosed system.
4. Certificate of Compliance In addition to the final inspection by a member of this office, the following must be completed before the Certificate of Compliance will be issued: as-built card (signed by the installer), designer's letter of inspection, sewer-line connected through the foundation, permits and inspections by related departments if a requirement of the system installation (ex: plumbing/electrical/waterline relocations).
5. Re-inspection Fee If the system has been "red-tagged" for incompleteness or non-compliance, the \$30 re-inspection fee must be paid to the office before the inspector will revisit the site.

I wish to acknowledge and thank all of the companies that have followed these policies in the past and thank every one in advance for their continued cooperation on this matter.

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Part II

RESOURCE PROTECTION

REGULATIONS FOR PRIVATE WELLS

Under the authority of M.G.L. Ch. 111, Section 31, to better protect the public health of the inhabitants of the Town of Harwich, the Harwich Board of Health voted to adopt the following Regulations, at its meeting held on December 7, 1988. The following Regulations shall be effective and applicable beginning January 15, 1989.

Definitions:

Abandoned Well: A well that has not been used for water supply for a period of one year or more, unless the owner declares his intention to use the well again for supplying water within one year.

Board of Health: The Board of Health members as defined by the Harwich Town Charter.

Health Agent: Health Agent shall mean the duly appointed Health Agent as defined by the Harwich Town Charter.

Pollution: Adverse effect on water quality created by the introduction of any matter.

Potable: water which is pure, wholesome and free from impurities that may cause disease or harmful physiological effects such that the water is safe for human consumption.

Emergency Repair: An emergency repair shall mean a replacement of an existing part; for example, well point or well casing.

Rented or Leased Property: Any dwelling used for habitation or business purposes by an occupant other than the owner, for the use of which a fee is paid. This includes but is not limited to: campgrounds, motels, bed and breakfasts, inns and other accommodations used on a transient basis, as well as community-type buildings which are rented to community groups.

Well: Any pit, pipe, excavation, spring, casing, drill hole or other source of water to be used for any purpose of supplying water, and shall include dug wells, driven or tubular wells, drilled wells, (artesian or otherwise) and springs, gravel packed, gravel walled wells, gravel developed and wash borings and as further described in the U.S. EPA Manual of Individual Water Supply Systems. For the purposes of these Regulations, it shall include both private potable wells, and non-potable wells.

Well Intended for Human Consumption: Any well supplying water for human consumption, bathing, or washing purposes which is not otherwise regulated

as a “public water system” (community or non-community water supply) under 310 CMR 22.00.

Well Driller: Any person, firm or corporation drilling, constructing, or destroying a water supply well.

Yield: Quantity of water delivered per unit time which may flow or be continuously pumped from the well.

Registration of Well Drillers

1. All well drillers doing business in the Town of Harwich shall annually file with the Board of Health a copy of their current well driller registration certificate issued by the Commonwealth of Massachusetts under MGL Ch. 21 Section 16 and Massachusetts Regulations 313 CMR 3.00.

Well Installation, Alteration and Repair

1. No well shall be installed, altered, or repaired except by a well driller who is registered with the Water Resources Commission, Division of Water Resources under MGL Ch. 21, Section 16 and 313 CMR 3.00.
2. All wells shall be located on the same lot as the building they serve.

Well Construction Permit

1. No well shall be installed, altered, or repaired until a well construction permit has been obtained from the Board of Health. A permit so granted shall expire 6 months from the date of issue unless construction has begun.
2. The fee for this permit shall be fifty dollars (\$50.00).
3. An application for a well construction permit shall be submitted by the drilling contractor or his agent to the Board of Health on forms furnished by the Board. The well driller is responsible for obtaining said permit prior to well construction.
4. The location and design of the water well must be approved by the Board of Health prior to issuance of a well construction permit. Prior to approval, the Board of Health requires the following to be submitted:
 - a. The Assessor’s map, parcel and lot number of the property on which the well will be located.
 - b. Design and capacity of the water system, as described under Well Yield and Water System Design.
 - c. A site plan, drawn by a registered profession civil engineer, registered sanitarian, or registered land surveyor showing the

proposed location of the well in relation to building foundations, property lines, building sewer lines, the subsurface sanitary disposal systems serving the lot, all other septic systems within 200 feet, and any other known potential sources of contamination within 200 feet which could affect the well. Such sources of contamination shall include sanitary landfills; auto junk yards; municipal sewage treatment facilities with on-site disposal of primary or secondary effluent; car washes; road salt stockpiles; dry cleaning establishments; boat and motor vehicles service and repair; cabinet making; electronic circuit assembly; metal plating; finishing and polishing; motor and machinery service and assembly; commercial paint, wood preserving and furniture stripping; sites where pesticides and herbicides are regularly applied, including golf courses and cranberry bogs (but not including pesticide application at single family dwellings); photographic processing; printing; chemical and bacteriological laboratories; transportation terminals; funeral homes; any principal use involving the sale, storage, or transportation of fuel or oil; and any use which involves as an activity the manufacture, storage, use, transportation or disposal of toxic or hazardous materials. To meet this requirement, well location shall be shown on the same plot plan submitted to the Board of Health for approval of septic system installation.

- d. A registered civil engineer or registered land surveyor must determine and mark the location of the well on the lot prior to its installation.
5. For emergency repair, alteration, or replacement of an existing well, the Board of Health may waive the requirements that a site plan be submitted and that the location of the well be staked on the lot.
6. Permit conditions: All permits issued shall be subject to the conditions that all facilities shown shall be constructed in the location approved by the Board of Health. All permits issued shall be subject to the requirements of these Regulations and to such further conditions as the Board of Health shall prescribe.

Well Construction

1. The Board of Health recommends that well construction meet the guidelines outlined in the New England Water Well Drillers Association Ground Water Quality Control Well Construction Guide.
2. The top of a well shall be above ground that is higher than any surface sources of contamination and above any known conditions of flooding by drainage or runoff from the surrounding land, unless located in a flood-proofed well house.

3. Wells must be constructed so as to maintain existing natural protection against all known or potential pollution of the groundwater and to exclude all known sources of pollution from entering the well.
4. All non-yielding holes which are installed in the process of constructing a well must be filled so as to not act as a conduit to the groundwater.
5. A metal tag shall be affixed to the top of the well casing at the time of installation so that the well may later be located if necessary by a metal detector.
6. In areas where salt water or other pollutant intrusion is known or likely to occur, the Board of Health working with a designing engineer, may specify the well screen level, pumping rate, water storage capacity, or any other construction parameter which must be used to ensure that water of adequate quality is obtained.

Well Drillers Report

1. Within 30 days after completion of the construction of any well, the well driller shall submit to the Board of Health a copy of the Water Well Completion Report. The Board of Health will not issue a Certificate of Approval for the well until this report has been received.

Well Destruction

1. Prior to destruction of any well, a well destruction permit must be obtained by the owner or his agent from the Board of Health. The Board of Health will require a site plan showing the well location, including information on the Assessor's map, parcel and lot number for the property on which the well is located, prior to issuance of the well destruction permit.
2. Any abandoned well shall be filled and sealed with clean puddle clay, neat cement grout, or concrete grout in such a manner as to prevent it from acting as a channel for pollution to the groundwater.
3. Within 30 days after completion of the destruction of any private well, the well owner or well driller acting as agent for the well owner shall submit to the Board of Health a report containing the following:
 - a. The name of the owner of the well;
 - b. The geographic location of the well;
 - c. Any preliminary cleaning or re-drilling;
 - d. Types, depths and materials or seals used.

Additional Requirements for Wells Intended for Human Consumption

Well Location:

1. In general, wells intended for human consumption shall be located as far as possible from potential sources of contamination. The following minimum distances are required:

<u>ITEM</u>	<u>DISTANCE FROM WELL</u>
<u>Property Line</u>	10 feet
<u>Roadway</u>	25 feet from edge of road layout (not edge of pavement)
<u>Leaching Catch Basin/Drywell</u>	25 feet, but recommend that this distance be maximized
<u>Utility Rights-of-Way</u>	50 feet, but recommend that this distance be maximized
<u>Septic Tank</u>	50 feet
<u>Septic Leaching Facility</u>	100 feet
<u>Septic Distribution Box</u>	50 feet
<u>Building Sewer</u>	50 feet
<u>Subsurface Drains</u>	25 feet, but recommend that this distance be maximized, as pollutants frequently travel along the outside of Subsurface drain pipes

2. Where, in the opinion of the Board of Health, adverse conditions exist, the above distances may be increased. In certain areas, the Board of Health may require the owner to provide additional means of protection. Where possible, the well shall be located up-gradient from the groundwater sources of contamination.

Water Quality

1. Prior to approval of the well, the owner or his agent, shall take a water sample(s) from the well and submit it to a state certified testing laboratory for analysis, with the cost to be borne by the owner. The results of all analyses shall be submitted to the Board of Health. At a minimum, water must be tested for the following chemical and bacteriological standards: total coliform, nitrate-nitrogen, pH, conductivity, sodium and iron.
2. The Board of Health will determine potability of the well water using as guidelines the National Interim Primary and Secondary Drinking Water Standards and the US EPA Maximum Contaminant Levels (MCLs). The Water Quality Standards for common parameters are as follows:

<u>Item</u>	<u>Primary Standards</u>
Total Coliform	0 colonies/100 ml. MF
Nitrate	10 ppm
<u>Item</u>	<u>Secondary Standards</u>
pH	recommend pH above 5.0
Sodium	20 ppm
Iron	0.3 ppm

3. In locations where potential sources of contamination are believed to exist, or where geologic or hydrologic conditions require more restrictive or additional standards than those outlined above, additional water testing and special standards may be required by the Board of Health to ascertain that water meets the Maximum Contaminant Levels set for public water supplies by the US EPA under the Safe Drinking Water Act and 1986 SDWA amendments. Such testing may include EPA methods 601, 602, 502, 503, 624, 625 analyses for purgeable halocarbons, and purgeable aromatics, analyses for petroleum hydrocarbons or pesticides or any other analysis the Board of Health deems necessary to ascertain water quality.
4. When the Board of Health deems it necessary, the Health Agent or any other agent of the Board of Health may be present to witness the taking of a water sample and/or may take the water sample and deliver it to the testing laboratory him/herself.

5. The Board of Health further recommends that all well owners have their wells tested at a minimum of every two years, and at more frequent intervals when water quality problems are known to exist.

Well Yield and Water System Design

1. Before approval, every well shall be pump tested to determine yield. The pump test shall include a drawdown test at a maximum pumping rate of 5 gallons per minute for 1 hour.
2. The design of the water system, including well, pump, storage tank, and other accessories must be adequate to provide a water capacity in gallons per minute which equals the number of water fixtures installed; in addition, capacity (gpm) must not be less than the peak demand for the largest fixture installed. For the purposes of this Regulation, a fixture is defined as a water outlet, and includes faucets, sinks, toilets, bathtubs, washing machines, dishwashers and the like.
3. In areas where salt water or other pollutant intrusion exists or is believed likely, and where the Board of Health (in conjunction with a designing engineer, as outlined under Well Construction) has determined a well pumping rate which must be used to prevent further contamination, the Board of Health may specify design criteria for the building, and water system served by the well, so that the water storage tank, number of fixtures and habitable space are compatible with the pumping capacity of the well.

Submission of Well Water Test Results

1. Prior to the issuance of a Certificate of Approval for a well intended for human consumption, the results of all water quality and yield tests shall be submitted to the Board of Health. The owner of the property which the well will service, or the well driller acting as agent for the owner, shall certify, on a form provided by the Board of Health the following:
 - a. The location, and date the sample was taken, and the laboratory at which it was analyzed;
 - b. That the water sample whose analysis results were submitted to the Board of Health was taken from the well for which approval is being sought, and;
 - c. The results of the yield test performed by the well driller.

Well Approval

1. New wells shall not be placed into use for human consumption until the Board of Health has approved the potability and quantity of the water provided, and issued a Certificate of Approval for the well to the owner of the property which the well serves.

2. A Certificate of Approval for a well will not be issued until:
 - a. the well water has been shown to meet the water quality criteria outlined in the Regulations, and;
 - b. the capacity of the water system, in gallons per minute, has been demonstrated to equal the number of fixtures installed.
3. In addition, for wells installed at newly constructed buildings, the Board of Health shall require that a certified plot plan, drawn by a registered land surveyor or registered professional civil engineer, be submitted to the Board of Health. Such plot plan must show the actual location of the well on the lot as cross tie distances from lot corners, and must show the location of the septic system, as installed, in relation to the well. The plot plan must also identify, by Assessor's Map, parcel and lot number, the property on which the well is located. This information may be included in the certified plot plan required by the Building Inspector which shows the location of the foundation on the lot.
4. The Board of Health shall not approve a Building Permit or Certificate of Occupancy until it has issued a Certificate of Approval for the well serving that building.
5. Wells which fail to meet some or all of the requirements in these Regulations may be approved by the Board of Health after a hearing at which a variance from these standards may be granted.

Existing Wells Serving Rental Properties

1. The owner of every well intended for human consumption serving property which is rented or leased shall have its water tested at a state certified laboratory for the water quality parameters outlined above, at a minimum of once every two years. Where water quality problems are known or suspected to exist, the Board of Health may require more frequent testing, or testing for additional parameters.
2. Results of all water quality tests shall be made available to all tenants of the property and to the Board of Health, by the owner of the property.
3. In cases where the well water does not meet the water quality standards outlined above, the Board of Health may require the property owner to provide an alternative approved source of drinking water for the tenants.

