Chapter 300

BOARD OF HEALTH REGULATIONS

[HISTORY: Adopted by the Board of Health of the Town of Sharon as last amended April 2013; ~~.~~ September 9, 2015 Amendments noted for individual Articles where applicable.]

ARTICLE 1
General Applicability and Administration

§ 300-1.1. Scope of authority; applicability.

The provisions of the State Sanitary Code (105 CMR 400.000) and Title V of the Massachusetts Environmental Code (310 CMR), as well as all other statutes and regulations of the Commonwealth shall apply within the Town of Sharon, and shall be enforced by the Board of Health as provided by law. In addition, the following rules and regulations shall apply within the Town to the extent they impose additional or stricter requirements than those contained in the above-mentioned statutes or other statutes or regulations of the state, or regulate matters not covered by such Code, statutes or regulations.

ARTICLE 2
Minimum Standards of Fitness for Human Habitation

§ 300-2.1. Regulatory ~~Statutory~~ standards.

105 CMR 410.000, Minimum Standards of Fitness for Human Habitation, State Sanitary Code, Chapter II shall apply. ~~Article 2 of the State Sanitary Code shall apply (105 CMR 410.000).~~

ARTICLE 3
Regulations for Dumpsters and for the Removal and Transportation of Garbage, Rubbish, Offal, and other Offensive Substances
[Effective 5-3-1985]

§ 300-3.1. Permit required for removal and transport.

No person shall remove garbage, rubbish, offal, or other offensive substances from dwellings, apartment buildings, or condominiums, or from commercial, industrial, public or other buildings, and transport the same through the streets of the Town of Sharon without first obtaining a permit from the Board of Health.

§ 300-3.2. Permit required for dumpster service.

No person shall provide a dumpster service in the Town of Sharon for the purpose of storing, removing, and transporting garbage, rubbish, offal or other offensive substances without first obtaining a permit from the Board of Health.

§ 300-3.3. Disposal.

All garbage, rubbish, offal or other offensive substances shall only be disposed of in sanitary landfills located outside the geographical limits of the Town of Sharon.

§ 300-3.4. Permit application.

An application for each permit shall be in such form and contain such information, on oath, as the Board of Health may require.

§ 300-3.5. Permit term; fees.

All such permits, unless temporary in nature, shall expire at the end of the calendar year in which they are issued, but may be renewed annually on application as herein provided. There shall be an annual fee of $50 for a permit issued under § 300-3.1 hereof; and an annual fee of $50 for a permit issued under § 300-3.2 hereof. If any permit shall be issued subsequent to the first day of the year, the fee therefor shall be prorated on a monthly basis. Temporary permits, expiring prior to the end of the calendar year, may be issued. The fee therefor shall be prorated on a monthly basis.

§ 300-3.6. Permits not transferable.

No permit shall be transferred except with the approval of the Board of Health.

§ 300-3.7. Dumpster identification; covers..

Each dumpster must have the name, address, and telephone number of the person providing the dumpster service conspicuously displayed on the dumpster. Each dumpster shall have a cover capable of being secured.

§ 300-3.8. Dumpster location.

Each dumpster must be located at such a distance from each lot line as not to interfere with the safety, convenience, or health of abutters or the public. The Board of Health may specify the location of the dumpster. The Board of Health may require, whenever public convenience warrants, that a dumpster be enclosed or suitably screened by the owner of the lot on which the dumpster is situated.

§ 300-3.9. Nuisances.

The owner of the lot shall maintain the immediate area in which the dumpster is situated free of offensive odors, debris, and rubbish.

§ 300-3.10. Collection times.

Except in districts zoned for business, commercial, or industrial use, garbage, rubbish, offal or other offensive substances shall not be collected before 7:00 a.m. or after 7:00 p.m.

§ 300-3.11. Dumpster maintenance.

Any dumpster shall be deodorized, washed or sanitized by the person providing the dumpster service when and as required by the Board of Health.

§ 300-3.12. Suspension or revocation of permit.

Upon notice and an opportunity for a hearing, any permit may for cause be suspended or revoked by the Board of Health.

§ 300-3.13. Violations and penalties.

Whoever violates any provision of these regulations may be punished by a fine of not more than $50. Each day that a violation continues shall constitute a separate violation.

ARTICLE 4 (reserved)

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~~**Collection, Transportation, and Disposal of Solid Waste, Including Garbage [Voted STM 12-3-1984; effective 4-29-1985]**~~

~~**§ 300-4.1. Purpose.**~~

~~Having voted to close the Town's landfill effective May 1, 1985, and having authorized the Selectmen (Board of Health) to enter into a long-term contract with SEMASS for the delivery to and disposal of solid waste, including garbage, at a solid waste disposal facility to be constructed, operated and owned by SEMASS in Rochester, Massachusetts, and recognizing that solid waste, particularly garbage "is widely regarded as an actual and potential source of disease or detriment to the public good" and that, therefore, a "municipality, acting for the common good of all, (may)...either take over itself or confine to a single person (firm) or corporation the collection, transportation...and final disposition of a commodity which so easily may become a nuisance (with the result that) private interests must yield to that which is established for the general benefit of all;" it is the purpose of this Bylaw to:~~

~~A. Define the public's responsibility.~~

~~B. Authorize the Selectmen to publicly let a contract to a single contractor for the collection and delivery of solid waste to an approved sanitary landfill outside the geographical limits of Sharon until SEMASS's solid waste disposal facility is constructed and in operation (presently estimated sometime between March 1, 1986 and September 1, 1989) and thereafter to a solid waste disposal facility or transfer station for retransfer to such a facility, operated and owned by SEMASS.~~

~~C. Insure the service provided the public is safe, economical and comprehensive.~~

~~D. Insure that the charges to the public are just, fair, reasonable and adequate to provide necessary public service.~~

§ 300-4.2. Definitions.

For the purposes hereof, the term "solid waste" shall mean:

MIXED HOUSEHOLD AND MUNICIPAL SOLID WASTE — Including garbage, which is normally produced by residences, schools, and offices within municipal buildings and which is picked up from the solid waste stream by standard packer type refuse trucks from within the community (but which need not be obtained from the community), including leaves, twigs, grass, plant cuttings, branches and tree trunks of less than two feet in diameter.

SOLID WASTE —

A. Shall not include mining or agricultural waste, hazardous wastes (except any insignificant quantities of such waste as are customarily found in household and municipal office waste and which, separately or when aggregated with all of the waste delivered by the community, do not satisfy the definition of "hazardous waste" contained in the Resource Conservation and Recovery act of 1976 and the regulations thereunder) as defined by any federal, state or local law, as each may from time to time be amended, sewage sludge, other sludge (including septage) or slurry, liquid chemical wastes, non putrescible construction or demolition debris, or explosive, corrosive or radioactive materials.

B. Excluded from the definition of solid waste are items of a size, durability or composition that are not acceptable at the sanitary landfill, at which the contractor engaged by the Town shall, until SEMASS' solid waste disposal facility shall become operational, deliver solid waste collected in the Town or which cannot be processed by SEMASS' solid waste disposal facility when operational or which may materially impair SEMASS' structures or equipment. Examples of such items which cannot be processed by SEMASS' facility are solid blocks of rubber or plastic greater than two cubic feet in volume, rolls or carpet or furnishing over 12 inches in diameter, steel or nylon rope, chains, cables or slings more than four feet long, thick walled or solid metal objects such as castings, forgings, gas cylinders or large motors, tied or unbroken bales of paper, cardboard or cloth, and tree stumps.

§ 300-4.3. Exclusive contract or license; public bids.

A. The Selectmen are authorized to engage a single contractor to collect, transport and dispose of solid waste.

B. No contract or license for the collection, transportation or disposal of solid waste, except in cases of special emergency involving the health or safety of the people or their property, shall be awarded unless such proposals for the same have been invited by advertisement in at least one newspaper published in the Town, such publication to be at least one week before the time specified for the opening of said proposals. Said advertisement shall state the time and place for opening the proposals in answer to said advertisement, and shall reserve to the Town the right to reject any or all such proposals. All such proposals shall be opened idn public. Such a contract shall be for a period not exceeding five years unless the disposal is in a sanitary landfill or in any other sanitary manner approved by the Department of Environmental Quality Engineering, in which case the contract may be for a period not exceeding 20 years, provided that such contract has been authorized by a

majority vote of a Town meeting and the terms thereof have been approved as reasonable by the Emergency Finance Board.

§ 300-4.4. Provisions of contract.

A. Every contractor, engaged by the Town to pick up solid waste within the Town and deliver the same directly to a sanitary landfill outside the geographical limits of the Town until SEMASS's solid waste disposal facility is constructed and operational, and thereafter to SEMASS's solid waste disposal facility, or, at the Town's option, to SEMASS's transfer station for retransfer to SEMASS's solid waste disposal facility shall agree to charge fees approved in advance by the Selectmen.

B. The contract, which the contractor shall sign, shall provide that such fees shall, in the aggregate, be sufficient (but no more than enough) to cover:

(1) All fees paid by the contractor either to the operator of the sanitary landfill or to SEMASS for the solid waste accepted for disposal in the said landfill or in the solid waste disposal facility, as the case may be;

(2) The contractor's direct costs for collecting, transferring and disposal of the solid waste;

(3) A reasonable amount for the contractor's indirect costs and overhead;

(4) A reasonable profit.

(5) The cost of a Town sponsored, semi-annual household hazardous waste collection program.

C. The contract shall also provide that once SEMASS's solid waste facility becomes operational, the contractor shall provide the Town with a surety company performance bond, in a form and in an amount satisfactory to Town counsel, securing the performance of all of the contractor's obligations to the Town.

§ 300-4.5. The public's responsibility.

A. No solid waste can or container, other than a stationary dumpster, shall exceed either 60 pounds gross loaded weight or thirty-two gallons in size.

B. Each can, container or stationary dumpster shall be made of a rigid material and shall have a cover capable of being securely attached.

C. Each cover shall always be securely attached, except when solid waste is being deposited in the can, container, or dumpster.

D. Plastic bags shall be securely tied and contain no garbage unless the bags containing garbage are placed in an appropriate can, container or dumpster.

E. Each can, container or bag shall be left at the front of the lot, adjacent to, but not on the sidewalk, if any, or if there is no sidewalk in front of the building, adjacent to, but not on,

~~the pavement of the street, not before 12 noon on the day before the scheduled collection and by no later than 7:00 A.M. of the day on which collections for the building on the lot are scheduled.~~

~~F. No stationary dumpster shall exceed the safe loading design limit or operational limit of the vehicle provided by the contractor for serving the building. Each stationary dumpster shall be situated on the lot in a place easily accessible to the contractor's vehicles.~~

~~G. The Selectmen may waive any fee whenever in their opinion it is, in a particular instance, in the public interest so to do.~~

~~**§ 300-4.6. The owners' responsibility and rights; liens.**~~

~~The owner of each building from which solid waste is collected shall be responsible for the prompt payment of all fees charged by the contractor for the collection of solid waste from that building.~~

~~**§ 300-4.7. Penalties.**~~

~~The penalty for violation of this article shall be as follows: for the first offense, $50; for the second offense, $100; and for each subsequent offense, $200.~~

~~**§ 300-4.8. Severability.**~~

~~The invalidity, unconstitutionality or unenforceability of any section, subsection or provision of this article shall not affect or impair any other section, subsection or provision.~~

~~**§ 300-4.9. Tipping fee escrow fund.**~~

~~The Selectmen are authorized to establish a fund to be known as the Tipping Fee escrow Fund. The contractor shall be directed to regularly deposit into this fund, on at least a monthly basis or as otherwise specified by the Town, the amounts due under the contract for defraying the cost of SEMASS tipping fees and household hazardous waste collection. The Town, through the Department of Public Works, shall use the monies in this fund to pay tipping fees due to SEMASS and to pay for the cost of household hazardous waste collections. In the event that Town sponsored recycling programs reduce the amounts of solid waste disposed of at SEMASS, the Selectmen may authorize the expenditure of amounts not needed for tipping fees or household hazardous waste collection to defray the costs of Town sponsored recycling efforts or Town beautification projects. In no case shall the amount expended for these purposes exceed the tipping fee times the number of tons of solid waste that has been certified as recycled according to the SEMASS master agreement.~~

ARTICLE 5

~~Sanitation~~ Minimum Standards for Recreational Camps for Children

§ 300-5.1. Statutory standards.

105 CMR 430.00, Minimum Standards for Recreational Camps for Children, State Sanitary Code, Chapter IV shall apply. ~~Article IV of the State Sanitary Code shall apply (105 CMR 430.000).~~

ARTICLE 6

Regulations Relative to Septic System ~~or Cesspool~~ Cleanout, Haulage, and Processing

§ 300-6.1. Regulatory ~~Statutory~~ standards.

Provisions of Article XI of the State Sanitary Code, and Title V of the State Environmental code (310 CMR 15.00) shall apply.

§ 300-6.2. Delivery location.

All septage from the Town of Sharon is to be delivered to the Charles River Pollution Control District in Medway, Massachusetts.

§ 300-6.3. License required.

All septage haulers must be licensed to transport septage by both the Town of Sharon and the Town of Medway.

§ 300-6.4. Required forms.

Haulers must complete a "sewage disposal permit and trip manifest form" at each location, which is used for control and verification purposes.

§ 300-6.5. Fees.

A fee of $25 per 1,000 gallons of Sharon septage or wastewater is to be paid by the hauler to the Charles River Pollution Control District (excess fees to be returned to the Town of Sharon to cover administrative costs of the septage disposal program).

§ 300-6.6. Maintenance of septic systems.

A. It is recommended that all onsite sewage disposal systems within the Town of Sharon be pumped annually to extend the life of the leaching facility and help lessen ground water pollution.

B. The Board of Health may require more frequent pumping of any disposal system where it finds such additional pumping necessary to the proper operation of the system, to protect water resources and to prevent danger to the public health.

ARTICLE 7

Minimum Requirements for the Subsurface Disposal of Sanitary Sewage

~~[~~Amended 12-17-2012] [Amended]

The Purposes of Article 7 of the Regulations of the Sharon Board of Health are to provide for the protection of public health, safety welfare and the environment by requiring the proper siting, construction, upgrade and maintenance of on-site sewage disposal systems and treatment works and appropriate means for the transport and disposal of septage as necessitated by local conditions. This Article must be read together with 310 CMR 15.000 (Title 5), which contains many other provisions and requirements relevant to onsite sewage disposal systems. The provisions of Title 5 shall govern, except where more stringent standards are set by this Article 7. Article 7 is promulgated pursuant to the authorities of MGL c. 111, §§ 17, 27, 27A, 30, 31, 31A,

31B, 31C, 31D, 31E, 122, 124, 127A, 127B, 127C, and MGL c. 21A, § 13.

§ 300-7.1. Definitions.

A. The provisions of Regulation 15.002 DEFINITIONS of the State Sanitary Code, Title 5(310 CMR 15.00 et al) shall apply, except where higher standards are established by these Regulations.

B. Additional definitions. The words, terms, phrases, abbreviations and acronyms listed below for the purpose of these regulations shall be defined and interpreted as follows:

BEDROOM — Any area in a dwelling unit which is or could be used for the provision of private sleeping accommodations for residents of the premises, whether such area is designated as a bedroom, guestroom, maid's room, dressing room, den, study, library, or by another name. Any room intended for regular use by all occupants of the dwelling unit such as a living room, dining area or kitchen shall not be considered a bedroom, nor shall bathrooms, halls or closets having no horizontal dimension over six feet.

BOARD OF HEALTH — A Board appointed by the Board of Selectmen for the purposes of implementing the health laws of the Commonwealth and the Town. The Board includes persons duly authorized to act on its behalf.

DEP — The Massachusetts Department of Environmental Protection.

HEALTH ADVISORY BOARD — A committee appointed by the Board of Health to provide advice and expertise in matters of public health.

LOT — An area of land in one ownership, with definite boundaries

MAJOR ADDITION — Any increase in square footage to living area greater than 120 square feet in area. Living area shall not include unfinished basements and attics, garages, decks, unheated porches, and unheated storage areas.

MINOR ADDITION — Any increase in square footage to living area equal to or less than 120 square feet in area. Living area shall not include unfinished basements and attics, garages, decks, unheated porches, and unheated storage areas.

NATURALLY OCCURRING SOIL — Soil which was deposited on a site by natural causes and not by human action.

SOIL ABSORPTION SYSTEM — A system of trenches, galleries, chambers, pits, field(s) or bed(s) together with effluent distribution lines and aggregate which is installed in appropriate soils to receive effluent from a septic tank or treatment works.

TITLE 5 — The State Sanitary Code, Title 5 (310 CMR 15.000 et al.) including all subsequent revisions thereto.

TREATMENT WORKS — Any onsite system for the treatment of sanitary sewage with a design flow above 2000 gallons per day (gpd) or with an Innovative Alternative (IA) system.

TREATMENT WORKS PERMIT — A non-transferable Permit issued by the Board of Health for construction, alteration or repair or any other work on a Treatment Works.

TREATMENT WORKS OPERATIONS PERMIT — A non-transferable Permit issued by the Board of Health for the operation of a Treatment Works.

TREATMENT WORKS BUILDING — That part of a Treatment Works which houses the devices or facilities that are used to store, treat, neutralize, stabilize or disinfect sewage.

WATER RESOURCE PROTECTION DISTRICT — The Surface Water Resource Protection District and the Ground Water Resource Protection District are zoning overlay districts established by the Sharon Zoning Bylaw.

WATERBODIES — As defined in Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and its regulations, codified at 310 CMR 10.00 and the Town of Sharon Wetlands Protection Bylaw, Chapter 262 of the Town Bylaws.

WETLANDS — As defined in Massachusetts Wetland Protection Act, M.G.L. Chapter 131, Section 40 and its regulations, codified at 310 CMR 10.00 and the Town of Sharon Wetlands Protection Bylaw, Article 23 of the Town Bylaws.

§ 300-7.2. General requirements.

A. Incorporation: The provisions of Regulation of the State Sanitary Code, Title 5 (310 CMR 15.00 et al) shall apply, except where higher standards are established by these Regulations.

B. Required approvals:

(1) No building permit shall be issued nor shall any dwelling place or other building be constructed until the Board of Health has approved the proposed lot as suitable for the proposed onsite subsurface sewage disposal system or treatment works and a permit for the installation has been obtained.

(2) Deep hole observation logs or percolation tests must be witnessed by the Board of Health or its designee.

(3) No On-site Subsurface Sewage Disposal System or Treatment Works shall hereafter be constructed, altered, repaired or installed in the Town of Sharon until a permit for said work has first been obtained from the Board of Health.

(a) Permits shall become void 12 months after the date of issue unless construction is completed within that period, and they are non-transferable. The Board may, in its discretion, allow a twelve-month extension.

(b) A fee, as established in the Board's Schedule of fees, shall accompany each permit application for construction, alteration, repair, or addition to an on-site subsurface sewage disposal system or Treatment Works to serve a new or existing structure. Permit application fees are non-refundable.

(c) The permit application for construction of an onsite subsurface sewage disposal system or treatment works must be accompanied by the following:

[1] A Plan prepared in accordance with Title V and § 300-7.4 of this Regulation;

[2] Percolation test results, and on site suitability reports by an approved Soil Evaluator witnessed by a representative of the Town of Sharon;

[3] If a wetlands line is located on the plan which accompanies the application, or if the Board or its agent questions the possibility of wetlands within 200 feet of the property, confirmation in writing by the Conservation Commission that the Conservation Commission or its agent has approved the wetland delineation.

[4] The permit application must be signed by the owner of record for the property. If the permit application is made by someone other than the owner, the application shall be signed by both the owner of record and the applicant.

C. Additional requirements for wastewater treatment works.

(1) No construction of any structure which relies upon a Treatment Works shall be constructed until a Treatment Works Construction Permit has been issued by the Board.

(2) As part of the application for a Treatment Works Construction Permit, the Applicant shall submit a detailed estimate of the cost for constructing the Treatment Works, the estimated useful life of each major component and the estimated annual operations and maintenance cost. Based on this data, and any other reasonable estimates made by the Board, the Board shall establish a system of financial responsibility for the Treatment Works pursuant to which the Applicant shall, prior to the commencement of construction under the Treatment Works Construction Permit, make an initial deposit of funds in a specially segregated account for such purpose, equal to the Board's estimate of the annual operation and maintenance costs plus an estimated amount for replacement reserve. Any funds expended during the year shall be accounted for in the annual financial report required by July 1 of each year and must be shown to have been replaced in this account by the same date.

(3) No Treatment Works shall be operated until it has received a Treatment Works Operations Permit from the Sharon Board of Health containing conditions deemed necessary for safe and effective operation.

(4) A Treatment Works Operations Permit is issued in the name of the record owner of the Lot on which the Treatment Works is constructed after the owner has proven to the reasonable satisfaction of the Board that the owner has the capabilities, financial and otherwise, to maintain and operate the Treatment Works. The Treatment Works Operations Permit is not transferable without the approval of the Board. The fee for the Treatment Works Operations Permit is established in the Schedule of Fees.

(5) Treatment Works Operations Permit shall be valid for one year and the Applicant must file an application for renewal 30 days prior to expiration.

(6) Prior to the commencement of operation of the Treatment Works, the owner shall record in the Registry of Deeds a covenant and restriction in the form and substance satisfactory to the Board binding and enforceable against the premises served by the

Treatment Works and the owner thereof, to maintain the Treatment Works. The covenant and restriction shall run in favor of and be enforceable by the Town and shall be superior in title to any liens (including mortgages, labor and mechanics liens and the like) on or interests in the premises, except for the lien for real estate taxes. The covenant and restriction shall be enforceable against any or all of: the operation and maintenance fund, the premises, or the owner thereof, as the Town may elect in its discretion.

D. Wastewater treatment works:

(1) No discharge from a Treatment Works is permitted into any surface water for wetland, as defined by MGL c. 131, § 40, unless a National Pollution Discharge Elimination System permit has been obtained from the Environmental Protection Agency.

(2) Location: No Treatment Works shall be constructed within 100 feet of a property boundary or within 100 feet of any Structure (with the exception of the Treatment Building itself). Additionally, no septic tank shall be constructed greater than 50 feet from the Treatment Building.

(3) Disinfection of treatment works effluent, if required by the Board, shall be accomplished by either ultraviolet radiation or ozonation or other systems approved by the Board of Health.

(4) Sludge removal: All sludge must be disposed off-site during normal business hours Monday through Friday, except in emergency situations. The Board will review the Applicant's plan for sludge removal, including the method of transport, the route to be used, the frequency of removal, destination, and license status of the proposed sludge hauler. Each –time sludge is removed from the site, a copy of the receipt must be provided to the Treatment Works Operator and to the Board.

(5) Monitoring requirements: A groundwater and/or Influent and Effluent Monitoring Program will be developed to the reasonable satisfaction of the Board on a case-by case basis prior to issuing the permit. All monitoring results must be submitted to the Board within seven days of receipt. The Board may modify the monitoring program at any time.

§ 300-7.3. Certificate of completion.

A. No new or repair of a Treatment Works shall be backfilled until it has been inspected by the Board or its agent.

B. No sewage disposal system shall be complete and no new construction served by a Onsite Sewage Disposal System or Treatment Works shall be inhabited until a Certificate of Completion has been issued by the Board.

C. Certificates of Completion may contain continuing conditions including, without limitation, deed restrictions, financial assurances and monitoring requirements which shall apply throughout the use of the onsite system or Treatment Works. Such conditions shall be enforceable by the Board throughout the entire period of use of the system or treatment

works unless such conditions are revoked by the Board.

§ 300-7.4. Plan requirements.

A. Any plan submitted for a permit to construct an on-site subsurface sewage disposal system or a Treatment Works to replace in its entirety an existing failed system, or for a lot not previously built upon, shall as a minimum, include the following:

(1) Six copies of a plot plan at a scale of one inch equals 20 feet, or one inch equals 40 feet ~~or one inch equals 50 feet~~, prepared and stamped by a Massachusetts Registered Professional Engineer, or a Massachusetts Registered Sanitarian, along with the appropriate application forms and the necessary fee. Any plans requesting a variance to setback distances must also be stamped by a Massachusetts Registered Land Surveyor.

(2) Name of present owner, applicant, surveyor and engineer;

(3) The lot to be served, including all dimensions, lot number and area of the lot.

(4) The dimensions and location of the buildings on the lot, including garages and driveways;

(5) Location and dimensions of the sewage disposal system including the reserve area;

(6) Existing and proposed contours of the lot, street, and adjacent property;

(7) Finished street centerline grades opposite the front corners and middle of the lot;

(8) Proposed elevations of the top of the concrete foundation and basement floor;

(9) Location of underground utilities in the street, those which will service the lot, streams, surface and subsurface drains and wetlands within 125 feet of the sewage disposal system, known sources of water supply (including potable wells and irrigation wells) within 200 feet of the sewage disposal system and any proposed well to serve the lot.

(10) ~~A written determination of groundwater classification within 200 feet of the On-site subsurface sewage disposal system, treatment works or soil absorption system (i.e., Zone I, Zone II, groundwater protection area, surface water protection area) and floodplain class;~~ DEP Form 11: Site Suitability, should be completed for each plan.

(11) A permanent benchmark shall be furnished within 50 feet of the sewage disposal system;

(12) Design calculations for both sewage flow and system capacity in accordance with the requirements of Title 5.~~;~~

(13) Location and elevation and log of deep soil observation holes and the location and results of percolation tests. These tests shall have been taken in the area of the disposal system and reserve area.~~;~~ DEP Form 11: Site Suitability must be completed and submitted

(14) A profile showing the on-site subsurface sewage disposal system to be installed or the

treatment works including any associated soil absorption system;

(15) A soils absorption system reserve area;

(16) A complete listing of all variances sought from 310 CMR 15.000 and/or Article 7 of the Rules and Regulations of the Sharon Board of Health;

(17) A certification that the plan meets the requirements of 310 CMR 15.000 and Article 7 of the Rules and Regulations of the Sharon Board of Health.

B. Within 30 days following completion of construction activities, two As-Built Plans conforming to § 300-7.4 shall be provided to the Board of Health. Plans shall also be provided in an electronic format acceptable to the Board of Health or its Agent.

C. As-built plans must include a list of all variances granted by the Board of Health and a list of conditions, if any, imposed by the Board, before a certificate of compliance is issued.

§ 300-7.5. Construction standards for on-site subsurface sewage disposal systems and treatment works:

All onsite systems and treatment works hereafter constructed shall be of material and design approved by the Board of Health. The minimum acceptable design will conform to the requirements of the state Environmental Code, Title 5, except for higher requirements noted below:

A. All components shall be capable of supporting AASHTO HS20-44 loads;

B. Access shall be provided by twenty-four-inch diameter cast iron frames and grates adjusted to grade as required by the Board of Health.

C. In general, the proposed grading of the lot shall shed water away from the building and the disposal system areas so as not to create ponding or water within the immediate vicinity of the dwelling; also the final grading shall slope up at least six inches in the first 10 feet from the edge of the traveled way along the entire frontage to prevent any street drainage from entering the lot: Use of a swale to prevent water from entering abutting property is suggested.

D. All septic tanks hereafter constructed shall be two-compartment, water tight, and constructed of reinforced concrete, or an equal durable material. The minimum liquid capacity of a septic tank shall be determined in accordance with Title 5, but in no case less than 1,500 gallons.

E. Pumps: Mercury liquid level control switches are prohibited.

F. Soil Absorption Systems shall conform to the following:

(1) The minimum percolation rate for determining the leaching area requirements shall be 6.0~~6.0~~ minutes per inch.

(2) Where leaching trenches are used, the area between the trenches is not to be considered suitable for a reserve area.

(3) Expansion areas shall be located at a minimum of 10 feet from the primary disposal area.

(4) No soil absorption system shall be constructed in soils with a percolation rate greater than 60 ~~30~~ minutes per inch.

§ 300-7.6. Interceptor drains.

Lowering the groundwater table through the use of interceptor or curtain drains to permit marginal or unacceptable conditions to meet minimum requirements for the installation of subsurface disposal systems for new construction is prohibited by the Board of Health. Such drains may be allowed or required to rehabilitate a system that has failed.

§ 300-7.7. Depth to groundwater.

A. For areas located within Water Resource Protection Districts and Zone IIs, there must be five feet of naturally occurring soil between high groundwater elevation and the bottom of a leaching facility. The system will be designed to maximize this distance.

B. For all other areas there must be four feet of naturally occurring soil between the high groundwater elevation and the bottom of the leaching field.

C. For new construction, system may not be mounded above existing topography in order to achieve separation to groundwater.

D. Non-indigenous soils added on top of natural topography shall not be included in calculating depth to groundwater.

§ 300-7.8. Special requirements for floodplains.

For systems located in floodplains, the bottom of the septic tank, distribution box, pump or dosing chamber, grease trap, and leaching facility shall be one foot above the base flood elevation (the level of inundation of the one-hundred-year frequency storm event). Building sewers and sewer manholes shall be water tight to an elevation one foot above the base flood elevation.

§ 300-7.9. Automatic failures.

A. At the time of inspection, all septic tanks 25 years of age or older shall be replaced unless structurally certified by a licensed Title 5 inspector to be sound and leak-proof.