Test of Water Quality Upon Transfer of Real Estate

1. Prior to selling, conveying or transferring title to real property in the Town of Harwich, the owner thereof shall have tested the water of every private potable well serving that property. A water sample from each well shall be submitted to a state certified laboratory for testing for the parameters outlined under Water Quality, above. This water quality test

shall be performed not more than 60 days prior to transfer of the property. Results of the water test shall be submitted to the Board of Health prior to property transfer on a form provided by the Board of Health on which the owner will certify that the sample was taken from the well serving the property being transferred.

2. In addition, the owner shall give copies of all water test results of which he has knowledge (regardless of age of results) for the private potable well in question to any buyer and/or broker identified with the transfer. In the event that there is no buyer at the time the water is tested, a copy of all water test results must be given by the owner to the buyer before the property is put under agreement.
3. This Regulation shall not apply to the conveyance or devise of a property to a surviving spouse or to any of the heirs or devisees of the property owner, and further, shall not apply to a sale under power of sale in a bonafide mortgage affecting the property.

Variance and Enforcement Procedure

1. The Board of Health may vary the application of any provision of this article with respect to any particular case when, in its opinion, the enforcement thereof would do manifest injustice; provided that the decision of the Board of Health shall not conflict with the spirit of these minimum standards nor with the protection of human health and environmental quality.
2. Every request for a variance shall be made in writing and shall state the specific variance requested and the reasons therefore. Any variance granted by the Board of Health shall be in writing. Any denial of a variance shall also be in writing and shall state the reasons for the denial. A copy of any variance granted shall be available to the public at all reasonable hours in the office of the Town Clerk or the Board of Health while it is in effect.
3. Any variance or other modification authorized to be made by these Regulations may be subject to such qualification, revocation, suspension or expiration as the Board of Health expresses in its grant. A variance or modification authorized to be made by these Regulations may otherwise be revoked, modified or suspended, in whole or in part, only after the holder thereof has been notified in writing and has been given an opportunity to be heard in conformity with the requirements of 310 CMR 11.00 for orders and hearings.
4. As a condition of granting a variance, the Board of Health may require a restriction to be recorded at the Registry of Deeds when, in the opinion of the Board of Health, knowledge that the well does not meet minimum

standards would benefit future potential customers of water supplied by the well.

5. So far as the Board of Health may provide, each section of these rules and Regulations shall be construed as separate. If any section, Regulation, paragraph, sentence, clause, phrase or word of these rules and Regulations shall be declared invalid for any reason, the remainder of these rules and Regulations shall remain in full force and effect.
6. The provisions of Title 1 of the State Environmental Code (310 CMR 11.00) shall govern the enforcement of these Regulations.

Adopted 12/7/1988
Effective: 1/15/1989

HARWICH BOARD OF HEALTH

Shirley A. Gomes Chairman
Marguerite E. Marion
Carol Topolewski

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FUEL STORAGE SYSTEM REGULATIONS

Whereas, leaking fuel storage systems pose an immediate and serious threat to Cape Cod's sole source aquifer, and,

Whereas, the Town of Harwich does not have records to locate all such systems installed within the Town.

Therefore, under Chapter 111, Section 31 of the Massachusetts General Laws, the Harwich Board of Health hereby adopts the following 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 substance 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 toxic or hazardous material storage systems:

Section 1. Installation of Fuel Storage Tanks (UST)

- 1.1 Following the effective date of this Regulation, the installation of all underground fuel, gasoline or other chemical storage tanks shall conform with the following criteria: In that the United States Environmental Protection Agency designated the Town of Harwich as overlying a sole source aquifer, secondary containment of tank and piping and an approved in-tank or interstitial space monitoring system shall be required for new or replacement tanks.
- 1.2 Following the effective date of this Regulation, all tanks installed above ground outside shall be of material approved for outside use.

Section 2. Tank Registration

The following Regulations shall apply to:

- a. all underground tanks containing toxic or hazardous materials as defined above which are not currently regulated under 527 CMR 9.24 – Tanks and Containers, to
- b. all tanks containing fuel oil, whose contents are used exclusively for consumption on the premises, and to
- c. 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 September 1, 1989, 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 or in such a location as to be visible to any distributor when filling the tank and to any inspector authorized by the Town.
- 2.2 Effective September 1, 1989, 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 present.
- 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 for 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 years after installation and annually thereafter. A tank shall be tested by any final or precision test, not involving air pressure, that can accurately detect a leak of 0.05 gal/hr, after adjustment for relevant variables, such as temperature change and tank and deflection, ¹⁰ by soil vapor analysis, provided that the monitoring wells are installed in conformance with Barnstable County Health and Environmental Department guidelines; 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 percent 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 September 1, 1989. Tanks which are currently tested under the provision of 527 CMR

9.18 are exempt from this section. For purposes of this section, tanks of unknown age are assumed to be 20 years of age.

Section 4. Maintenance of Fuel Storage Systems

- 4.1 All underground fuel lines which do not have secondary containment shall be replaced with an approved double-containment system at which time any service to the system requiring a permit is performed.
- 4.2 All above ground elements of a fuel storage system shall be maintained free of leaks and visible rust.
- 4.3 All in-tank or interstitial space monitoring systems shall be checked on a monthly basis to verify system integrity. Records of these checks shall be sent to the Board of Health on an annual basis.

Section 5. Report of Leaks or Spills

- 5.1 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.

Section 6. Tank Removal

- 6.1 All fuel, gasoline or other chemical tanks not regulated under 527 CMR 9.00 (farm or residential tanks of 1,100 gallons or less and underground tanks storing fuel for consumptive use at the property) in service on the effective date of this Regulation, shall be removed thirty (30) years after the date of installation. If the date of installation is unknown, the tank shall be assumed to be twenty years old. All underground storage tanks currently subject to the removal Regulation (30 years or older) must be removed September 1, 1990.
- 6.2 Prior to the removal of an underground storage tank governed by this Regulation, the owner shall first obtain a permit from the head of the fire department, pursuant to MGL Ch. 148.
- 6.3 Any person granted a permit by the Marshall or the head of a local fire department to remove a tank under the provisions of MGL, Ch. 148 or 527 CMR 9.00 shall within 72 hours provide the permit granting authority with a receipt for delivery of said tank to the site designated on the permit.

- 6.4 Before any person is granted a permit by the Marshall or the head of a local fire department to remove a tank under the provisions of MGL Ch. 148 or 527 CMR 9.00, and said tank is not being transported to an approved tank yard, the person requesting the permit shall provide the permit/granting authority with written approval from the owner/manager of the disposal site. (Reference: 502 CMR 3.00 for tank removal and disposal procedure).

Section 7. Costs

- 7.1 In every case, the owner shall assume the responsibility for costs incurred necessary to comply with this Regulation.

Section 8. Variances

- 8.1 Variances from this Regulation may be granted by the Board of Health after a hearing at which the applicant establishes the following: (1) the enforcement thereof would do manifest injustice; and (2) installation or use of an 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 groundwater flow, soil conditions, depth to groundwater, size, shape and slope of the lot, and existing and known future water supplies.

Section 9. Severability

- 9.1 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.

Adopted 5/17/1989
Effective 9/1/1989

HARWICH BOARD OF HEALTH

Shirley A. Gomes, Chairman
Marguerite E. Marion
John E. Sauvage

HARWICH BOARD OF HEALTH FLOOR DRAIN REGULATION

Section I. Purpose of Regulation

Whereas:

- * Floor drains in industrial and commercial facilities are often tied to a system leading to a leaching structure (e.g. dry well, cesspool, leach field) or a septic system; and
- * Poor management practices and accidental and/or intentional discharges may lead 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 systems to the ground; and
- * Discharges of hazardous waste and other pollutants to floor drains leading to leaching structures and septic systems have repeatedly threatened surface and ground water quality throughout Massachusetts; and
- * Surface and ground water resources in the Town of Harwich contribute to the town's drinking water supplies;

The Town of Harwich adopts the following Regulation, under its authority as specified in Section II, as a preventative measure for the purposes of:

- * Preserving and protecting the Town of Harwich's drinking water resources from discharges of pollutants to the ground via floor drains, and minimizing the threat of economic losses to the town due to such discharges.

Section II. Scope of Authority

The Town of Harwich Board of Health adopts the following Regulation pursuant to authorization granted by MGL C.111 s.31 and s.122. The Regulation shall apply, as specified herein, to all applicable facilities, **existing and new**, within the Town of Harwich.

Section III. Definitions

For the purposes 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 limited 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 any 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 on-site 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 water-tight.

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 wastes 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 Materials – 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 Harwich. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy materials, 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 Regulations (310 CMR 30.000), and also include such products as solvents, thinners, and pesticides in quantities greater than normal household use.

Use of Toxic or Hazardous Material – 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 septic system in any industrial or commercial facility if such floor drain is 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, 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 any 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 department policies and Regulations, with hauling records submitted to the Harwich Board of Health at the time of hauling, or;
 - b. Permanently sealed. (Any facility sealing a drain shall be required to submit for approval to the Board of Health a hazardous waste management plan detailing the means of collecting, storing, and disposing any hazardous waste generated by the facility, including any spill or other discharge of hazardous materials or wastes.)

B. Compliance with all provisions of this Regulation must be accomplished in a manner consistent with Massachusetts Plumbing, Building and Fire Code requirements.

C. 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 UIC Notification Form (which may be obtained by calling 617-292-5770) with the department and sending a copy to the Harwich Board of Health.

Section VI. Effective Dates for All Facilities

This Regulation was adopted following a legal public hearing on April 16, 1997 to be effective upon publication of May 8, 1997.

A. Existing Facilities:

1. Owners/Operators of a facility affected by this Regulation shall file a plan to remedy any discharges within 120 days of the effective date.
2. All applicable discharges to the leaching structures and septic systems shall be remediated within one year of the effective date.

B. New Facilities

1. As of the effective date of the Regulation, all new construction and/or applicable change of use within the Town of Harwich 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 construction 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 – effective one year from adoption (April 16, 1998)

A. Failure to comply with provisions of this Regulation will result in the levy of fines of not less than (\$200), but no more than (\$1,000). Each days failure to comply with the provisions of this Regulation shall constitute a separate violation.

B. Non-criminal Disposition. Whoever violates any provisions of these rules and Regulations may, at the discretion of the Health Agent, be penalized by a non-criminal complaint in the District Court pursuant to the provisions of the General Laws, Chapter 40, Section 21D. For the purposes of this provision, the penalty to apply in the event of a violation shall be as follows: (First Offense: Written Warning); (Second Offense: \$100). Each day on which a violation exists shall be deemed to be a separate offense.

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.

Adopted 4/16/1997
Effective 5/8/1997

HARWICH BOARD OF HEALTH
Anne L. Welch, Chairman
Robert A. Germain
Patricia Vasconcellos-McKenzie
John Sauvage
Bruce S. Campbell

GROUNDWATER PROTECTION REGULATION

I. Purpose

Whereas:

- * Siting of land uses that have the potential to release hazardous waste, petroleum products, or other contaminants significantly increases the risk of contamination; and
- * Poor management practices, accidental discharges, and improper maintenance of these facilities may lead to the release of pollutants; and
- * Discharges of hazardous wastes, leachate, pathogens, and other pollutants have repeatedly threatened surface and groundwater quality through Massachusetts; and
- * Groundwater resources in the Town of Harwich are the town's drinking water supplies:

Therefore, the Town of Harwich adopts the following Regulations, under its authority as specified in Section II as a preventative measure for the purposes of:

- * Preserving and protecting the Town of Harwich's drinking water resources from potential discharges of pollutants; and
- * Minimizing the risk to public health and the environment of the town due to such discharges.

II. Scope of Authority

The Town of Harwich Board of Health adopts the following Regulations pursuant to authorization granted by Massachusetts General Law c. 111 § 31 and § 122. The Regulation shall apply, as specified herein, to all applicable facilities within the Zone II and/or Interim Wellhead Protection Areas (IWPA) as shown on a map entitled "Drinking Water Resource Protection District and Approved Zone II Delineations, Harwich, Massachusetts", dated December, 1997, Scale: 1:12,000'.

This Regulation supersedes all inconsistent Regulations adopted by the Board of Health prior to the effective date.

III. Definitions

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

Commercial Fertilizers – Any substance containing one or more recognized plant nutrients, used for its plant nutrient content and which is designed for such use, or claimed by its manufacturer to have value in promoting plant growth. Commercial fertilizers do not include un-manipulated animal and vegetable manure, marl, lime, limestone, wood ashes and gypsum.

Department – The Massachusetts Department of Environmental Protection

Discharge – The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, incineration, or otherwise placing of toxic or hazardous material or waste upon or into any 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 on-site leaching structure or sewage disposal system.

Hazardous Material – Any product, waste or combination of substances, which, because of its quantity, concentration, or physical, chemical, toxic, radioactive, or infectious characteristics, may reasonably pose a significant, actual, or potential hazard to human health, safety, welfare, or the environment when improperly treated, stored, transported, used, disposed of, or otherwise managed. Hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious materials, and all substances defined as “toxic” or “hazardous” under Massachusetts General Laws (M.G.L.) Chapter 21C and 21E using the Massachusetts Oil and Hazardous Substance List (310 CMR 40.000). The definition may also include acids and alkalis, solvents, thinners, and pesticides.

Historical High Groundwater Table Elevation – A groundwater elevation which is determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey.

Interim Wellhead Protection Areas (IWPA) – For public supply wells or well-fields that lack a Department approved Zone II, the Department will apply an interim wellhead protection area. This interim wellhead protection area shall be a one-half mile radius measured from the well or edge of a well-field for sources whose approved pumping rate is 100,000 gpd or greater. For wells that pump less than 100,000 gpd, the IWPA radius is proportional to the well’s approved daily volume following the IWPA Chart as referenced in the Department of Environmental Protection Division Water Supply Policy 92-01.

Landfill – A facility established in accordance with a valid site assignment for the purposes of disposing solid waste into or on the land pursuant to 310 CMR 19.006.

Non-Sanitary Wastewater – Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage, including, but not limited to, activities specified in the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6).

Open Dump – a facility which is operated or maintained in violation of the Resource Conservation and Recovery Act c 42 U.S.C. 4004(a)(b) or the Regulations and criteria for solid waste disposal.

Potential Public Water Supply Area – An area which indicates promise as a public water supply well area due to favorable results of preliminary tests and levels of existing and potential future development in its recharge area which would not jeopardize the long term quality of the water.

Septage – The liquid, solid and semi-solid contents of privies, chemical toilets, cesspools, holding tanks or other sewage waste receptacles. Septage does not include any material that is a hazardous waste, pursuant to 310 CMR 30.000.

Sludge – The solid, semi-solid and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screening, or grease and oil which are removed at the headworks of a facility.

Treatment Works/Sewage Treatment Facilities – Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage or disposal.

Use of Toxic or Hazardous Material – The handling, generation, treatment, storage or management of toxic or hazardous materials.

Waste Oil Retention Facility – A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with M.G.L. c21s 52A.

Zone II – That area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can realistically be anticipated as defined in Massachusetts Drinking Water Regulations, 310 CMR 22.02

IV. Prohibitions

The following uses and activities shall be prohibited:

- a. Landfills and open dumps as defined in 310 CMR 19.006, other public or private landfills; refuse facilities, and land-filling of sludge or septage as defined in 310 CMR 32.05, including without limitation landfills receiving only wastewater residuals and/or septage (wastewater residuals, “monofills”) APPROVED BY THE Department pursuant to M.G.L. c.21 § 26 through 53; M.G.L. c. 111 § 17; M.G.L. c. 83 § 6-7 and any Regulations promulgated there-under;

- b. Sewage treatment facilities, public or private, with on-site disposal of effluent unless needed to remediate existing contamination;
- c. Airports, boat, truck and bus terminals or stations;
- d. Stockpiling and disposal of snow or ice removed from highways and streets located outside of Zone II that contains sodium chloride, chemically treated abrasives or other chemicals used for snow and ice removal;
- e. Land use that results in impervious cover of more than 15% or 2,500 square feet of any lot, whichever is greater, is prohibited, unless a system of artificial recharge of precipitation is provided that will not result in the degradation of groundwater quality.
- f. Any activity which involves the use, treatment, generation, storage or disposal of hazardous wastes or hazardous materials in greater than household quantities. Examples of such businesses, whether the primary use or incidental, would include but not be limited to the following:
- * Photo Developing/Processing
 - * Metal Plating
 - * Chemical and Bacteriological Laboratories
 - * Kennels or Veterinary Hospitals
 - * Hospitals
 - * Funeral Homes/Mortuaries
 - * X-ray Facilities
 - * Storage of Heating Fuels of any Kind
 - * Manufacturing and Production of Paving, Roofing and Other Construction Materials Using Petroleum-based Coating and Preserving Materials
 - * Gasoline Stations, Automotive Service Stations and Car Washes
 - * Dry Cleaning Establishments
- g. Underground Storage Tanks
- h. Permanent removal of soil or ground cover within four (4) feet of maximum high groundwater;
- i. Automobile graveyards and junkyards as defined in M.G.L. c. 140B § 1, other areas for disposal of automobiles, junkyards and salvage yards;
- j. Storage of animal manure unless said storage is in a manner consistent with all applicable state and local Regulations relative thereto and as determined by the Board of Health, including without limitation the covering and containment of such manure in accordance with the specifications of the Natural Resource Conservation Service.

k. Petroleum, fuel oil and heating oil bulk stations and terminals, including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5171 and 5983. SIC Codes are established by the U.S. Office of Management and Budget and may be determined by referring to the publication: "Standard Industrial Classification Manual" and any subsequent amendment thereto.

l. Storage of commercial fertilizers as defined in MGL c. 128 § 64, unless such storage is within a structure designed to prevent the generation and escape of containment runoff or leachate.

m. Floor drains which discharge to the ground, more specifically referenced in 310 CMR 22.21(2).

V. EFFECTIVE DATE

a. This Regulation shall become effective June 1, 2000.

b. As of the effective date of this Regulation all new construction, expansion or alteration of existing uses and/or applicable change of use within the Town of Harwich shall comply with the provisions of this Regulation subject to the applicability of MGL c.111 § 127P, if any.

c. Certification of conformance with the provisions of the Regulation by the Board of Health shall be required prior to the issuance of construction and occupancy permits.

VI. VARIANCE PROCEDURE

The Board of Health may grant variances from this Regulation after a hearing at which the applicant establishes the following:

- (A) The enforcement thereof would do manifest injustice; and
- (B) A variance contemplated from these Regulations will not, in the opinion of the Board of Health, adversely affect the intent of the Regulation.

VII. PENALTIES AND ENFORCEMENT

(A) Non-Criminal Disposition

Whoever violates any provision of these rules and Regulations may be penalized by a non-criminal method in the District Court pursuant to the provisions of MGL c.40 § 21D. For the purposes of this Regulation the following fine schedule will be imposed:

- First Offense: Written Warning
- Second Offense: \$50.00
- Third Offense: \$100.00
- Fourth and Subsequent Offenses: \$300.00

Each day on which a violation exists shall be deemed to be a separate offense. The third offense at a single facility shall result in a hearing before the Board of Health to determine whether the Board shall file a criminal complaint.

(B) Criminal Complaint

Whoever violates any provision of these rules and Regulations may be penalized by indictment or complaint brought in the District Court. Except as otherwise be provided by law, and as the District Court may see fit to impose, the maximum penalty for any violation of these provisions shall be \$1,000 for each offense.

VIII. 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.

Adopted 4/26/2000
Effective 6/1/2000

HARWICH BOARD OF HEALTH

Robert A. Germain
Alfred Hurst
Francis C. Sampson
Ronald E. Hindman

SCOOPER LAW

In order to further protect the wetlands and waterways of the Town of Harwich from non-point pollution, the Board of Health hereby adopts the following Regulation in accordance with Massachusetts General Laws, Chapter 111 Section 31:

All animal owners are responsible for removing solid wastes produced by their animals while on any of Harwich beaches. The term "beaches" shall include sand, dune, water and parking lot.

Penalties – Board of Health Regulations

a. Criminal Complaint – Whoever violates any provision of these rules and Regulations may be penalized by indictment or on complaint brought in the District Court. Except as may otherwise be provided by law, and as the District Court may see fit to impose, the maximum penalty for any violation of these provisions shall be \$500 for each offense.

b. Non-Criminal Disposition – Whoever violates any provision of these rules and Regulations may, in the discretion of the Health Agent, be penalized by a non-criminal complaint in the District Court pursuant to the provisions of the General Laws, Chapter 40, Section 21D. For the purpose of this provision, the penalty to apply in the event of a violation shall be as follows: \$50. Each day on which a violation exists shall be deemed to be a separate offense.

Adopted: 10/16/1991
Effective upon publication

HARWICH BOARD OF HEALTH

Richard D. Hoyer
John E. Sauvage
Anne L. Welch
Robert A. Germain
Bruce A. Campbell

RESOLUTION

The Harwich Board of Health does hereby resolve to support the program of Cross Connection Control implemented by the Harwich Water Department and to support the Cross Connection Rules and Regulations adopted by the Harwich Water Commissioners on October 16, 1989 in order to protect the potable water supply served by the Harwich Water Department to the citizens of Harwich.

HARWICH BOARD OF HEALTH

Shirley A. Gomes, Chairman
Marguerite E. Marion
John E. Sauvage
Anne L. Welch
Richard D. Hoyer

Part III

Community Sanitation

REGULATIONS FOR THE OPERATION OF SALAD BARS SO CALLED

The following Regulations are adopted under the provisions of 105 CMR 400.015 of the Massachusetts State Sanitary Code.

REGULATION

- 6.101 Any person, before setting up a salad bar so called, shall first obtain a Food Service Permit from the Board of Health.
- 6.102 The establishment must meet all applicable requirements of 105 CMR 595.000; State Sanitary Code, Article X – Minimum Standards for Food Service Establishments, and of 105 CMR 590.000; Rules and Regulations Relative to Retail Food Establishments.
- 6.103 The salad preparation site will have as a minimum, a two compartment sink with an adequate supply of hot and cold water under pressure to properly wash and sanitize the utensils used. A quaternary ammonium compound or equivalent sanitizing agent shall be used in washing all utensils.
- 6.104 The raw salad ingredients shall be fresh and wholesome and must be prepared, washed and refrigerated in an area used only for food preparation.
- 6.105 A separate sink for hand washing will be provided at the preparation site. Soap dispensers and a means of hand drying will be provided. A sign located in a conspicuous place will read “Employees Wash Hands Before Returning to Work”.
- 6.106 The area surrounding the salad bar must be protected from the elements and the entrance of vermin and maintained at a temperature not to exceed 75°F.
- 6.107
 - a. The salad bar must be mechanically refrigerated and have crushed ice surrounding the perishable food containers. The crushed ice portion of the bar must drain to an approved system.
 - b. Containers must be easily removed for cleaning from the display stand.
 - c. A food shield (sneeze guard) conforming to National Sanitation Foundation requirements must be provided.
 - d. The display stand should not be so wide as to require the customer to move under the food shield to obtain foods therein.
 - e. The food guard should be easily cleanable and be provided with a safety edge.

- 6.108 Condiments, seasonings and dressings shall be provided in individual packages or stored in clean pour or pump type dispensers, which are maintained below 45°F.
- 6.109 Single service dishes for customer use will be stored and provided so as to prevent contamination. Single service utensils shall be in sealed packages.
- 6.110 Empty containers shall not be refilled at the salad bar, but will be removed, washed and refilled at the preparation site before replacement in the salad bar.
- 6.111 Serving utensils must be of such size and length as to minimize manual contact of employees or customers with the food. Between uses during service, utensils will be stored as follows:
- a. In the food with the serving handle extending out of the food, or;
 - b. In running water, or;
 - c. Clean and dry
- 6.112 If sulfating compounds are used in the preparation of the foods, a sign to this effect will be placed at a conspicuous location at the salad bar.
- 6.113 Food will not be displayed on top of or in front of the food shields.
- 6.114 Proper supervision will be maintained of the salad bar to prevent the serving of food contaminated by one customer to another person.

TEMPORARY FOOD VENDORS

It is the goal of the Board of Health to eliminate the potential risk of food-borne illness at outdoor food facilities. The recent proliferation of vendors at festivals prompted the establishment of this policy.

The following will be the minimum requirements for any facility desiring to do business in Harwich:

1. Mechanical Refrigeration – No Coolers
2. Hot and Cold Running Water – with water discharge tank; No Discharge on site
3. Completely enclosed food preparation area with easily cleanable, non-porous surfaces; Makeshift tables and booths for food preparation areas outside of a self-contained unit will not be allowed.

If you do not have a self-contained unit, you will be limited to a non-potentially hazardous type of operation. Example: wrapped items pre-made at an approved facility, coffee, drinks, hot dogs, retail food items.

All vendors will be expected to comply with this criteria, at a minimum, in order to obtain a food service permit. Contact the Health Director for further information.

Adopted 11/22/1995

HARWICH BOARD OF HEALTH

John E. Sauvage
Robert A. Germain
Patricia Vasconcellos-McKenzie
Anne L. Welch

TOWN OF HARWICH MINIMUM SANITATION STANDARDS FOR FOOD ESTABLISHMENTS AND SWIMMING POOLS

Section I. Authority

In accordance with Massachusetts General Laws, Chapter 111, Section 31, the Board of Health adopts as its own Regulations 105 CMR 590.000 Minimum Sanitation Standards for Food Establishments, State Sanitary Code, Article X as enacted on April 1, 1994, and as may be further amended and 105 CMR 435.000 Minimum Standards for Swimming Pools, State Sanitary Code, Chapter V as enacted on February 20, 1998, and as may be further amended.

These Regulations may be enforced by the non-criminal method of disposition under the authority of Harwich General Bylaws, Article VIII.

Section II. Violations, Penalties, and Enforcement

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

On each day a violation exists it shall be deemed a separate offense.

For the purposes of these Regulations the following fine schedule will be imposed:

First offense – written warning
Second offense - \$25.00
Third offense - \$50.00
Fourth and subsequent offenses \$100.00

Enforcement of these Regulations shall be implemented by the Board of Health and any of its agents.

Section III. 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.

Section IV. Effective Date

These Regulations shall be effective as of July 1, 1999

HARWICH BOARD OF HEALTH

Robert A. Germain, Chairman

Alfred Hurst

Linda Schultz

Francis C. Sampson

Ronald E. Hindman

MINIMUM STANDARDS FOR PUBLIC AND SEMI-PUBLIC SWIMMING, WADING AND SPECIAL PURPOSE POOLS

These Regulations are adopted pursuant to Massachusetts General Laws, Chapter 111, Section 31 and State Sanitary Code 105 CMR 435.000 Minimum Standards for Swimming Pools, as reasonable safety and health Regulations designed to protect the health and safety of the residents and visitors in the Town of Harwich.

Availability of a swimming pool dictates a degree of responsibility on the part of the owner or operator of the pool. State law does give local Boards of Health the authority to further regulate the safety of swimming pools.