B. At the time of inspection, all cesspools shall be replaced with systems in maximum feasible compliance with Title 5 and Article 7.

§ 300-7.10. Repairs and upgrades to existing systems.

The design and construction of repairs and upgrades to existing systems shall be in conformance with the requirements listed below. The Board of Health may modify the requirements when necessary for a particular situation.

A. Repairs to existing systems.

(1) A system determined to be in failure by the Board of Health shall be corrected in accordance with 310 CMR 15.353, Emergency Repair. If additional repair or

replacement is required as determined by the Board of Health all work must be completed within 390 days of the date of the emergency repair.

(2) A system determined to be in failure at the time of a system inspection (310 CMR 15.301) shall be corrected as described in § 300-7.2.

(3) In the event that any person subject to an order from the Board of Health, pursuant to § 300-7.2 and 310 CMR 15.026, as the same may be from time to time amended, or such other applicable rule or regulation, does not repair a failed septic system within 390 days of the issuance of the Board's order, the Board of Health, after a properly noticed hearing in which the Board determines that the failed system presents a risk to the public's health, may cause such repairs to be made at the Board's direction and expense necessary to bring the system into compliance with these regulations and Title 5. The Board, its agents and contractors have the right to enter the premises of any person subject to a determination made pursuant to the preceding sentence for the purpose of repairing a failed septic system.

(4) Repairs to failed septic systems undertaken by the Board of Health pursuant to § 300-7.2 which cost $5,000 or more shall comply with the relevant provisions of MGL c. 30B. All expenses incurred by the Board of Health in repairing a failed septic system pursuant to § 300-7.2, including, but not limited to, costs attributable to the design, materials, construction, inspection, and oversight of the repairs and any legal expenses incurred, shall constitute a debt to the Town of Sharon and may be recovered from the owner by an action in contract. Additionally, the Board of Health may impose a lien in accordance with the provisions of the second paragraph of MGL c. 139, § 3A, for the cost of all repairs, as outlined above, undertaken under § 300-7.2. Nothing in this regulation shall prohibit or otherwise limit the Board of Health from entering into agreements to repair failed septic systems pursuant to MGL c. 111, § 127B 1/2.

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Comment [BA1]: Paragraph under legal review

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B. Upgrades to existing systems. The following actions are required whenever a building permit must be obtained from the Sharon Building Inspector:

(1) Whenever a Minor Addition is proposed, a certified licensed System Inspector shall inspect the system. If the system is determined to be in failure as determined by Title 5, it shall be upgraded or replaced to meet current ~~standards (or maximum feasible compliance)~~ under Title 5 and this Article 7.

Comment [BA2]: Board may consider consolidating 1 and 2 to refer to all additions.

(2) Whenever a Major Addition is proposed, the following actions should be taken as applicable.

(a) For all systems ~~constructed after 1995,~~ a certified licensed System Inspector shall inspect the system. If the system is determined to be in failure as defined by Title 5, it shall be upgraded or replaced to meet current standards ~~(or maximum feasible compliance)~~ under Title 5 and Article 7.

(b) ~~For systems constructed prior to 1995, the system shall be upgraded or replaced to meet current standards (or maximum feasible compliance) under Title 5 and Article 7.~~

(2~~3~~) Any proposals which include an increase in design flow shall require the system to meet current standards under Title 5 and Article 7.

§ 300-7.11. Inspection of backfill.

The owner, person or agent responsible for the construction, alteration, repair or installation of an on-site subsurface sewage disposal system or a treatment works and any associated soil absorption system shall have such work inspected by the Board of Health before such work is backfilled and such backfilling shall thereafter be applied in a manner approved by the Board.

§ 300-7.12. Requirements for filing subdivision plans.

Any person who submits a preliminary or definitive subdivision plan to the Planning Board must also submit the following information to the Board of Health:

A. A copy of the plan and other documents submitted to the Planning Board in accordance with Section 3.22 and 3.3.2 of the Planning Board Regulations.

B. Percolation test results and soil observations to a depth of 10 feet at a minimum frequency of one per every lot~~four lots~~. Said tests shall be witnessed by an agent of the Board of Health and performed in accordance with Title 5 and reported by a Registered Professional Engineer, Sanitarian and/or Licensed Soil Evaluator.

C. Pursuant to 105 CMR 410.180, evidence satisfactory to the Board that the Lot has a supply of potable water sufficient in quantity with adequate pressure and quality that has been determined to not endanger the health of any potential user.

D. Review of plans within the Water Resource Protection District. When reviewing subdivision plans within Water Resource Protection Districts, the Board of Health shall evaluate the following issues:

(1) Do adequate geological characteristics (primarily concerning percolation) exist on each lot for building?

(2) Can adequate setbacks between private wells and septic systems be maintained within the proposed subdivision layout?

(3) Will downgradient surface water or groundwater resources be impacted by the migration of sewage-derived contaminants?

(4) Will private wells in the proposed subdivision be subject to road salt contamination or other road -related contamination?

§ 300-7.13. Environmental Health Impact Report.

A. The Board of Health may require the project proponent to submit an Environmental Health Impact Report pertaining to the proposed subdivision, to determine if the project is protective of public and environmental health and ensure that adequate protection against flooding, siltation, and other drainage problems is provided. This information may include, but is not limited to:

(1) A geologic description of the parcel indicating location and depth of confining layers (silt and clay);

(2) Approximate aquifer thickness throughout the parcel;

(3) Groundwater flow direction, hydraulic gradient and groundwater velocity;

(4) Determination of downgradient receptors, including residences, surface water features and wetlands (on and off-site);

(5) The projection of nitrogen concentrations downgradient of each septic system or protective zones of contribution of a well on each lot;

(6) The impact of nitrogen, phosphorus, and other contaminants on groundwater and down gradient wetlands, ponds, streams, rivers and/or other human or environmental receptors; and,

(7) Precipitation effects.

B. Any Applicant required to file an Environmental Health Impact Report shall have the burden of proving by submission of a preponderance of credible evidence that the proposed work shall not have an unacceptable significant and or cumulative effect upon the public or environmental health.

C. The Board of Health shall review the plans and report to the Planning Board within 45 days after the Definitive Plans and other requested data is filed with the Board of Health as required in MGL c. 41, § 81U, and the Sharon Planning Board Regulations or bylaws. The report shall indicate approval or disapproval of the plan. In the event of disapproval, the Board of Health shall name specific findings as to which, if any, of the lots shown on the plan cannot be used for building sites without injury to public health, and shall include such specific findings and reasons therefore. The Board of Health may require the submission of additional data which, in its opinion, is necessary to properly evaluate the subdivision from a public health standpoint.

§ 300-7.14. Application review fees.

A. When reviewing any application for permit/approval, the Board, at its discretion, may determine that the assistance of outside consultants is warranted due to the size, scale, or complexity of a proposed project or because of a project's potential impacts. The Board may require that the applicant pay a "review fee" consisting of the reasonable costs incurred by the Board for the employment of outside consultants engaged by the Board to assist in the review of an application.

B. In hiring outside consultants, the Board may engage engineers, planners, lawyers, urban designers, or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, ordinances/bylaws and regulations.

C. In the case of the construction of a New Subsurface Sewage Disposal System, or Treatment Works, with design flows greater than 1,500 gallons per day, the Applicant shall deposit with the Board of Health at the time of permit application the sum set forth in the Board's Schedule of fees under "Sewage Disposal Permit Deposit" or "Treatment Works Permit

Deposit", as applicable, in the form of a certified or bank check made payable to the "Town of Sharon."

D. Funds received by the Board pursuant to this section shall be deposited with the municipal treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been or will be collected from the Applicant. Failure of an Applicant to pay a review fee shall be grounds for denial of the application/permit.

Comment [BA3]: Check D, E, and F

E. Review fees may only be spent for services rendered in connection with the specific project for which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a specific project, shall be repaid to the Applicant or the Applicant's successor in interest. A final report of said account shall be made available to the Applicant or the Applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an Applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

F. Any applicant may take an administrative appeal from the selection of the outside consultant to the Board of Health. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist either or an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field.

§ 300-7.15. Approval.

Neither the Board of Health nor any member or representative thereof assumes responsibility for the successful operation of any on-site subsurface sewage disposal system or treatment works and any associated soil absorption system or any portion thereof. Approval of any aspect of the testing, design or construction by the Board of Health shall not relieve the designer and the septic works installer of their sole responsibility for the design and construction of the system or works which fully conforms to all requirements of the State Sanitary Code, Title 5 and to all requirements of these regulations.

§ 300-7.16. Maintenance.

Every owner, occupant, or agent of premises where there is any private sewer, drain, or septic tank, ~~or cesspool~~ shall keep the same in a sanitary condition and shall have every septic tank ~~and cesspool~~ emptied and cleaned when necessary or at such time as ordered by the Board of Health.

A. Biannual pumping of ~~cesspools and~~ septic tanks is recommended at a minimum.

B. Whenever a water closet, septic tank~~, cesspool,~~ or pipe becomes offensive or obstructed, the owner, occupant, or agent of premises shall cause same to be cleaned or otherwise corrected.

C. ~~All septic tanks shall be pumped as required in Article 6, § 300-6.6, Maintenance of septic~~

~~systems, and~~ Tthe owner, occupant, or agent of premises shall submit a copy of the pumper's signed receipt to the Board of Health as compliance.

D. ~~If the owner or occupant fails to comply with such order, the Board may cause the nuisance, source of filth, or cause of sickness to be removed and/or reconstructed; and all expenses incurred thereby shall be paid by the person who caused or permitted same, if he has had actual notice from the Board of Health of the existence thereof.~~

§ 300-7.17. Location.

A. Percolation and deep hole tests determination of maximum groundwater elevation: A minimum of one percolation test, and two deep hole observation holes will be required for each proposed soil absorption system. The Board of Health may require additional tests as warranted by site conditions and the size of the facility. Tests may be performed at any time during the year. The maximum groundwater elevation will be determined by an approved Soil Evaluator and approved by the Board of Health or its Agent.

B. Minimum distances:

(1) No disposal facility shall be closer than the distances stated to the components listed in the following table:

	Tank ~~Soil~~ (feet)	Component Absorption System (feet)	Sewer (feet)
Property Line	20	20	10
Street or Sidewalk Right of Way	25	25	10
Subsurface Drain, or Street Drain	25	50	25
Drainage Easement	25	50	25
Dwelling, Cellar Wall, Inground pool	10	20	10
Well or Suction Line; Surface Water Supply	75	125	75
Reservoir & Tributaries to Reservoirs	75	125	75
Waterbodies, Wetlands, Stormwater Retention or Detention Basin	75	125	75
Waterline (pressure)	10	25	10 laterally (18 inches below)

(2) The minimum property line, and street or sidewalk right of way setbacks are reduced to 10 feet provided that the applicant has demonstrated to the Board's satisfaction that:

(a) The natural slope of the ground prevents septic tank or leaching field overflow

from flowing toward the property line.

(b) The depth to maximum groundwater elevation exceeds five feet for the entire area between the septic system component and the property line.

(c) The area is not in a defined flood plain.

(d) The area is not subject to surface flooding.

C. Any lot of less than 40,000 square feet in area shall be deemed too small for both water supply and sewage disposal on the same lot.

§ 300-7.18. Town of Sharon licenses.

A. ~~Sharon Systems Inspector license.~~

~~(1) No Systems Inspection Report on a system within the boundaries of the Town of Sharon is valid unless the inspection and the report are completed by a Systems Inspector who holds a Sharon Systems Inspectors License issued by the Sharon Board of Health and is listed by the DEP as an approved Systems Inspector pursuant to 310 CMR 15.340.~~

~~(2) Licensing procedures: The Sharon Board of Health shall automatically grant an initial Sharon Systems Inspector License to any Systems Inspector upon receipt of the first Systems Inspection Report on the Report Form approved by DEP submitted to the Board after the effective date of these regulations provided that:~~

~~(a) In the judgment of the Board or its designee, the report was completely, accurately, legibly, and properly filled out; and,~~

~~(b) The Systems Inspector is listed by the DEP as an approved Systems Inspector pursuant to 310 CMR 15.340.~~

~~(3) The initial license shall be valid for one year, and shall be automatically renewed on January 15 of every calendar year thereafter, provided:~~

~~(a) The Systems Inspector continues to submit the Systems Inspection Reports required pursuant to 310 CMR 15.301 to the Board as soon as practicable, but in no case more than 30 days after the inspection;~~

~~(b) The Systems Inspection Reports submitted by the Systems Inspector are, in the judgment of the Board, consistently accurate, correct, legible, and complete with the Systems Inspector license Number listed on the Report.~~

~~(c) The Systems Inspector notifies the Health Agent for Engineering as soon as practicable prior to conducting an inspection required pursuant to 310 CMR 15.301, Said notification can be done by telephone or fax. In no case shall notification be less than one working day prior to the inspection; and,~~

~~(d) The Systems Inspector is listed by DEP as an approved Systems Inspector pursuant to 310 CMR 15.340.~~

~~(4) The Board may revoke or suspend a Sharon System Inspector License after the opportunity for a hearing conducted pursuant to M.G.L. ch 30A when it determines that the Systems~~

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~~Inspector:~~

~~(a) Submitted one or more incorrect, incomplete, illegible, or inaccurate Systems Inspections Report, or~~

~~(b) Failed to submit one or more Systems Inspection Report(s) within the required 30 days following the inspection; or~~

~~(c) Failed to notify the Sharon Health Agent for Engineering as soon as practicable, but no later than one working day prior to conducting an inspection required pursuant to 310 CMR 15.301, or~~

~~(d) Failed to pay any fines or penalties owed, or perform any action required, pursuant to an enforcement order issued by DEP.~~

~~(5) A Sharon Systems Inspector License is automatically revoked if the Systems Inspector is no longer listed by the DEP as an Approved Systems Inspector.~~

~~(6) Once the Board has revoked a Systems Inspector's Sharon Systems Inspector License, the Inspector may reapply by filing a written application with the Board for a Sharon Systems Inspector License. The Board may, following an opportunity for a hearing conducted pursuant to MGL c. 30A, reject the application or impose additional conditions on a licensee prior to issuing a new license. The Board shall base its re-licensing decision on the performance history of the Systems Inspector.~~

~~(7) The Board shall send a Sharon Systems Inspector License and a copy of these regulations to each Systems Inspector it licenses.~~

B. ~~Sharon systems installer license.~~

(1) No septic system installer may construct, alter, repair or install a septic system within the Town of Sharon without first obtaining a license from the Sharon Board of Health.

(2) Anyone applying for a license to construct, alter, repair or install a septic system within the Town of Sharon must first satisfy testing requirements established by the Sharon Board of Health.

§ 300-7.19. Building in unsewered areas.

(Reserved)

§ 300-7.20. Garbage grinders.

No garbage grinder shall hereafter be installed in an existing building. ~~building without a permit from the Board of Health, and no garbage grinder shall be installed in a new or existing building unless the system has been designed for its installation.~~ It is noted that garbage grinders are not recommended where they discharge to subsurface disposal facilities.

§ 300-7.21. Septic tank cleaners or additives.

Septic Tank Chemical cleaners or additives shall not be used in septic systems without consent

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of the Board of Health. Published research articles have documented that septic system additives have not resulted in positive effects on the operation of onsite septic systems, and can contaminate groundwater aquifers, render leaching fields dysfunctional and result in costly repairs to homeowners.

§ 300-7.22. Privies and chemical toilets.

A. Construction toilets: Temporary chemical toilets for the convenience of persons engaged in construction work may be erected or installed with a permit, but only under the following conditions: the toilet must be so located as to cause no annoyance to persons residing in the vicinity. The person in charge of the premises shall cause the toilet to be maintained in a sanitary manner, and immediately upon completion of the work, he shall remove the toilet and leave the premises in a condition satisfactory to the Board of Health, making proper provision for the final disposal of the contents of the chemical toilet. Temporary chemical toilets may be erected and installed on Town property where deemed needed by the Board of Health.

§ 300-7.23. Variances.

A. Requirements: Every request for variance shall be made in writing and shall cite the specific variance sought and the reasons therefore. The Board may require additional studies and/or outside professional consultations in connection with the consideration of the variance request. The cost of additional studies and/or consultant review of same shall be paid by the applicant before any decision is issued. The applicant shall give notice to all abutters and owners of land within 200 feet of the Applicant's land via certified mail, return receipt, at least 10 days before the Variance Request hearing. The Board of Health may vary the application of any provisions of this Title (except where expressly forbidden) with respect to any particular case when, in its opinion:

   (1) The enforcement thereof would do manifest injustice and,

   (2) The applicant has proved that the same degree of environmental protection required under this Article can be achieved without strict application of the particular provision, and,

   (3) In the case of new construction, enforcement of the provision from which the variance is sought would deprive the applicant of substantially all beneficial use of the property.

B. Annual compliance fees: An annual fee will be required for monitoring each onsite wastewater disposal installation requiring a variance from the requirements of Title 5 and/or Article 7, upon which reporting and testing requirements have been imposed, including annual, or more frequent, pumping, testing, or other actions by the owner, as required by their variance from Title 5 or Article 7, in accordance with a fee schedule developed by the Board of Health.

C. Any variance granted by the Board and conditions thereof shall be incorporated into the Disposal Works Construction Permit or Treatment Work.

D. The Board may require various conditions it deems appropriate as part of any variance

granted, including, among others, that a notice of all restrictions imposed on the use of the septic system as part of the variance granted by the Board must be recorded by the property owner at the Registry of Deeds.

E. Construction of the sewage disposal system for which a variance has been granted must be completed within one year of issuance of the Disposal Works Construction Permit. During the initial year the Board may grant an extension of up to one year upon a showing by the Applicant that extraordinary circumstances caused a delay in completion of the work.

§ 300-7.24. Severability.

The provisions of Article 7 are severable. If any provision of Article 7 is declared to be invalid or inapplicable to any particular circumstance, the invalidity or inapplicability will not effect the enforceability of the remainder of Article 7.

§ 300-7.25. Effective date.

This regulation shall take effect 30 days after the date of publication of a summary of the regulation.

§ 300-7.26. Pumping requirements and I/A system maintenance.

All systems upgraded pursuant to this section shall be pumped at least every two years. Innovative and alternative systems shall be maintained in accordance with manufacturers' recommendations.

§ 300-7.27. Inspection and sampling requirements for innovative/alternative systems for single family homes.

A. The Department of Environmental Protection (DEP) and Sharon Board of Health (BOH) regulations require routine inspection and testing of Innovative and Alternative wastewater disposal systems (I/A systems) to ensure proper operation. In accordance with DEP requirements, the I/A system must produce an effluent, prior to subsurface disposal, which meets or exceeds the following maximum allowable level for the following parameters:

All I/A Systems	
5-day Biochemical Oxygen Demand	30 mg/L
Total Suspended Solids	30 mg/L
pH	6 to 9 standard units
Additionally for Systems within Groundwater Protection Area	
Total Nitrogen	25 mg/L

B. Based on an evaluation of system performance over time, the DEP has determined that, for Single Family Homes not within a Groundwater Protection Area (GPA), visual inspection of the effluent wastewater followed by field testing will demonstrate that the system is operating properly to achieve the required level of treatment. As such, and in accordance with DEP's policy of January 1, 2006, the BOH requires system operators to perform and provide documentation for the field tests and, if applicable, laboratory analysis in

accordance with the Tables below.

C. The DEP has additional inspection and testing requirements for Single Family Homes within Nitrogen Sensitive Areas. The Tables below summarizes the requirements for these systems.

First Year of Operation
Single Family Homes (<2,000 gpd)

System Type	Inspection Frequency	Field Test	Laboratory Test
SFH Not within GPA	Quarterly	DO, Turbidity, pH and Visual	pH, BOD_5 and TSS
SFH Within GPA	Quarterly	DO, Turbidity, pH and Visual	Carbonaceous BOD_5, TSS, pH, and TN

TN = $TKN+NO_3+NO_2$

After First Year of Satisfactory Operation
Single Family Homes (<2,000 gpd)

System Type	Inspection Frequency	Initial Test	Laboratory Test (if required based on field results)
SFH Not within GPA	Twice per year	Field Testing for DO, Turbidity, pH and Visual	pH, BOD_5 and TSS
SFH Within GPA	Twice per year (after 1 yr of Quarterly Lab testing)	Field Testing for DO, Turbidity, pH and Visual + Lab Testing for TN	Carbonaceous BOD_5, TSS, pH and TN

TN = $TKN+NO_3+NO_2$

D. Inspections required twice per year shall be performed during the first and third quarters. Field testing requirements include visual examination of the effluent for color, effluent pH to determine if the wastewater is between 6 and 9 standard units, dissolved oxygen to determine if the system is maintaining at least 2 mg/L, and turbidity, to determine if the system is maintaining levels less than or equal to 40 NTU.

E. If the effluent does not pass all of the field tests, the operator is required to collect a sample for laboratory analysis. If the laboratory tests indicate the system is not in compliance, a follow up inspection and field testing to identify and correct the problem shall be completed within 60 days of the original inspection. Should the subsequent inspection and field test not meet required standards, the Board of Health shall be immediately notified with inspection results, details of the problems encountered, recommendations for repairing

the system and a schedule for completing the work.

F. Reporting requirements.

(1) All inspection reports shall be submitted to the BOH within 30 days of sampling. The inspection report shall include the DEP Approved Inspection and O&M Form for Title 5 I/A Treatment and Disposal Systems and the manufacturer's inspection form.

(2) All alarm conditions must be addressed immediately and reported to the BOH within five days. The report must include the cause of the alarm condition and corrective actions performed to correct the condition.

G. The BOH reserves the right to inspect any I/A system at any reasonable times, or modify the inspection schedule and testing requirements.

ARTICLE 8
Minimum Standards for Swimming Pools

§ 300-8.1. Regulatory ~~Statutory~~ standards.

105 CMR 435.000: Minimum Standards for Swimming Pools, State Sanitary Code Chapter V, shall apply.~~Chapter V of the State Sanitary Code (105 CMR 435.000) and Title 2 of the State Environmental Code, and the following shall apply~~. .

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Comment [BA4]: No reference to "Title 2" found relevant to this Article.

~~**§ 300-8.2. Notice requirements for pools without lifeguards.**~~

~~In pools with a capacity of 20 persons or less, when a lifeguard is not required by the Board of Health, a sign must be posted stipulating that no more than 20 bathers be allowed in the pool at any one time; that swimmers are responsible for their own safety; that no children be allowed to swim without adult supervision.~~

ARTICLE 9
Minimum Standards for Bathing Beaches

§ 300-9.1. Regulatory ~~Statutory~~ standards.

105 CMR 445.000: Minimum Standards for Bathing Beaches (State Sanitary Code, Chapter X, shall apply. ~~Article VII of the State Sanitary Code shall apply (105 CMR 445.000).~~

ARTICLE 10
Minimum Standards for Developed Family Type Camp Grounds

§ 300-10.1. Regulatory ~~Statutory~~ standards.

~~Chapter 4 of the State Sanitary Code shall apply. (105 CMR 430.000)~~ 105 CMR 440.000: Minimum Standards for Developed Family Type Campgrounds, Chapter VI, shall apply

ARTICLE 11
Regulations for Pesticide, Chemical and Fertilizer Application

~~**Regulations for Pesticide, Chemical and Fertilizer Applicators**~~

§ 300-11.1. Definitions.

For the purposes hereof, "an applicator" is defined to mean an individual who is engaged in the business of spraying or otherwise applying any pesticide, chemical or fertilizer.

§ 300-11.2. Use of water resources restricted.

No applicator shall draw water from any lake, pond, stream, brook, spring or other natural or man-made source of water located within the Town.

§ 300-11.3. Available public water.

There shall be a public water hydrant or other public water outlet in Sharon furnishing water to any water tank vehicle used for the mixing, spraying or application of pesticides, herbicides, or fertilizers. The said hydrant or outlet shall not allow any backflow into the public water system and shall be under the supervision and control of the Superintendent of Public Works.

§ 300-11.4. Permit required.

An application for such permit shall be in such form and contain such information, on oath, as the Board of Health shall require. A separate application shall be filed for each vehicle used in the spraying or applying of pesticides, chemicals or fertilizers.

§ 300-11.5. Fees.

Each application must be accompanied by a non-refundable and non-apportionable fee of $25 as well as the applicant's certificate issued under MGL c. 132B, § 10. Checks or money orders therefor shall be made payable to the Town of Sharon.

§ 300-11.6. Permit term.

Each permit shall expire at the end of the calendar year in which issued, but may be renewed annually on application as herein provided.

§ 300-11.7. Permit not transferable.

No permit shall be transferred or assigned except with the approval of the board.

§ 300-11.8. Vehicle and equipment requirements.

No permit shall be issued unless the vehicle and the equipment used in connection therewith, for which application is made, are equipped with back-flow prevention unit and in-line valves. All equipment will be subject to inspection and approval by the Superintendent of Public Works or his authorized designee. Such back-flow prevention unit and in-line valves shall be maintained in good operating condition.

§ 300-11.9. Insurance requirements.

A. No permit shall be issued unless the applicant shall carry insurance including product liability insurance, in companies satisfactory to the Board of Health or its agent, indemnifying the Town and itself from and against any and all claims for injury or damage to persons or property, both real and personal, caused by the spraying or application or pesticides, chemicals and fertilizers. The amount of such insurance against liability for damage to property shall not be less than $500,000.

B. The amount of such insurance against liability for injury or death to persons shall not be less than $500,000 on account of injury to or death of any one person or any number of persons in any one accident. Certificates of insurance shall be filed with the Board of Health. The policies shall contain a provision that the Board of Health shall be notified in writing at least 30 days prior to the cancellation of any such policy.

§ 300-11.10. Permit sticker.

Upon approval of each application, a permit sticker, expiring December 31 of the year in which issued, will be delivered to the applicant. Such sticker will be attached to, and thereafter maintained upon, the vehicle for which issued.

§ 300-11.11. Supervision by certified individual.

No pesticide, chemical or fertilizer may be sprayed or applied by an applicator unless an individual, who is certified under the provisions of MGL c. 132B, § 10, as authorized to act or supervise the use of any pesticide which is classified by the Department of Food and Agriculture as being restricted for use, is present at all times.

§ 300-11.12. Protection of water resources.

No applicator shall mix or add chemicals or additives or wash or rinse any containers thereof at a place or places so close to any lake, pond, stream, brook, spring or other natural or manmade source of water that there is a likelihood that such chemicals or additives or the residue of any thereof may flow or seep into any such body of water.

§ 300-11.13. Compliance with state and federal regulations.

The holder of each permit hereunder must also comply at all times with all applicable state and federal statutes and regulations.

§ 300-11.14. Violations and penalties.

Whoever violates any of the provisions hereof may be subject to a fine of not more than $20 for each violation. Each day such violation continues shall constitute a separate offense.

§ 300-11.15. Suspension or revocation of permit.

In addition, the Board of Health, after notice and an opportunity for a hearing, may suspend or revoke any permit, upon finding that the holder of the permit has violated any of the provisions hereof.

ARTICLE 12

Minimum Sanitation Standards for Food Service Establishments and Retail Food Establishments

§ 300-12.1. Regulatory ~~Statutory~~ standards.

105 CMR 590, Article X of the State Sanitary Code~~, 105 CMR 590.000,~~ "Minimum Sanitation Standards for Food Establishments" shall apply.

~~**§ 300-12.2. Caterers.**~~

~~Regulations for caterers, excerpted from the above, are as follows:~~

~~A. Each caterer shall have as its base of operations, a food establishment that shall comply with the provisions of these regulations.~~

~~B. Each caterer shall:~~

~~(1) Notify the Board of Health of the city or town in which it plans to serve a meal prior to serving any meal elsewhere than in its own food service establishment and shall give written notice to the Board of Health on a form provided by the Board or the Department either prior to or within 72 hours after serving a meal elsewhere than its own food service establishment; and~~

~~(2) If required by the Board of Health or its agent, provide the Board with a copy of its food establishment permit prior to serving a meal in a city or Town other than the one in which its food establishment is located.~~

~~**§ 300-12.3. Violations and penalties.**~~

~~Penalties for violation of any of these regulations, as listed in 105 CMR 590.062:~~

~~A. Any person who violates any provision of these regulations shall, upon conviction, be fined not more than $100 for the first offense and not more than $500 for a subsequent offense unless a different penalty is set by statute.~~

ARTICLE 13

Regulations for the Housing and Management of Domesticated Animals

§ 300-13:00: Authority

The Board of Health of the Town of Sharon, acting under the authority of MGL c. 111, §§ 31, 122, 143, and 155, and amendments and additions thereto, and by any other powers thereto enabling, and in accordance therewith have, in the interest of and for the preservation of the public health, duly made and adopted, on June 1, 2009, the following regulations for the control of domesticated animals in the Town of Sharon.

§ 300-13.1. Definitions.

ABUTTER — The owners or tenants of property which adjoin the lot upon which domesticated animals are to be kept whether or not said properties are separated by a public way.

ABUTTERS' LIST — The list of owners or tenants of property abutting the lot and/or across a public or private way from the lot on which domesticated animals are to be kept.