Section I. Safety Training Program

Each establishment with a swimming, wading or special purpose pool shall have on duty during pool operating hours at least one staff member on premises and available by communication with the following qualifications:

- A. An American Red Cross or equivalent certified coronary pulmonary resuscitation (CPR) course including training in child, adult and pediatric. Certificate valid for one year. An American Red Cross or equivalent refresher course, certified annually.
- B. Basic water safety program for non-swimmer rescue, if desired.
- C. Copies of certificates shall be prominently displayed with the current pool operating permit.

Section II. Variances

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, and;
- B. A variance contemplated from these Regulations will not in the opinion of the Board of Health adversely affect the intent of this Regulation.

Section III. Implementation

- A. These Regulations shall become effective on May 1, 1996
- B. Penalties

(a) Criminal Complaint – Whoever violates any provision of these rules and Regulations may be penalized by indictment or on complaint brought in the District Court. Except as may otherwise be provided by law, and as the District Court may see fit to impose, the maximum penalty for any violations of these provisions shall be \$500 for each offense.

(b) Non-Criminal Disposition – Whoever violates any provision of these rules and Regulations may, at the discretion of the Health Director, be penalized by a non-criminal complaint in the District Court pursuant to the provisions of the General Laws, Chapter 40, Section 21D. For the purpose of this provision, the penalty to apply in the event of a violation shall be as follows:

First Offense – Written Warning

Each subsequent offense is \$50 and may result in a hearing before the Board of Health. Each day on which a violation exists shall be deemed to be a separate offense.

Adopted 3/27/1996

HARWICH BOARD OF HEALTH

Anne L. Welch, Chairman
John E. Sauvage
Bruce S. Campbell
Robert A. Germain
Patricia Vasconcellos-McKenzie

MEMO - Swimming Pool Operators

October 14, 1987

Dear Swimming Pool Operator:

A survey of public and semi-public swimming pools this season has revealed that several major violations concerning health and safety continue to exist at some facilities.

1. 105 CMR 435.06 Automatic Disinfection Equipment

Automatic disinfection feed equipment is required. The code requires that chlorinators and hypochlorinators shall be dependable in operation and equipped with a calibrated controlling device capable of being finely adjusted. This eliminates the "erosion" type devices that utilize a solution of hypochlorite tablet or sticks to maintain a chlorine residual. Any new or replacement equipment should not be the erosion type.

2. 105 CMR 435.03 Enclosures

The operator of every swimming pool shall provide and maintain adequate enclosure to prevent animals and unauthorized persons from entering the pool area. A 6 foot high fence in accordance with Massachusetts General Laws, Chapter 140, § 206, will be required. (Self latching with latches 4 feet above ground and no opening greater than 3 inches)

In an effort to achieve compliance with 105 CMR 435.000 – Minimum Standards for Swimming Pools (State Sanitary Code: Chapter V), the Board of Health voted at its meeting of October 14, 1987 that:

"All swimming pools shall have automatic disinfection equipment and required enclosure in compliance with 105 CMR 435.000 prior to the issuance of the 1988 permit to operate a swimming pool".

A variance from these requirements may be requested from the Board of Health provided such requests are submitted in writing to the Board of Health prior to the issuance of a 1988 permit. Variances from these requirements will be heard on a case by case basis and may be granted if, in the opinion of the Board, granting of said variance does not materially impair the safety and sanitary operation of the pool.

If you have further questions regarding this decision, you are requested to contact Health Agent, Paula Champagne.

HARWICH BOARD OF HEALTH
Shirley A. Gomes
Juliana Peterson
Carol A. Topolewski

REGULATIONS GOVERNING THE SALE AND USE OF TOBACCO PRODUCTS IN HARWICH

Section I. Finding and Purpose

The 1986 Surgeon General's Report on "The Health Consequences of Involuntary Smoking" clearly documents that non-smokers are placed at increased risk for developing disease as a result of exposure to environmental tobacco smoke (ETS). In early 1993, the Environmental Protection Agency classified ETS as a known human carcinogen. There is no safe level of exposure to ETS. Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution and that breathing secondhand smoke is a cause of disease, including lung cancer, in non-smokers.

Exposure to environmental tobacco smoke presents a serious and substantial public health risk. Of particular concern is the workplace environment of non-smokers where they may be subjected to sustained involuntary exposure. At special risk are children, elderly people, individuals with cardiovascular disease and individuals with impaired respiratory function including asthmatics, and those with obstructive airway disease.

These Regulations will strengthen existing state laws designed to prevent the sale and distribution of tobacco products to persons under the age of 18 and restrict the ease of access to tobacco products by minors. Vending machines afford an opportunity for unauthorized sale of cigarettes to minors. Evidence further demonstrates that tobacco is extremely addictive. Approximately 80% of all smokers begin smoking before age 18 and more than 3,000 young people begin smoking every day in this nation.

Section II. Authority

The Town of Harwich pursuant to Massachusetts General Laws Chapter 111, Section 31, adopts these Regulations as reasonable health Regulations designed to protect and improve the health of the residents, visitors and persons employed with the Town of Harwich.

Section III. Definitions

- 3.1 Tobacco – Cigarettes, cigars, snuff or tobacco in any of its forms.
- 3.2 Smoking – The lighting of, or having in one's possession, any lighted cigarettes, cigar, pipe or other tobacco product.
- 3.3 Tobacco Vending Machine – A mechanical or electrical device which dispenses tobacco products.
- 3.4 Self-Service – Any tobacco display which allows self service.

- 3.5 Minor – A person under eighteen years of age.
- 3.6 Employer – Every for profit and not for profit business or corporation in Harwich including all municipal governmental bodies, agencies, boards and authorities with employees.
- 3.7 Employee – Any person who is employed by an employer in consideration for direct or indirect monetary wages or profit and any person who volunteers his or her services.
- 3.8 Public Place – An enclosed, indoor area that is open to and used by the general public, including but not limited to the following facilities: licensed child care facilities, educational facilities, clinics, nursing homes, all elevators, stairwells, halls, lobbies and entrance ways accessible to the public, common areas (not including actual sleeping quarters) of guest houses, bed and breakfasts, inns, hotels and motels, public restrooms, laundromats, hair salons, barbershops, libraries, municipal buildings, museums, food service establishments, indoor sports arenas, enclosed shopping malls, theaters, auditoriums, and public transit facilities shall be construed as a public place.
- 3.9 Workplace – An area within a structure or portion thereof at which persons perform services. It also includes employee lounges, restrooms, dining areas, conference rooms, hallways, stairways and entrance ways.

Section IV. Prohibition of Smoking in Public Places

As of July 1, 2000, all public places as defined in Section 3.8 shall be 100% non-smoking.

Section V. Prohibition of Vending Machines

No vending machines for dispensing cigarettes or tobacco products are allowed in the Town of Harwich.

Section VI. Workplace

- 6.1 Any private employer operating a workplace with more than two employees shall not allow smoking except in specially designated smoking areas such described in Section 6.2.
- 6.2 Each employer may specifically designate enclosed separate areas in which employees may smoke. Physical barriers and separate ventilation systems, vented directly to the outside, shall be used to segregate smoking areas from non-smoking areas. Smoking areas

shall be such that smoke is not able to seep into non-smoking areas. Common areas, including hallways, elevators, entranceways, stairwells, restrooms, and waiting areas may not be designated as smoking areas.

- 6.3 Each person having control of the premises upon which smoking is prohibited or controlled by this Regulation shall not permit a violation of this Regulation.

Section VII. Posting

“Smoking” or “No Smoking” signs or symbols shall be prominently posted and properly maintained where smoking is regulated by this act, by the owner, operator, manager, employer or other persons having control of such indoor areas.

Section VIII. Sale and Distribution of Tobacco Products

- 8.1 Permit – To monitor compliance of the sale of tobacco products, permits will be required as issued by the Harwich Board of Health. No person, firm, corporation, establishment, or agency shall sell tobacco products within the Town of Harwich without a valid tobacco sales permit issued by the Board of Health. Permits must be posted in a manner conspicuous to the public. Tobacco sales permits must be renewed annually at a time and fee set forth by the Board of Health.
- 8.2 Sales to Minors – No person, firm, corporation, establishment or agency, shall sell tobacco products to a minor. Each employee shall be required to read the Board of Health Regulations and Massachusetts General Laws, Chapter 270 Section 6 and Section 7 regarding the sale of tobacco.
- 8.3 Self-Service Displays – Displays of cigarette products from which full cartons only may be selected by the customer, must be within 5 feet and in plain view of the regular location of a person designated to supervise the purchase of tobacco products from the display. All other tobacco products shall be restricted in the following manner: If a check-out counter/register is not staffed, the tobacco products must be in an enclosed locked case or otherwise inaccessible for self-service.

Section IX. – Violations, Penalties and Enforcement

- 9.1 (A) Non-Criminal Disposition – Whoever violates any provision of these rules and Regulations may be penalized by a non-criminal

method in the District Court pursuant to the provisions of MGL Chapter 40 § 21D. For the purposes of this Regulation, the following fine schedule will be imposed:

First Offense – Written Warning

Second Offense - \$50.00

Third Offense - \$100.00

Fourth and subsequent offenses - \$300.00

Each Day on which a violation exists shall be deemed to be a separate offense. The third offense at a single facility shall result in a hearing before the Board of Health to suspend or withdraw a tobacco sale permit if appropriate or a determination to file a criminal complaint.

- 9.2 (B) Criminal Complaint – as provided for in MGL Chapter 111 § 31: Whoever violates any provision of these rules and Regulations may be penalized by indictment or complaint brought in the District Court. Except as otherwise be provided by law, and as the District Court may see fit to impose, the maximum penalty for any violation of these provisions shall be \$1,000.00 for each offense.

Section X. 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.

Section XI. Variances

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, and;
- b. A variance contemplated from these Regulations will not in the opinion of the Board of Health adversely affect the purpose or intent of this Regulation.

Section XII. Effective Date

These Regulations shall be effective as of January 1, 1998.

Adopted: 9/23/1997

Effective: 1/1/1998

Amended 6/14/2000

Effective 7/1/2000

Publication Date: 6/21/2000 Harwich Oracle

HARWICH BOARD OF HEALTH

Robert A. Germain, Chairman
Alfred L. Hurst
Linda J. Schultz
Francis C. Sampson
Ronald E. Hindman

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Part IV

Body Work and Body Art

RULES AND REGULATIONS OF MASSAGE THERAPY/BODY WORKS/ MOVEMENT EDUCATION

The Town of Harwich hereby orders that the following Rules and Regulations be and are hereby adopted this 3rd day of June 1998 under authority of Section 31 of Chapter 111 and Sections 51 and 53, Chapter 140 of the Massachusetts General Laws.

I. Purpose

- 1.1 The Harwich Board of Health finds it necessary to license the practice of massage therapy/body work/movement education in order to protect the public health and safety. It is the Board's intent that only individuals who meet and maintain minimum standards of competence and conduct may provide services to the public.

II. Definitions

2.1 Massage therapy/body work/movement education shall mean the act or technique of moving or manipulating superficial or deep tissues, muscles, joints, or bones by rubbing, kneading, guiding or the like by manual, mechanical, or verbally directive means for the purpose of invigoration, relaxation, education, or an increase in the person's physical and/or emotional health and well being. The term massage therapy/body work/movement education may include but is not limited to: Body-Oriented Psychotherapy; Feldenkrais Method; Massage Therapy; Neuromuscular Therapy; Oriental Bodywork Therapies including: Acupressure, Amma, Anma, Chi Nei Tsang, Jin shin do, Okazaki Restorative Massage, Nuat thai, Shiatsu and Tuina; Polartiy Therapy; Rolfing and TRAFER Approach; Reiki and Reflexology.

Hereinafter, the term massage therapy shall include the terms massage therapy/body works/movement education.

2.2A. Establishment – Shall mean the room or group of rooms, office, building, place of business, or premises where massage therapy is practiced.

2.2B. Off-Premises Massage Therapy – Shall mean any person, firm, association, partnership, corporation or combination of persons who provide or permit to be provided massage therapy at a location other than an establishment, which has been licensed or which should be licensed under this Regulation, including but not limited to private homes, businesses and sports events.

2.3A Professional Practitioner – Shall mean any person submitting satisfactory evidence of having completed a minimum 500 hour course of study in massage therapy which meets the standards of a state or national professional association or institution who for compensation, hire or reward engages in the practice of massage therapy.

2.3B Student/Apprentice Practitioner – Shall mean any person having accumulated fewer than 500 hours in his/her course of study in massage therapy gaining practical experience in massage therapy outside of a training facility or school and under the supervision of a licensed practitioner, for the purpose of meeting curriculum requirements and/or for compensation, hire or reward.

2.4 Training Facility or School – Shall mean any premise or facility used to train individuals to become professional practitioners of massage therapy.

III. Licenses, Permits, and Fees

3.1A No person shall practice as a professional practitioner of massage therapy or conduct an establishment for the giving of massage therapy for hire or reward or advertise or hold him/herself as being engaged in the business of massage therapy in the Town of Harwich without receiving licenses from the Harwich Board of Health. The annual fee for each establishment shall be \$100.00 and for each professional practitioner ¹¹ \$50.00.

3.1B No person shall practice as a student/apprentice practitioner of massage therapy in the Town of Harwich without receiving a student/apprentice practitioner permit from the Harwich Board of Health. The license fee for each student/apprentice practitioner shall be \$5.00.