ANIMAL UNIT — The following shall each be regarded as a Single Animal Unit for permitting purposes:

A. Horse, donkey, mule, pony, alpaca: 1.

B. Bovine: 1.

C. Goats, llamas: 2.

D. Swine: 2.

E. Rabbits: 7.

F. Chickens: 10.

G. Other fowl: as determined by Animal Inspector.

BOARD OF HEALTH — Under Article 13, consists of Board of Health members, its agents, and the Animal Inspector.

BUILDING (SEE STRUCTURE) — A structure built, erected and framed of component structural parts, designed for the housing, shelter, enclosure and support of domesticated animals.

COOP — A small structure for housing fowl.

DOMESTICATED ANIMALS — All mammals and birds including but not limited to horses, ponies, goats, swine, cattle, sheep, donkeys, llamas, mules, and fowl, which are kept or harbored as domesticated animals, provided that the following are not addressed by these regulations: dogs, cats, rodentia up to five in number, wild domesticated animals, exotic birds, fish, reptiles, and amphibians.

FOWL — Members of the bird family including but not limited to chickens, turkeys, pigeons, doves, capons, hens, pheasants, guinea fowl, ducks, swans and geese other than wild species.

LOT — Piece of property in single ownership on which domesticated animals are being kept.

NOISE — Sound of sufficient intensity and/or duration as to cause a nuisance, be injurious to, or, on the basis of current information, potentially injurious to human health, or unreasonably interfere with the comfortable enjoyment of life and property.

PERSON — Any individual, partnership, corporation, firm, association, or group.

RODENTIA — Includes domestic rats, mice, guinea pigs, hamsters, ferrets, chinchillas, and other members of the Rodentia family.

SHELTER — A structure to house small domesticated animals.

STABLE — A structure having stalls or compartments in which large domesticated animals such as horses, donkeys, mules, cattle, or ponies are housed.

STRUCTURE — An assembly of materials forming a construction for use including, but not limited to, open sheds, shelters, stables, and fences.

UNSANITARY CONDITIONS — Conditions which, in the opinion of the Board of Health and/or its Agent(s) are conducive to the breeding of flies, creation of offensive odors, rodent infestation, liquid effluent or runoff, or other public health hazard.

§ 300-13.2. Permit requirements.

A. Board of Health: The Sharon Board of Health shall be the approving authority for new permits and/or for variances. The Sharon Board of Health or its authorized agents shall be the approving authority for renewal permits.

B. The Board of Health may not issue a permit unless it has determined that the applicant is in compliance with Article 13 or the BOH has issued a variance pursuant to § 300-13.13.

C. No person shall keep within the limits of the Town of Sharon, in any building or on any premises of which he is the owner, lessee, tenant or occupant, any domesticated animals without FIRST obtaining a permit from the Sharon Board of Health.

D. An application for a NEW permit shall consist of:

(1) An application form provided by the Sharon Board of Health, along with the required fee;

(2) A plot plan obtained from the Sharon Department of Public Works.

(3) A submitted plan drawn to scale which includes the following information: Size of entire lot with existing structures as well as the proposed structures for use of intended domesticated animals, including fences; distances of animal housing and enclosures from all abutters.

§ 300-13.3. Permit issuance.

A. Upon receipt of a completed application as defined above, the Board and/or its Agents, and/or the Animal Inspector shall inspect the property.

B. Permit shall be issued to the owner of the property or to the tenant of the property with the written permission of the owner; The Board or its Agent(s) shall act on the completed application at a scheduled public hearing. Appearance of applicant at the hearing will be required. The applicant is required to provide notification of the date, time, and purpose of this hearing to those residents listed on a certified abutters' list obtained from the Sharon Assessors' office. Abutters must be notified no fewer than 10 days prior to hearing date by certified mail, return receipt requested. Cost of notification shall be borne by the applicant. In lieu of certified mail, applicants may hand-deliver notice of the hearing and may present to the Board signatures of abutters stating they have received such notice. Notice of the Board's decision shall be mailed to the applicant within 14 working days of the decision and will include any conditions imposed by the Board or its Agent(s);

C. The issuance of such a permit does not in any way relieve the permittee of the need to comply with other laws and regulations concerning zoning and construction. Any person who proposes to construct or remodel a building or portion thereof for use by domesticated animal(s) shall, prior to such construction or remodeling, notify the Board of Health in writing. All new structures and renovations/additions will require inspection by the Board

of Health.

§ 300-13.4. Renewal of permits.

All domesticated animal permits must be renewed on an annual basis. The following information must be completed:

A. An application form provided by the Sharon Board of Health, along with the required fee;

B. Upon receipt of a completed application as, the Board shall inspect the property;

C. If the application is approved by the Board, the renewal permit will be left at the property following inspection;

D. The issuance of such a permit does not in any way relieve the permittee of the necessity to comply with other laws and regulations concerning zoning and construction.

§ 300-13.5. Fees.

The fee for a permit shall be $30 per year, which shall cover all animals licensed by the Board of Health on the property under this regulation, and which shall be paid at the time the application is submitted for review. New permit fees shall not be prorated. Fees will not be refunded if application is not approved. Permits granted shall be for a term of not to exceed one year expiring on November 15, unless sooner revoked. Permits shall be neither transferable as to other domesticated animals nor assignable for the use of other persons nor as to the use of other premises.

§ 300-13.6. Animal unit specified.

Each permit granted hereunder shall contain a statement of the number and type of domesticated animals permitted and such conditions as may be required by the Board of Health.

§ 300-13.7. Right of entry.

The Animal Inspector, Agent(s) of the Board, or any member of the Board of Health shall have the right to make an inspection at any time in accordance with Chapter 111, Section 127B of Massachusetts General Laws.

§ 300-13.8. Permit modifications.

A. At the discretion of, and subject to inspection by the Board of Health the Board of Health may modify the permit by changing the number and type of domesticated animals specified on the Permit. Modification may be subject to notification of Abutters and/or appearances before the Board.

B. Anyone keeping domesticated animals under an existing permit issued by the Board of Health, shall be subject to these regulations except for provisions relating to setback lot sizes, and number of domesticated animal units allowed, unless or until their existing permit is revoked by the Board of Health as set forth by procedures in this regulation.

§ 300-13.9. General permit conditions.

A. No person shall keep any domesticated animal in any building any part of which is used as a dwelling, including, but not limited to, attached garages and breezeways.

B. All domesticated animals shall be kept in an approved building as described in these regulations.

C. All domesticated animals with the exception of carrier pigeons and other flight birds, shall be confined to the permit holder's property at all times to prevent wandering and straying onto other properties.

D. Carrier pigeons and other flight birds may be allowed to fly free in accordance with standard industry practices, but shall be managed in such a way as to minimize intrusion onto other properties.

E. No permit shall be granted for the keeping of domesticated animals or fowl whose type, breed, or gender is known to create loud or objectionable noises unless it can be shown that such domesticated animal will be kept at all times in a location no less than 1000 feet from the lot lines of the applicant. No roosters are permitted.

F. On properties of 30,000 square feet or less, not more than one domesticated animal unit will be permitted, without express permission of the Board.

§ 300-13.10. Shelters, stables, and coops.

A. Location: All shelters, stables, and coops shall be located not less than 50 feet from any well. In addition, all shelters and stables shall be located at least 50 feet from all property lines and public way. All domesticated animal enclosures and fenced-in areas must be located at least 25 feet from all property lines.

B. Coops: All coops shall be of durable construction. Such structures shall be elevated to a height that allows for adequate cleaning and designed so as to prevent the harborage of rodents and insects. Nests shall be moveable or otherwise designed so as to be readily cleanable.

C. Shelters and stables: All shelters and stables shall be of durable construction to protect the building from deterioration or damage by rodents, termites and dampness.

D. Floors:

(1) Coops and shelters: Floor surfaces shall be so constructed as to be easily cleanable.

(2) Stables: Floors in stalls and stables shall be constructed of materials approved by the Board of Health, and shall be sloped to facilitate proper drainage. Floors in the feed and tack rooms should be of concrete construction unless the owner has demonstrated adequate rodent control.

E. Feed storage and water supply:

(1) Coops and shelters: The owner shall provide for tightly covered and vermin-proof storage of dry domesticated animal feed. A supply of potable water shall be available

to the domesticated animals at all times and at or near the facility for feeding and cleaning. Water shall also be available for fire protection purposes.

(2) Stables:

(a) An adequate quantity of potable water shall be provided for each stable. All outlets shall be equipped with approved backflow devices as required by State Plumbing Codes and shall meet all other requirements of such code. Water shall also be provided for fire protection purposes.

(b) In addition, a drinking water trough shall be provided in the corral area for the domesticated animals. Troughs shall be kept clean and shall not create a mosquito breeding nuisance.

F. Lighting and ventilation: Each shelter shall be provided with adequate lighting and ventilation so as to prevent the buildup of odors and moisture.

G. Corrals and paddock areas: Stables: Corrals and paddock areas should be graded to minimize standing pools of surface water.

H. Living and sleeping quarters: Stables shall not be used for human habitation.

I. Nuisance prevention. Adequate measures shall be taken to minimize the presence of rodents, flies, other insects, and the creation of odors and other nuisances. All pesticides must be EPA approved and used in accordance with directions on the manufacturer's label.

§ 300-13.11. Manure and bedding.

A. Clearing, management, and disposal of manure shall be such as to minimize odors, breeding of flies, and the attraction of vermin. Manure shall be collected and stockpiled at a single location, carefully chosen to maximize the distance from abutting properties and watercourse, and with due consideration of the prevailing winds.

B. All domesticated animal manure wastes, and soiled bedding shall be cleared daily from stalls. All domesticated animal manure and wastes shall be cleared from corrals of less than 2,000 square feet at least once a week and as needed from enclosures of greater than 2,000 square feet between May 1 and September 30. Manure and waste shall be cleared from all enclosures as needed from October 1 to April 30.

C. Stockpiled manure, waste and soiled bedding shall be removed at least every two weeks.

D. Manure, waste or soiled bedding shall be privately disposed of by the permit holder and shall not be placed in the garbage collected by the contractor for the Town of Sharon.

E. No manure, waste and soiled bedding from stables, corrals or pens shall be stored within 10 feet of any inhabited residence nor within 50 feet from the property line. If this cannot be established, manure must be removed bi-weekly.

F. The storage of manure, waste and soiled bedding and the maintenance of pens or corrals for domesticated animals shall not interfere with any abutters' rights to the use and enjoyment of their property. The Board of Health or its agent(s) shall investigate any complaints of offensive odor, noise, or pests (such as rats, mice, insects, flies or mosquitoes) associated

with the keeping of domesticated animals within the Town of Sharon.

§ 300-13.12. General sanitary requirements.

A. No person shall willfully or through negligence, cause, suffer, allow or permit:

(1) The floor and/or ground of the facility for the keeping of domesticated animals, through design, construction or maintenance, to cause or contribute to unsanitary conditions at said facility.

(2) Drainage of any liquid effluent containing urine and/or fecal matter from any domesticated animal kept at said facility from the property, or to flow over the surface of the ground onto abutting property, public way, watercourse, body of water, or wetland area.

B. All domesticated animals shall be kept clean and in good health. No domesticated animal shall be abused either directly or by neglect.

C. All opened domesticated animal food shall be stored in a rodent-proof container.

D. Whenever necessary, insecticides such as space sprays or resin strips should be applied to the interior walls, ceiling, stall areas and exterior of Stables, Pens or Housing in order to control the insect population. All insecticides shall be approved by the Massachusetts Department of Public Health and the Department of Environmental Protection and should be applied in accordance with the instruction for the use of that insecticide.

E. The death of any domesticated animal mysteriously or suddenly, except by accident, and without being attended by a veterinarian must be reported to the Board of Health or Domesticated animal Inspector immediately. In no case shall a domesticated animal be disposed of until released by the Board of Health or a state veterinarian.

F. A stable shall not be occupied until the above requirements have been complied with and written permission in the form of a permit from the Board of Health is obtained. The Board of Health or its agents, including the Domesticated animal Inspector, shall be permitted to inspect a stable without prior notice to determine if these regulations are being observed.

G. In accordance with State law, all equines must be tested for Equine Infectious Anemia (Coggins Test) once every 24 months.

H. In accordance with State law, all equines must be inoculated in the spring of each year against Eastern and Western Equine Encephalitis.

I. The feeding of garbage to swine is not permitted without permission of the Massachusetts Department of Public Health. Exempt: The owner who feeds his household garbage to a pig destined for his home consumption.

J. All cattle shall be included in the state tuberculosis and brucellosis-testing.

K. Animals other than cattle kept for milking shall be tested for tuberculosis.

§ 300-13.13. Administration of permits; variances; and permit revocations.

A. The Board of Health may, after a public hearing, grant a variance to the application of these regulations. Animal husbandry is not allowed by "right" but, rather is controlled by regulation. Every request for a variance shall be made in writing and shall state the specific variance sought and the reasons therefore. The letter shall contain all the information needed to assure the Board that, despite the issuance of a variance, the public health and environment will be protected. Any grant or denial of a variance shall be in writing and shall contain a brief statement of the reasons for approving or denying the variance. A variance may be revoked, modified or suspended, in whole or in part, only after the holder thereof has been notified in writing and has had an opportunity to be heard, except in the case of an emergency as defined in Subsection F.

B. The Board or its Agent(s) shall act on the completed application at a scheduled public hearing. Appearance of applicant at the hearing will be required. The applicant is required to provide notification of the date, time, and purpose of this hearing to those residents listed on a certified abutters' list obtained from the Sharon Assessors' office. Abutters must be notified no fewer than 10 days prior to hearing date by certified mail, return receipt requested. Cost of notification shall be borne by the applicant. In lieu of certified mail, applicants may hand-deliver notice of the hearing and may present to the Board signatures of abutters stating they have received such notice. Notice of the Board's decision shall be mailed to the applicant within 14 working days of the decision and will include any conditions imposed by the Board or its Agent(s);

C. Any person whose application for a permit or permit renewal has been denied may request a hearing before the Board of Health by submitting a written request within 10 days of said denial. The Board of Health shall set a time and place for said hearing within 30 days of receipt of the request.

D. A permit granted under these regulations may be suspended or revoked for cause, by the Board of Health, provided that a hearing has been held after seven days notice of the suspension or revocation, except in the case of emergency as set out below. Notice shall be given by first class mail sent to the address shown on the most recent application.

E. Whenever the Board of Health has determined that an emergency exists under Subsection F, they may, without prior notice of hearing, issue an order stating the existence of the emergency and ordering that the permit be immediately revoked or suspended, as specified therein. Such person may request a hearing within seven days after the service of the order, and the hearing shall be granted as soon as possible, provided however, that such a request for hearing shall not stay or in any way modify the terms of the emergency order.

F. Cause for emergency: The following shall be grounds for emergency suspension or revocation of a permit or a variance to keep domesticated animals:

   (1) Cruel treatment of domesticated animals.

   (2) Using domesticated animals for illegal purposes (e.g., fighting).

   (3) Outbreak of a communicable domesticated animal disease, as determined by the Inspector of domesticated animals or a veterinarian licensed in the Commonwealth of Massachusetts and/or

(4) Unsanitary conditions, which, in the opinion of the Board of Health, is creating a hazard.

§ 300-13.14. Enforcement and penalties.

A. The Board or its Agent(s) shall investigate violations of these regulations and may take such action that the Board deems necessary for the protection of the public health and the enforcement of these regulations.

B. If an investigation reveals a violation of these regulations, the Board shall order the permit holder to comply with the violated provision(s) within 14 days or such other time period as the Board deems necessary.

C. Whoever violates the provisions of these regulations as stated shall be subject to a fine of $25 for the first violation; $50 for the second violation; $100 for third violation and each subsequent violation within a calendar year.

D. All permits are not transferable.

E. Dogs must be licensed according to the provisions of Sharon Town Bylaws and of Massachusetts State Law.

F. Wild domesticated animals, exotic birds, fish, reptiles and amphibians may be kept as pets subject to the licensing requirements of State Law (MGL c. 131, §§ 23, 25, and 26A). Those wild domesticated animals which may be kept without a state license are listed in 321 CMR 9.01.

§ 300-13.15. Adoption and severability.

A. If any section, subsection, sentence, clause, phrase or portion of these regulations is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provisions and such holding shall not affect the validity of the remaining portions thereof. The provisions of these rules and regulations are hereby declared severable.

B. Adoption and effect: These rules and regulations were adopted by vote of the Board of Health, Town of Sharon, Massachusetts, and are to be in full force and shall become effective 30 days following publication in a local newspaper, with a copy deposited in the office of the Town Clerk.

ARTICLE 14 (reserved)

~~**Board of Health and Building Permit Plot Plan Requirements for New Building Construction**~~

~~**§ 300-14.1. Required information.**~~

~~Before any Board of Health permit or Building permit for new building construction can be issued, the following items must be furnished and shown on a plot plan at a scale of one inch equals 40 feet and 11 inches by 17 inches in size, prepared by a Registered Land Surveyor and a Registered Professional Engineer, furnished in duplicate to each department along with the appropriate application forms and, in the case of the Board of Health application, the necessary $100 fee.~~

A. Name of present owner, applicant, surveyor and engineer.

B. The lot to be served including all dimensions, log number and area of the lot.

C. The dimensions and location of the buildings on the lot including garages and driveways.

D. Location and dimensions of the sewerage disposal system including the reserve area which must be suitable for subsurface sewage disposal.

E. Existing and proposed contours of the lot, street and adjacent property. In general, the proposed grading shall shed water away from the building and the disposal system areas so as not to create ponding or water within the immediate vicinity of the dwelling; also, the final grading shall slope up at least six inches in the first 10 feet from the edge of the traveled way along the entire frontage to prevent any street drainage from entering the lot.

F. Finished street centerline grades opposite the front corners and middle of the lot.

G. Proposed elevation of the top of the concrete foundation and basement floor. The bottom of the basement floor must be at least 18 inches above the maximum ground water table (as established under Subsection L below).

H. Location of underground utilities in the street, those which will service the lot, streams, surface and subsurface drains and wetlands within 100 feet of the sewage disposal system, known sources of water supply within 200 feet of the sewage disposal system and any proposed well to serve the lot.

I. All grades shall be based upon U.S.C. and G.S. datum whenever possible and a bench mark reference shall be furnished that is within 150 feet of the lot.

J. Design calculations for both sewage flow and system capacity shall be shown all in accordance with the requirements of Title V.

K. Location and log of deep soil observation holes and the location and results of percolation tests. These tests shall have been taken in the area of the disposal system.

L. Maximum ground water elevation in the area of the sewage disposal system. This elevation shall be established according to the following:

(1) March 15 - May 15: direct reading.

(2) All other times: Reading plus a minimum fluctuation factor of four feet.

M. An application for a lot not served by a public water supply shall also be accompanied by a chemical and bacteriological analysis of the well to serve the lot, performed by a laboratory approved by the state.

N. A profile showing the subsurface disposal system to be installed.

O. The reserve area of any disposal system shall not be located in the area between the active leaching systems.

§ 300-14.2. Foundation plan.

A. Before any wood framing or other work is done, two copies of a foundation plan showing

the accurate location of the foundation on the lot and the elevation of the top of the concrete foundation as constructed, certified as to compliance with the Zoning Bylaw by a Registered Engineer or Land Surveyor, shall be submitted.

B. Before any occupancy permit will be issued by the Building Department, two copies of an "As Built Plan" of the lot shall be furnished, showing the following information made by a Registered Professional Engineer or Registered Land Surveyor.

(1) Items on the foundation plan as listed above.

(2) All stairs, porches and garages where applicable.

(3) Accurate ties from two foundation corners to the center cover (Pumping Cover) of the septic tank, center of the distribution box and appropriate location of leaching facility. Also required is a final elevation at the bottom of the leaching facility, inlet and outlet inverts to the septic tank and inverts at the foundation and beginning of the leaching facility.

(4) Location of underground water, gas, electric and telephone lines serving the lot.

(5) There will be a reinspection fee of $20 for any system which is not ready at the appointed time of the initial inspection.

ARTICLE 15 (Reserved)

Underground Storage of Hazardous Materials and Regulated Substances [Voted ATM 5-13-1991]

§ 300-15.1. Purposes.

The purposes of this Bylaw are, through regulation of the design, construction, installation, testing and maintenance of underground hazardous materials or regulated substances storage facilities, to protect public health from the contamination of public and private water supplies due to leakage from such facilities, to protect the public safety from the dangers of fire and explosion associated with such leakage, and to protect the general welfare by preserving limited water supplies for present and future use.

§ 300-15.2. Definitions.

ABANDONED — Being out of service for a continuous period in excess of six months, in the case of a storage facility for which a license from the local licensing authority is required under the provisions of MGL c. 148, § 13, as amended, and for a period in excess of 24 months, in the case of any other storage facility.

CATHODIC PROTECTION — A system that inhibits the corrosion of a tank or components through either the sacrificial anode or the impressed current method of creating a corrosion inhibiting electrical current.

COMPONENTS — Piping, pumps and other related storage, conveyancing and dispensing elements that, together with one or more tanks and any cathodic protection or monitoring system, constitute a storage facility.

DISCHARGE — The disposal, deposit, injection, dumping, spilling, leaking, incineration, or

placing of any hazardous material into or on any land or water so that such hazardous material or any constituent thereof may enter the environment or be emitted into the air or discharged into any water, including groundwaters.

EFFECTIVE DATE — The date of which the Bylaw is approved by a Town Meeting, provided the Bylaw thereafter becomes effective under provisions of MGL c. 40, § 32, as amended.

HAZARDOUS MATERIAL — A product or waste or combination of substances which, because of quantity, concentration, or physical, chemical or infectious characteristics, poses in the Board of Health's judgment, a substantial present or potential hazard to the human health, safety or welfare, or the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. Any substance deemed a hazardous waste in Massachusetts General Laws, Chapter 21C, shall also be deemed a hazardous material for the purposes of this Bylaw.

LEAKAGE OR LEAK — Any uncontrolled movement, measurable by a final or precision test that can accurately detect a leak of 0.05 gallons per hour or less, after adjustment for relevant variables such as temperature change and tank end deflection, of hazardous materials or regulated substances out of a tank or its components; or any uncontrolled movement of water into a tank or its components.

MONITORING SYSTEM — A system installed between the walls of double walled tanks, inside a tank, or in the vicinity of a tank for the purpose of early detection of leaks.

MONITORING WELL — A small diameter non-pumping well used to measure the existing groundwater level and/or to obtain samples (water or other liquids) for appropriate chemical analysis.

NON RESIDENTIAL — All those locations where storage facilities are located and which locations which are not houses, domiciles, dwellings, or abodes. Such locations include without limitation commercial, office, industrial, lodging house, motel, hotel, and public uses such as schools and/or houses of worship.

OPERATOR — The lessee of a storage facility or other person or persons responsible for the daily operation of a storage facility.

OUT OF SERVICE — Not in use, in that no filling or withdrawal is occurring.

OWNER — The person or persons or government entity having legal ownership of a storage facility.

QUALIFIED PERSON — One who has a thorough working knowledge of underground storage facilities and at least two years of related experience.

REGULATED SUBSTANCE — Any substance defined in Section 101 (14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (but not including any substance regulated as a hazardous waste and under Subtitle C of the Solid Waste Disposal Act); and petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60° F. and 14.7 pounds per square inch absolute).

RESIDENTIAL — All those locations which are houses, domiciles, dwellings or abodes, where

a person or persons lives or resides on a temporary or permanent basis.

STORAGE FACILITY One or more underground storage tanks, at a particular site, together with its or their components, used, or designed to be used, for the underground storage of hazardous materials or a regulated substance, and shall include any cathodic protection or monitoring system used, or designed to be used, for inhibiting or detecting leaks of hazardous materials or a regulated substance from any element of the facility.

TANK AND/OR UNDERGROUND STORAGE TANK Is defined as any structure or any part thereof which is used, or designed to be used, for the underground storage of any hazardous material or regulated substance of any kind, and/or any one or combination of tanks, including underground pipes connected thereto, which is used to contain an accumulation of petroleum products, hazardous or regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is 10% or more beneath the surface of the ground. This definition excludes the following types of underground storage systems:

A. Septic tanks;

B. Surface impoundments, pits, ponds, or lagoons;

C. Storm water or wastewater collected systems;

D. Flow through process tanks;

E. Liquid traps or associated gathered lines directly related to oil or gas production and gathering operations;

F. Storage tanks situated in an underground area (such as a basement, cellar, mineworking, shaft, or tunnel) if the tank if the tank is situated upon or above the surface of the floor;

G. Pipe line facilities (including gathering lines) regulated under (a) the Natural Gas Pipeline Safety Act of 1968; (b) the Hazardous Liquid Pipeline Safety Act of 1979; or (c) which is an intrastate pipeline facility regulated under State Laws.

UL LISTED Included in a current list or report of approved equipment, materials or methods published by Underwriters Laboratories, Inc.

WATER SUPPLY Any existing or potential source of potable water, including both groundwater and surface water.

§ 300-15.3. Water Resources Protection District.

A. The purpose of this section is to promote the health of Sharon residents by protecting and preserving the public drinking water resources, specifically the water supply groundwater aquifer, from leaking underground oil, fuel, and chemical storage tanks. Leaking oil, fuel, and other chemicals can contaminate large amounts of groundwater and pose serious health hazards to the community.

B. In addition to other Town wide health regulations, the following regulations shall apply within the Water Resources Protection District as such overlay district is delineated on the Sharon Zoning Map.

C. The installation of new tanks for residential purposes or non-residential purposes for the underground storage of oil, gasoline, other petroleum products, and other chemicals, excluding liquified petroleum gases, is prohibited within the Water Resource Protection District.

D. Every owner of an existing tank located within the Water Resource Protection District shall file with the Board of Health a statement identifying the size, type, age, and location of each tank, and the type of material stored, on or before August 30, 1991. Evidence of date of purchase and installation, including fire department permit, shall be included. A tag number shall be issued for each tank. After August 30, 1991, no tank shall be filled with oil, gasoline, other petroleum products or chemicals or allowed to hold those products if it has not been registered with the Board of Health and assigned a tag number. Underground water and septic tanks are specifically exempt from these regulations.

(1) All residential tanks within the Water Resource Protection District which were installed PRIOR to January 1, 1976, and such tanks for which evidence of installation date is not available, along with accompanying pipes and appurtenances shall be removed within one year of the effective date of these revised regulations by the owner at the owner's expense. However, the Town will offer a one time payment to assist in this effort as provided in paragraph 3.5 of this section.

(2) All residential tanks within the Water Resource Protection District which were installed AFTER January 1, 1976, shall be removed within two years of the effective date of these regulations by the owner at the owner's expense. However, the Town will offer a one time payment to assist in this effort as provided in Paragraph 3.5 of this section. All removals provided for within this Section 3.4 shall include all inground pipes and appurtenances thereto.

E. The Town of Sharon will provide payment to contractors to help owners comply with removal of existing tanks as provided in Paragraph 3.4 of this section. Commencing on the effective date of this section:

(1) The Town will pay 50% of the cost of removal, the Town's share not to exceed $1,000 per tank, provided such tank is removed within the first year of the effective date of this section.

(2) The Town will pay 50% of the cost of removal, the Town's share not to exceed $500 per tank, provided such tank is removed within the second year of the effective date of this section.

(3) Payments will only be made for work done by the contractor(s)/authorized tank removal firm(s) approved by the Board of Health to remove all applicable tanks under this program. Such approval shall only be by writing issued prior to such removal. The Fire Department must issue tank removal permit.

(4) The payment program will only pay that portion of the charges which is for removal of the tank pipes and appurtenances. Any additional charges associated with leaks or other factors are the sole responsibility of the tank owner. Payments will be made directly to such contractors upon completion of the work in a manner satisfactory to the Board of Health, and upon submission of verified invoices acceptable to the

Board of Health.

(5) This section shall be enforced by the Sharon Board of Health or its agents, which Board may adopt rules and regulations to implement the purposes of this section.

F. Nothing contained within this Section 3 shall be deemed to limit or diminish the requirements of Section 6 of this Article 15.

G. All non-residential tanks within the Water Resource Protection District which do not meet the design and construction standards of Section 6 of this bylaw, and were installed more than 10 years before the effective date of this bylaw, and thereafter all such tanks which reach the tenth annual anniversary of their installation, shall be replaced. Such replacement shall be at the owner's expense, shall conform to the requirements of this bylaw, and shall occur within six months of such tenth anniversary, or six months from the effective date of this bylaw, whichever is later.

§ 300-15.4. Proximity to water resources.

A. The installation of new underground storage tanks containing hazardous or regulated substances within 1,000 feet or the seven-day cone of influence, whichever is more, of a public or private water supply well, unless a special permit is obtained from the Zoning Board of Appeals granting an exemption from the requirements of Section 4500 of the Zoning Bylaws, is prohibited. Nothing contained within this Section 4.1 shall limit or diminish the requirements of Section 3.

B. Six months from the effective date of this Bylaw, the Board of Health will require the installation of one or more groundwater observation wells at any site where existing storage of hazardous or regulated substances underground are within 1,000 feet or the seven-day cone of influence, whichever is more, or a public or private water supply well.

C. All new tank installations within four feet of seasonal high groundwater table or within 100 feet of a surface water body or delineated wetlands shall be of double-walled fiberglass construction, and if so determined by the Board of Health, be vaulted or anchored.

§ 300-15.5. Permits.

A. New storage facilities.

(1) Subsequent to the effective date of this Bylaw, no new storage facility shall be installed in the Water Resource Protection District and no new residential storage facility shall be installed anywhere in the Town of Sharon. Subsequent to the effective date of this Bylaw, no new Non-Residential storage facility shall be installed outside of the Water Resource Protection District unless the owner shall have first obtained a permit from the Board of Health. This permit shall be in addition to any license or permit required by M.G.L. Chapter 148, as amended, or any regulations issued thereunder. The fee for this initial permit, payable to the Town of Sharon, shall be $50.

(2) The application for a permit shall be on a form obtained from the Board of Health and shall include the following information and any other information that the Board may

require:

(a) Name, address and telephone numbers (day and night) of the owner;

(b) Name, address and telephone numbers (day and night) of the operator;

(c) The number of tanks in the proposed facility and the capacity and contents of each proposed tank.

(d) The proposed type of construction for each tank and its piping, together with the tank's UL serial number, if any, and a description of any provisions made for cathodic protection, electrical isolation, and early detection of leaks through a monitoring system; and

(e) The depth below ground level of the lowest and highest points of each proposed tank.

(3) In a storage facility with more than one proposed tank, the applicant shall furnish a certificate, signed by a certified Registered Professional Engineer, that the proposed facility meets all the design and construction requirements of this Bylaw.

(4) The applicant shall also furnish a plot plan of the site and the area surrounding it, showing the location of each proposed tank and its components and of any building on the site, and showing the approximate location of any public or private well and of any body of surface water within 1,000 feet of the proposed storage facility.

(5) If the Board of Health determines that the proposed storage facility constitutes a danger to a public or private water supply, whether by reason of its proximity to a public or private well, aquifer, recharge area, or body of surface water, or for any other reason, the Board may deny the permit or may grant it subject to conditions which the Board determines are necessary to protect such water supply. The conditions may include, but are not limited to, such requirements as, for example, a double walled tank or other secondary containment system, a monitoring system, testing at more frequent intervals than would otherwise be required under Section 9, or continuing independent leak detection statistical analysis of daily inventory records.

B. Existing Residential and Non Residential Storage Facilities Outside the Water Resource Protection District.

(1) The owner of every Residential and Non Residential storage facility outside the Water Resource Protection District that has been installed prior to the effective date of this Bylaw shall apply to the Board of Health by August 30, 1991 for a permit to maintain the storage facility. Application shall be made on a form obtained from the Board of Health and shall include, to the extent available to the owner, the following information:

(a) Name, address and telephone number (day and night) of the owner;

(b) Name, address and telephone numbers (day and night) of the operator;

(c) The number of tanks in the facility and the capacity and contents of each tank;

(d) The type of construction for each tank and its piping, together with a description of any provisions made for cathodic protection, electrical isolation, and early detection of leaks through a monitoring system;

(e) The depth below ground level of the lowest and highest points of each tank;

(f) The date of installation of each tank; and

(g) A description of any previous leaks, including approximate dates, causes, estimated amounts, any cleanup measures taken, and any measures taken to prevent future leaks.

(2) The owner shall also furnish evidence of the date of installation. Such evidence may include, but is not limited to, a copy of any license issued by the local licensing authority or of any permit issued by the head of the local fire department (hereinafter, the Fire Chief). If no substantial evidence of the date of installation is supplied, the tank shall be presumed to have been installed 20 years prior to the effective date of this Bylaw.

(3) The applicant shall also furnish a plot plan of the site and of the area surrounding it, showing the approximate location of each tank and its components and of any building on the site, and showing the location of any public or private well and of any body of surface water within 1,000 feet of the storage facility.

C. The following Sections 5.9 to 5.14 inclusive apply to Replacement and Substantial Modification of Existing Residential and Non Residential Storage Facilities outside the Water Resource Protection District.

(1) The term "substantial modification" shall mean the installation of any addition to, or change in, a storage facility that alters its onsite storage capacity, significantly alters its physical configuration, or alters its capacity to inhibit or detect leaks through the use of cathodic protection or a monitoring system or any similar device.

(2) There shall be no replacement of a tank or of its components or substantial modification of any storage facility unless the owner has first applied for and obtained approval in writing from the Board of Health. The Board shall keep a copy of its approval with the records for that storage facility.

(3) Any application for approval under Subsection 5.10 shall be in writing and shall clearly describe the type of construction of any replacement tank or component or the modification that is proposed.

(4) Any application to add cathodic protection to an existing storage facility using one or more steel tanks shall be accompanied by a design plan prepared by an engineer licensed by the National Association of Corrosion Engineers or by another qualified professional engineer as approved by the Board of Health, the plan to include provisions for a test box to allow measurement of electrical potential and current flow.

(5) If the Board of Health determines that the proposed replacement or modification constitutes a potential danger to a public or private water supply, whether by reason

of its proximity to any public or private well, aquifer, recharge area or body of surface water, or for any other reason, the Board of Health may deny the application or approve it subject to conditions that the Board determines are necessary to protect such public or private water supply.

(6) No replacement or substantial modification shall be made except by a contractor who has either been licensed by state authorities for work on underground storage facilities or has been certified by the Department of Environmental Protection as qualified for that purpose.

D. Renewal of permits and changes of ownership.

(1) The owner of any new or existing storage facility for which a permit has been issued under this section must apply to the Board of Health for renewal of the permit at five year intervals from the date on which the original permit was granted. The fee for renewal of such permit payable to the Town of Sharon shall be $50. The application for renewal must include any changes in the information required under Section 5.2 and 5.6. No application for renewal may be denied except for violations of this Bylaw and in accordance with the procedural requirements of Subsection 12.2, so long as the applicant is the holder of a special permit granted by the Board of Appeals exempting the site from the requirements of Section 4500 of the Zoning Bylaw.

(2) The owner of any storage facility shall within ten calendar days notify the Board of Health of any change in the name, address, or telephone numbers of the owner or operator. In the case of any transfer of ownership, the new owner shall be responsible for notification.

§ 300-15.6. Design and construction of new and replacement storage facilities.

A. All permitted new and replacement tanks shall be designed and constructed to minimize the risk of corrosion and leakage. Only the following tank construction systems shall be approved.

(1) UL listed double walled fiberglass reinforced plastic (FRP) tanks, using materials compatible with the product to be stored therein.

(2) UL listed double walled steel tanks provided with cathodic protection, a coal tar epoxy or urethane coating and electrical isolation, and equipped with a test box to allow measurement of electrical potential and current flow.

(3) UL listed double walled steel tanks with cathodic protection or bonded fiberglass coating, and with electrical isolation, a vacuum of air pressure in the interstitial space and provision for continuous monitoring of the vacuum or air pressure; and

(4) Any other "state of the art" type of tank construction providing equal or better protection against leakage than the above mentioned tanks and approved by the state fire marshal.

B. New and replacement tanks must be equipped with a metallic or non-metallic striker plate, at least 12 inches by 12 inches in area, at least 1/4" thick, and attached to the bottom of the tank, under each opening.

C. New and replacement piping of a storage facility shall:

(1) Be protected against corrosion by use of noncorrodible materials or by use of cathodic protection and electrical isolation and be compatible with a product to be stored in the facility; and

(2) Be designed, constructed and installed so as to allow testing for tightness or replacement without the need for disturbing elements of the storage facility other than the elements that are to be tested or replaced.

D. The operator of a storage facility shall record, at least monthly, the negative voltage of every cathodic protection system, equipped with a test box, that is part of that facility. In addition, the owner shall every cathodic protection system inspected and tested, by a qualified person, at least annually. If any such system does not have adequate negative voltage, or is otherwise defective, the owner shall have the system repaired promptly by a qualified person. For purposes of this Subsection, the term "adequate negative voltage" shall mean a negative voltage of at least .85 volts, if a copper copper sulfate reference electrode is used; and of at least 1.95 volts if a zinc reference electrode is used. Reference electrodes shall be installed in accordance with the manufacturer's directions.

E. All submersible pumping systems for new tanks used to store automotive fuel shall be equipped with emergency shut off valves under each dispenser and with delivery line leak detectors. The shut off valves and leak detectors shall be tested by a qualified person upon installation and at least annually thereafter. No suction pumping system shall be equipped with any check valve in the piping except at the tank end, and any such check valve shall be so installed that it may be tested or replaced without disturbing other elements of the storage facility.

F. Every new tank shall be equipped with an overfill prevention system. If a tank is filled by gravity flow, it must be equipped with a float vent valve or other device that provides equal or better protection from overfilling. If the tank is filled under pressure, it must be equipped with a combined audible and visual high level alarm. Any such system shall be tested by a qualified person upon installation and at least annually thereafter.

G. Every monitoring system shall be installed by a qualified person. Those equipped with an automatic audible or visual alarm shall be tested by a qualified person upon installation and at least annually thereafter. Those without such an automatic alarm system shall be checked by the operator for evidence of leak at least monthly and shall be inspected by a qualified person at least annually.

§ 300-15.7. Installation.

A. No permitted new or replacement tank or component shall be installed, whether it is part of a new or existing storage facility, unless the owner has given at least one week's notice of its installation to the Fire Chief, and no new or replacement tank or component shall be buried or concealed until it has been inspected for damage and external defects, tested for tightness under Subsection 7.5 and approved by the Fire Chief or the Chief's designee.

B. No new or replacement tank or component shall be installed except by a contractor who has been either licensed by state authorities for that purpose or certified by the Department

of Environmental Protection as qualified for the purpose. The contractor shall, prior to any installation, submit to the Fire Chief a copy of such license or certificate.

C. The installation of a new or replacement tank or component, including anchoring of the tank whenever water saturation of any part of the excavation can reasonably be anticipated, shall be carried out in accordance with the manufacturer's recommendations, accepted engineering practices and the provisions of 527CMR9.06 (17) (b-d), as amended; provided that the backfill material for FRP tanks shall be pea gravel and that the backfill material under all other tanks shall be either pea gravel or clean, non-corrosive sand, free of cinders, stones and any other foreign material, the material under the tank to be compacted and contoured to the shape of the tank before the tank is installed, the balance to be thoroughly compacted.

D. Any damage to the exterior of a tank or its coating shall be repaired before the tank is covered. The Fire Chief shall notify the Board of Health of such repaired damage, and the Board shall make note of it in its records for that tank.

E. Every new or replacement tank and its piping shall be tested, separately, at the owner's expense, prior to being buried. The tank shall be tested by air pressure at not less than 3, and not more than 5, pounds per square inch. The piping shall be tested hydrostatically to 150% of the maximum anticipated pressure of the system or tested pneumatically, after all joints and connections have been coated with a soap solution, to 100% of the maximum anticipated pressure of the system, but not less than 50 pounds per square inch at the highest point of the system. After the tank and piping have been fully buried, any paving installed and the tank filled with product, the tank and its piping shall be again tested, separately, at the owner's expense. The tank shall be tested by any final or precision test, such as the Kent Moore Pressure Test, or any other testing system approved by the Board of Health, not involving air pressure, that can accurately detect a leak of 0.05 gallons per hour or less, after adjustment for relevant variables such as temperature change and tank end deflection, and that is approved by the state Fire Marshal. The piping shall be tested hydrostatically to 150% of the maximum anticipated pressure of the system. The owner shall furnish the Board of Health with a certified copy of the results of all testing required by the subsection, which the Board of Health shall keep with the records for the storage facility.

§ 300-15.8. Inventory control.

A. The provisions of this section shall not apply to a tank with a capacity of less than 2,500 gallons except for tanks used to store a liquid petroleum product for retail sale or used to store waste oil or other waste petroleum products.

B. The operator of every new and existing storage facility to which Section 8 applies shall prepare, reconcile and maintain daily inventory control records for each tank and for each combination of interconnected tanks with a common level of product (hereinafter, a combination), for the purposes of prevention and early detection of leaks. The preparation, reconciliation and maintenance of such records shall be done in accordance with the provisions of 527 CMR 5.05(3), as amended, with the following additions and modifications:

(1) At the close of each calendar month, the operatorshall determine, for that month and for each tank or combination, the number of days in which any amount of product was dispensed and the number of days in which a loss of product was recorded.

(2) An "abnormal loss of product" shall mean a loss recorded on 70% or more of the days, during any calendar month, in which any amount of product was dispensed from a tank or combination. In the event of any abnormal loss of product, the following steps shall be taken:

(a) The operator shall, immediately via telephone, notify the owner, the Fire Chief and the Board of Health, and follow up with a confirming letter within twenty four hours;

(b) The owner shall, within three calendar days, have the steps taken, for that tank or combination and its components, that are outlined in Subsection 9.1; or

(c) The owner shall, within three calendar days, submit the daily inventory records of that tank or combination, for that month, for a leak detection statistical analysis by any professionally qualified person who has been approved by the Board of Health; and the person performing such analysis shall promptly submit certified copies of the results to the Board of Health, or its designated agent, and to the owner; and if the Board of Health, on the basis of such results, determines that there is a probability of a leak in that tank or combination, or in its components, the Board shall so notify the owner and the owner shall, within three calendar days, have the steps taken that are outlined in subsection 9.1 with respect to that tank or combination and its components.

(3) An "abnormal gain of water" shall mean a gain in the water level inside any tank of more than one inch in a twenty four hour period during which no product has been added. In the event of any abnormal gain of water, the owner shall, at the owner's expense, have the water removed from the tank and disposed of in a manner approved by the Department of Environmental Protection (DEP) and have the water level checked 24 hours later, during which time no product shall be added. If there is again an abnormal gain of water, the owner shall promptly have the steps taken that are outlined in subsection 9.1

(4) Apart from abnormal gains of water, the owner of any tank in which water has accumulated to a depth of three inches or more, shall, at the owner's expense, have the water removed and disposed of in a manner approved by DEP.

(5) For every storage facility covered by the inventory control requirements of this section, the owner shall, at least annually and at the owner's expense, submit the daily inventory records for the most recent calendar month for a leak detection statistical analysis by any professionally qualified person who has been approved by the Board of Health for that purpose. The person performing such an analysis shall promptly submit certified copies of the results of that analysis to the owner and to the Board of Health. The Board shall keep its copy with the records of that facility. If the Board determines, on the basis of that analysis, that there is a probability of a leak from any tank or its components in that facility, the owner shall, within three working days,

take the steps outlined in Subsection 9.1 with respect to that tank and its components; or, in the case of a combination, with respect to each tank and its components.

(6) The Board of Health, in addition to the Fire Chief and state public safety officials, shall have access to all inventory records required by this section.

§ 300-15.9. Testing for tightness.

A. Testing requirements.

(1) If the probability of leak is indicated by inventory control procedures under Section 8 or by the procedures set out in Section 5.9, or by a monitoring system or by a line leak detector or by the malfunctioning of a suction pump or by the presence of product or product fumes in the surrounding area, or otherwise, the owner shall, within seven calendar days, have the following steps taken, at the owner's expense:

(a) Have the readily accessible physical facilities on the premises carefully inspected for evidence of leakage;

(b) If the inspection does not confirm a leak, and if the piping can be tested without the need for excavation, have the piping tested in accordance with the provisions of subsections 9.9 9.10;

(c) If that testing fails to confirm a leak or if the piping cannot be tested without excavation, have the tank tested in accordance with the provisions of Subsections 9.9 9.10;

(d) If that testing fails to confirm a leak, excavate and have the piping tested, in accordance with the provisions of Subsections 9.9 9.10.

(2) If the inspections and testing outlined above fail to confirm a leak, and if there is continuing evidence of a probably leak, the Board of Health may order the owner and operator to take the steps outlined in Section 10.

(3) In the case of a combination of interconnected tanks, each tank and its components shall be tested separately.

B. If any of the testing specified in Subsection 9.1 discloses a leak, the operator and owner shall comply immediately with the requirements of Section 10, and the Board of Health may direct the owner, at the owner's expense, to have all other tanks on the premises and their components tested in the same manner.

C. The provisions of Subsections 9.4 9.6, inclusive, shall not be applicable to any storage facility to which the inventory control provisions of Section 8 are applicable and shall not be applicable to any other storage facility consisting exclusively of one or more double-walled tanks, each equipped with a monitoring system, together with an automatic audible or visual alarm, between the two walls.

D. The owner of every existing storage facility that does not satisfy the design requirements of Section 6 shall have each tank and its piping tested, at the owner's expense, during the fifth, tenth, thirteenth, sixteenth, eighteenth, and twentieth years after installation and annually

thereafter.

E. If the owner of any existing storage facility, pursuant to the provisions of Subsections 5.9-5.14, provides cathodic protection and electrical isolation for each tank in the facility, subsequent testing requirements shall be in accordance with the provisions of Subsection 9.6.

F. The owner of every kind of new tank permitted under Subsection 6.1 and the owner of every existing tank that satisfies all of the design requirements of Section 6 shall have the tank and its piping tested, at the owner's expense, every seven years following the date of installation during the first 14 years of existence and at two year intervals thereafter.

G. With respect to any tank to which the inventory control requirements of Section 8 are applicable, the Board of Health shall require the owner to have it and its piping tested promptly, at the owner's expense, whenever the operator fails to maintain the daily inventory records properly or fails to perform the required monthly calculations of abnormal loss, or whenever the owner fails to comply with the annual leak detection statistical Q analysis requirement under paragraph g of Subsection 8.2.

H. The Board of Health may require the owner of any existing tank to have it and its piping tested, at the owner's expense, in any case in which the owner has failed to make timely application for a permit as required under Section 5.

I. Except for testing performed on a tank and its piping prior to their being covered, a tank shall be tested by any final or precision test, such as the Kent Moore Pressure Test or equivalent, not involving air pressure, that can accurately detect a leak of 0.05 gallons per hour or less, after adjustment for relevant variables such as temperature change and tank end deflection, and that is approved by the state fire marshall. Piping shall be tested hydrostatically to 150% of the maximum anticipated pressure of the system.

J. All tests shall be administered by qualified persons approved by the Board of Health, and any such person shall notify the Board of Health and Fire Chief prior to administering a test.

K. The person performing any test under this section shall promptly supply the owner, the Board of Health and the Fire Chief with certified copies of all test results for a tank and its piping. The Board shall keep its copy with the records of that storage facility.

§ 300-15.10. Response to leaks.

A. In the event of a leak, whether determined by testing or otherwise, the following steps shall be taken:

(1) The operator shall immediately notify the owner, the Fire Chief and the Office of Incident Response of the Department of Environmental Protection (OIR-DEP);

(2) The owner shall promptly verify that the Fire Chief and OIR-DEP have been notified and shall notify the Board of Health;

(3) If testing has confirmed that the source of the leak is the piping for a particular tank, the operator shall take that tank out of service immediately;

(4) If testing has confirmed that the source of the leak is a particular tank, the operator shall within 24 hours cause the entire storage facility to be emptied of its product.

(5) If testing has failed to determine the source of the leak within a storage facility, the operator shall within 24 hours cause the entire storage facility to be emptied of its product.

B. Until the arrival of a representative of OIR DEP, the Fire Chief shall take charge of all emergency containment procedures and shall verify that all steps required under Subsection 10.1 have been taken.

C. The owner, the Fire Chief and the Board of Health shall cooperate with OIR DEP in all efforts to identify the source of the leak, to contain it, and to restore the environment, including any groundwater or surface water that may have been contaminated by the leak, to a condition and quality acceptable to DEP.

D. The Board of Health shall determine whether any tank or its components that have been identified as the source of a leak shall be removed and replaced with a double walled tank, and shall notify the owner and the Fire Chief of its decision.

E. If the Board permits the repair of any leaking tank, the Board shall require that the tank and its piping be tested, at the owner's expense and in accordance with the provisions of Subsections 9.9 and 9.10, prior to being restored to service, at two year intervals for 10 years and annually thereafter.

F. Any repair of a tank or replacement or repair of components shall be performed by qualified technicians, following the manufacturer's directions and, in the case of relining of a steel tank, following the recommendations of American Petroleum Institute Publication #1631 First Edition, 1983 or any subsequent edition as it may appear.

G. If the Board of Health determines that a tank and its components shall be removed, the owner shall first obtain a permit from the Fire Chief, pursuant to M.G.L. Chapter 148, Section 38 A, as amended. Any removal shall be completed within 14 calendar days after the Board of Health has notified the owner of its decision.

H. The owner shall be responsible for all costs of reclaiming, recovering and properly disposing of any product that has leaked and for all costs of restoring the environment, including any groundwater or surface water that has been contaminated, to a condition and quality acceptable to DEP.

§ 300-15.11. Tanks abandoned or temporarily out of service.

A. If the owner of a tank, which either is located under a building and cannot be removed from the ground without first removing the building or is so located that it cannot be removed from the ground without endangering the structural integrity of another tank, decides to abandon it, the owner shall promptly notify the Fire Chief and the Board of Health of this decision and, subject to the directions of the Fire Chief, have all the product removed from the tank, by hand pump if necessary, and the tank cleaned and purged and filled with slurry concrete only.

B. Except as provided in Subsection 11.1, no tank may be abandoned in place. Any owner of a

tank who has decided to abandon it and any owner of a tank that has in fact been out of service for a period of time constituting abandonment, as defined in Subsection 2.1, shall immediately obtain a permit from the Fire Chief pursuant to M.G.L. Chapter 148, Section 38 A, as amended, and, subject to the directions of the Fire Chief, have any product removed from the tank, all tank openings properly secured and the tank removed from the ground. The product and tank shall be disposed of, at the owner's expense, as directed by the Fire Chief.

C. The owner of a tank, which is licensed under M.G.L. Chapter 148, as amended, and which the owner has decided to take out of service for a period of less than six months, shall promptly notify the Fire Chief and the Board of Health of the decision and, subject to the directions of the Fire Chief, have all the product removed from the tank and disposed of as directed by the Fire Chief, all tank openings properly secured, and the tank filled with water. Before any such tank may be restored to service, the owner shall notify the Fire Chief and the Board of Health, and have the water removed and disposed of in a manner approved by DEP. The Board of Health may require that the owner have the tank and its piping tested, at the owner's expense, in accordance with the provisions of sections 9.09 9.10.

§ 300 15.12. Enforcement.

A. Each day during which such violation continues shall constitute a separate offense. This Bylaw may be enforced pursuant to MGL c. 40, § 21D, as amended, by a local police officer or any other officer having police powers. Upon request of the Board of Health, the Board of Selectmen, Town Counsel shall take such legal action as may be necessary to enforce this Bylaw.

A. -

A. * Board of Health memorandum to clarify Subsection A: Any owner or operator who violates any provision of this bylaw shall be subject to a fine of up to $300 for such offense. This fine is in accordance with the provisions of Chapter 1, Article II, of the Town Code.

B. In the event of any violation of this Bylaw by the owner or operator of a storage facility, the Board of Health, instead of or in addition to requesting enforcement under Subsection 12.1, may revoke or suspend the owner's permit or may require more frequent testing than would otherwise be required under Section 9; and if a permit is revoked or if a storage facility has been installed or maintained without a permit, the Board may order that the storage facility be removed from the ground. Before revoking or suspending an owner's permit, or requiring removal of a storage facility from the ground, the Board shall hold a public hearing on the proposed action; shall give the owner at least 14 calendar days notice of the hearing by certified mail and shall make its decision in writing with a brief statement of the reasons for its decision.

§ 300 15.13. Variances.

The Board of Health may, after a public hearing, vary the application of any provision of this Bylaw, unless otherwise required by law, when, in its opinion, the applicant has demonstrated

~~that an equivalent degree of protection will still be provided to public and private water supplies. Notice of the hearing shall be given by the Board, at the applicant's expense, at least 14 calendar days prior thereto, by certified mail to all abutters to the property at which the owner's storage facility is located and by publication in a newspaper of general circulation in the Town or city. The notice shall include a statement of the variance sought and the reasons therefore. Any grant or denial of a variance shall be in writing and shall contain a brief statement of the reasons for the grant or denial.~~

~~**§ 300-15.14. Severability.**~~

~~The invalidity of any provision of this Bylaw shall not affect the validity of the remainder.~~

~~*State licensing, although preferable to certification by the manufacturer, is currently not provided for under state law.~~

ARTICLE 16

Private or Semi-Public Well Water Supply Regulations

[Effective 5-2-1988; revised 3-24-1997; revised]~~]~~

§ 300-16.1. General requirements.

A. Purpose. Whereas MGL c. 40, § 54 provides that no building permit shall be issued for the construction of a building which would necessitate the use of water therein, unless a supply of water is available there either from a water system operated by a city, Town or district, or from a well located on the land where the building is to be constructed, or from a water corporation or company, as defined in MGL c. 165, § 1. Whereas, the Town of Sharon Board of Health in view of the fact that public water supply is not available in some sections of Town, or that individual property owners may wish to secure their own private source of drinking water, are of the opinion that, in the interest of and for the protection of public health, the following rules and regulations should be adopted.

B. Authority. MGL c. 111, § 31 of the General Laws of the Commonwealth of Massachusetts and in accordance with the authority of Regulation 2.1 of Article I of the State Sanitary Code. These regulations supercede all previous regulations adopted pursuant to water wells by the Sharon Board of Health.

C. Definitions.

ABANDONED WATER WELL — A well that has not been used 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 of the time use ceased.

AGENT — Any person designated by the Sharon Board of Health.

AQUIFER — A water bearing geologic formation (consolidated or unconsolidated) that transmits water in sufficient quantities to supply a well.

CASING — An impervious durable pipe placed in a hole to prevent the walls from caving, and to seal off surface drainage or undesirable water, gas or other fluids and prevent their entering

the well. Specific types include:

(1) TEMPORARY CASING — A temporary casing placed in soft, sandy or caving surface formation to prevent the hole from caving during drilling.

(2) PROTECTIVE CASING — The principal well casing.

COMMISSION — The Water Resources Commission established under Chapter 620 of the Acts of 1956.

DOMESTIC WELL — A well used for domestic water supply with one service and/or serving less than 25 people.

DRAWDOWN — The measured distance between the static water level and the pumping level.

HEAT PUMP WELLS — Consists of a source well and a discharge well which could be one and the same, provided it is a closed loop system where nothing is added to or taken from the water except heat and no air is in contact with the return water. A heat pump delivers water by way of the source well from an aquifer through a heat exchanger, and returns it to the aquifer via the discharge well. The system utilized the thermal energy stored in ground water for space heating or cooling.

POTABLE WATER — Water that is safe for human consumption.

PRIVATE WATER SUPPLY — Any water system serving or intended to serve water for human consumption or for domestic uses or purposes on one lot. The system shall include all of the sources, treatment works, and distribution lines to the point where distribution takes place within the building.

REGULATING AUTHORITY — The Sharon Board of Health or its designee who shall administer Regulations pertaining to water well construction.

SEMI-PUBLIC WATER SUPPLY — Any water system serving or intended to serve water for human consumption or for domestic uses or purposes, including a multiple dwelling, or to restaurants, dairies, schools, institutions, motels, mobile home parks, bottling plants, campgrounds, recreational camps for children, state forests, parks, beaches.

STATIC WATER LEVEL — The distance measured from established ground surface to the water surface in a well not pumped, influenced by pumping nearby, or flowing under artesian pressure.

WATER SYSTEMS — Includes pipes, valves, fittings, tanks, pumps, motors, switches, controls and appurtenances installed or used for the purpose of storage, distribution, filtration, treatment or purification of water for any use, whether or not inside a building.

WELL — Includes any pit, pipe excavation, spring, casing, drill hole or other source of water to be used for any purpose of supplying potable water in the Town of Sharon and shall include driven or tubular wells, drilled wells (artesian or otherwise) and springs, gravel packed, gravel walled in U.S. Environmental Protection Agency Manual of Individual Water Supply Systems. New dug wells are not permitted in the Town of Sharon. (A dug well is simply an excavated hole lined with rocks, bricks, or concrete pipe to prevent collapse. Because they are shallow and relatively large in diameter, these wells, especially those constructed with wooden lids and

fieldstone lining, are very susceptible to surface pollution, and are not recommended.) In addition, wells used only for agricultural purposes are included by this definition.

WELL DRILLER — Any person, association, partnership, company, corporation or trust that constructs a water well, licensed by Water Resource Commission, (Subsection F).

D. General requirements.

(1) No building permit for the facilities which the well is to serve will be issued until the well is installed, completed, and has been demonstrated to supply water of the quality and quantity specified herein.

(2) The well contractor shall observe sanitary measures and precautions in the performance of his work in order to prevent pollution or contamination of the well.

(3) Well drillers must be registered with the Massachusetts Water Resources Commission.

(4) The owners of a semi-public water supply shall possess and display an unrevoked permit from the Board of Health which signifies the status of sanitary protection, maintenance, operation and improvements recommended.

(5) Pump houses or pump rooms shall be kept in sanitary condition at all times. Also, the size of the room should be no larger than necessary to house the pumping and the electrical equipment involved in the water system. Lawnmowers, snowblowers, or other gas driven engines shall not be stored in the pump room. Insecticides, herbicides and/or fertilizers and the like shall not be stored in the pump room.