3.1C In the case where a professional practitioner or student/apprentice practitioner conducts solely off-premises massage therapy in locations other than private homes, (example: beauty salons, businesses, health clubs), said practitioner must furnish names and addresses of these sites on his/her license application and update the Board of Health within 14 days of change of business address. Establishment licenses shall not be required for infrequent business. However, the owner/operator of these locations is required to obtain an establishment license when business becomes regular or frequent.

3.2 A license issued to an establishment or a permit or license issued to a professional or student/apprentice practitioner of massage therapy is not transferable to another location or person. All licenses expire on January 1st following the date of issue.

3.3 A temporary license shall be required for any practitioner or instructor of massage therapy whether previously licensed by this or any other city or town in Massachusetts or a city or town in another state, while engaged in the practice of massage therapy for hire in the town of Harwich on a temporary

basis. This shall include but shall not be limited to sports events and massage therapy training events. The temporary license fee shall be \$25.00 and shall extend for the period of the temporary event. No establishment license shall be required for the setting of said event.

IV. Exceptions and Exclusions

4.1 Individual: These Regulations shall not apply to the following individuals while engaged in the regular performance of their respective professions:

- A. Physicians, chiropractors, osteopaths or physical therapists who are duly licensed to practice their respective professions in the Commonwealth of Massachusetts.
- B. Athletic trainers duly licensed under the laws of the Commonwealth of Massachusetts.
- C. Nurses who are registered or licensed under the laws of the Commonwealth of Massachusetts.
- D. Barbers and beauticians who are duly registered under the laws of the Commonwealth of Massachusetts except that this exemption shall apply solely to the massage of the neck, face, scalp, and hair of the customer or client for cosmetic or beautifying purposes.
- E. An acupuncturist duly licensed under the laws of the Commonwealth of Massachusetts.
- F. Teachers of the Alexander Technique.

4.2A Establishments: These Regulations shall not apply to hospitals, nursing homes, convalescent homes, home health agencies or other similarly licensed institutions by the Commonwealth of Massachusetts. Massage therapy practitioners working in such institutions within the town are required to have a license or permit as provided herein unless excluded under Section 4.1.

4.2B A licensed professional practitioner or a student/apprentice practitioner with a permit conducting solely off premises massage therapy shall not be required to obtain an establishment license.

4.3 A student or apprentice of massage therapy who is gaining practical experience at a training facility or school for the purpose of meeting curriculum requirements and who is under the direct supervision of a licensed professional practitioner present in the training facility or school shall not be required to obtain a student/apprentice practitioner permit.

V. Massage Practitioner – Application and Renewal Procedure

No person shall be licensed to practice as a professional practitioner of massage therapy in the Town of Harwich unless they meet the following requirements:

- 5.1 Submit to the Harwich Board of Health a completed application form as supplied by the Board of Health. False statement in said application shall be grounds for denial or revocation of license.
- 5.2 Provide satisfactory evidence that the applicant is eighteen (18) years of age or older, by presenting two forms of positive identification or a valid passport.
- 5.3 Submit satisfactory evidence of having completed a 500 hour course of study in massage therapy which meets the standards of a state or national professional association or institute (e.g. Massachusetts Association of Body Oriented Psychotherapists and Counseling Bodyworkers; American Massage Therapy Association; American Oriental Bodywork Therapy Association; American Polarity Therapy Association; Feldenkrais Guild; Massachusetts Professional Bodyworkers Association; Rolf Institute; Trager Institute; etc.) or having passed a National Certification Exam.
- 5.4 Submit a two (2) inch by two (2) inch full-face photograph taken within thirty (30) days prior to the submission of the application.
- 5.5 Agree to follow all rules and Regulations specified herein and conduct themselves in accordance with the standards for practice and ethical guidelines of the professional associations and institutes named herein. Professional practitioners shall not misrepresent their training, experience, credentials or title.
- 5.6 Submit proof of a skin test for tuberculosis within the last 2 years. A new skin test for tuberculosis must be performed every 3 years thereafter.
- 5.7 File an application for renewal not less than 30 days prior to the expiration of their licenses, whereupon their existing license shall not expire until the Harwich Board of Health has determined the applicant's renewal status.

VI. Massage Therapy Establishment Application and Renewal Procedure

- 6.1 Every establishment for the giving of massage therapy shall meet the following requirements:

- A. Submit to the Harwich Board of Health a completed application form containing all information therein requested. False statements in said application shall be grounds for revocation or denial of a license.
- B. Notify the Harwich Board of Health at least fourteen (14) days prior to any change of name, address, or ownership.
- C. Operate only under the name or designation specified on the license.
- D. Not employ or cause to be employed as a massage therapy practitioner any person who does not have a license or permit for the practice of massage therapy from the Harwich Board of Health, or whose massage therapy license or permit has been suspended.
- E. Not perform or allow to be performed an illegal act on the premises. A violation of this section may be grounds for revocation, suspension, or modification of the massage therapy license.
- F. Not serve alcoholic beverages in the portion of a building that the Board of Health determines is being used for the purpose of giving massage therapy.
- G. Not touch or work with a client if either the practitioner or the client is afflicted with a communicable disease that can be spread through the massage therapy process or through close contact ordinarily associated with the massage therapy process, unless written certification from a licensed physician stating that the condition is no longer communicable is provided.
- H. Wash hands thoroughly with soap and hot water immediately before and after performing a massage therapy session.
- I. Not operate x-ray, fluoroscope, diathermy or other similar equipment unless licensed by the Commonwealth of Massachusetts to practice a profession requiring the use of such equipment.
- J. Maintain sufficient level of personal cleanliness and be clothed in clean and appropriate attire.
- K. All rooms used for massage therapy shall be clean and easily cleanable, well lighted, adequately ventilated and properly heated in accordance with local and/or state Regulations.
- L. If shower facilities are not provided, the operator shall post conspicuously at the reception area of the facility a sign which shall read:

NOTICE TO MASSAGE CLIENTS

THIS ESTABLISHMENT DOES NOT PROVIDE A SHOWER FOR USE AFTER MASSAGE. IF YOU BELIEVE YOU ARE ALLERGIC TO LOTIONS, OILS OR POWDERS, PLEASE NOTIFY THE MASSAGE THERAPIST PRIOR TO THE MASSAGE. THEY WILL NOT BE USED. IF REQUESTED, THE MASSAGE THERAPIST WILL USE RUBBING ALCOHOL OR SOAP AND WARM WATER TO REMOVE OILS, LOTIONS OR POWDER USED DURING MASSAGE.

The letters in the first two lines shall be at least one inch in height. Hypoallergenic soap, water and rubbing alcohol (70% isopropyl, by volume) must be available in the establishment at all times when a shower is not provided.

M. The sign referred to in section L. shall not be required in establishments where techniques are performed on clients fully clothed (e.g. oriental bodywork; polarity therapy, etc.) or where techniques are performed that do not use oil.

N. All areas of the establishment including the furniture and equipment therein shall be kept in sanitary condition at all times. All massage therapy tables, mattresses, etc. shall be easily cleanable. All surfaces used for massage therapy shall be properly cleaned and sanitized after each massage therapy session.

O. Professional and student/apprentice practitioners are responsible for taking all precautions for proper hygiene within the facilities.

P. All robes, sheets, towels, etc. supplied by the establishment which may come in direct contact with the body, shall be properly cleaned and sanitized after each use. Single service items are acceptable, and shall only be used once.

Q. The current license of the massage therapy establishment and current licenses or permits of all massage therapy practitioners conducting massage therapy therein must be displayed in a conspicuous place.

R. All licensed establishments shall file an application for renewal not less than 30 days prior to the expiration of their licenses, whereupon their existing licenses shall not expire until the Board of Health has finally determined the renewal application's status.

VII. Colonic Hydrotherapy

The practice of colonic hydrotherapy by a licensed massage therapist is prohibited. A massage therapy license does not qualify the practitioner to practice Colonic Hydrotherapy.

VIII. License or Permit Revocation, Suspension or Modification

8.1 The Board of Health may suspend, revoke or modify a professional practitioner or establishment license or a student/apprentice practitioner permit for any violation of these rules and Regulations.

8.2 If a suspended license or permit lapses during the suspension period, its renewal shall not be processed until the end of the suspension period.

IX. Appeals

9.1 Any person or establishment whose application for a license or permit, or license or permit renewal, has been denied or whose license or permit has been suspended or revoked may request a hearing before the Board of Health by submitting a written request within ten days of said denial, suspension, revocation, or modification. The Board of Health shall set a time and place for said hearing within fourteen days of receipt of the request.

X. Penalties

10.1 The Health Director is authorized to issue Notices of Violation, Cease and Desist Orders, or other administrative enforcement orders to compel compliance with the terms of these Regulations.

10.2 Whoever violates any provision of these Regulations may be penalized by a non-criminal method in the District Court pursuant to the provisions of MGL Chapter 40, § 21D. For the purposes of this Regulation the following fine schedule will be imposed:

- * First offense: written warning
- * Second offense: \$50.00
- * Third offense: \$100.00
- * Fourth and subsequent offenses: \$300.00; each day on which a violation exists shall be deemed a separate offense.

- * Criminal complaint: as provided in MGL Chapter 111 § 31 whoever violates any provision of these rules and Regulations may be penalized by indictment or complaint brought in the District

Court. The maximum penalty for any violation of these provisions shall be \$1,000.00 for each offense.

XI. Severability

11.1 If any provisions of these Regulations are declared invalid or unenforceable, the other provisions shall not be affected thereby, but shall continue in full force and effect.

XII. Variance

12.1 Variances from this Regulation may be granted by the Board of Health after a hearing at which the applicant establishes both of the following:

- * The enforcement thereof would do manifest injustice
- * A variance contemplated from these Regulations will not in the opinion of the Board of Health adversely affect the purpose and intent of this Regulation.

Adopted 6/3/1998
Effective 7/1/1998

HARWICH BOARD OF HEALTH

Anne L. Welch, Chairman
Patricia Vasconcellos-McKenzie
Alfred L. Hurst, MD
Ronald E. Hindman
Robert A. Germain

Rules and Regulations for Body Art Establishments and Practitioners

1. Purpose

Whereas body art is becoming prevalent and popular throughout the Commonwealth; and whereas knowledge and practice of universal precautions, sanitation, personal hygiene, sterilization and aftercare requirements on the part of the practitioner should be demonstrated to prevent the transmission of disease or injury to the client and/or practitioner; now, therefore the Board of Health of the Town of Harwich passes these rules and Regulations for the practice of body art in the Town of Harwich as part of our mission to protect the health, safety and welfare of the public.

2. Authority

These Regulations are promulgated under the authority granted to the Board of Health under Massachusetts General Law Chapter 111, § 31.

3. 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, including information about when to seek medical treatment, if necessary.

Applicant means any person who applies to the Board of Health for either a body art establishment permit or practitioner permit.

Autoclave means an apparatus for sterilization utilizing steam pressure at a specific temperature over a period of time.

Autoclaving means a process which results in the destruction of all forms of microbial life, including highly resistant spores, by the use of an autoclave for a minimum of thirty minutes at 20 pounds of pressure (PSI) at a temperature of 270 degrees Fahrenheit.

Blood Borne Pathogens Standard means OSHA Guidelines contained in 29 CFR 1910.1030, entitled "Occupational Exposure to Blood Borne Pathogens".

Board of Health or Board means the Board of Health that 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, such as implants under the skin, which procedures are prohibited.

Body Art Establishment or Establishment means a location, place or business 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 specifically identified individual who has been granted a permit by the Board to perform body art in an establishment that has been granted a permit by the Board.

Body Piercing means puncturing or penetrating the skin of a client with pre-sterilized single-use needles and the insertion of pre-sterilized jewelry or other adornment into the opening. This definition excludes piercing of the earlobe with a pre-sterilized single use stud-and-clasp system manufactured exclusively for ear piercing.

Braiding means the cutting of strips of skin of a person, which strips are then to be intertwined with one another and placed onto such person so as to cause or allow the incised and interwoven strips of skin to heal in such intertwined condition.

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.

Cleaning Area means the area in a body art establishment used in the sterilization, sanitation or other cleaning of instruments or other equipment used for the practice of body art.

Client means a member of the public who requests a body art procedure at a body art establishment.

Contaminated Waste means waste as defined in 105 CMR 480.000 – Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII and/or 29 Code of Federal Regulation part 1910.1030. This includes any liquid or semi-liquid blood or other potentially infectious material; contaminated items that would release blood or other potentially infectious material in a liquid or semi-liquid state if compressed; items on which there is dried blood or other potentially infectious material and which are capable of releasing these materials during handling; sharps and any wastes containing blood or other potentially infectious materials.

Cosmetic Tattooing also known as permanent cosmetics, micro pigment implantation or dermal pigmentation, means the implantation of permanent pigment around the eyes, lips and cheeks of the face and hair imitation.

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

Disinfection means the destruction of disease-causing micro-organisms on 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 the manufacturer's 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.

Exposure means an event whereby there is an eye, mouth or other mucus membrane, non-intact skin or parenteral contact with the blood or bodily fluids of another person or contact of an eye, mouth or other mucus membrane, non-intact skin or parenteral contact with other potentially infectious matter.

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 110°-130° F.

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 any body art procedure.

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 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 of nicks, scratches, or irregular surfaces and has been properly sterilized prior to use.

Light Colored means a light reflectance value of 70 percent or greater.

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

Mobile Body Art Establishment means any trailer, truck, car, van, camper or other motorized or non-motorized vehicle, a shed, tent, movable structure, bar, home or other facility wherein, or concert, fair, party or other event where at one desires to or actually does conduct body art procedures.

Operator means any person who individually, or jointly or severally with others, owns, or controls an establishment, but is not a body art practitioner.

Permit means Board approval in writing to either (1) operate a body art establishment or (2) operate as a body art practitioner within a body art establishment. Board approval shall be granted solely for the practice of body art pursuant to these Regulations. Said permit is exclusive of the establishment's compliance with other licensing or permitting requirements that may exist within the Board's jurisdiction.

Person means an individual, any form of 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 an individual licensed as a qualified physician by the Board of Registration in medicine pursuant to MGL c.112 § 2.

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.

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

Sanitize means the application of a U.S. EPA registered sanitizer on a cleaned surface in accordance with the label instructions.

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 object, sterile or contaminated, that may intentionally 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 Items 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.

Student/Apprentice Practitioner shall mean any person having accumulated fewer than two (2) years actual experience in the practice of performing body art activities but is in compliance with section (E) (2)(A) and (B) and (E)(3).

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.

Temporary Body Art Establishment means the same as Mobile Body Art Establishment.

Three Dimensional “3D” Body Art or Beading or Implantation means the form of body art consisting of or requiring the placement, injection or insertion of an object, device or other thing made of matters such as steel, titanium, rubber, latex, plastic, glass or other inert materials, beneath the surface of the skin of a person. This term does not include body piercing.

Ultrasonic Cleaning Unit means a unit approved by the Board, physically large enough to fully submerge instruments in liquid, which removes all foreign matter from the instruments by means of high frequency oscillations transmitted through the contained liquid.

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 (HIV) and Hepatitis B Virus (HBV) 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 the 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.

4. Exemptions

(A) Physicians licensed in accordance with MGL 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.

5. Restrictions

(A) No tattooing, piercing of genitalia, branding or scarification shall be performed on a person under the age of 18.

(B) Body piercing, other than piercing the genitalia, may be performed on a person under the age of 18 provided that the person is accompanied by a properly identified parent, legal custodial parent or legal guardian who has signed a form consenting to such procedure. Properly identified shall mean a valid photo identification of the adult and a birth certificate of the minor.

(C) The following body piercings are hereby prohibited: piercing of the uvula; piercing of the tracheal area; piercing of the neck; piercing of the ankle; piercing between the ribs or vertebrae; piercing of the web area of the hand or foot; piercing of the lingual frenulum (tongue web); piercing of the clitoris; any form of chest or deep muscle piercings, excluding the nipple; piercing of the anus; piercing of an eyelid, whether top or bottom; piercing of the gums; piercing or skewering of a testicle; so called "deep" piercing of the penis – meaning piercing through the shaft of the penis, or "trans-penis" piercing in any area from the corona glandis to the pubic bone; so called "deep" piercing of the scrotum, meaning piercing through the scrotum, or "transcrotal" piercing; so called "deep" piercing of the vagina.

(D) The following practices are hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts: tongue splitting; braiding; three dimensional/beading/implementation/tooth filing/fracturing/removal/tattooing; cartilage modification; amputation; genital modification; introduction of saline or other liquids.

6. 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. Walls, floors, ceilings, and procedure surfaces shall be smooth, durable, 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 chairs/benches, shall be of such construction as to be easily cleaned and sanitized after each client.
2. Solid partitions or walls extending from floor to ceiling shall separate the establishment's space from any other 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. The establishment shall take all measures necessary to ensure against the presence or breeding of insects, vermin, and rodents within the establishment.
4. Each operator area shall have a minimum of 45 square feet of floor space for each practitioner. Each establishment shall have an area that may be screened from public view for clients requesting privacy. Multiple body art stations shall be separated by dividers or a partition at a minimum.
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 where instruments and sharps are assembled and all cleaning areas.
6. All electrical outlets in operator areas and cleaning areas shall be equipped with approved ground fault (GFCI) protect receptacles.
7. 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 stored in fixed dispensers shall be readily accessible within the establishment. Each operator area shall have a hand sink.
8. There shall be a sharps container in each operator area and each cleaning area.
9. There shall be a minimum of one toilet room containing a toilet and sink. The toilet room shall be provided with toilet paper, liquid hand soap and paper towels stored in a fixed dispenser. A body art establishment permanently located within a retail shopping center, or similar setting housing multiple operations within one enclosed

structure having shared entrance and exit points, shall not be required to provide a separate toilet room within such body art establishment if Board approved toilet facilities are located in the retail shopping center within 300 feet of the body art establishment so as to be readily accessible to any client or practitioner.

10. The public water supply entering a body art establishment shall be protected by a testable, reduced pressure back flow preventor installed in accordance with 142 Code of Massachusetts Regulation 248, as amended from time to time.
11. At least one covered, foot operated waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily. Solid waste shall be stored in covered, leak-proof, rodent resistant containers and shall be removed from the premises at least weekly.
12. At least one janitorial sink shall be provided in each body art establishment for use in cleaning the establishment and proper disposal of non-contaminated liquid wastes in accordance with all applicable federal, state and local laws. Said sink shall be of adequate size equipped with hot and cold running water under pressure and permit the cleaning of the establishment and any equipment used for cleaning.
13. All instruments and supplies shall be stored in clean, dry and covered containers. Containers shall be kept in a secure area specifically dedicated to the storage of all instruments and supplies.
14. The establishment shall have a cleaning area. Every cleaning area shall have an area for the placement of an autoclave or other sterilization unit located or positioned a minimum of 36 inches from the required ultrasonic cleaning unit.
15. The establishment shall have a customer waiting area, exclusive and separate from any workstation, instrument storage area, cleaning area or any other area in the body art establishment used for body art activity.
16. 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.
17. Smoking, eating, or drinking is prohibited in the area where body art is performed, with the exception of non-alcoholic fluids being offered to a client during or after a body art procedure.

(B) Requirements for Single Use Items Including Inks, Dyes and Pigments

1. 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 pursuant to 105 CMR 480.000.
2. All products applied to the skin, such as but not limited to body art stencils, applicators, gauze and razors, shall be single use and disposable.
3. Hollow bore needles or needles with cannula shall not be reused.
4. All inks, dyes, pigments, solid core needles, and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions.
5. Inks, dyes or pigments may be mixed and may only be diluted with water from an approved potable source. 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 use cups or caps and their contents shall be discarded.

(C) Sanitation and Sterilization Measures and Procedures

1. All non-disposable instruments used for body art, including all reusable solid core needles, pins and stylets, shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water, (to remove blood and tissue residue), and shall be placed in an ultrasonic unit sold for cleaning purposes under approval of the U.S. Food and Drug Administration and operated in accordance with manufacturer's instructions.
2. After being cleaned, all non-disposable instruments used for body art shall be packed individually in sterilizer packs and subsequently sterilized in a steam autoclave sold for medical sterilization purposes under approval of the U.S. Food and Drug Administration. All sterilizer packs shall contain either a sterilizer indicator or internal temperature indicator. Sterilizer packs must be dated with an expiration date not to exceed six (6) months.
3. The autoclave shall be used, cleaned and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of the autoclave must be available for inspection by the Board. Autoclaves shall be located away from workstations or areas frequented by the public.

4. Each holder of a permit to operate a body art establishment shall demonstrate that the autoclave 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 autoclave'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 Board upon request.
5. All instruments used for body art procedures shall remain stored in sterile packages until just prior to the performance of a body art procedure. 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.
6. Sterile instruments may not be used if the package has been breached or after the expiration date without first re-packaging and re-sterilizing.
7. If the body art establishment uses only single use, disposable instruments and products, and uses sterile supplies, an autoclave shall not be required.
8. When assembling instruments used for body art procedures, the operator shall wear disposable medical gloves and use medically recognized sterile techniques to ensure that the instruments and gloves are not contaminated.
9. Reusable cloth items shall be mechanically washed with detergent and mechanically dried after each use. The cloth items shall be stored in a dry, clean environment until used. Should such items become contaminated directly or indirectly with bodily fluids, the items shall be washed in accordance with standards applicable to hospitals and medical care facilities, at a temperature of 160°F or a temperature of 120°F with the use of chlorine disinfectant.

(D) Posting Requirements

The following shall be prominently displayed:

1. A Disclosure Statement, a model of which shall be available from the Board. A Disclosure Statement shall also be given to each client, advising him/her of the risks and possible consequences of body art procedures.
2. The name, address and telephone number of the Harwich Board of Health.
3. An Emergency Plan, including

- a. the event of an emergency
 - b. a telephone in good working order shall be easily available and accessible to all employees and clients during all hours of operation, and;
 - c. a sign at or adjacent to the telephone indicating the correct emergency telephone numbers
4. A plan for the purpose of contacting police, fire or emergency medical services in occupancy and “use permit” as issued by the local building official.
 5. A current establishment permit.
 6. Each practitioner’s permit.

E. Establishment Recordkeeping

The establishment shall maintain the following records in a secure place for a minimum of three (3) years, and such records shall be made available to the Board upon request:

1. Establishment information, which shall include:
 - a. establishment name
 - b. hours of operation
 - c. owner’s name and address
 - d. a complete description of all body art procedures performed
 - e. 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 packing slips shall satisfy this requirement.
 - f. a Material Safety Data Sheet, when available, for each ink and dye used by the establishment
 - g. copies of waste hauler manifests
 - h. copies of commercial biological monitoring tests
 - i. a copy of these Regulations.
2. Employee information, which shall include:
 - a. full legal names and exact duties
 - b. date of birth
 - c. home address
 - d. home/work telephone numbers
 - e. identification photograph
 - f. dates of employment
 - g. Hepatitis B vaccination status or declination notification
 - h. training records

3. Client Information, which shall include:
 - a. name;
 - b. valid photo identification and date of birth;
 - c. address of the client;
 - d. date of the procedure;
 - e. name of the practitioner who performed the procedure(s);
 - f. description of procedure(s) performed and the location on the body;
 - g. a signed consent form as specified by 7(D)(2);
 - h. if the client is a person under the age of 18, proof of parental or guardian identification, presence and consent including a copy of the photographic identification of the parent or guardian;

Client information shall be kept confidential at all times.

4. Exposure Control Plan

Each establishment shall create, update, and comply with an Exposure Control Plan. The plan shall be submitted to the Board for review so as to meet all of the requirements of OSHA Regulations, to include, but not limited to, 29 Code of Federal Regulation 1910.1030 OSHA Blood Borne Pathogens Standards et seq, as amended from time to time. A copy of the plan shall be maintained at the body art establishment at all times and shall be made available to the Board upon request.

(F) No person shall establish or operate a mobile or temporary body art establishment.

7. Standards of Practice

Practitioners are required to comply with the following minimum health standards:

- A. A practitioner shall perform all body art procedures in accordance with Universal Precautions set forth by the U.S. Centers for Disease Control and Prevention.
- B. A practitioner shall refuse service to any person who may be under the influence of alcohol or drugs.
- C. Practitioners who use ear piercing systems must conform to the manufacturers directions for use, and to applicable U.S. Food and Drug Administration requirements. No practitioner shall use an ear piercing system on any part of the client's body other than the lobe of the ear.
- D. Health History and Client Informed Consent - Prior to performing a body art procedure on a client, the practitioner shall:

1. Inform the client, verbally and in writing that the following health conditions may increase health risks associated with receiving a body art procedure:

- a. history of diabetes;
- b. history of hemophilia (bleeding);
- c. history of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants etc.;
- d. history of allergies or adverse reactions to pigments, dyes, or other sensitivities;
- e. history of epilepsy, seizures, fainting, or narcolepsy;
- f. use of medications such as anticoagulants, which thin the blood and/or interfere with blood clotting; and
- g. any other conditions such as hepatitis or HIV

2. Require that the client sign a form confirming that the above information was provided, that the client does not have a condition that prevents them from receiving body art, that the client consents to the performance of the body art procedure and that the client has been given the aftercare instructions as required by section 7(K).

E. A practitioner shall maintain the highest degree of personal cleanliness, conform to best standard 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 towels. This shall be done as often as necessary to remove contaminants.

F. In performing body art procedures, a practitioner shall wear disposable single use gloves. Gloves shall be changed if they become pierced, torn, or otherwise 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 in accordance with section (E) before the next set of gloves is put on. 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 hand-washing procedures as part of a good personal hygiene program.

G. The skin of the practitioner shall be free of rash or infection. No practitioner 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 the person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.

H. 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.

I. Preparation and care of a client's skin area must comply with the following:

1. Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.
2. Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding where 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 cleaned and 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.
3. In the event of bleeding, all products used to stop the bleeding or to absorb blood shall be single use, and discarded immediately after use in appropriate covered containers, and disposed of in accordance with 105 CMR 480.000.

J. Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to receive a body art procedure with sterile gauze or other sterile applicator to prevent contamination of the original container and its contents. The applicator or gauze shall be used once and then discarded.

K. The practitioner shall provide each client with verbal and written instructions on the aftercare of the body art site. The written instructions shall advise the client:

1. on the proper cleansing of the area which received the body art;
2. to consult a health care provider for:
 - a. unexpected redness, tenderness or swelling at the site of the body art procedure;
 - b. any rash;
 - c. unexpected drainage at or from the site of the body art procedure; or
 - d. a fever within 24 hours of the body art procedure; and
3. of the address and telephone number of the establishment.

A copy shall be provided to the client. A model set of aftercare instructions shall be made available by the Board.

L. Contaminated waste shall be stored, treated and disposed of in accordance with 105 CMR 480.000: Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII.

8. Injury and/or Complication Reports

A written report of any injury, infection complication or disease as a result of a body art procedure, or complaint of injury, infection complication or disease, shall be forwarded by the operator to the Board which issued the permit, with a copy to the 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 affected client's health care provider, if any;
- E. any other information considered relevant to the situation.