(6) Pump house, pump or pipe pits and wells shall be designated and constructed so as to prevent flooding and otherwise to prevent the entrance of pollution or contaminants.

(7) Pump houses, pump rooms and pitless adapters shall be installed in accordance with the "Individual Water System" manual.

(8) No person shall install or enter into a contract for installing or making additions, modification, or alterations to any "semi-public" water supply before submitting complete plans, specifications and descriptions to the Board of Health, and receiving from them written approval. Private and semi-public water supply systems shall be approved by the Board of Health before building permit is issued.

(9) Any abandoned well shall be filled and sealed with clean sand or other inert material in such a manner as to prevent it from acting as a channel for pollution to the groundwater. Prior to destruction of any well, a well destruction permit must be obtained from the Board of Health. The Board of Health will require a site plan showing the well location prior to issuance of the well destruction permit. 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 redrilling;

(d) Types, depths, and materials of seals used.

(10) Every private potable well serving property which is rented or leased must have its water tested for total coliform bacteria, pH, sodium, and nitrate at a minimum of once every five years. Where water quality problems are known to exist, the Board of Health may require more frequent testing. Results of water quality tests shall be made available to all tenants of the property. In cases where the well water does not meet the water quality standards for the four water quality parameters mentioned above as outlined in § 300-14.2J, the Board of Health may require the property owner to provide an alternative approved source of drinking water for the tenant.

(11) Prior to selling, conveying, or transferring title to real property in the Town of Sharon, 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 of total coliform bacteria, pH, sodium, and nitrate. 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(s) was taken from the well(s) serving the property being transferred. 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. This regulation shall not apply to the conveyance or devise of a property to a surviving spouse or to any of the heirs or devises of the property owner, and further, shall not apply to a sale under power of sale in a bonafide mortgage affecting the property. Furthermore, in the case when a particular piece of real estate is transferred to different owners several times during a five-year period, one sampling and testing of water quality is considered valid for five years.

(12) All wells used only for agricultural purposes are required to have a sealed system.

E. Application to type of well. These standards shall apply to all types of wells described in Subsection C. Before a change in existing well use is made, the new use shall comply with requirements specified herein.

F. Registration of well drillers. No person shall engage in the business of constructing wells within the Town of Sharon unless he is registered with the Water Resources Commission, Division of Water Resources, as required by Water Well Drillers Registration Act. (313 CMR; MGL c. 21, §§ 11 through 16)

G. Installer's (driller's) report. Within 30 days after completion of any water well (productive or non-productive), there shall be a report submitted to the Sharon Board of Health containing the name of the owner of the well, the geographic location of the well (this can be plotted on the plot plan using two-foot contour lines as required by the Septic System Designer), well depth, depth to bedrock or refusal, casing type, casing size and casing length, well screen type and screen length, and well screen depth set, static water level,

method used to test well yield, length of time (in hours) well was pumped, draw down, well yield, and drilling logs describing the material penetrated. Report forms may be issued by the Board of Health upon request.

H. Special standards and well construction permits.

(1) Special standard - in locations where geologic or hydrologic conditions require more restrictive or additional standards than those described herein, such special standards may be required by the Board of Health and/or the Department of Environmental Quality Engineers.

(2) Well construction permits.

(a) A well permit shall be obtained from the Board of Health prior to the construction of any water well or well system (this includes major rework or repair of existing water wells). No permit shall be issued for the construction of a subsurface sewage disposal system to serve a building which necessitates the use of potable water from a well located on the land where the building is or is to be constructed, until a well has been established and the Board of Health has determined that a safe and adequate supply of water is available therefrom.

(b) An application for a water well permit must be submitted to the Board of Health by the property owner or his agent or well contractor on forms furnished by the Board. It is the responsibility of the well installer to see that a permit has been obtained prior to well construction.

(c) The location, design and operation of the well must be approved by the Board of Health or its agent prior to construction.

I. Conforming. The well must conform to existing Massachusetts General Laws at the time of application, i.e., Title 5, Wetlands Protection Act.

J. Fee. Permit Fee: $50.

§ 300-16.2. Well construction.

A. Restriction. There shall be one well for each lot as stated in (MGL c. 40, § 54). Any lot of less than 40,000 square feet in area shall be deemed too small for both water supply and sewage disposal on the same lot.

B. Well location with respect to contaminants and pollutants.

(1) In establishing the location to a water well, the installer shall give consideration to sources of contamination which exist on or adjacent to the site. All water supply wells shall be located an adequate horizontal distance from potential sources of contamination and pollution. Such sources of contamination and pollution may include, but are not limited to: a high density development (more than one household septic tank per one acre lot); sanitary landfills; auto junkyards; sewage treatment facilities with on-site disposal of primary or secondary effluent; car washes; vehicular service operations; road salt stockpiles; dry cleaning establishments; cabinet making; electronic circuit assembly; metalplating; finishing and polishing; commercial paint,

wood preserving and furniture stripping; sites where pesticides and herbicides are regularly applied, including golf courses and cranberry bogs; animal lot; photographic processing; printing; chemical and bacteriological laboratories; and any principal use involving the sale, storage, or transportation of fuel or oil.

(2) Variable geologic and hydrologic conditions make it impossible to establish regulations to suit all conditions. The following minimum lateral distances shall apply to common sources of contamination listed:

Sources of Contamination	**Minimum Lateral Distances (feet)**
Sub-surface disposal facilities	125
Where soil percolation is greater than or equal to 6 minutes an inch	
Sub-surface disposal fields	125
Where soil percolation is less than 6 minutes per inch	
Cesspools, seepage pits	150
Public ways	100
Leaching fields	125
Septic tank, distribution box, dosing tank	75
Underground petroleum storage tank	1,000
Sewers (water tight joints)	75
Footing drains	50
Surface water	50
Property line	50

(3) Where, in the opinion of the Board of Health, adverse conditions exist, distances may be increased. In certain cases, special means of protection may be provided. Where possible, the well shall be up the groundwater gradient (upstream) from sources of contamination. 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 of runoff from the surrounding land, unless located in a flood-proof well-house. Wells must be constructed as to maintain existing natural protection against pollution of the groundwater and to exclude all known sources of pollution from entering the well.

C. Casing.

(1) Casing material - well casing shall be sufficiently strong to perform the functions for which it is designed, i.e., to maintain the hole by preventing wall collapse, to provide a conduit for water conveyance, and to maintain the quality of water pumped. Permanent wells shall be cased with not less than schedule 40 steel, or not less than

schedule 40 PVC plastic, concrete or other durable pipe material. The thickness of casing shall be selected in accordance with good design practice as applied to conditions encountered in the area where the well is located.

(2) A well casing or extension thereof shall extend vertically for at least 18 inches above established ground surface, or above the floor of an approved pump pit or the elevation of one-hundred-year flood, whichever is greater. The Board of Health or its agent may approve in writing, a casing termination two inches, or greater, above the established ground surface in paved areas if the area is not subject to flooding or contamination and the connections and openings are threaded or welded watertight.

(3) All casing shall be placed with sufficient care to avoid damage to casing sections and joints. All casing joints above perforations or screens shall be watertight.

(4) Water well pipe salvaged from water test holes or non-productive holes may be used as new pipe if in good condition. Pipe intended for water well use is subject to random examination by the regulating agency which shall reject defective pipe. Pipe that is considered defective includes but is not limited to:

(a) Pipe with cracks.

(b) Pipe with welded patches.

(5) Pipes and equipment.

(a) All service pipes and connections shall be non-toxic materials approved by the New England Water Works Association.

(b) The installation of pipes shall be such that they are protected from crushing, freezing and attack by rodents.

(c) Dissimilar metals should be discouraged in the water system. The use of non-conductive plastic inserts between pipes and fittings or the installation of sacrificial anodes is helpful in minimizing electrical corrosion problems.

(d) Electrical service grounds shall not be attached to the water piping. All electrical service and controls of well must be permitted, inspected and approved according to Town and state regulations.

(e) All plumbing is to comply with Massachusetts state plumbing code.

D. Protective seal at land surface. The annular space between the protective well casing and the wall of the drilled hole or the surface casing shall be effectively sealed to protect against contamination or pollution by surface and/or shallow, subsurface waters. This shall be accomplished in accordance with guidelines set forth below:

(1) Depth of seal.

(a) Following is the minimum depth of seal below ground surface for various uses of wells:

Type	Depth of Surface Seal (feet)
Local water supply wells	20
Domestic wells	6

(b) Exceptions are shallow wells where the water is at a depth less than 20 feet. In this instance, the depth of seal may be reduced, and special precautions shall be taken in locating the well with respect to possible sources of contamination.

(c) The annular space shall be sealed to a minimum depth of 20 feet from the surface of the ground when the well is close to individual domestic wells or to sources of contamination or pollution described under Well Construction, Subsection B. Local conditions, such as the existence of shallow, subsurface waters of undesirable quality may warrant consideration of sealing the annular space around agricultural wells.

(2) Sealing conditions - Following are requirements for sealing the protective casing of a well:

(a) Wells that penetrate unconsolidated material.

[1] Driven wells or well construction by cable tool method. The temporary surface protective casings may function as the seal provided the length of casing corresponds to the depth of seal specified in Part a of this section.

[2] Rotary, auger or jetted well construction. The annular space between the hole, or surface or temporary casing and the protective casing, shall be filled with sealing material to the depth specified in Part a of this section.

(b) Wells that penetrate impervious formations. If a consolidated formation or an impervious unconsolidated formation is encountered within five feet of the specified depth of seal described in Part a of this section, the seal should extend at least five feet into the impervious formation.

(c) Gravel packed wells. The gravel pack of gravel pack wells shall terminate at the base of the protective seal.

(d) Wells penetrating consolidated rock. A hole of sufficient diameter to accommodate protective casing must be constructed and the annular space between the rock and casing sealed to depth specified in this section.

[1] Sealing material:

[a] The sealing material shall consist of neat cement, cement grout, puddled clay, or concrete. ORGANIC POLYMER MUDS SHALL NOT BE ALLOWED. The neat cement mixture shall be composed of one bag of Portland Cement (94 pounds) to five to seven gallons of clean water.

[b] Quick setting cement, retardants to setting, and other additives,

including hydrated lime to make the mix more fluid (up to 10% of the volume of the cement), and Bentonite (up to 5%) to make the mix more fluid and to reduce shrinkage may be used. Concrete used shall be "class B" (six sacks to the cubic yard) or "Class B" (five sacks to the cubic yard).

* Clay in the form of a mud-laden fluid is similar to and has the advantage of neat cement and cement grout. There is a disadvantage in that clay may separate out of the fluid. A bentonite-gelatenous mud is recommended. Concrete is useful in sealing large diameter wells, particularly where the width of annular ring is several inches or more. However, unless care is exercised during placement, the coarse aggregate may become separated from the cement.

[2] Thickness of seal: The thickness of the seal shall be at least one inch, and not less than three times the size of the largest coarse aggregate used in the sealing material.

[3] Placement of seal: The sealing material shall be installed in one continuous operation from the bottom of the interval to be sealed to the top.

[4] Sealing casing into bedrock: For all wells which terminate in bedrock, a permanent casing shall extend from six inches above the ground or floor of a pit into bedrock a minimum of 10 feet below the bedrock surface.

E. Well screens. A well installed in an unconsolidated sand and gravel aquifer commonly has a screen. Screen openings shall be properly sized, based on sieve analysis of material at the screen depth. The well shall be properly developed to produce sand free water at the pumping rate of the permanent pump.

F. Sealing off strata. Where a well penetrates aquifers separated by confining layers and any of the aquifers contain water that would be a contaminant, contaminated strata shall be sealed to prevent entrance of the water into the well or its migration to other aquifer(s).

(1) The contaminated stratum shall be sealed by placing impermeable material in the annular space between the protective casing and the contaminated stratum. The seal shall extend into the upper and lower confining formations for a sufficient vertical distance to prevent the vertical movement of water from the producing formation. Sufficient sealing material shall be installed to fill the annular space between the casing and the wall in the drilled hole along the sealed interval and to fill the voids which might absorb sealing material. Sealing material shall be placed from the bottom to the top of the sealed interval.

(2) Sealing material shall consist of neat cement, cement grout or other suitable impermeable material. — see Subsection D(1).

G. Disinfection and other sanitary requirements. All local water supply, domestic and industrial wells shall be disinfected following construction, rehabilitation and well pump repair before the well is placed in service. The well shall be pumped to waste until the water is as clear as possible. Thereafter, the well and pumping equipment shall be disinfected with a solution containing at least 50 ppm of chlorine. The well shall remain in

contact with chlorine solution a minimum of 24 hours before the well is pumped to waste and chlorine flushed from the distribution system. All water used in well drilling shall be disinfected.

H. Surface construction features.

(1) Openings - Openings into the top of the wall which are not to provide access shall be sealed. All access openings into the well shall be protected against entrance of surface water.

(a) Where the pump is installed on top of the well, a water-tight seal shall be placed between the pump head and the pump base (slab).

(b) Where the pump is offset from the well or well is equipped with a submersible pump, the opening between the protective casing and any distribution pipes or support electrical cables which enter the well shall have a watertight seal.

(c) All holes into the pump that are open to the well shall be sealed.

(d) All wells equipped with a pump shall have a water-tight cap at all times.

(e) All below-ground discharge pipes shall have a water-tight seal or gasket between the discharge pipe and well casing.

(f) Any concrete base or slab (sometimes called a pump block or pump pedestal) constructed around the top of a casing shall be water-tight and free from cracks for at least six inches above the pump chamber floor.

(2) Pump blowoff - Any pump discharge blowoff or drain line shall be located so as to not be affected by flooding, back siphonage, or back pressure, and shall not be connected to a sewer.

I. Well development.

(1) All well development and rehabilitation shall be done with care and by methods that will not cause damage to the well, degrade ground water purity, or alter subsurface conditions to allow vertical movement of contaminated water between aquifers. The following methods used in developing, or conditioning a well, when done with care, are acceptable:

(a) Overpumping;

(b) Surging by use of a plunger or compressed air;

(c) Backwashing or jetting with water;

(d) Introduction of chemicals designed for this purpose; and

(e) A combination of the above.

(2) Methods which produce an explosion are prohibited. Where chemicals have been used, the well shall be pumped until all trace of these agents has been removed.

J. Water quality sampling. The well driller (installer) shall collect samples in the presence of

a representative of the Board of Health. Water quality sampling shall be conducted in accordance with the following requirements:

(1) Local, domestic, and potable water supply wells. The water from local, domestic, industrial, and commercial potable water supply wells shall be sampled immediately following development and disinfection. Chemical and bacteriological analysis shall be made, and approval of the Board of Health must be obtained before the well is used. (1) Sample Tap - a representative sample for laboratory analysis shall be collected at pump discharge or from a tap in the pump discharge line, iced, picked up within 24 hours and delivered to a state certified water quality testing laboratory.

(2) Laboratory analysis. Required water analysis shall be performed by a laboratory certified by the Massachusetts Department of Environmental Quality Engineering. A copy of the laboratory analysis results shall be forwarded to the local Board of Health and the well owner.

(3) Bacterial quality.

(a) Water samples for bacteriological analysis (presence of coliform organism) shall be collected from domestic water supplies after development and after all traces of disinfectant chemicals have been removed from the well. The results of the bacteriological analysis shall meet the standards specified in 310 CMR 22.00 (Mass. Drinking Water Regulations).

(b) Coliform count not to exceed 1/100 ml @ 35° C. Standard plate count not to exceed 100/100 ml @ 35° C.

(4) Chemical and mineral quality.

(a) All ground water produced where the water is to be used for consumption or for food processing shall be analyzed for its chemical and mineral content. The results of the chemical and mineral analysis shall meet the following standards:

Chemical and Mineral Quality	
Arsenic	Not to exceed 0.05 PPM
Copper	Not to exceed 1.0 PPM
Color	Not to exceed 15.0 units
Turbidity	Not to exceed 1 turbidity unit
Odor	Not to exceed 3 threshold
**Sodium	Not to exceed 20 MG/L
pH	Between 6.5 - 8.5
Chloride	Not to exceed 250 MG/L
Total Iron	Not to exceed 0.3 MG/L
Total Hardness	Not to exceed 50 MG/L
Sulfate	Not to exceed 250 MG/L
Manganese	Not to exceed 0.005 MG/L
Nitrogen-Nitrite	Not to exceed 1 MG/L
Nitrogen-Nitrate	Not to exceed 10 MG/L
Organics	EPA method 524 - not to exceed standards

** This standard is included to inform the prospective homeowners - Failure does NOT constitute disapproval of the well.

(b) Failure to meet these standards shall require treatment where applicable. Failure to meet these standards after treatment will constitute disapproval of the well.

(c) The Board of Health strongly recommends that ALL wells (new and existing) be tested at a minimum of every two years for the presence of coliform bacteria, nitrates and sodium and at more frequent intervals when water quality problems are suspect or known to exist.

(d) The Board of Health may require additional tests as local conditions warrant if, in its opinion, they are necessary to protect the public health and welfare.

(e) (A description of wells considered at high risk for contamination and the recommended frequency of testing is contained in § 300-16.3 of these regulations.)

(f) Note: Agricultural wells are exempt from the requirements of this section.

K. Yield test.

(1) All wells shall be tested to determine yield, and water level recovery. All test records and analysis of safe yield shall be submitted to the Board of Health. Test pumping shall be conducted at a rate at least equal to the pumping rate expected during normal use (usually 3-5 gallons per minute at 40 psi for domestic wells). The pump test shall be conducted for a period of four hours and repeated after a shut down of 24 hours.

(2) The pumping test shall be performed by a licensed pump or well installer.

(3) Minimum Yield Requirements:

Well Depth	**Minimum Gallons/Minimum for 4 Hours**
0 to 150 feet	5 to 6
150 to 200 feet	4
200 to 300 feet	2 to 3
300 and over	1 to 2

(a) The above applies to a single family residence. For multiple family dwellings, multiply above by the number of dwelling units to be served by the single well.

(4) The well, after pump testing, shall recover to within 85% of the original static water level within a twenty-four hour period.

(5) Pressure tanks for individual home installations shall have a minimum capacity of 42 gallons.

(6) Auxiliary power must be available to maintain a water supply for multiple dwellings.

L. Alignment. A well shall be plumb to allow proper installation and pump operation.

M. Special provisions for large diameter (ten-inch or larger diameter) Shallow Wells.

(1) Bored wells. All bored wells shall be cased with concrete pipe or steel casing whose joints are water-tight from six inches above surface to the depth specified in Subsection D(1). The space between the wall of the hole and the casing shall be filled with concrete to the depth specified in Subsection D(1). The minimum thickness of the surrounding concrete seal shall be three inches.

(2) Casing material. Either steel or concrete may be used for casing bored wells.

(a) Steel used in the manufacture of casing for bored wells should conform to the specifications for casing material described in Subsection B. (schedule 40 steel or schedule 40 PVC plastic).

(b) Concrete casing.

[1] Concrete casing may consist of either poured-in-place or precast concrete pipe. Poured-in-place concrete shall be sufficiently strong to withstand the earth and water pressure imposed on it. It shall be properly reinforced with steel to furnish tensil strength and to resist cracking and it shall be free from honeycombing or other defects likely to impair the ability of the concrete structure to remain watertight. Aggregate small enough to insure proper placement without "bridging" shall be used. Only "air entraining" cement shall be used in water well construction.

[2] Precast concrete pipe is usually composed of concrete rings from one to six feet in diameter and approximately three to eight feet long. To serve satisfactorily as casing, these rings shall be free of any blemishes that would impair their strength or serviceability. In the portion of the well that is to be sealed (see paragraph B, C, of this section) the joints shall be made watertight using a cement based (not brick mortar) material.

(3) Covers - All bored wells shall be provided with a structurally sound cover to prevent injury to people or animals and to prevent the entrance of undesirable water or foreign matter.

N. Temporary cover. Whenever there is an interruption in work on the well such as overnight shutdown, inclement weather, waiting periods for the setting up of sealing materials or concrete, tests, installation of the pump, etc., the well opening shall be closed with a cover to insure the public safety and to prevent the introduction of undesirable material into the well. During interruptions of one week or more, a semi-permanent cover shall be installed. For a well cased with steel a steel cover, tack-welded to the top of the casing, is adequate.

O. Re-use of water and disposal wells. Water used for cooling parts of engines, air compressors or other equipment, or water used for air conditioning, shall not be returned to any part of a potable water system or potable aquifer unless the water was obtained from the same aquifer into which it is being discharged, and the discharge water is of equal or better mineralogical and bacteriological quality as the source.

P. Repair or deepening of wells. All deepening or repair of wells shall meet all the requirements included in these regulations and shall be done with a permit.

Q. Water storage reservoirs. Installation of a water storage reservoir, but not an approved

water pressure tank, requires approval of and a permit from the Board of Health or its agent.

R. Notice of pollution. An owner or occupant using a polluted water supply or a supply that represents a health hazard shall be notified of the health hazard, in writing, by the Board of Health or its agent (MG. L.c. 111, Sec. 122A), when such hazard is brought to the Board's attention.

S. Other water sources and cross connections. Permission may be granted by the Board of Health or its agent to use springs, infiltration tile lines, or other sources as a water supply, or to install water treatment facilities. Plans and specifications for such facilities, together with operating procedures, shall be approved by the Board of Health. A physical connection is not permitted between a water supply meeting the requirements of these regulations and another water supply that does not meet such requirements without prior approval of the Board of Health.

T. Enforcement and variance procedures.

(1) Variance.

(a) Variances may be granted only as follows: The Board of Health may vary the application of any of these Regulations (except where expressly forbidden elsewhere in these regulations) with respect to any particular case when, in its opinion:

[1] The enforcement thereof would do manifest injustice; and

[2] The applicant has proved that the same degree of environmental protection required under these regulations can be achieved without strict application of the particular provisions.

(b) Every request for a variance shall be made in writing and shall state the specific variance and the reasons therefor. Any variance granted by the Board of Health shall be in writing. Any denial of a variance shall also be in writing and shall contain a brief statement of the reason for the denial. A copy of each variance shall contain a brief statement of the reason for the denial. A copy of each variance shall be conspicuously posted for 30 days following its issuance; and shall be available to the public at all reasonable hours in the office of the Town Clerk or office of the Board of Health while it is in effect.

(2) Variance, Grant of Special Permission: Expiration, Modification, Suspension of 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 other 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 Title 1 (310 CMR 11.00) for orders and hearings.

(3) General enforcement. The provisions of Title 1 of the Environmental Code (310 CMR 11.00) shall govern the enforcement of these Regulations as supplemented by

the following regulations.

(4) Orders: Service and content.

(a) If an examination as provided for in Title 1 (310 CMR 11.00) reveals failure to comply with the provisions of these Regulations, the Board of Health shall order the persons responsible to comply with the violated provision.

(b) Every order authorized by these regulations shall be in writing. Orders issued under the provisions of 310 CMR 11.00 shall be served on all persons responsible for the violated regulations. All orders shall be served on the designated person.

[1] Personally, by any person authorized to serve civil process, or

[2] By any person authorized to serve civil process by leaving a copy of the order at his last place of abode, or

[3] By sending him a copy of the order by registered or certified mail, return receipt requested, if he is within the Commonwealth, or

[4] If his last and usual place of abode is unknown or outside the Commonwealth, by posting a copy of the order in a conspicuous place on or about the premises and by advertising it for at least three out of five consecutive days in one or more newspapers of general circulation within the municipality wherein the building or premises affected is situated.

[5] Appeal - Any person aggrieved by the final decision of the Board of Health may seek relief therefrom within 30 days in any court of competent jurisdiction, as provided by the laws of this Commonwealth.

[6] Penalties -

[a] Any person who shall violate any provision of these Regulations for which penalty is not otherwise provided in any of the General Laws or in any other provision of these Regulations or Title 1 of (310 CMR 11.00) shall upon conviction be fined not less than $50 nor more than $500.

[b] Any person who shall fail to comply with any Order issued pursuant to the provisions of these Regulations shall, upon conviction, be fined not less than $50 nor more than $500. Each day's failure to comply with an Order shall constitute a separate violation.

U. Severability: So far as the Board of Health may provide, each section of these Rules and Regulations shall be construed as separate and that if any section, item, sentence, clause or phrase shall be held invalid for any reason, the remainder of these rules and regulations shall continue in full force and effect.

§ 300-16.3. Wells considered at high risk for contamination; frequency of testing.

A. The attached well water standards will apply to all new wells drilled after the adoption of

these regulations. The Board of Health would like to point out that the wells drilled prior to January 1988 may not meet these standards and may be at high risk for contamination if:

(1) They are not located an adequate horizontal distance from potential sources of contamination and pollution as outlined in § 300-16.2B);

(2) Environmental conditions surrounding the well have been adversely impacted as described in § 300-16.2B since the last test of water quality; and

(3) They are dug wells which are shallow, relatively large in diameter and thus susceptible to surface pollution.

B. Therefore, in order to better ensure water quality, the Board of Health recommends more frequent testing of water quality in some cases.

(1) Dug wells shall be tested for nitrates/nitrites and coliform bacteria annually.

(2) Wells located within a high density development (more than one household septic tank per 1 acre lot) shall be tested for nitrates/nitrites and coliform bacteria annually.

(3) Wells located less than 100 feet from a public way shall be tested for nitrates/nitrites and sodium annually.

(4) Wells located closer than permitted in these regulations to potential sources of contamination or located in high risk areas should test their water for nitrates/nitrites and bacteria as soon as it is noted that members of the household have become ill from chronic diarrhea, dysentery, hepatitis or other suspect ailments or if they notice a change in the color, taste, or odor of the water.

§ ~~300-16.4. Explanation of bacteriological, chemical and mineral elements found in water.~~

~~A. Bacterial quality.~~

~~(1) Coliform Bacteria – indicator organism which is not pathogenic, but could indicate presence of bacteria from diseased person. When found in conjunction with elevated levels of nitrates and chloride may indicate contamination by septic systems or other fecal pollution.~~

~~B. Chemical (mineral) quality.~~

~~(1) Arsenic – occurs naturally in environment but also an ingredient in pesticides. Highly toxic in large doses. Linked to increase incidence of skin cancer and may also cause circulatory disease.~~

~~(2) Copper – causes bitter taste, pipe corrosion, green stains on fixtures; associated with gastrointestinal disturbances and, at higher levels, hemolysis and renal problems.~~

~~(3) Color – drinking water should be practically free from color for aesthetic purposes; indicator of iron/manganese.~~

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~~(4) Odor - may indicate presence of bacteria, amonia nitrogen, manganese sulfate, methane, chemical pollution, residual chlorine.~~

~~(5) Sodium - naturally occurring constituent of water but excess sodium enters water supplies as a result of sodium chloride as deicer. Associated with unpleasant taste; may be health threat to certain segments of population: hypertensive and persons with kidney disease, infants, pregnant women.~~

~~(6) pH acidity - can cause metals such as lead and copper to leach into water supply. Chronic lead ingestion in heavy doses linked to defects in blood forming system, nervous system, and kidneys.~~

~~(7) Chloride - residual of disinfectant, may cause salty taste.~~

~~(8) Total iron - causes discoloration of water which stains ceramic plumbing fixtures and laundry and clogs pipes, joints, valves, and connections. May cause metallic taste.~~

~~(9) Total hardness - bathtub ring, grey laundry, associated with calcium manganese.~~

~~(10) Sulfate - corrosive at low pH, especially when combined with chloride.~~

~~(11) Manganese - similar to iron.~~

~~(12) Nitrogen nitrate - found in human waste and agricultural runoff, nitrates may convert to nitrites which change hemoglobin to methemoglobin, which is incapable of carrying oxygen. Associated with potentially fatal disease in infants methemoglobinemia. Waters with excessive amounts of nitrates should not be given to infants. Boiling the water only increases the nitrate concentration.~~

~~(13) Turbidity - cloudiness of water caused by suspension of minute particles. These particles can interfere with disinfection and bacteria testing. May indicate infiltration of surface water into well.~~

~~C. Volatile organic chemicals - are man made compounds containing carbon which easily become gasses at normal temperatures. EPA method 524 refers to the analytical method used to test for the presence of this particular group of compounds. EPA standards have been established for the following eight compounds:~~

~~(1) Benzene - from leaking fuel tanks; industrial effluents. Solvent in the manufacture of pesticides, dyes, plastics, paints, and pharmaceuticals. Linked to cancer.~~

~~(2) Carbon tetrachloride - found in fire extinguishers and cleaning agents. Used as solvent and grain fumigant. Linked to liver damage (but no jaundice), nausea, vomiting, headache, fatigue. Causes cancer in lab animals.~~

~~(3) 1, 2 dichloroethane - metal degreaser, insecticide fumigant, tobacco flavor enhancer, found in paint, varnish, finish removers, soaps and scouring compounds. Linked to CNS depression, liver, kidney and adrenal injury; eye, nose, and throat irritant; hemmorrhagic lesions of internal organs. High dose has resulted in death due to liver necrosis and focal adrenal degeneration and necrosis. Causes cancer in lab animals.~~

~~(4) Trichloroethylene – solvent, metal degreaser in organic chemical manufacture and drycleaning. Linked to vomiting, diarrhea and abdominal pain, liver and kidney damage. Causes liver cancer in mice at high doses.~~

~~(5) Paradichlorobenzene (1, 4 dichlorobenzene) used primarily for moth control (balls and powder) and in lavatory deodorant. Exposure to high levels may result in general anemia or local irritation to the eyes and nose. Skin irritation, nausea and vomiting have been reported in some cases of high exposure. Long term exposure may result in respiratory and CNS disturbances, blood disorders, and liver damage. Causes cancer in laboratory animals.~~

~~(6) 1, 1 dichloroethylene – intermediate in synthesis of copolymers for food packaging films and coatings. Linked to liver and kidney injury. Causes cancer in lab animals.~~

~~(7) 1, 1, 1 trichloroethane – solvent in organic chemical manufacture and dry cleaning. Linked to CNS depression. Mouth, throat and stomach irritant. Causes cancer in lab~~ animals.

~~(8) Vinyl chloride – found in polyvinyl chloride (PVC) pipes and solvent used to join them, industrial waste from the manufacture of plastics and synthetic rubber. Linked to cancer.~~

~~ARTICLE 17~~
~~**Maintenance and Construction of Lockup Facilities**~~
~~**[Effective 7-24-1987]**~~

~~**§ 300-17.1. Statutory standards.**~~

~~105 CMR 470.000 of the State Sanitary Code shall apply.~~

ARTICLE 18
~~**Board of Health**~~ **Earth Relocation Regulation**
[Approved 7-26-1990; Revised]

§ 300-18.1. Purpose; authority~~; definitions~~.

A. ~~A.~~ In order to help protect the water resources ~~storage~~ and water quality within the Town of Sharon, and to protect the welfare of the inhabitants of the Town, the following Earth Relocation Regulation is adopted pursuant to the provisions of MGL c. 40, § 21, Paragraph 17, and MGL c. 111, § 31.

~~A.~~B.

~~B.~~ Definitions. For the purposes of this ~~bylaw~~article:

BOARD — The Board of Health in Sharon.

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EARTH or FILL — ~~Includes soil, loam, sand and gravel and other natural material~~. Includes soil, loam, sand, gravel, claey, rock or other natural geologic material. Material that meets Federal or State definitions for solid or hazardous waste material, or as toxic, infectious, corrosive or reactive material is specifically excluded. Materials such as garbage, waste, man made materials or other types of fill are excluded from this regulation.

RELOCATE, RELOCATED, RELOCATION — The movement or transportation of earth from outside the Town of Sharon to within the Town of Sharon.

§ 300-18.2. Procedure.

A. No earth in excess of 50 cubic yards per the smaller of one acre or one buildable lot shall be relocated from any parcel of land without the Town to a parcel within the Town, except upon issuance of a Town permit by the Board of Health. Provided, however, that no earth which, in the reasonable opinion of the Town Engineer, acting as the agent of the Board of Health, may present a danger or hazard to water storage, water quality or the welfare of the inhabitants of the Town of Sharon, shall be relocated from any parcel of land without the Town to a parcel within the Town, except upon issuance of a Town permit by the Board of Health.

B. All applications for such permits shall be accompanied by exhibits and documentation deemed necessary by the Board for the proper issuance of a permit, which may include the following:

(1) Name and address of the legal owner of the land in question.

(2) Name and address of petitioner, if different.

(3) Names and addresses of all owners of property within 100 feet of the land.

(4) Description of:

(a) Sources of earth;

(b) Locations of sources;

(c) Exact content of earth.

(d) Statement as to whether any hazardous or toxic materials are included and, if so, the types and amounts.

The information contained in such description referenced in this paragraph shall, if required by the Board, be certified by a qualified professional engineer and be sworn to under the pain and penalties of perjury by the applicant and land owner.

(5) A plan of the site indicating the location at which earth will be deposited or relocated.

(6) A plan and specification, prepared by a registered engineer or land surveyor, for the final grading and any restoration of the site. Upon receipt of an application for a permit for earth relocation the Board shall:

(a) Appoint a time and place for a public hearing, notice of which shall be given to

the applicant, and shall be published at least 14 days before such hearing in a newspaper having a circulation in the Town.

(b) Inspect the site covered by the application.

(c) The Conservation Commission shall be given a copy of the plans and application for review and comment at least 14 days before a public hearing.

(7) The Board may require that the applicant and/or land owner provide a proper bond or a deposit of money or negotiable securities, sufficient in the opinion of the Board to secure any removal, clean-up, or other remedial work and all damage to person or property caused by the relocation or deposit of earth in violation of any provision of this Article.

(8) A fee of $50 shall be charged for making an application.

(9) The Board has the authority to retain a qualified professional engineer for the purpose of insuring that the provisions of this regulation and the permit are complied with. Such engineers may be retained at any time either before or during the term of the permit. As a condition of the issuance of an earth relocation permit, the petitioner shall agree to reimburse the Town of Sharon for all such engineering fees and expenses associated with the permit.

§ 300-18.3. Limitations.

A. No permit shall be issued for the relocation or deposit of earth which contains man-made substances including without limitation, building material, debris, junk, concrete and plastics.

B. No permit for earth relocation shall be issued if each relocation will:

(1) Endanger the general health or safety or constitute a nuisance, or endanger the quality or quantity of any aquifer, groundwater or other bodies of water, or

(2) Result in detriment to the normal use of adjacent property by reason of noise, dust, or vibration.

C. Term of permit.

(1) A permit for any earth relocation shall not be issued for more than one year's duration.

(2) A permit may, following a site inspection and certification by the Board that all conditions of the Board of Health Rules and Regulations and permit have been completed, be reissued twice subject to the Rules and Regulations in force at the time of renewal and subject to any conditions imposed by the Board, without a new application and public hearing.

D. In approving the issuance of a permit, the Board shall impose reasonable requirements, conditions, limitations, and safeguards to protect the health, welfare, convenience, and safety of the public, and to promote the best interest of the neighborhood and of the Town. These conditions which shall constitute a part of the permit, may include, but are not

limited to types of earth relocated, sites of relocation, amount of earth relocated.

E. No permit shall be issued until the owner of the site has granted to the Town an easement over the land in question and conveys to the Town the legal right to enter upon said land with equipment and personnel for the purpose of making inspections and remedial removing of earth in the event of relocation in violation of the terms of the permit, all at applicant's expense.

F. No relocation operation shall be allowed within one mile radius of any elementary school during the first hour preceding the school's opening and also during the first hour following the school's closing.

G. Permits may be issued only if the Board of Health determines that, in its opinion, such issuance is in the best interest of both the Town as whole and the neighborhood surrounding the proposed operation. Any such permit may be limited to cases where the earth relocation shall be incidental to a primary purpose which can be the construction of a facility that is in conformance with all relevant zoning regulations or applicable permits or variances. The amount of earth relocation in any operation approved under the provisions of this paragraph may be limited to the minimum amount required to achieve that primary purpose.

H. The term "facility" as used in this Regulation shall be defined as those structures necessary to install the foundation and basement of as building and/or other structures together with such driveways, parking areas and septic systems as may be authorized by said permit or required by the Board of Health.

§ 300-18.4. Exceptions.

No permit shall be required for the following:

A. Relocation of earth to an operating farm, nursery, or cemetery to the extent that such removal is necessary to the operation of same.

B. The moving and relocation of earth for any municipal purpose by, or on behalf of, any department of the Town of Sharon.

C. Relocation of earth from a site by governmental authority to the extent as may be necessary to complete the project as planned.

D. Relocation of earth necessary to construct roadways or related improvements as part of an approved subdivision subject to such restrictions or regulations as may be lawfully required by the Planning Board.

E. The foregoing exceptions shall be be applicable to the extent that the Town Engineer reasonably determines that such earth may present a danger or hazard to water storage, water quality or the welfare of the inhabitants of the Town.

§ 300-18.5. Validity.

The invalidity of any section or provision of this Regulation shall not invalidate any other section or provision thereof.

§ 300-18.6. Penalty.

Any person, firm, or corporation willfully violating, disobeying, or refusing to comply with any of the provisions of this Regulation shall be subject to injunctive relief and/or shall be prosecuted under the terms of MGL c. 40, § 21, Paragraph 17, and shall be subject to a fine of not more than $50 for the first offense, not more than $100 for the second offense, and not more than $200 for any subsequent offense. Each day of non-compliance shall constitute a separate offense. The Board may revoke or suspend the permit of any person, firm, or corporation holding a permit under this Regulation if such person, etc, violates, disobeys, or fails to comply with any of the provisions of this Regulation.

ARTICLE 19

Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste

~~**[Effective for all generators, except private residences, 11-6-1989]**~~

§ 300-19.1. Regulatory ~~Statutory~~ standards.

105 CMR 480.000: Minimum Standards for the Management of Medical or Biological Waste ~~of the State Sanitary Code~~ shall apply.

ARTICLE 20

Regulations for Tanning Establishments

~~**[Effective 7-1-1991]**~~ Revised

§ 200 20.1 Authority

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These regulations are administered under the authority of local Boards of Health described under MGL c. 111, s. 31, and in 105 CMR 123.000: Tanning Facilities, Section 123.006, which states that "The Board may incorporate in the license at the time or issuance or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the licensee's receipt, possession and use of the license to operate tanning facilities as it deems appropriate or necessary".

§ 200 20.2 Definitions

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In addition to the definition of a tanning facility provided in 105 CMR 123.000, all individual tanning units or facilities operating out of a gymnasium, health club, salon, cosmetic service or related organization not related to provision of a specific medical service will be recognized and licensed as tanning facilities.

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§ 200 20.2 Purpose

The purpose of this regulation is provide additional protection to users of tanning facilities through the provision of age limits and health communications developed to further prevent health outcomes inked to exposure to ultraviolet radiation from tanning devices.

§ 200 20.3 Tanning Facilities

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All tanning facilities and individual commercial tanning units in operation in Sharon shall be inspected every six months as required under 105 CMR 123.000: Tanning Facilities.

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§ 200 20.4. Age Limits

All tanning facilities in the Town of Sharon shall comply with the following requirements related to age of tanning facility user as described:

(1) No person under the age of 21 years of age shall be permitted to use a tanning facility or commercial tanning unit in the Town of Sharon.

All persons or organizations providing tanning units or facilities to the public will identify the age of users and will document the age of the user by inclusion of a copy of a driver's license, birth certificate, password, or other legally accepted document proving the date of the user's birth.

Failure to identify and provide record of a tanning facility or tanning unit user's birthdate will result in suspension of the license to operate a tanning facility or unit or fines as described at 105 CMR 123.014.

§ 200. 20.5 Records

All facility or unit owners will maintain a register of tanning facility or tanning unit usage by each user to include the amount of time the tanning unit is used, usage frequency. These records shall be maintained at each site for 3 years, and will be made available to the Sharon Board of Health upon request.

200.20.6 Information

All usage records, injury reports, and user age identification materials must be made available to the Sharon Board of Health upon request.

200.20.7 Communications

All tanning facilities shall post signage in each tanning unit and in an area in the main reception area visible to all users stating: "Use of an ultraviolet light tanning device has been linked to melanoma, a potentially fatal form of skin cancer". Signage must be provided on an 8/12 x 11 inch sheet, 36 point bold face type.

No tanning facility in the Town of Sharon shall promote the use of UV tanning devices to promote Vitamin D. No promotional material including signs, brochures, posters, web pages, or notices will promote a health benefit from the use of an ultraviolet tanning device including references to Vitamin D, a "base tan", or other health benefit.

200.20.8 Usage of Tanning Unit

No licensed tanning facility shall promote in any way the "unlimited" usage of a tanning facility.

~~**§ 300-20.1. Authority and adoption.**~~

~~Under the authority of MGL c. 111, § 31, the Sharon Board of Health has voted to adopt the following regulations to be effective on the date of publication.~~

~~**§ 300-20.2. Definitions.**~~

~~OPERATOR Any person who:~~

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A. Alone or jointly or severally with others owns a tanning facility; or

B. Has care, charge, or control of a tanning facility as agent or manager for the owner or as an independent contractor.

PHOTOTHERAPY DEVICE – Equipment that emits ultraviolet radiation and is used by health care professionals in the treatment of disease.

TANNING DEVICE – Any equipment that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers used for tanning the skin, including but not limited to, a tanning booth, tanning bed or sunlamp which includes any accompanying equipment, including, but not limited to, protective eyewear, timers and handrails.

TANNING FACILITY – Any location, place, area, structure or business which provides access to any tanning devices.

TYPE A ULTRAVIOLET LAMPS – Lamps which emit radiation in the wave length interval of 320 nm to 400 nm and do not emit more than 2% radiation in the range of 260 nm to 320 nm.

§ 300 20.3. Operating restrictions.

A. Only "type A" ultraviolet lamps may be used in tanning facilities. Records shall be maintained of all repairs and maintenance on the booth.

B. Thermometers must be located inside each tanning booth. The maximum temperature inside a tanning booth shall at no time exceed 100° F.

C. Booths shall be designed to have enough strength and rigidity to resist the stress of use and to withstand the impact of a falling person.

D. Physical aids or markers shall be present to locate and position the user in the booth.

E. Lamps shall be surrounded by physical barriers to prevent a person from being cut, shocked, burned, or otherwise injured by falling into or bumping against the lamps. At no time shall the temperature of said barriers exceed 110° F.

F. Doors to tanning booths shall open outwardly and be easily opened from the inside. Doors shall be capable of being opened from the outside in case of emergency.

G. All booths shall be wired in conformance with the Massachusetts Electrical Code and other applicable standards. A ground fault protector shall be incorporated into the circuit for each booth.

H. A log book shall be maintained for each Tanning Device, in which shall be recorded exposure time for each patron. Exposure time shall be controlled by the operator of the establishment and each Tanning Device shall have a timer with an accuracy of plus or minus 10% of any selected time interval which shall shut the tanning device off automatically. The maximum allowable exposure time to an energized lamp shall not exceed 27 recommended by the equipment manufacturer, whichever is less. The operator shall in each instance check to see that the selected time has not been extended for each customer.

I. A switch shall be incorporated into each tanning device so that users may turn off the lamps at any time during the exposure interval.

J. A tanning facility shall at all times during operating hours have an operator present who is sufficiently knowledgeable in the correct operation of the tanning devices used at the tanning facility to be able to inform and assist each customer in the proper use of the tanning devices and to provide sanitized protective eyewear and towels. No person shall use a tanning device without such protective eyewear. This eyewear must protect eyes from ultraviolet radiation, allow adequate vision, and meet the approval of the Board of Health or its agent.

K. The operator shall provide, for the use of all patrons, disposable heavy paper mats on which to lie or stand for protection against "Athlete's Foot", other fungi, or any type of contact dermatitis. These mats shall be replaced after each use of the tanning device.

L. All protective eyewear shall be thoroughly cleaned and sanitized by the operator after each use. Device shall e kept clean at all times. After each use, devices will be thoroughly cleaned and sanitized with a detergent. These cleaning procedures shall also be recorded in the log book located in each device.

M. Separate toilet facilities shall be provided for each sex.

N. Separate changing rooms shall be provided for each sex if devices are not designed with integral changing areas.

O. The operator shall provide at least one standard Red Cross 24 unit first aid kit or its equivalent, and at least one standard cot (may be folding) and a blanket on the premises.

P. The operator shall provide a list of all known medications and cosmetics that may increase the photosensitivity of patrons. This list will be prominently displayed on the door of each device.

Q. A "treatment" record shall be maintained on all patrons. Records will be maintained for one year after the client's last visit.

R. Warning notices.

(1) A tanning facility shall give each customer a written statement of warning and shall post a notice in a conspicuous place in EVERY area in which a tanning device is used. Said notice shall be at least 8 1/2 inches wide by 11 inches long and printed in white on a red background. Said statement and notice shall contain the following information in substantially the following form:

DANGER: ULTRAVIOLET RADIATION.

1. Follow instructions.

2. Avoid too frequent or lengthy exposure. As with natural sunlight, exposure to a sunlamp may cause eye and skin injury and allergic reaction. Repeated exposure may cause chronic damage characterized by wrinkling, dryness, fragility, bruising of the skin and skin cancer.

3. Wear protective eyewear. FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS OR LONG TERM INJURY TO THE EYES. DO NOT

REMOVE PROTECTIVE EYEWEAR WHILE LAMPS ARE ENERGIZED.

4. Ultraviolet radiation from sunlamps aggravates the effects of sun. Do not sunbathe before or after exposure to ultraviolet radiation.

5. Abnormal or increased skin sensitivity or burning may be caused by certain foods, cosmetics or medications, including but not limited to, tranquilizers, diuretics, antibiotics, high blood pressure medication, birth control pills and skin creams. Consult a physician before using a sunlamp if you are taking medication, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women on birth control pills who use a tanning device may develop discolored skin.

6. IF YOU DO NOT TAN IN THE SUN YOU WILL NOT TAN FROM USE OF THIS DEVICE. Use of a tanning device does not provide substantial protective base against the effects of the sun.

(2) Each time a person uses a tanning facility, or each time a person executes or renews a contract to use a tanning facility he shall sign a written statement acknowledging that he has read and understood such warnings.

S. No tanning facility shall claim or distribute promotional material that claims that use of a tanning device is safe and free from risk. The liability of a tanning facility operator or manufacturer of a tanning device shall not be affected by the giving of the warnings required by Subsection R above. A tanning facility shall send a written report of any injury or complaint of injury to the Board of Health with a copy to the complainant or injured person. The Board shall retain said reports for a period of at least one year from the date of receipt thereof and shall allow public inspection thereof.

T. No person under 14 years of age shall use a tanning device unless accompanied by a parent or legal guardian. No person 14 years of age or older but less than 18 years of age shall use a tanning device without the prior written consent of a parent or legal guardian who shall indicate therein that he has read and understood the warnings given by the tanning facility.

§ 300-20.4. Applications of patrons.

Before a patron is allowed to use the tanning facilities, he must first complete and sign an application form supplied by the operator, which includes as a minimum the following questions (if the answers to D, E, and F are affirmative, patron may not use tanning facilities without physician's written orders); applications must be kept on file for a period of at least one year;

A. Name.

B. Address.

C. Telephone number.

D. Are you taking any medication which might cause photosensitivity?

E. Do you have, or have you had during the past three months, any skin eruption or communicable skin disease?

F. Are you in any way allergic to the sun?

G. Signature of applicant and date of signature.

§ 300-20.5. Inspections.

Every licensee shall permit the Board of Health or its agents acting in an official capacity to inspect his/her place of business and his/her work at any reasonable time. Inspections are to be conducted at six month intervals, at minimum, with the first such inspection taking place within 30 days of Licensure.

§ 300-20.6. License.

A. No person shall operate a tanning facility without first obtaining a license from the Board of Health. Application shall be made on a form supplied by the Board of Health. Application shall include listing of all operators and their qualifications. A license shall be issued annually and shall expire on October 1st of each year. The annual license fee shall be $100 for the tanning facility. A license is not transferable. The license shall be displayed in a conspicuous place on the premises. The license may be suspended or revoked by the Board of Health for such cause as it deems sufficient. In addition, the Board of Health must be notified within one week of hire of any additional employees (not listed on current permit application) along with information regarding the training of any new employees.

B. The provisions of these REGULATIONS FOR TANNING FACILITIES shall not apply to a phototherapy device used by or under the supervision of a licensed physician who is trained in the use of such phototherapy device.

§ 300-20.7. Penalty.

A Tanning Facility which violates these regulations shall have seven days after written notice of such failure to comply with such provisions. The Board of Health may revoke the license of a tanning facility which fails to comply after seven days. Any person who shall violate any provision of this regulation for which penalty is not otherwise provided in any of the Massachusetts General Laws, or regulations adopted by the Department of Public Health pursuant to MGL c. 111, § 214, shall, upon conviction, be fined not less than $10 nor more than $500. Each day constitutes a separate violation.

§ 300-20.8. Severability.

If any paragraph, sentence, clause, phrase or word of this regulation shall be declared invalid for any reason whatsoever, the decision shall not affect any other portion of this regulation which shall remain in full force and effect.

ARTICLE 21 (reserved)

Rules and Regulations Governing the Practice of Massage [Amended 5-22-2006]

The purpose of these regulations is to provide for the protection of public health, safety and welfare of the Town of Sharon. The scope of these regulations is broad and includes many aspects, which if not particularly regulated, could lead to serious ramifications to the health and safety of the public. These regulations also designate the requirements for the renewal of licensure, as well as grounds for the suspension, revocation, and denial of licensure. These rules and regulations are adopted under the authority of MGL c. 140, §§ 51 and 53, and MGL c. 111, § 31.

§ 300-21.1. Definitions.

ADMINISTRATIVE REVOCATION — An administrative action taken when a licensee fails to timely renew licensure and ignores all other available options. A licensee whose license has been administratively revoked is officially unlicensed and cannot lawfully continue to practice as a massage therapist or operate a massage establishment in the Town of Sharon. Licenses administratively revoked may be reinstated by the Board upon meeting the conditions contained in these regulations.

AGENT — A person who has received delegation of authority from the Board of Health to perform functions subject to these regulations.

APPLICANT — An individual seeking licensure who has submitted an official application and paid the application fee in effect.

APPLICATION — The application form approved by the Board of Health.

BARBER AND BEAUTICIAN — A person who is duly licensed as a barber or as a beautician under the laws of the Commonwealth of Massachusetts.

BOARD — The Sharon Board of Health.

BODYWORK — Any other medically related work that involves the physical manipulation or physical contact with the body including but not limited to reflexology, reiki, Asian Body work that is not otherwise licensed by the Commonwealth of Massachusetts.

CLIENT — A person with whom the massage therapist has an agreement to provide massage therapy services.

CERTIFICATION — Successful completion of the requirements of the National Certification Board for Therapeutic Massage and Bodywork, which may be revised from time to time, or other certification approved by the Board of Health.

EXPIRED FILE — An administrative action which renders an incomplete or denied file inactive.

ESTABLISHMENT — Any location, or portion thereof, which advertises and/or provides massage therapy services on the premises. Any health care facility licensed by an agency of the Commonwealth of Massachusetts, or the office of any health care professional licensed by the Commonwealth of Massachusetts wherein massage therapy services are not advertised or provided except on an occasional out-call basis is not an establishment for the purposes of these regulations. Any location within a licensed health care facility or health care professionals office which is dedicated to and maintained for the use of a massage therapist who performs occasional massage therapy services to the patients of the facility is a massage establishment for the purposes of licensure under these regulations and the portions of the facility or office wherein massage therapy services are provided must be in compliance with the standards established by these regulations.

§ 300-21.2. [TEXT MISSING]

§ 300-21.3. [TEXT MISSING]

A. _____

B. _____

(1) _____

(2) _____

(3) _____

(4) _____

(5) _____

(6) The applicant shall complete a release of Criminal Offenders Record Information (CORI) for the Board to receive criminal history. Release form shall be provided by the Health office, and report of satisfactory review will be required by the Board.

(7) The applicant shall disclose the circumstances surrounding any of the following:

(a) Disclosure of any conviction for any sexual related offense, including prostitution or sexual misconduct, rape as well as other felony against persons occurring within the past 10 years.

(b) Revocation or denial of a license to practice massage therapy by any state or municipality.

(c) Loss or restriction of licensure or certification by any jurisdiction for any reason.

(8) The application shall be sworn to and signed by the applicant and notarized by a Notary Public of the Commonwealth of Massachusetts.

(9) The applicant for a massage therapist license shall submit a non-refundable application fee as required by the Board of Health, plus the current cost to the Town of Sharon of obtaining the results of a CORI background investigation by check or money order made payable to the Town of Sharon.

C. Upon receipt of a written application for a license, the Board shall conduct an investigation, in a manner deemed appropriate, to ascertain whether the license should be issued as requested. The Board shall approve, conditionally approve, or deny the application. The Board may issue the license as requested unless it makes any of the following findings:

(1) The applicant has been convicted of a violation of any health or safety law or criminal law, except traffic offenses or has been convicted in any other state of any offense which, if committed in this Commonwealth, would have been punished as one or more of such offenses.

(2) The applicant has committed an act which, if done by a licensee under this regulation, would be grounds for suspension or revocation of a license.

(3) The applicant has committed an act involving dishonesty, fraud, deceit, injury to another, or violence, which the act or acts are substantially related to the qualifications, functions, or duties of a massage practitioner;

(4) The applicant has knowingly made a false, misleading, or fraudulent statement of fact to the Town in the application process.

(5) The application does not contain the information required by this regulation.

(6) The applicant has not satisfied the requirements of this regulation.

§ 300-21.4. Additional conditions for continued licensure for therapists.

A. No massage practitioner shall treat any patron having a communicable disease or exhibiting any skin fungus, skin infection, skin inflammation, or skin eruption that the massage practitioner deems significant, unless a physician licensed in the Commonwealth of Massachusetts shall certify in writing that such person may be safely massaged, describe the conditions under which such massage may be performed, and shall certify further that any communicable disease, fungus, infection, inflammation, or eruption is not of a contagious or transmissible character through the practice of massage or through close contact ordinarily associated with the practice of massage. No massage practitioner who has a communicable disease or exhibits the symptoms just enumerated in this paragraph shall administer massage unless a physician licensed in the Commonwealth of Massachusetts shall certify in writing such practitioner may safely massage others, describe the conditions under which such practitioner may administer massage, and shall certify further that any such communicable disease, fungus, infection, or eruption is not of a contagious or transmissible character, through the practice of massage or through close contact ordinarily associated with the practice of massage.

B. No massage practitioner who has a communicable disease transmissible by the practice of massage or close physical contact ordinarily associated with massage shall practice massage therapy. He or she shall notify the Board of Health and his or her employer of such a condition, and shall not resume the practice of massage therapy until he or she provides the Board of Health with a statement from a licensed physician, nurse practitioner, or physician's assistant that the massage practitioner is free from the communicable disease.

C. A massage practitioner who operates a vibrator or other mechanical instrument in proximity to any body location where scalp hair can be pulled into its moving parts shall cover or wrap a patrons hair in a manner that will protect the hair from such moving parts.

D. Massage practitioners shall wash their hands under warm running water using a proper soap or disinfectant immediately before administering massage to any person; provided, however, when access to warm running water is impractical, massage practitioners shall sanitize their hands using alcohol of not less than 70% solution or using an acceptable hand hygiene product.

E. Home visits.

(1) The therapist must notify the Board on application and renewal of application of the intention to conduct home visits.

(2) Therapists shall keep written records of the dates, times and places of all home visits and shall make them available to the Board of Health or its representative upon

request.

(3) The therapist shall maintain copies of all written physician, nurse practitioner, or physician's assistant orders for home visits on file for three years at his or her place of employment as a massage practitioner and shall make them available to the Board of Health or its representative upon request.

F. A massage therapist may only perform massages at the licensed establishment(s) listed on his massage therapist license or home visits as noted above. Records of all home visits must be kept and must be available for inspection by the Board of Health.

G. Massage therapist and massage establishment licenses are not transferable.

H. Massage therapists shall inform the Board of any changes in place of employment prior to working at the new licensed massage establishment or other licensed medical facility.

I. The use of aliases by therapists is prohibited.

§ 300-21.5. Establishment licensure requirements.

A. It is a violation of these regulations for any person who is not licensed in the manner described herein to present his establishment as a licensed massage therapy establishment or to hold his establishment out to the public as being licensed by using a title on signs, mailboxes, address plates, stationery, announcements, telephone listings, calling cards, correspondence, websites, or other instruments of professional identification or advertisements of any sort in the Town of Sharon.

B. To own or operate a massage therapy establishment in the Town of Sharon, a person must possess a lawfully issued license from the Board.

C. An application packet shall be obtained from the Board.

D. The applicant shall respond truthfully and completely to every question or request for information contained in the application form. The applicant shall submit the application along with all required documentation and fees to the Board. All required documents must be received by the Board within 60 days for an active application. False statements shall constitute grounds for revocation of an issued license.

E. Applications shall be accepted throughout the year. The Board shall act on license applications within 60 days of receipt of all required documents as described in these regulations.

F. The application shall include:

(1) Name of applicant and each partner or limited partner of an applicant, if a partnership applicant, and each officer and director, if a corporate applicant, and any stockholder of a corporate applicant holding more than 10% of the stock of the corporate applicant; and the following information:

(2) Written proof that each applicant is at least 18 years of age, such as a birth certificate or passport;

(3) All residential addresses for the past five years;

(4) The business, occupation, or employment of each applicant for the three years immediately preceding the date of application;

(5) The previous experience of the applicant in the massage therapy business;

(6) Sex, height, weight, color of hair and eyes of the applicant;

(7) License history of the applicant; whether such person has ever had any license or permit issued by any agency or board, city, county, or state revoked or suspended, and the reasons therefor; and the business activity or occupation of the applicant subsequent to such revocation or suspension;

(8) Two front face portrait photographs of the applicant at least two inches by two inches in size . . .taken within the six months immediately proceeding the date of application;

(9) If the applicant is a corporation or if a partner of any partnership is a corporation, then the name of the corporation shall be set forth exactly as shown in the Articles of Incorporation, together with the state of incorporation, and proof of authority to do business in the Commonwealth of Massachusetts;

(10) Authorization and release for the Board to seek information or references necessary to verify the information contained in the application;

(11) The precise name under which the massage establishment is to be conducted;

(12) The complete address and all telephone numbers of the massage establishment;

(13) Copies of the licenses of all duly licensed massage therapists performing massage therapy at the establishment.