9. 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 complainant of its action in this manner.

10. Application for Body Art Establishment Permit

- A. No person may operate a body art establishment except with a valid permit from the Board.
- B. Applications for a permit shall be made on forms prescribed by and available from the Board. An applicant shall submit all information required by the form and accompanying instructions. The term "application" as used herein shall include the original and renewal applications.
- C. An establishment permit shall be valid from the date of issuance and shall expire on December 31st of the year in which it was issued.

D. The Board shall require that the applicant provide, at a minimum, the following information in order to be issued an establishment permit:

1. Name, address, and telephone number of:
 - a. the body art establishment
 - b. the operator of the establishment; and
 - c. the body art practitioner(s) working at the establishment;
2. The manufacturer, model number, model year, and serial number, where applicable, of the autoclave used in the establishment.
3. A signed and dated acknowledgement that the applicant has received, read and understood the requirements of the Board's body art Regulations;
4. A drawing of the floor plan of the proposed establishment to scale for a plan review by the Board, as part of the permit application process; and,
5. Such additional information as the Board may reasonably require.

E. The annual fee for the Body Art Establishment Permit shall be \$250.00.

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

11. Application for Body Art Practitioner Permit

A. No person shall practice body art or perform any body art procedure without first obtaining a practitioner permit from the Board. The annual fee for a practitioner permit shall be \$100.00. The annual fee for a student/apprentice practitioner permit shall be \$100.00.

B. A practitioner shall be a minimum of 18 years of age.

C. A practitioner permit shall be valid from the date of issuance and shall expire on December 31st of the year in which it was issued.

D. Application for a practitioner permit shall include:

1. name;
2. date of birth;
3. residence address;
4. mailing address
5. telephone number;

6. place(s) of employment as a practitioner; and
7. training and/or experience as set out in (E) below.

E. Practitioner Training and Experience

1. In reviewing an application for a practitioner permit, the Board may consider experience, training and/or certification acquired in other states that regulate body art.
2. Training for all practitioners shall be approved by the Board and, at a minimum, shall include the following:
 - a. blood borne pathogen training program (or equivalent) which includes infectious disease control; waste disposal; hand-washing techniques; sterilization equipment operation and methods; and sanitization, disinfection and sterilization methods and techniques; and
 - b. current certification in First Aid and cardiopulmonary resuscitation (CPR).

Examples of courses approved by the Board include “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.

3. All applicants shall provide documentation, acceptable to the Board, that he/she completed a course on anatomy and physiology with a grade of C or better at a college accredited by the New England Association of Schools and Colleges, or comparable accrediting entity. This course must include instruction on the system of the integumentary system (skin).
4. The applicant for all practitioners shall submit evidence satisfactory to the Board of at least two years actual experience in the practice of performing body art activities of the kind for which the applicant seeks a body art practitioner permit to perform, whether such experience was obtained within or outside of the Commonwealth.

F. A practitioner’s permit shall be conditioned upon continued compliance with all applicable provisions of these rules and Regulations.

G. The Board may consider the application for student/apprentice practitioner provided the applicant must perform under the direct supervision of a permitted practitioner.

12. Grounds for Suspension, Denial, Revocation, or Refusal to Renew Permit

A. The Board may suspend a permit, deny a permit, 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 suspension, denial, revocation or refusal to renew:

1. any actions which would indicate that the health or safety of the public would be at risk;
2. fraud, deceit or misrepresentation in obtaining a permit, or its renewal;
3. criminal conduct which the Board determines to be of such a nature as to render the establishment, practitioner or applicant unfit to practice body art as evidenced by criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts;
4. any present or past violation of the Board's Regulations governing the practice of 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 of 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; and
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.
10. other just and sufficient cause which the Board may determine would render the establishment, practitioner or applicant unfit to practice body art;

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 subject to the procedure outlined in Section 14.

C. Applicants denied a permit may reapply at any time after denial.

13. Grounds for Suspension of Permit

The Board may summarily suspend a permit pending a final hearing on the merits on the question of 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.

14. Procedure for Hearings

The owner of the establishment or practitioner shall be given written notice of the Board's intent to hold a hearing for the purpose of suspension, revocation, denial or refusal to renew a permit. This written notice shall be served through a certified letter sent return receipt requested or by constable. The notice shall include the date, time and place of the hearing and the owner of the establishment or practitioner's right to be heard. The Board shall hold the hearing no later than 21 days from the date the written notice is received.

In the case of a suspension of a permit as noted in Section 12, a hearing shall be scheduled not later than 21 days from the date of the suspension.

15. Severability

If any provision contained in the model Regulations is deemed invalid for any reason, it shall be severed and shall not affect the validity of the remaining provisions.

16. Violations, Penalties and Enforcement

Non-Criminal Disposition: Whoever violates any provision of these rules and Regulations may be penalized by a non-criminal method in the District Court pursuant to the provisions of MGL Chapter 40 § 21D. For the purpose of this Regulation the following fine schedule will be imposed:

First offense – written warning
Second offense - \$50.00

Third offense - \$100.00

Fourth and subsequent offenses - \$300.00

Each day on which a violation exists shall be deemed to be a separate offense. The third offense at a single facility shall result in a hearing before the Board of Health to suspend or withdraw a body art license if appropriate or a determination to file a criminal complaint.

Criminal Complaint: As provided in MGL Chapter 111, § 31 – Whoever violates any provision of these rules and Regulations may be penalized by indictment or complaint brought in the District Court. Except as otherwise provided by law, and as the District Court may see fit to impose, the maximum penalty for any violation of these provisions, shall be \$1,000.00 for each offense.

17. Variances

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; and
- b. a variance contemplated from these Regulations will not in the opinion of the Board of Health adversely affect the purpose and intent of this Regulation.

18. Effective Date

These rules and Regulations shall be effective as of September 1, 2001.

Adopted 7/24/2001
Effective 9/1/2001

HARWICH BOARD OF HEALTH

Robert A. Germain, Chairman
Alfred E. Hurst, MD
Ronald E. Hindman
Francis C. Sampson

Part V
Animals

Horse and Stable Regulations

These Regulations are adopted pursuant to the provisions of General Laws, Chapter 111, Section 155.

Part 1 Definitions

For the purpose of these Regulations, unless a contrary intent clearly appears, the following terms and words shall have the following meanings:

Horse – Any horse, foal, pony, mule or burro.

Part 2 Licenses and Permits

Regulation

6.201 No person shall erect, occupy or use for a stable any building or any land for the housing of one or more horses in the Town of Harwich unless such use is licensed by the Board of Health pursuant to General Laws, Chapter 111, Section 155. The license fee shall be ¹² \$20.00 for a residential stable and \$50.00 for a commercial stable.

6.202 Before any person can engage in the business of killing or rendering horses, a license as required by General Laws, Chapter 111, Section 154, must first be obtained from the Board of Health.

6.203 In accordance with General Laws, Chapter 140, Section 175, all stallions must be registered with the Town of Harwich. The registration fee shall be \$5.00

Part 3 Miscellaneous Regulations

Regulation

6.301 No person shall erect or maintain a stable closer than 200 feet from a church or school building, or closer than 30 feet from an abutter's dwelling house.

6.302 No person shall keep a horse in the town without providing an adequate stable therefore.

6.303 No horse shall be pastured closer than 30 feet from an abutter's dwelling house.

6.304 All areas used to pasture horses shall be properly fenced so as to prevent damage to neighboring property, and shall be so graded as to

- prevent accumulation of standing water or the development of muddy areas.
- 6.305 Each stall shall be of adequate size to allow a horse to have room to comfortably lie down and stand up. Any horse in a stall, whose smallest dimension is less than ten feet, shall be exercised daily.
- 6.306 There shall be adequate drainage, either natural or artificial, for urine and waste matter in every horse stall.
- 6.307 There shall be one, and only one, window in each stall. All windows shall be capable of being opened.
- 6.308 Any appurtenances, lighting fixtures, windows, etc. or any object which may cause accidental injury to a horse in a stable or area used by a horse shall be screened, boxed, barred or otherwise protected in a manner approved by the Board of Health.
- 6.309 No lead or other paint detrimental to a horse's health shall be used.
- 6.310 There shall be adequate ventilation in every stable and adequate means of fly and insect control shall be provided in the stable, the pasture, the manure storage areas and any other areas that may breed flies or other insects.
- 6.311 All flooring in any stable shall be of a material acceptable to the Board of Health.
- 6.312 All stables must be kept clean at all times and accumulated manure removed at least once each day. Any person allowing a horse or horses to roam on land shall remove waste matter periodically in a manner commensurate with the area involved, or at the discretion of the Board of Health.
- 6.313 Any mare in foal shall not be kept in a stall whose smallest dimension is less than 10 feet.
- 6.314 In accordance with the General Laws, Chapter 272, Section 86E, the Board of Health, or any person designated by the Board of Health, may, at all reasonable hours, enter the premises in which a horse is kept for the purpose of inspecting the conditions therein.

13 Stable Regulations Amendments

At a meeting of the Board of Health on December 18, 1991 the following Stable Regulations Amendments were enacted in accordance with Massachusetts General Laws, Chapter 111, Section 31:

Penalties – Board of Health Regulations

a. Criminal Complaint – Whoever violates any provision of these rules and Regulations may be penalized by indictment or on complaint brought in the District Court except as may otherwise be provided by law, and as the District Court may see fit to impose, the maximum penalty for any violation of these provisions shall be \$500.00 for each offense.

b. Non-Criminal Disposition – Whoever violates any provision of these rules and Regulations may, in the discretion of the Health Agent be penalized by a non-criminal complaint in the District Court pursuant to the provisions of the General Laws, Chapter 40, Section 21D. For the purpose of this provision the penalty to apply in the event of a violation shall be as follows: \$50.00. Each day on which a violation exists shall be deemed to be a separate offense.

Effective upon publication

HARWICH BOARD OF HEALTH

Richard D. Hoyer
John E. Sauvage
Anne L. Welch
Robert A. Germain
Bruce S. Campbell

14 Amendment to Horse and Stable Regulation

In accordance with Massachusetts General Law, Chapter 111, Section 31, the Board of Health adopts the following amendments to Horse and Stable Regulations for the Town of Harwich:

Part 4

Effective immediately, all new applicants shall be required to file a detailed site plan, detailed floor plan of the stable and a written manure management plan. Current permit holders shall have until January 1, 2006, to file this material with the Board as a condition of maintaining a permit.

Site Plan Requirements: This drawing shall consist of a “to scale” site plan of the property, no less than 1” = 30’ which outlines at a minimum: lot lines; all structures clearly labeled; location of paddocks/pastures; location of fencing; water supply lines and/or wells; wetlands; manure storage facility; storm water mitigation in paddock areas.

Stable Interior Floor Plan: A “to scale” drawing of the stable interior shall consist of a detailed floor plan of the stable including dimensions, partitions, ventilation and water source.

Manure Management Plan: In order to minimize insect/vector and odor nuisances and to eliminate sources of ground water and wetland contamination, each applicant and permit holder shall develop and follow an acceptable manure management program. The written plan shall address the following:

- * What materials make up the small floors? (clay hardening, stone dust, pellets, mats, etc. list all items)
- * How often are the stalls “mucked out”?
- * Where is it stored? Is it off the ground?
- * How often are the paddocks “mucked”?
- * If you have a grass pasture, how often is that “mucked”?
- * What is the final disposal place for the manure?
- * How often is the manure removed from the property?

Legal Ad: 10/6/2005 & 10/13/2005

Adopted 10/18/2005

Effective: 1/1/2006

Published: 1/11/2006

HARWICH BOARD OF HEALTH

Dr. Stanley Kocot, Chairman

Mary Jane Watson

Dr. Robert Insley

Part VI
Miscellaneous

Miscellaneous Regulations

Part 1 Storm Water Runoff

Regulation

- 7.101 The terrain, including paved or unpaved walkways or driveways around any building hereafter constructed shall, for a distance of at least ten (10) feet around the perimeter thereof, be graded downward and away from the foundation of said building for the purpose of conducting surface water away from said building or foundation, to prevent the flooding of below-grade areas. Said grade shall have a slope of not less than $\frac{3}{4}$ inch to the foot, provided however, the Board may approve a lesser grade or a greater grade for a shorter distance, if in its opinion, conditions on the lot justify a variation in said grade requirement, and the danger of surface water entry and flooding will not be substantially increased thereby.
- 7.102 All driveways, paved or unpaved within five (5) feet of the edge of the way to which they provide access, shall be constructed with a positive grade away from said way of not less than three (3) inches in said five (5) feet. The remaining portion of said drive shall be graded in such a manner as to conduct surface water away from the building and foundation thereof, or if said drive can not be so graded, it shall be constructed in a manner approved by the Board of Health and must have a catch basin or basins sufficient in size to dispose of surface water runoff to prevent the flooding of subsurface areas of the building. The Board shall consider, but not limit itself to, calculating such collecting and conductor surface areas as roofs, walkways, drives, etc. in determining the capacity of above-named basins.
- 7.103 The unpaved berm and side-slopes along all paved roads within a distance of six (6) feet from the paved road edge, shall not be surfaced with wood chips, bark mulch or similar materials, but shall be seeded and/or sodded and maintained as a dense grassed area to prevent organic and inorganic materials from entering drainage systems with storm runoff.

Part 2 Defoliants

Regulation

- 7.201 The application of herbicides to control growth of vegetation on power, railroad and other such rights-of-way is prohibited unless the herbicide is approved for such use by the Board of Health and the approved herbicide shall be used only in areas designated and approved by the Board.