(14) The applicant for a massage establishment shall complete a release of Criminal Offenders Record Information (CORI) for the Board to receive criminal history. Release form shall be provided by the Health office, and report of satisfactory review will be required by the Board.

G. The applicant shall disclose the circumstances surrounding any of the following:

(1) Disclosure of any conviction for any sexual related offense, including prostitution or sexual misconduct, rape as well as any felony occurring within the past 10 years.

(2) Revocation or denial of a license for a massage establishment issued by any state or municipality.

(3) Loss or restriction of licensure in any jurisdiction for any reason.

H. The application shall include a written statement by the applicant certifying under penalty of perjury that all information contained in the application is true and correct, signed by the applicant and notarized by a Notary Public of the Commonwealth of Massachusetts.

I. The applicant for an establishment license shall submit a non refundable application fee as required by the Board of Health by check or money order made payable to the Town of

Sharon.

J. The Board may refer copies of the application to the Building Inspector, Fire Department, Police Department, or other Town enforcement or regulatory bodies as deemed appropriate. The Town agencies may inspect the premises proposed to be operated as a massage establishment and make recommendations to the Board concerning compliance with the regulations, ordinances, and statutes of the Commonwealth of Massachusetts and the Sharon Board of Health.

K. The applicants failure or refusal to promptly give any information relevant to the investigation of the application, the applicant's failure or refusal to appear at any reasonable time and place for examination or inquiry regarding the application, or the applicant's refusal to submit to or cooperate with any inspection required by this section shall be grounds for denial of the application.

L. Upon receipt of the recommendations of the respective Town agencies that may have inspected the applicants premises and with the information contained in the application, together with additional information supplied under the provisions of this section, the Board may issue the requested license, unless it shall find:

(1) The operation of the massage establishment as proposed by the applicant, would not comply with the applicable laws of the Commonwealth of Massachusetts and the Town of Sharon including but not limited to, the State Building Code and the health, housing, fire prevention, and zoning codes of the Town of Sharon;

(2) The owner, applicant, operator or practitioners in the massage establishment has been convicted of a violation of any health and safety law or criminal law or has been convicted in any other state of any offense which, if committed or attempted in the Commonwealth, would have been punished as one or more of such offenses;

(3) The owner, applicant, operator or practitioners in the massage establishment has committed an act, which if done by a licensee under this regulation, would be grounds for suspension or revocation of the license.;

(4) The operation of the massage establishment as proposed by the applicant would violate the provisions of this regulation.

M. All documents submitted for licensure purposes become the property of the Board and will not be returned.

§ 300-21.6. Practice standards for massage establishments.

A. Establishment standards.

(1) All establishments initially licensed after the effective date of these regulations must contain a waiting area for clients within the establishment.

(2) The establishment shall maintain a properly installed smoke detector, fire extinguisher, and carbon monoxide detector.

(3) Massage therapy may be conducted only in rooms which are adequately lighted and

ventilated, and so constructed that they can be kept clean. Floors, walls, ceilings and windows must be kept free of dust, soil, and other unclean substances.

(4) Massage room doors shall not have locks on them, nor be capable of being locked in any way.

(5) Massage rooms shall have at least 100 square feet of floor space for all establishments licensed after the effective date of these regulations.

(6) Smoking is prohibited anywhere on the premises.

(7) Every establishment shall have accessible rest room facilities, including at least one toilet with toilet tissue provided, a hand sink with soap, and disposable towels provided.

(8) Every establishment shall have hand washing facilities for therapist use. Said facilities shall provide an adequate supply of warm water of at least 110° but no more than 120° F. In lieu of soap and water, an acceptable hand hygiene product may be used unless hands are visibly soiled. Soap and disposable towels and adequate waste receptacle shall be provided at all times.

(9) Hand washing facilities for establishments licensed after the effective date of these regulations shall be accessible and located no more than 50 feet from the treatment area.

(10) Toilet and hand washing facilities shall meet the requirements of the state plumbing code and shall be maintained in good repair, well lighted and adequately ventilated, kept in a clean and sanitary condition and free of vermin.

(11) Every establishment shall provide for safe and unobstructed passage in the public areas of the premises.

(12) Facilities shall be provided for the storage and removal of garbage, waste and refuse.

(13) Any flammable or hazardous materials in the establishment shall be stored in a safe manner in accordance with Town of Sharon Bylaws and Massachusetts General Laws.

B. Personnel.

(1) An establishment shall have at least one duly licensed massage therapist employed at all times in order to maintain licensure.

(2) All persons who perform massage therapy at an establishment must hold a current massage therapist license from the Sharon Board of Health.

(3) All massage therapists conducting massage at an establishment shall be deemed to be employees of the establishment and shall not be considered independent contractors.

(4) The establishment owner or operator shall submit a copy of the licenses of any newly employed massage therapists PRIOR TO their first date of practice employment to the Board of Health.

(5) The establishment owner or operator shall notify the Board of the termination of employment of any therapist working at the facility upon termination.

C. Equipment.

(1) All equipment and supplies used in the performance of massage shall be maintained in a safe and sanitary manner.

(2) Each establishment shall maintain a sufficient supply of clean drapes for the purpose of draping each client while the client is being massaged. As used herein drapes means towels, gowns, or sheets.

(3) If any latex containing products are used, a sign shall be conspicuously posted so stating and all clients shall be advised that latex containing products are used.

D. Operation

(1) The hours of operation can be from the hours of 6:00 a.m. to 11:00 p.m. or within those hours of the day.

(2) There shall be a person in charge in the establishment at all times, who shall be so designated by the owner. The person in charge shall be a manager or a therapist. This person shall be authorized to sign Board inspection forms and shall be responsible for the operation of the establishment in the absence of the owner.

(3) The owner is responsible to ascertain that all persons performing massage in his establishment shall be duly licensed by the Board. Violation of this requirement may result in suspension or revocation of the establishment license.

(4) Therapists shall maintain a sufficient level of personal cleanliness and wear clothing that is clean as determined by the Board. No person in an establishment, other than a client during a massage, shall be unclothed. No person working in an establishment shall wear attire that exposes any portion of the areola of the female breast or any portion of the pubic hair, cleft of the buttocks, or genitals.

(5) All tables and other cleanable surfaces that come into contact with clients shall be cleaned by the regular application of a cleanser and sanitized with an effective sanitizer. Regular application as used herein means a thorough cleansing of the massage table after each client or whenever oils, lotions, or other substances visibly accumulate on client contact surfaces.

(6) Each client shall receive a separate, clean covering for use on the massage table, such as sheets or towels.

(7) All re-usable sheets, towels, and other cloth materials used in the conduct of a massage shall be laundered offsite after each use.

(8) No alcoholic beverage may be served in any establishment.

(9) No person shall treat or be treated while infected with a disease in a communicable form that can be transmitted from person to person.

(10) No room or section of an establishment shall be used as a bedroom or for sleeping or

domicile.

(11) There shall be a safe and adequate supply of hot and cold running water at all times of operation.

§ 300-21.7. Sexual activity prohibited.

A. Sexual activity by any person or persons in any massage establishment or during an approved offsite event or home visit is prohibited. Sexual activity shall be presumed if there is a conviction of, plea of guilty for or no contest to a charge of criminal sexual activity, including, but not limited to, prostitution, rape and/or sexual assault.

B. No establishment owner or manager shall engage in or permit any person or persons to engage in sexual activity in such owner's establishment or use such establishment to make arrangements to engage in sexual activity in any other place. The owner shall take all needed measures to ensure that no sexual activity occurs in the establishment. All establishment owners are under a continuing duty to report to the Board any and all charges, convictions, pleas, or pleadings of no contest to sexual activity by any person licensed as a massage therapist who is working in their establishment.

C. No licensed therapist, who shall use the therapist-client relationship to solicit for or engage in sexual activity with any client or to make arrangements to engage in sexual activity with any client.

§ 300-21.8. General requirements for massage practitioners and establishments.

A. All licensees shall notify the Board of a change of name and/or address within 30 days.

B. All licenses are non-transferable.

C. All licenses shall be displayed in a location conspicuous to clients entering the establishment. A therapist may cover his home address on the permit; however the name must be conspicuous.

D. Establishment licenses may not be transferred to a different location. The Board must approve in writing any change of location, and a new license must be obtained from the Board.

E. All licensees shall notify the Board of any criminal complaint brought against him within seven days. Failure to do so may result in administrative revocation of licensure.

F. Any false statements or information presented to the Board shall be grounds for revocation of license.

§ 300-21.9. License renewals.

A. Establishment licenses.

(1) Establishment licenses expire on the 31st day of December each year.

(2) The owner shall submit a renewal application provided by the Board along with a check or money order in the amount required by the Board of Health on or before the

1st day of December each year.

(3) Any applications received one to 30 days after the renewal date shall be subject to a $25 late fee; 31 days or more following the renewal date shall be subject to a $50 late fee.

(4) An establishment's license shall be revoked administratively if the renewal application and fee are not received by 60 days following the expiration date of the license each year. Once a license has been revoked administratively and then reinstated upon payment of the required fees, the establishment must meet all of the requirements of these rules and regulations.

(5) Administratively revoked licenses may be reinstated upon meeting all renewal requirements.

B. Therapist licenses.

(1) Therapist licenses expire on the 31st day of December each year.

(2) The therapist shall submit a renewal application provided by the Board along with a check or money order in the amount required by the Board, plus the cost, if any, to the Town of Sharon, of obtaining a CORI back ground check on or before the 1st day of December each year. The renewal requires that all therapists licensed after the effective date of these regulations shall maintain certification with the National Certification Board for Therapeutic Massage and Bodywork, or equivalent organization.

(3) Any applications received received one to 30 days following the renewal date shall be subject to a $25 late fee; 31 days or more following the renewal date shall be subject to a $50 late fee.

(4) A therapist's license shall be administratively revoked if the renewal application and fee are not received by 60 days following the expiration date of the license each year.

(5) Administratively revoked licenses may be reinstated upon meeting all renewal requirements.

(6) A therapist license shall be considered retired if not renewed for one year. A retired license may not be renewed; an initial license must then be submitted to the Board.

(7) Therapists must demonstrate proof of ongoing continuing education.

§ 300-21.10. Advertising.

Establishment owners and therapists shall be mindful of professional ethics when placing advertisements. Advertising in periodicals and newspapers that appeal to prurient interests or advertising in a manner that uses sexual or provocative language and/or pictures to promote business may be construed as a breach of proper standards of massage practice.

§ 300-21.11. Inspections.

A. Establishments and applicants are subject to periodic inspections by the Board or its

authorized agent(s) during all business hours. Authorized agents shall include Board employees, Sharon Police Officers, and others appointed, in writing, by the Board of Health.

B. The purpose of inspections is to verify compliance with these regulations.

C. Denial of access by an agent of the Board shall result in administrative revocation of license.

D. The establishment licensee may be subject to disciplinary action, pursuant to § 300-21.12 below, when an inspection does not meet the standards and requirements set by these regulations or when the inspection reveals that the license of any employee has been suspended or revoked.

§ 300-21.12. Disciplinary orders, actions, and hearings.

A. License revocation or suspension: Upon a finding by the Board of Health that a licensee has violated any provisions of these regulations, the Board of Health may impose any of the following actions separately or in any combination which is deemed appropriate to the offense:

(1) Suspension of a licensee's right to practice or maintain an establishment for a fixed period of time. It contemplates reentry into practice under the license previously issued.

(2) Administrative revocation for failing to renew licensure in a timely manner. Licenses that have been administratively revoked may be reinstated upon meeting the renewal requirements of these regulations.

(3) Revocation for cause that terminates the license. The Board of Health, at its discretion, may allow reinstatement of a revoked license upon conditions and after a period of time it deems appropriate. Any person whose license has been revoked may not apply for licensure for at least one year unless otherwise stated in the Board's revocation order.

B. Orders.

(1) All orders shall be in writing.

(2) Orders shall be served on the licensee or licensee's agent as follows:

(a) By sending a copy of the order by certified mail, return receipt requested, or

(b) Personally, by any person authorized to serve civil process, or

(c) By posting a copy in a conspicuous place on or about the establishment.

C. Hearings.

(1) The person to whom any order or notice has been issued pursuant to violations of any provision of these regulations may request a hearing before the Board of Health. Such request shall be in writing and shall be filed with the Board within five working days of receipt of the order or notice. Upon receipt of such request, the Board of Health or

agent shall inform the petitioner thereof in writing of the time and place of said hearing, which shall be commenced within a reasonable time.

(2) At the hearing, the petitioner shall be given an opportunity to be heard, to challenge the inspection findings, and/or to show why the order should be modified or rescinded, or why the license should not be suspended or revoked. Any oral testimony given at a hearing shall be recorded electronically and shall be part of the licensees file.

(3) After the hearing, the Board shall make a final decision based upon the complete hearing record and shall inform the petitioner in writing of the decision. If the Board sustains or modifies an order, it shall be carried out within the time period allotted in the original order or in the modification.

(4) Every notice, order, decision or other record prepared by the Board in connection with the hearing shall be entered as a matter of public record in the Board.

D. Any person aggrieved by the final decision of the Board may seek relief in a court of competent jurisdiction.

§ 300-21.13. Penalties.

Criminal penalties, under MGL c. 111, § 31, any person who violates any provision of these regulations shall, upon conviction, be fined not more than $1,000 for violation of these regulations. Each day's failure to comply with an order of the Board shall constitute a separate offense.

§ 300-21.14. Variance.

A. The Board may vary the application of any provision of these regulations with respect to any particular case when, in the Board's opinion, the enforcement thereof would do manifest injustice; provided that the decision of the Board shall not conflict with the intent and spirit of the regulations.

B. A request for a variance shall be submitted in writing. The Board may ask for supporting evidence in order to consider the variance request. The request shall not be deemed complete until all such requested evidence has been received by the Board.

C. Any variance granted under this section may be subject to such qualification, revocation, suspension or expiration as the Board expresses in the grant of the variance. A variance granted may 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 § 300-21.12 of these regulations.

D. Any variance granted by the Board shall be in writing. A copy of any such variance, while it is in effect, shall be available to the public at all reasonable hours in the office of the Board. A copy of the variance shall also be on file in the usual place of practice of the therapist.

~~**§ 300-21.15. Effective date.**~~

~~These regulations shall take effect immediately after notification has been published in a local newspaper. These revised regulations were adopted by the Board of Health at a scheduled Board of Health meeting on May 22, 2006. Those practitioners and establishments licensed as of the effective date of these regulations must comply with all terms of this regulation by not later than December 31, 2007; otherwise, they will not be re-licensed until they fully comply with the regulation. Any therapists or establishments not licensed as of the effective date of these regulations will be required to comply fully with these regulations prior to obtaining licensure from the Board.~~

~~**§ 300-21.16. Severability.**~~

~~If any section, subsection, sentence, clause, phrase, heading, or any portion of these regulations is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such provisions and such holding shall not affect the validity of the remaining portions thereof.~~

ARTICLE 22A

Regulation Affecting Youth Access to Tobacco and Nicotine Delivery Products, and the Sale, Vending and Distribution

[Amended 1-26-2004; 9-13-2004; 3-13-2006; 1-29-2007; 12-2012]

§ 300-22A.1. Statement of purpose.

A. Whereas there exists conclusive evidence that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat; and whereas more than 80% of all smokers begin smoking before the age of 18 years (Centers for Disease Control and Prevention, "Youth Surveillance-United States 2000," 50 MMWR 1 (Nov. 2000); and whereas nationally in 2000, 60% of middle school age children who smoke at least once a month were not asked to show proof of age when purchasing cigarettes (Id.); and whereas youths could not actually purchase tobacco for themselves, friends who had reached 18 years were the major social sources of tobacco for high school students ("Sources of Tobacco for Youths in Communities with Strong Enforcement of Youth Access Laws", 10 TOBACCO CONTROL 323 (Dec. 2001)); and whereas the U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin; and whereas despite state laws prohibiting the sale of tobacco products to minors, access by minors to tobacco products is a major problem.

B. Whereas non-residential Roll Your Own (RYO) machines enable loose, unpackaged tobacco to be poured into a machine and placed into empty, unpackaged cigarette tubes to be inhaled by individuals who smoke them. This procedure provides risk of contamination of the tobacco and unsanitary conditions in the machine and is injurious to public health; whereas non-residential Roll Your Own (RYO) machines located in retail stores enable retailers to sell cigarettes without paying the federal and state excise taxes that are imposed on conventionally manufactured cigarettes (RYO FILLING STATION, www.ryofillingstation.com (Feb 27, 2012). High excise taxes encourage adult smokers to quit and deter youth from starting (Kenneth E. Warner, Smoking and Health Implications of a Change in the Federal Cigarette Excise Tax, 255 J. AM. MED. Association 1028 (1986), Frank J. Chaloupka & Rosalie Liccardo Pacula, The Impact of Price on Youth

Tobacco Use, In 14 Smoking and Tobacco Control Monographs: Changing Adolescent Smoking Prevalence 193 (U.S. Dept Health and Human Service et al, eds 2001)). Therefore, in expensive cigarettes, like those produced from RYO machines, promote the use of tobacco, resulting in a negative impact on public health and increased health care costs, and severely undercut the evidence-based public health benefit of imposing high excise taxes on tobacco; now, therefore it is the intention of the Sharon Board of Health to regulate the access of tobacco and nicotine delivery products.

§ 300-22A.2. Authority.

This regulation is promulgated pursuant to the authority granted to the Sharon Board of Health by MGL c. 111, § 31, that "Boards of Health may make reasonable health regulations."

§ 300-22A.3. Definitions.

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

BUSINESS AGENT — An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

CIGAR — Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco without a tip or mouthpiece not otherwise defined as a cigarette under MGL c. 64C, § 1, Paragraph 1.

E-CIGARETTE — Any electronic nicotine delivery product composed of a mouthpiece, heating element, battery and/or electronic circuits that provides a vapor of liquid nicotine to the user, or relies on vaporization of solid nicotine or any liquid. This term shall include any devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

EMPLOYEE — Any individual who performs services for an employer.

EMPLOYER — Any individual, partnership, association, corporation, trust or other organized group, including Sharon or any agency thereof, which uses the services of one or more employees.

ESTABLISHMENT — A place of business, whether for profit or non-profit.

MINOR — An individual under the age of 21.

NICOTINE DELIVERY PRODUCT — Any manufactured article of product made wholly or in part of a tobacco substitute or containing nicotine that is expected or intended for human consumption, but not including a tobacco substitute prescribed by a licensed physician or a product that has been approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose. Nicotine Delivery Product includes, but is not limited to, e-cigarettes.

NON RESIDENTIAL ROLL YOUR OWN(RYO) MACHINE — A mechanical device, made available for use (including to an individual who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll your own tobacco solely for the individuals own personal consumption or use) that is capable of making cigarettes, cigars or other tobacco products. RYO machines

located in private homes used for solely personal consumption are not Non Residential RYO machines.

PERMIT HOLDER — Any person engaged in the sale or distribution of tobacco products or nicotine delivery products directly to consumers who applies for and receives a tobacco product and nicotine delivery product sales permit or any person who is required to apply for a tobacco and nicotine delivery product sales permit pursuant to these regulations, or his or her business agent.

RETAIL TOBACCO STORE — An establishment which is not required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the age of 18 is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required, issued by the Sharon Board of Health.

SELF SERVICE DISPLAY — Any display from which customers may select or make a Tobacco Product or Nicotine Delivery Product without assistance from an employee or store personnel.

TOBACCO PRODUCT — Cigarettes, cigars, chewing tobacco, pipe tobacco, bidis, snuff or tobacco in any of its forms.

VENDING MACHINES — Any automated or mechanical self-service device, which upon insertion of money, tokens or other form or payment, dispenses or makes cigarettes and any other Tobacco Product or Nicotine Delivery Product.

§ 300-22A.4. Tobacco and nicotine delivery product sales permit.

A. No person shall sell or otherwise distribute Tobacco Products or Nicotine Delivery Products at retail within Sharon without first obtaining a Tobacco and Nicotine Delivery Sales Permit issued annually by the Sharon Board of Health.

B. Only owners of Establishments with a permanent, non-mobile location are eligible to apply for licensure.

C. As part of the permit application process, the potential applicant will be provided with the Sharon Board of Health Regulation. The applicant is responsible for ensuring that all employees are educated on all local and state laws regarding the sale of these products, and must sign a statement declaring that the applicant is aware of this obligation.

D. Each applicant who sells or intends to sell tobacco is required to provide proof of a current tobacco sales license issued by the Massachusetts Department of Revenue.

E. The fee for a Tobacco and Nicotine Delivery Product Sales Permit shall be determined by the Sharon Board of Health annually. All permits must be renewed annually by November 30th.

F. Each Tobacco and Nicotine Delivery Product Sales Permit must be displayed at the Establishment in a conspicuous location.

G. The Tobacco and Nicotine Delivery Product Sales Permit is non-transferable. A new owner

of an Establishment must apply for a new permit.

§ 300-22A.5. Required signage.

A. In conformance with and in addition to MGL c. 270, § 7, a copy of MGL c. 270, § 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be provided by the Massachusetts Department of Public Health and made available from the Sharon Board of Health. The notice shall be at least 48 square inches and shall be posted conspicuously by the permit holder in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four feet or greater than nine feet from the floor. The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post any additional signs required by the Massachusetts Department of Public Health.

B. The owner or other person in charge of an Establishment or other place used to sell Tobacco products at retail shall conspicuously post signage provided by the Sharon Health Department that discloses current referral information about smoking cessation.

C. The owner or other person in charge of an Establishment or other place used to sell Nicotine Delivery Products at retail shall conspicuously post a sign stating that "The sale of nicotine delivery products to minors under 21 years of age is prohibited." The owner or other person in charge of a shop or other place used to sell Nicotine Delivery Products at retail shall conspicuously post a sign stating that "The use of e-cigarettes at indoor establishments is prohibited by the Sharon Board of Health." The notices shall be no smaller than 8.5 inches by 11 inches and shall be posted conspicuously in the retail Establishment or other place in such a manner so that they may be readily seen by a person standing at or approaching the cash register. These notices shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four feet of greater than nine feet from the floor.

D. Identification: Any person selling or distributing Tobacco Products or Nicotine Delivery Products shall verify the age of the purchaser by means of valid government issued photographic identification containing the bearer's date of birth that the purchaser is 21 years old or older. Verification is required for any person under the age of 27.

E. All retail sales of Tobacco or Nicotine Delivery Products must be face to face between the seller and the buyer.

§ 300-22A.6. Prohibited activities.

A. Self Service Displays are prohibited.

B. Non Residential Roll Your Own Machines are Prohibited.

C. Vending Machines are prohibited.

D. Free distribution: No person shall distribute, or cause to be distributed, any free samples of Tobacco Products or Nicotine Delivery Products.

E. Out of package sales: No person shall sell or cause to be sold, or distribute any cigarette package that contains fewer than 20 cigarettes including single cigarettes.

F. Tobacco and nicotine delivery product sales to minors prohibited: No person shall sell Tobacco Products or Nicotine Delivery Products or permit Tobacco Products or Nicotine Delivery Products to be sold to a minor; or give Tobacco Products or Nicotine Delivery Products to a minor if not the minor's parent or legal guardian. The Sharon Board of Health may suspend or revoke the Tobacco and Nicotine Delivery Product Sales Permit if the Board finds that a sale to a minor occurred.

§ 300-22A.7. Violations and enforcement.

A. Responsibility and compliance. It shall be the responsibility of the Establishment, permit holder and/or business agent to ensure compliance with all sections of this regulation pertaining to his or her distribution of tobacco and or nicotine products.

B. Non-criminal disposition:

(1) Whoever violates any provision of this regulation may be penalized by the non-criminal method of disposition as provided in MGL c. 40, § 21D or by filing a criminal complaint at the appropriate venue.

(2) Each day any violation exists shall be deemed a separate offense.

C. Fines: Any permit holder found to have violated these regulations shall receive:

(1) In the case of a first violation, a fine of $100.

(2) In the case of a second violation within 24 months of the date of the current violation, a fine of $200 and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for seven consecutive business days.

(3) In the case of three violations within a twenty-four-month period, a fine of $300 and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for 30 consecutive business days.

(4) In the case of a fourth or subsequent violation occurring within a twenty-four-month period, a fine of $300 shall be assessed and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for 30 consecutive business days or revoked.

D. Cooperation with inspections: Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the Tobacco and Nicotine Delivery Product Sales Permit for 30 consecutive business days.

E. Sale of distribution during suspension or after revocation of permit: In addition to the monetary fines set above, any permit holder who engages in the sales or distribution of Tobacco or Nicotine Delivery Products directly to a consumer while his or her permit is suspended or revoked shall be subject to the suspension of all Board of Health issued permits for up to 30 consecutive business days and shall be subject to a fine of $300 for each day a sale occurs.

F. Hearings: The Sharon Board of Health shall provide notice of the intent to suspend or

revoke a Tobacco and Nicotine Delivery Product Sales Permit, which notice shall contain the reasons therefore and establish a time and date for a hearing which shall be no earlier than seven days after the date of said notice. The Permit Holder or its Business Agent shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision and the reasons therefore in writing. After a hearing, the Sharon Health Department shall suspend or revoke the Tobacco and Nicotine Delivery Product Sales Permit if the Board finds that a sale to a minor occurred or if multiple violations occurred as set forth above. For purposes for a suspension, the Board of Health shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense.

G. Removal of products. If a permit is suspended, all Tobacco Products and Nicotine Delivery Products shall be removed from the retail Establishment or be placed in boxes that are sealed and moved out of the public area of the Establishment to a separate room that is accessible only to employees. All Tobacco Products shall be removed from the Establishment upon revocation of a Tobacco and Nicotine Delivery Product Sales Permit. Failure to remove all Tobacco and Nicotine Delivery Products shall constitute a separate violation of this regulation.

H. Enforcing authority and complaints.

(1) Enforcement of this regulation shall be by the Board of Health of Sharon or its designated agents.

(2) Any citizen who desired to register a complaint pursuant to the regulation may do so by contacting the Sharon Health Department and the complaint will be investigated.

I. Additional remedies: In addition to the remedies set forth above, the Board of Health may seek civil or criminal enforcement of these regulations in the appropriate Court of law.

§ 300-22A.8. 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.

§ 300-22A.9. When effective.

This regulation shall take effect 30 days after the date of publication of a summary of this regulation. This regulation shall supplant, in its entirety, the "Article 22 Regulation Affecting Smoking, Youth Access to Tobacco and the Sale, Vending and Distribution of Tobacco."

ARTICLE 22B

Regulation Prohibiting Smoking in Workplaces, Public Places and Membership Associations

§ 300-22B.1. Statement of purpose.

"Whereas conclusive evidence exists that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose, and throat; and whereas the harmful effects of tobacco smoke are not confined to smokers but also cause severe discomfort and illness to nonsmokers; and whereas environmental tobacco smoke [ETS], which includes

both exhaled smoke and the side stream smoke from burning tobacco products, causes the death of 53,000 Americans each year (McGinnis JM, Foege W, 'Actual Causes of Death in the United States', JAMA 1993 270:2207-2212); and whereas the U.S. Environmental Protection Agency classified secondhand smoke as a known human carcinogen and the International Agency for Research on Cancer (IARC) of the World Health Organization also classified secondhand smoke as a known human carcinogen (IARC-WHO, 2002); now, therefore the Board of Health of Sharon recognizes the right of those who wish to breathe smoke free air and establishes this regulation to protect and improve public health and welfare by prohibiting smoking in workplaces, public places and membership associations.

§ 300-22B.2. Authority.

This regulation is promulgated pursuant to the authority granted to the Sharon Board of Health by MGL c. 111, § 31, that "Boards of Health may make reasonable health regulations." It is also stated that promulgated pursuant to MGL c. 270, § 22(j) which states in part that 'nothing in this section shall permit smoking in an area in which smoking is or may hereafter be prohibited by law including, without limitation; any other law or. . .health. . .regulation. Nothing in this section shall preempt further limitation of smoking by the commonwealth...or political subdivision of the commonwealth."

§ 300-22B.3. Definitions.

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

BUSINESS AGENT — An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

COMPENSATION — Money, gratuity, privilege, or benefit received from an employer in return for work performed or services rendered.

E-CIGARETTE — Any electronic nicotine delivery product composed of a mouthpiece, heating element, battery and/or electronic circuits that provides a vapor of liquid nicotine to the user, or relies on vaporization of solid nicotine or any liquid. This term shall include any devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

EMPLOYEE — Any individual who performs services for compensation for an employer at the employer's workplace, including contract employee, temporary employee, and independent contractor who performs a service in the employer's workplace for more than a de minimus amount of time.

EMPLOYER — Any individual, partnership, association, corporation, trust or other organized group, including Sharon or any agency thereof, which uses the services of one or more employees

ENCLOSED — A space bounded by walls, with or without windows or fenestrations, continuous from floor to ceiling and enclosed by one or more doors, including, but not limited to, an office, function room or hallway.

MEMBERSHIP ASSOCIATION — A not for profit entity that has been established and operates for charitable, philanthropic, civic, social, benevolent, educational, religious, athletic,

recreation or similar purpose, and is comprised of members who collectively belong to: (i) a society, organization or association of a fraternal nature that operates under the lodge system, and having one or more affiliated chapters or branches incorporated in any state; or (ii) a corporation organized under MGL Chapter 180; or (iii) an established religious place of worship or instruction in the commonwealth whose real or personal property is exempt from taxation; or (iv) a veteran's organization incorporated or chartered by the Congress of the United States, or otherwise having one or more affiliated chapters or branches incorporated in any state. Except for a religious place of worship or instruction, an entity shall not be a membership association for the purpose of this definition, unless individual membership containing not less than full membership costs and benefits is required for all members of the association for a period of not less than 90 days.

OUTDOOR SPACE — An outdoor area, open to the air at all times and cannot be enclosed by a wall or side covering.

PERSON — Any individual firm, partnership, association, corporation, company or organization of any kind including, but not limited to an owner, operator, manager, proprietor or person in charge of any building, establishment, business, or restaurant or retail store, or the business agents or designees of any of the foregoing.

RETAIL TOBACCO STORE — An establishment which is not required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the age of 18 is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required, issued by the Sharon Board of Health.

SMOKING (OR SMOKE) — The lighting of a cigar, cigarette, pipe or other tobacco product or possessing a lighted cigar, cigarette, pipe or other tobacco or non-tobacco product designed to be combusted and inhaled.

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

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

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

§ 300-22B.4. Smoking prohibited.

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

B. Smoking is hereby prohibited in Sharon in accordance with the MGL c. 270, § 22 (commonly known as the "Smoke-Free Workplace Law.)

C. Pursuant to MGL c. 270, § 22(j), smoking is also hereby prohibited in the enclosed areas of membership associations, also known as private clubs.

D. The use of e-cigarettes is prohibited wherever smoking is prohibited per MGL c. 270, § 22.

E. Smoking is prohibited within eight feet of any entrance to any workplace.

§ 300-22B.5. Posting notice of prohibition.

Every membership association in which smoking is prohibited by and under the authority of this regulation shall conspicuously display on the premises 'No Smoking' signs provided by the Massachusetts Department of Public Health and available from the Sharon Board of Health or the international 'No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) and comparable in size to the sign provided by the Massachusetts Department of Public Health and available at the Sharon Health Department.

§ 300-22B.6. Enforcement.

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

   (1) One hundred dollars for the first violation.

   (2) Two hundred dollars for a second violation occurring within two years of the date of the first offense; and

   (3) Three hundred dollars for a third or subsequent violation occurring within two years of the second violation.

B. Each calendar day on which a violation occurs shall be considered a separate offense.

C. This regulation shall be enforced by the Board of Health and its designees.

D. Violations of § 300-22B.4B shall be disposed of by a civil penalty using the non-criminal method of disposition procedures contained in Section 21D of Chapter 40 of M.G.L. without an enabling ordinance or bylaw. The disposition of fines assessed shall be subject to Section 188 of Chapter 111.

E. Violations of § 300-22B.5A, C, D and E may be disposed of by a civil penalty using the non-criminal method of disposition procedures contained in MGL c. 40, § 21D.

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

G. Any person may register a complaint to initiate an investigation and enforcement with the Board of health, the local inspection department or the equivalent.

§ 300-22B.7. Severability.

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

§ 300-22B.8. Conflict with other laws or regulations.

Notwithstanding the provisions of § 300-22B.4 of this regulation, nothing in this regulation shall be deemed to amend or repeal applicable fire, health or other regulations so as to permit smoking in areas where it is prohibited by such fire, health or other regulations.

§ 300-22B.9. Effective date.

This regulation shall take effect 30 days after the date of publication of a summary of this regulation.

ARTICLE 23
Regulation Regarding Floor Drains
[Adopted 1-5-1998]

§ 300-23.1. 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 system to the ground; and Discharges of hazardous wastes and other pollutants to floor drains leading to leaching structures and septic systems have repeatedly threatened surface and ground water quality throughout Massachusetts; and Surface and ground water resources in the Town of Sharon contribute to the Town's drinking water supplies; the Town of Sharon adopts the following regulation, under its authority as specified in § 300-23.2, as a preventative measure for the purposes of:

A. Preserving and protecting the Town of Sharon's drinking water resources from discharges of pollutants to the ground via floor drains, and

B. Minimizing the threat of economic losses to the Town due to such discharges.

§ 300-23.2. Scope of authority.

The Town of Sharon Board of Health adopts the following regulation pursuant to authorization granted by MGL c. 111, §§ 31 and 122. The regulation shall apply, as specified herein, to all applicable facilities, existing and new, within the Zone II areas of protection around the drinking water resources of the Town of Sharon, and all sites within the boundaries of the Town of Sharon.

§ 300-23.3. 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 (MDEP).

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 of a floor drain 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 MATERIAL — Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water of the Town of Sharon. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as Toxic or Hazardous under Massachusetts General Laws (MGL) Chapter 21 C and 21 E 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 AND HAZARDOUS MATERIAL — The handling, generation, treatment, storage, or management of toxic or hazardous materials.

§ 300-23.4. 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 drains(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.

§ 300-23.5. 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 § 300-23.4) 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 Sharon Board of Health at the time of hauling;

(b) Connected to a municipal sanitary sewer line, if available, with all applicable Department and local permits; or

(c) Permanently sealed. (Any facility sealing a drain shall be required to submit for approval to the 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. Any oil/water separator remaining in use shall be monitored weekly, cleaned not less than every 90 days, and restored to proper conditions after cleaning so as to ensure proper functioning. Records of the hauling of the removed contents of the separator shall be submitted to the Board of Health at the time of hauling.

C. Compliance with all provisions of this regulation must be accomplished in a manner consistent with Massachusetts Plumbing, Building, and Fire code requirements.

D. Upon complying with one of the options listed under Subsection A(3), the owner/operator of the facility shall notify the Department of the closure of said system by filing the

Department's UIC Notification Form ~~which may be obtained by calling 617-292-5770)~~ with the Department, and sending a copy to the Sharon Board of Health.

§ 300-23.6. Effective dates for all facilities.

The effective date of this regulation is the date posted on the front page of the regulation, January 5, 1998.~~, which shall be identical to the date of adoption of the regulation.~~

A. Existing facilities:

(1) Owners/Operators of a facility affected by this regulation shall comply with all of its provisions within 120 days of the effective date, or within 30 days of discovery of a non-compliant floor drain. ~~;~~

(2) All applicable discharges to the leaching structures and septic systems shall be discontinued immediately through temporary isolation or sealing of the floor drain.

B. New facilities:

(1) As of the effective date of the regulation, all new construction and/or applicable change of use within the Town of Sharon 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 § 300-23.5B.

§ 300-23.7. Penalties.

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 day's failure to comply with the provisions of this regulation shall constitute a separate violation.

NOTE: Effective 1992, maximum fines for health violations increased. Under MGL c. 111, § 31 (violation of health regulation) maximum increased from $500 to $1,000 and MGL c. 111, § 122 (violation of nuisance regulations) maximum increased from $100 to $1,000.

§ 300-23.8. 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 reasons, the remainder of that section and all other sections shall continue in full force and effect.

ARTICLE 24
Rules and Regulations for Body Art Establishments and Practitioners
[Adopted 3-21-2001, effective 5-6-2001; amended 1-27-2003]

§ 300-24.1. Rationale.

A. The Sharon Board of Health is promulgating rules and regulations which provide minimum

requirements to be met by any person performing Body Art activities for hire upon another individual and for any establishment wherein Body Art activities are to be performed. These requirements include, but are not limited to, requirements concerning the general sanitation of the establishment wherein Body Art activities are to be performed and the sterilization of instruments to be used in the conduct of Body Art. The Sharon Board of Health has determined that these rules and regulations are necessary to protect the public's health by preventing disease, including, but not limited to, the transmission of hepatitis B and/or human immunodeficiency virus (HIV/AIDS).

B. In addition, this Regulation establishes a requirement for registration and a procedure for the registration with the Sharon Board of Health of all persons performing such Body Art activities, a requirement for minimal training standards for such practitioners including requirements for the prevention of disease transmission and for knowledge of anatomy and physiology. Provisions for the regular inspection of establishments wherein Body Art activities are to be performed and for revocation of the registration of any person or establishment deemed in violation of the rules and regulations promulgated under this Regulation, or for other means of enforcement of the provisions of this Regulation.

C. This Regulation provides for an annual fee to be paid by a person and establishment registered under this Regulation. This fee is intended to help defray the cost to the Board of Health of the administration of the requirements of this Regulation.

§ 300-24.2. Authority.

These regulations are promulgated under the authority granted to the Board of Health under MGL c. 111, § 31.

§ 300-24.3. Definitions.

AFTERCARE — 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 — Any person who applies to the Board of Health for either a body art establishment permit or practitioner permit.

AUTOCLAVE — An apparatus for sterilization utilizing steam pressure at a specific temperature over a period of time.

AUTOCLAVING — 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 30 minutes at 20 pounds of pressure (PSI) at a temperature of 270° F.

BLOODBORNE PATHOGENS STANDARD — OSHA Guidelines contained in 29 CFR 1910.1030, entitled "Occupational Exposure to Bloodborne Pathogens."

BOARD OF HEALTH OR BOARD — 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 — 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 — 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 — 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 — Puncturing or penetrating the skin of a client with presterilized single-use needles and the insertion of presterilized 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 — 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 — 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 — 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 — A member of the public who requests a body art procedure at a body art establishment.

CONTAMINATED WASTE — 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 — A product registered as a disinfectant by the U.S. Environmental Protection Agency (EPA).

DISINFECTION — The destruction of disease-causing microorganisms on inan-imate objects or surfaces, thereby rendering these objects safe for use or handling.

EAR PIERCING — 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 — 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 — An event whereby there is an eye, mouth or other mucus membrane, non-intact skin or parental contact with the blood or bodily fluids of another person or contact of an eye, mouth or other mucous membrane, non-intact skin or parenteral contact with other potentially infectious matter.

HAND SINK — 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 — WATER THAT ATTAINS AND MAINTAINS A TEMPERATURE 110° — 130° F.

INSTRUMENTS USED FOR BODY ART — 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 — 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 — 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 — A light reflectance value of 70% or greater.

MINOR — Any person under the age of 18 years.

MOBILE BODY ART ESTABLISHMENT — 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 whereat one desires to or actually does conduct body art procedures.

OPERATOR — Any person who individually, or jointly or severally with others, owns, or controls an establishment, but is not a body art practitioner.

PERMIT — 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 — 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 — An individual licensed as a qualified physician by the Board of Registration in Medicine pursuant to MGL c. 112, § 2.

PROCEDURE SURFACE — 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 — Clean and free of agents of infection or disease.

SANITIZE — The application of a U.S. EPA registered sanitizer on a cleaned surface in accordance with the label instructions.

SCARIFICATION — 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 — 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 — 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 — 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 — The use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

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

TATTOOING — 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 — The same as Mobile Body Art Establishment.

THREE DIMENSIONAL "3D" BODY ART OR BEADING OR IMPLANTATION — 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 — 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 — 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.

§ 300-24.4. 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.

§ 300-24.5. 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. No body art shall be performed upon an animal.

D. 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.

E. The following practices 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.

F. Cosmetic tattooing, also known as permanent cosmetics, micro pigment implantation or dermal pigmentation, is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts or such other person that receives a license, permit, or registration by the Commonwealth of Massachusetts specifically to perform such

activities.

G. If a person obtains such a license, permit or registration from the Commonwealth, such person may conduct such Body Art activity provided all requirements of this Body Art Ordinance are met.

§ 300-24.6. 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 a dividers or 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 three 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) protected 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, leakproof, 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 nonprocedural 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.

(18) In accordance with 310 CMR 15.004(5), ..."Nothing contained in 310 CMR 15.000 (of the State Environmental Code Title V) shall be construed to authorize or grandfather the discharge of effluent other than sanitary sewage to an on-site system.

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 sterile 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 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 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 repackaging 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 Phone number of the Sharon Board of Health.

(3) An Emergency Plan, including:

(a) A plan for the purpose of contacting police, fire or emergency medical services in 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) An 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 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) Exposure incident report (kept permanently);

(j) 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 phone numbers;

(e) Identification photograph;

(f) Dates of employment;

(g) Hepatitis B vaccination status or declination notification; and

(h) Training records

(3) Client Information, which shall include:

(a) Name;

(b) Age and valid photo identification

(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); and,

(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.

(i) 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 Bloodborne 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.

(5) No person shall establish or operate a Mobile or Temporary Body Art Establishment.

§ 300-24.7. 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 § 300-24.7K.

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 Subsection 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 handwashing 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 that 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.

(1) The written instructions shall advise the client:

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

(b) To consult a health care provider for:

[1] Unexpected redness, tenderness or swelling at the site of the body art procedure;

[2] Any rash;

[3] Unexpected drainage at or from the site of the body art procedure; or

[4] A fever within 24 hours of the body art procedure; and

(2) Of the address, and phone 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 in accordance with 105 CMR 480.000: Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waster, State Sanitary Code, Chapter VIII.

§ 300-24.8. Exposure incident report.

A. An Exposure Incident Report shall be completed by the close of the business day during which an exposure has or might have taken place by the involved or knowledgeable body art practitioner for every exposure incident occurring in the conduct of any body art activity.

B. Each Exposure Incident Report shall contain:

(1) A copy of the application and consent form for body art activity completed by any client or minor client involved in the exposure incident;

(2) A full description of the exposure incident, including the portion of the body involved therein;

(3) Instrument(s) or other equipment implicated;

(4) A copy of body art practitioner license of the involved body art practitioner;

(5) Date and time of exposure;

(6) A copy of any medical history released to the body art establishment or body art practitioner; and

(7) Information regarding any recommendation to refer to a physician or waiver to consult a physician by persons involved.

§ 300-24.9. 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.

§ 300-24.10. 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.

§ 300-24.11. 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 for no longer than one year unless revoked sooner by the Board.

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) Exposure Report Plan.

(6) Such additional information as the Board may reasonably require.

E. The Board shall set a reasonable annual fee for the Body Art Establishment Permit.

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

another.

§ 300-24.12. Town Clerk - registration.

The requirements of this Regulation to obtain a Body Art Practitioner Permit and a Body Art Establishment Permit are separate from and in addition to the requirements of MGL c. 110, § 5. An applicant for a Body Art Establishment Permit must comply with the requirements of MGL c. 110, § 5. Prior to the issuance of a Body Art Establishment Permit an applicant therefore must demonstrate to the Department compliance therewith by way of presentment to the Department of the original of the business certificate issued by the Town Clerk under the provisions of said MGL c.110, § 5.

§ 300-24.13. 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 Board shall set a reasonable fee for such permits.

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 no later than one year from the date of issuance unless revoked sooner by the Board.

D. Application for a practitioner permit shall include:

(1) Name;

(2) Date of birth;

(3) Residence address;

(4) Mailing address;

(5) Phone number;

(6) Place(s) of employment as a practitioner; and

(7) Training and/or experience as set out in Subsection 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) Bloodborne pathogen training program (or equivalent) which includes infectious disease control; waste disposal; handwashing 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) The applicant for a body piercing practitioner permit shall provide documentation, acceptable to the Board, that s/he 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 a tattoo, branding or scarification practitioner permit shall provide documentation, acceptable to the Board, that s/he 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). Such other course or program as the Board shall deem appropriate and acceptable may be substituted for the anatomy course.

(5) 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.

§ 300-24.14. 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 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 days subject to the procedure outlined in § 300-24.15.

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

§ 300-24.15. 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.

§ 300-24.16. Procedure for hearings.

A. 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.

B. In the case of a suspension of a permit as noted in § 300-24.13, a hearing shall be scheduled no later than 21 days from the date of the suspension.

§ 300-24.17. 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.

§ 300-24.18. Fine for violation.

The fine for a violation of any provision of these Rules and Regulations shall be $100 per offense. Each day that a violation continues shall be deemed to be a separate offense.

§ 300-24.19. Effective date.

These rules and regulations shall be effective as of 30 days after the date of publication of a summary of the regulation.

ARTICLE 25
Operation of Manicuring Salons Providing Artificial Nail Services
[Adopted 2-24-2003; amended 3-7-2005]

§ 300-25.1. Purpose and authority.

The Sharon Board of Health finds it necessary to issue permits for the practice of nail enhancement in order to protect the public health and safety and fulfill its statutory authority and responsibility to protect workers and clients of artificial nail salons from toxics substances such as, but not limited to; Acetone, Toluene, Methacrylic Acid (MMA), Ethyl Methacrylate (EMA), Ethyl Cyanoaclic, Formaldehydes, Benzoyl Peroxide, and other chemicals which can be absorbed through the skin, eyes, and nails and by inhalation. It is the Board of Health's intent that only individuals and facilities which meet and maintain minimum standards of competence and conduct may provide such services to the public. The intent of the promulgation of these regulations is not to conflict with 240 CMR 1.00 - 7.00 Board of Registration of Cosmetology Regulations. Rather, these regulations are intended to supplement 240 CMR 1.00 - 7.00 with more stringent standards where necessary to protect the public health. The following regulations apply only to salons providing the services of artificial nails and sculptured nails. These regulations are adopted pursuant to the provisions of MGL c. 111, §§ 5 and 31.

§ 300-25.2. Definitions.

For the purpose of these Artificial Nail Salon Regulations, the following terms shall have the following meanings, unless the context clearly requires otherwise.

ARTIFICIAL NAILS — The application and removal of sculptured, non-human, or non-natural nails at a manicuring salon.

B.O.H. — Board of Health.

BOARD OF HEALTH — The Sharon Board of Health and/or any person authorized to act as their agent.

BREATHING ZONE — Area around the mouth and nose from which a person inhales air.

DISINFECTANT — The chemical or physical agent used in the disinfection process.

DISINFECTION — A process that prevents infection by killing pathogens. Usually applies to a chemical or physical process that kills the vegetative forms of bacteria.

DUST MASKS — Devices worn over the nose and mouth to prevent inhalation of dust created by filing. Dust masks offer no protection against dangerous vapors and mists. They shall not be substituted for proper ventilation.

ESTABLISHMENT — Manicuring Salon.

IMPLEMENT — Any instrument, either disposable or reusable, used in the practice of

manicuring.

LICENSE — A license issued by the Board of Cosmetology, to operate a manicuring salon.

LOCAL EXHAUST — An exhaust device that captures vapors, mists, and dusts at the source and expels them from the breathing zone. Local exhaust consists of a hose or tube which is moveable and can be placed at the source of the contaminant. Local exhaust is intended to remove the contaminants at the source and prevent them from reaching the breathing zone.

MANICURING — The act of cutting, shaping, polishing, or enhancing the appearance of the nails of the hands or feet. The application of these regulations is limited to the application and removal of sculptured or artificial nails.

MANICURING SALON — Any establishment, room, group of rooms, office building, place of business, or premises where manicuring services are performed by a professional or student/apprentice practitioner with or without monetary compensation.

NON SANITARY SEWAGE — Liquid waste discharge from any source other than domestic, commercial, and other non-industrial sources. For the purpose of these regulations, this includes any discharge containing chemicals, solutions, or solid waste created by, or used in, the process of the application, removal, or sculpturing of artificial nails.

PERMIT — A permit to operate a manicuring salon will be issued by the Sharon Board of Health only after the pertinent sections of 240 CMR 3.00-7.00 are met.

SALON — Manicuring Salon.

SANITIZE — Reduction of the number of pathogenic contaminants to safe levels as judged by public health requirements.

VENTILATION — Introduction and circulation of fresh air while simultaneously replacing foul air. Filtration devices shall not be substituted for ventilation.

§ 300-25.3. Board of Health permit, application, and fees.

A. No salon shall engage in the practice of providing artificial nails in the Town of Sharon prior to receiving a permit from the Sharon Board of Health.

B. The Board of Health will not process an application until.

   (1) All pertinent provisions of 240 CMR 3.00-7.00 are met:

   (2) All licenses are obtained as defined in 240 CMR 3.00 - 7.00.

C. All applications must be submitted on a form approved by the Sharon Board of Health and be accompanied by a fee determined by the Board.

D. The Board of Health will not issue a permit until a satisfactory inspection of the facility is conducted by a Board of Health representative.

E. All permits shall be for a maximum time of one year and expire on December 31 of the year issued.

F. All Permit renewal applications must be submitted to the Board of Health a minimum of 30

days prior to expiration of the existing permit. Permits are not transferable to another owner, manager, person or location.

§ 300-25.4. Standards of establishments.

A. All toxic substances used in manicuring must be properly stored and labeled. This includes chemicals that have been removed from their original containers.

(1) Material Safety Data Sheets (MSDS) must be kept on site for every chemical used in the salon and be readily available for review by the Board of Health, clientele, workers, and citizens.

(2) All chemicals shall be covered when not in use, including between uses.

(3) Whenever possible, dispensers with as small an opening as feasible should be used.

(4) Every container, regardless of size, must be labeled with the name of the chemical and the percent concentration.

B. Covered waste receptacles: Must be provided at every work station and emptied at least once per day.

C. Disposal methods: all liquid wastes from the manicuring process are considered non sanitary sewage, and must be stored and disposed of as hazardous waste. Disposal of non-sanitary sewage to the ground or to the facility's septic system is prohibited.

D. Eyewash stations: At least one eyewash station must be readily available in all nail salons.

(1) It must be located within a 10 second walk or 100 feet of any potential hazard. It must be visible and in good working order, allow hands free operation and provide dual eye flushing.

(2) The eyewash station must meet ANSI Z358.1 1990 (or revised) eyewash requirements. Use of squirt bottles is not allowed.

(3) If chemicals come in contact with the eyes of a technician or a client, they must immediately call 911 and flood the affected eye(s) with cool or tepid water for 15 minutes while holding the eyelid open.

E. Ventilation: Every salon shall meet the following ventilation requirements:

(1) Every shop shall be provided with adequate ventilation which draws air away from technicians and clients and vents to the outside.

(2) A minimum ventilation rate of 60 cubic feet per minute (cfm) per manicuring station shall be provided to protect the health of the employees and patrons.

(3) Salon shall operate said ventilation system (fan or exhaust system) during all hours the establishment is open.

(4) A notice in English shall be prominently posted for patrons and employees to see, noting that the exhaust system must be operating at all times the establishment is open.

(5) Local exhaust is the preferable method of ventilation where possible.

(6) Exterior exhaust pipes must not impact neighbors or be located near any ventilation intakes.

(7) Ventilation units must be kept in proper working condition.

(8) The use of filtering devices which merely remove odors and not gases, mists, vapors, dusts, etc., shall not constitute ventilation. Simply circulating air around the establishment shall not constitute ventilation.

(9) The salon air shall be filtered through a HEPA filter and at least a five gallon canister packed with activated charcoal or an equivalent filter.

(10) HEPA filters and activated charcoal canisters or equivalent filter shall be maintained and replaced in accordance with the manufacturer's specifications.

(11) The salon shall maintain a log of equipment maintenance.

§ 300-25.5. Instrument disinfection & personal hygiene.

A. The requirements in 240 CMR 3.03 Board of Registration of Cosmetology Regulations Equipment and Hygiene Procedures apply equally to manicuring equipment. This includes but is not limited to clippers, nippers, cuticle pushers, scissors, reusable forms, manicure and pedicure bowls.

B. Buffers, files, porous drill bits and wooden sticks which absorb water cannot be disinfected must be discarded after each patron.

C. Formalin is prohibited for use in manicuring salons permitted by the Sharon Board of Health because safer alternatives are now available.

D. Manicurist tables shall be disinfected between each patron.

§ 300-25.6. Prohibitions.

A. No manicurist, demonstrator, instructor, or student shall provide services to a person who is afflicted with impetigo, pediculosis, or any fungal infection of the hands, feet, or nails. nor shall they provide services to any person with open cuts, scratches, or wounds to the hands, feet, or nails.

B. Smoking is not allowed in any area of the salon.

C. Use of any product containing Methyl Methacrylate (MMA) is prohibited.

§ 300-25.7. Emergency closure.

A. The Board of Health or its authorized agent, acting in accordance with MGL c. 111, § 31, may, without notice or hearing suspend a permit to operate a manicuring salon or may order the suspension of one of more particular operations if an imminent health hazard is believed to exist.

B. Whenever a suspension is ordered in this manner, the permit holder or manager, or person

in charge of the establishment shall be notified in a written statement which shall include but not be limited to the following information:

(1) The Board of Health has determined that an imminent health hazard exists which requires the immediate suspension of operations.

(2) The violations leading to the determination that an immediate health hazard exists.

(3) That a hearing will be held if a written request for a hearing is filed with the Board of Health within 48 hours of receipt of the notice of suspension.

§ 300-25.8. Suspension of permit.

A. Artificial Nail Salon permits shall be suspended immediately upon an inspection which reveals that any procedure in the salon is creating an imminent health hazard.

B. Due to the potentially serious hazard which exists regarding manicuring and bloodbound and other pathogens, strict adherence to these regulations is mandatory. Repeated violations of these regulations is cause for suspension of the B.O.H. permit to operate.

C. Failure to disinfect implements properly between each customer shall be cause for immediate permit suspension. Frequent or continued failure to properly disinfect implements will result in revocation of the Artificial Nail Salon permit.

§ 300-25.9. Orders for suspension.

If the Board of Health orders the suspension of an Artificial Nail Salon Permit, the permit holder shall be notified by written order. The order shall include, but not be limited to the following information:

ARTICLE 26

Animal Waste Regulation ~~**Pooper-Scooper Regulation [Adopted 9-13-2004]**~~ [Adopted 9-12-2004]

§ 300-26.1. Authority.

This regulation is promulgated under the authority granted to the Board of Health under MGL c. 111, § 31.

§ 300-26.2. Rationale.

The intent of this regulation is to protect the public health and welfare by requiring dog owners to remove excrement left by any dog under his/her control.

§ 300-26.3. Requirements.

A. It shall be the duty of each person who owns, possesses, or controls a dog to remove and dispose of any feces left by his or her dog on any sidewalk, gutter, street, or other public area of the Town of Sharon, or on any private property neither owned nor occupied by said person. However, this regulation shall not be applicable to a person while actually using a helping dog or other helping animal licensed as such.

B. Persons walking dogs must carry with them a device designed to dispose of dog feces. Such devices include, but are not limited to, plastic bags or "pooper-scoopers".

§ 300-26.4. Violations and enforcement.

A. Violation of this Regulation shall incur a fine of $25 for the first violation, $50 for the second violation, and $100 for the third and each subsequent violation within a calendar year.

B. Enforcement of this Regulation may be by the Animal Control Officer, any Police Officer, or Board of Health Agent.

ARTICLE 27
Regulation on Waterfowl
[Adopted 7-9-2007]

§ 300-27.1. Authority.

This regulation is promulgated under the authority granted to the Board of Health under MGL c. 111, § 31.

§ 300-27.2. Rationale.

The intent of this regulation is to protect the public health and welfare by prohibiting feeding or baiting of waterfowl, whose copious feces are a disease vector and present a public health nuisance.

§ 300-27.3. Feeding and baiting prohibited; emergency feeding.

A. No persons except the Director of the Massachusetts Division of Fisheries and Wildlife or his agent or designee, as authorized pursuant to MGL C. 131, shall feed or bait any waterfowl of the family Anatidae, including, but not restricted, to ducks, geese, and swans, at any public place or within 200 feet of any public body of water within the Town of Sharon.

B. As used in this paragraph, "feeding" and "baiting" shall mean placing, exposing, depositing, distributing or scattering, directly or indirectly, of shelled, shucked or unshucked corn, wheat or other grain, bread, salt or any other feed or nutritive substances in any manner or form so as to constitute for such birds a lure, attraction or enticement to, on or over any such area where such feed items have been placed, exposed, deposited, distributed or scattered.

C. Nothing in this bylaw shall be construed to limit the feeding of domesticated waterfowl, as defined by the division of Marine Fisheries and Wildlife, by a farmer as defined in MGL C. 128, when such waterfowl or other birds are confined in such a manner as may be required pursuant to said S 23 and any person or his agents, invitees or licensees of waterfowl lawfully kept as a pet by that person.

D. Notwithstanding any of the above, the Director of the Division of Fisheries and Wildlife or his agent or designee may authorize the emergency feeding of waterfowl and other birds

when, in his opinion, such action is necessary in order to alleviate undue losses and suffering of such birds due to unusual weather conditions and other circumstances. The director may authorize such action by such means as he deems necessary and expedient, but such means shall include the immediate notification of the Selectmen thereof by first-class mail.

E. In addition, in the interests of public health, the Board strongly recommends that no one feed or bait any waterfowl of the family Anatidae including, but not restricted, to ducks, geese, and swans, at any private place within the Town of Sharon.

§ 300-27.4. Violations and penalties; enforcement.

A. Violation of this Regulation shall incur a fine of $25 for the first violation, $50 for the second violation, and $100 for the third and each subsequent violation within a calendar year.

B. Enforcement of this Regulation may be by the Animal Control Officer, any Police Officer, any Board of Health Agent, or designated representative.