An Act Regulating Tanning Facilities

¹⁵ In accordance with Massachusetts General Laws Chapter 111, Section 31 and Massachusetts General Laws, Chapter 111, Section 204 to 214 The Harwich Board of Health adopted the following Regulation at its meeting on June 19, 1991 “Effective July 1, 1991 all tanning facilities operating within the Town of Harwich must obtain an annual operating permit from the Board of Health. The fee for this permit shall be \$100.00. All tanning facilities will be inspected and shall be expected to operate in accordance with Department of Public Health Regulations in accordance with Chapter 111, Section 204 to 214”.

Adopted June 19, 1991
Effective upon publication

HARWICH BOARD OF HEALTH

Richard D. Hoyer, Chairman
John E. Sauvage
Anne L. Welch
Robert A. Germain
Bruce S. Campbell

Tobacco Sales

¹⁶ In accordance with Massachusetts General Laws Chapter 111, Section 31 the Harwich Board of Health voted at a meeting on December 9, 1998 to enact the following fee for the retail sale of tobacco effective January 1, 1999: \$50.00 per calendar year.

Adopted 12/9/1998
Effective 1/1/1999

HARWICH BOARD OF HEALTH

Robert A. Germain, Chairman
Alfred E. Hurst
Ronald E. Hindman
Linda J. Schultz

Statement on Aids Prevention **December 1993**

WHEREAS, AIDS (Acquired Immune Deficiency Syndrome) and infection with HIV (Human Immunodeficiency Virus) the virus that causes AIDS, are serious threats to the lives and health of young people in Massachusetts. HIV is transmitted through unprotected sexual intercourse and through blood-to-blood contact, such as that which occurs when intravenous needles are shared.

AND WHEREAS, Teenagers are at high risk for contracting HIV, the virus that causes AIDS. In Massachusetts, adolescents account for nearly a quarter of gonorrhea, syphilis and Chlamydia cases. Young adults 20-29 years of age represent 20% of all AIDS cases reported in Massachusetts. Because of the long incubation period of HIV, it is likely that half of them were infected with HIV in their teens. In light of the vulnerability of teenagers to HIV infection, it is essential that we do all in our power to prevent young people from becoming infected.

AND WHEREAS, In an effort to reverse these trends the Commissioner of the Department of Public Health recommends: a comprehensive health education curriculum (K-12) which includes AIDS prevention and decision making skills. The curriculum must provide age appropriate information and promote abstinence as the surest way to prevent infection. The Commissioner is also asking schools as part of this comprehensive approach to make condoms available to older teens who are sexually active.

AND WHEREAS, The Massachusetts Board of Education's Policy on AIDS/HIV Prevention Education states that AIDS/HIV prevention education should include information about sexually transmitted diseases, as well as the value of both sexual abstinence and the use of condoms as disease prevention methods. The Board further recommends that every school committee, in consultation with superintendents, administrators, faculty, parents and students consider making condoms available in their secondary schools.

THEREFORE, In light of the statements issued by the Commissioner of Public Health and the Massachusetts Board of Education, the Harwich Board of Health has voted to support these policies. Given the increasing incidence of HIV occurrence particularly among the teen population, the Board of Health has unanimously voted to recommend the inclusion of condom availability within the context of a comprehensive health education program at the secondary school level as a necessary public health measure.

Adopted December 15, 1993

HARWICH BOARD OF HEALTH

Anne L. Welch
John E. Sauvage

Robert A. Germain
Patricia Vasconcellos-McKenzie
Bruce S. Campbell

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Part VII

FEES

BOARD OF HEALTH FEE SUMMARY

GENERAL	
Body Art Establishment	\$250
Body Art Practitioner	\$100
Body Work Establishment	\$100
Body Work Practitioner	\$50
Funeral Director	\$50
Motel/Hotel	\$75
Recreational Camps/Cabins/Parks	\$75
Septic Installer	\$100
Septage Hauler	\$100
Rubbish Hauler	\$100
Stable – Residential	\$20
Stable – Commercial	\$50
Swimming Pool	\$100
Tanning Salon	\$100
Tobacco	\$50
Wells	\$55
Burial Permit	\$10
Underground Storage Tanks	\$2
IMMUNIZATION	
Flu Shot	\$5
Pneumonia Shot	\$5
FOOD SERVICE	
1 – 30 Seats	\$100
31 – 60 Seats	\$125
61 – 150 Seats	\$150
> 150 Seats	\$250
Bakery	\$75
Caterer	\$100
Corollary Facilities	\$100
Frozen Dessert	\$50
Institution	\$50
Limited Food Service	\$50
Milk & Cream	\$10
Mobile Food Truck/Cart	\$100
Take Out	\$75
Temporary Food Service	\$50
Temporary Events and Mobile Food Service	Single Event \$50
“	Seasonal or Year Round Events \$100
Event Permit – Retail Food	\$50

RETAIL FOOD	
< 50 sq. ft. (non-PHF only)	\$50
< 600 sq. ft. (not primary business)	\$75
< 5,000 sq. ft.	\$100
5,000 - 25,000 sq. ft.	\$150
> 25,000 sq. ft.	\$250
BATHING BEACHES	
Semi-Public Beaches	\$50
SUB-SURFACE DISPOSAL OF SEWAGE	<i>Effective July 1, 2014</i>
First 500 gallons of design flow	\$160
Additional 250 gallons or portion thereof	\$55
Pump Chamber	\$100
Minor Repair <i>(i.e. D-box, sewer line, or additional line replacement, sanitary tee replacement)</i>	\$55
Advanced Wastewater Treatment & I/A Technologies	
Up to 500 gallons	\$250
501 – 1,000 gallons	\$500
1001 – 2,000 gallons	\$1,000
>2000 gallons	\$2000
Change of Name/Installer – Transfer Existing Permit	\$100
Sewage Disposal Permit Renewal (one year)	\$100
Re-Inspection Fee	\$30
Test Holes – <i>includes 2 percolation tests and 2 observation holes</i>	Per lot/Per appt. \$110
Over 2 Test Holes	\$55 each
Trench Permit	\$30
Real Estate Transfer Review Report	\$110
EXAMS – Installer or Title 5 Inspector	\$50
HEARINGS BEFORE THE BOARD OF HEALTH	
Routine <i>(i.e. variance requests; requests for modification for Title 5; building permit issues; all single residential/new</i>	\$125

<i>stables Environmental Impact Report)</i>	
Environmental Impact Review/Wastewater Treatment Project Review (<i>Regulation 1.211 compliance including subdivisions over 4 lots, flows >2000 gpd</i>)	\$300
Nitrogen Aggregation Plan – to meet Zone II requirements	
Single family	\$500
Up to 4 Units	\$750
> 4 Units	\$1,200
Tight Tank	\$250
Shared System	
Up to 4 Units	\$750
> 4 Units	\$1,200

Policy Regarding Board of Health Fee Waivers

The Board of Health will consider a waiver of permit and sticker fees for those departments and agencies which are funded in total or part by Harwich tax dollars.

Examples:

Food Service Permits – Effective 1/1/1998

All Harwich Public Schools
Cape Cod Regional Technical High School
Food Pantry – Depot Road Site
Meals on Wheels – Main Street Site

Disposal Works Permit – Effective Immediately

A fee waiver for any municipal project will be granted only if the general contractor can show that fees were not a part of the bid price or a credit for this amount will be applied to the contract.

This list may be expanded or amended from time to time. All requests should be in writing for Board of Health consideration.

This policy was adopted by the Board of Health at its meeting of May 28, 1997.

End Notes

¹ Amendment to Board of Health Regulation 1.201 - Under the Authority of MGL Chapter 111 Section 31 the Board of Health hereby adopts the following Regulation: To amend Town of Harwich Sewage Disposal Regulations Part 2 Regulation 1.201 by adding the following language, “This section will not apply where sole ownership of the two-family dwelling exists.” Adopted: May 31, 1989 – Effective: Upon publication
Shirley A. Gomes - Marguerite E. Marion - John E. Sauvage, Harwich Board of Health

² Amendment to Board of Health Regulation 1.209 - At a meeting of the Board of Health on 7/12/1995, in accordance with MGL Chapter 111, Section 31 the following action was taken: To rescind Section 1.209 from the Town of Harwich sewage disposal Regulation: “the flow rate of 140 gallons per day per bedroom for a single family dwelling, two family dwellings, multi family dwellings, motels, hotels and boarding houses.” This decision was made following a public hearing and will become effective immediately.
Anne L. Welch, Chair - John Sauvage - Bruce S. Campbell - Patricia Vasconcellos-McKenzie, Harwich Board of Health

³ Amendment to Board of Health Regulation 1.210 Change in distance requirements
Amended 12/16/2003 Effective: 2/1/2004
Francis C. Sampson, Chair; Stanley Kocot, MD; Marina Brock - Harwich Board of Health

⁴ Amendment to Board of Health Regulation 1.211 Under the authority of MGL, Chapter 111, Section 31, the Board of Health hereby amends Town of Harwich Board of Health Regulations Article 1 Sewage Disposal Regulations: to rescind Part 2 Disposal Works Regulation Section 1.211 (6.87) and to insert a new Section 1.211
Adopted: 11/18/1987 Amended: 8/17/1999 Effective: 3/15/2007 Published 3/15/2007
Stanley Kocot, MD; Mary Jane Watson; Pamela Howell

⁵ Amendment to Policy and Guidelines for Title 5 State Sanitary Code In accordance with MGL, Chapter 111, Section 31 the Board of Health has adopted the following Regulations at a public meeting held August 15, 1990. Effective: 11/7/1990 – Marguerite E. Marion; John Sauvage; Robert Germain; Anne Welch; Richard Hoyer

⁶ Amendment to Policy and Guidelines for Title 5 State Sanitary Code In accordance with MGL, Chapter 111, Section 31 the Board of Health has adopted the following Regulations at a public meeting held August 15, 1990. Effective: 11/7/1990 – (to insert #8) Marguerite E. Marion; John Sauvage; Robert Germain; Anne Welch; Richard Hoyer

⁷ Amendment: Regulations for the Subsurface Disposal of Sewage – In accordance with MGL Chapter 111, Section 31 the Board of Health adopted the following amendment at the meeting of August 15, 1990 (Additional text to Part I, Environmentally Sensitive Area (a.) Effective date: upon publication – Harwich Board of Health
Marguerite Marion; John Sauvage; Richard Hoyer; Anne Welch; Robert Germain

⁸ Harwich Board of Health Sub-surface Sewage Disposal Fees – In accordance with MGL Chapter 111, Section 31, the Harwich Board of Health voted at a meeting on June 17, 2003 to increase re-inspection fee. Public Hearing 6/3/2003; Adopted 6/17/2003; Effective 7/1/2003; Published 6/25/03 – Harwich Board of Health – Francis Sampson, Chair; Alfred Hurst, M.D.; Stanley Kocot, M.D.; Marina Brock, RS

⁹ Harwich Board of Health – Permit Fees – In accordance with MGL Chapter 111, Section 31 the Harwich Board of Health voted at a meeting of December 2, 2003 to enact permit fees which resulted in an increase to said fees. Adopted 12/3/2003; Effective 1/1/2004; Published 12/18/2003 – Harwich Board of Health – Francis C. Sampson, Chair; Stanley Kocot, M.D.; Marina Brock, R.S.

¹⁰ Amendment to Fuel Storage System Regulations – In accordance with MGL Chapter 111 Section 31 the Harwich Board of Health has adopted the following amendment on 11/8/1989: “To allow the soil vapor analysis as one of the acceptable methods for inspection of underground fuel storage tanks in compliance with Section 3.1 of the Harwich Fuel Storage System Regulations provided that the monitoring wells are installed in conformance with BCHED guidelines”. Harwich Board of Health – Shirley A. Gomes, Chair; Marguerite E. Marion; John E. Sauvage
Adopted: 11/8/1989; Effective: 11/22/1989

¹¹ Effective 1/1/2006, In accordance with MGL Chapter 111, Section 31, the Harwich Board of Health adopted a change in the filing fee for body work practitioners as follows: from \$25.00 to \$50.00

¹² Effective 1/1/2006, In accordance with MGL Chapter 111, Section 31, the Harwich Board of Health adopted a change in the filing fee for stables as follows: residential stable \$20.00 and commercial stable \$50.00.

¹³ Stable Regulations Amendments Effective upon publication; at a meeting of the Board of Health on 12/18/1991 the following stable Regulations amendments were enacted in accordance with MGL Chapter 111, Section 31: a. Criminal Complaint and b. Non-Criminal Disposition – Harwich Board of Health – Richard A. Hoyer; John E. Sauvage; Anne L. Welch; Robert A. Germain; Bruce S. Campbell

¹⁴ Amendment to Horse and Stable Regulation – In accordance with MGL Chapter 111, Section 31, the Board of Health adopted the following amendment to the Horse and Stable Regulations for the town (part 4). Legal Ad 10/6/2005 and 10/13/2005; Adopted 10/18/2005; Effective 1/1/2006; Published 1/11/2006 – Harwich Board of Health – Dr. Stanley Kocot, Chairman; Mary Jane Watson; Dr. Robert Insley

¹⁵ Effective 1/1/2006, In accordance with MGL Chapter 111, Section 31 the Harwich Board of Health adopted a change in the filing fee for tanning facilities from \$25.00 to \$100.00.

¹⁶ Effective 1/1/2006, In accordance with MGL Chapter 111, Section 31 the Harwich Board of Health adopted a change in the filing fee for tobacco sales from \$25.00 to \$50.00.