

# **Town of Wareham**



## **RULES & REGULATIONS OF THE BOARD OF HEALTH**

**2008 HANDBOOK**

**Table of Contents**

<b>ANIMALS .....</b>	<b>3</b>
<b>FUR-BEARING ANIMALS .....</b>	<b>3</b>
<b>HORSES &amp; PONIES.....</b>	<b>4</b>
<b>KENNELS .....</b>	<b>7</b>
<b>PIGGERIES .....</b>	<b>8</b>
<b>POOPER-SCOOPER REGS .....</b>	<b>10</b>
<b>POULTRY.....</b>	<b>11</b>
<b>WATERFOWL.....</b>	<b>12</b>
<b>BODY ART .....</b>	<b>13</b>
<b>CABINS, CAMPS, MOTELS &amp; TRAILER PARKS .....</b>	<b>30</b>
<b>CATERING PERMITS .....</b>	<b>31</b>
<b>FOOD HANDLERS .....</b>	<b>33</b>
<b>MOBILE FOOD UNITS AND PUSH CARTS.....</b>	<b>33</b>
<b>NO SMOKING REGULATIONS .....</b>	<b>34</b>
<b>TANNING FACILITIES .....</b>	<b>38</b>
<b>TITLE V REGULATIONS.....</b>	<b>39</b>
<b>AS BUILT PLANS.....</b>	<b>39</b>
<b>CESSPOOL REGULATIONS .....</b>	<b>39</b>
<b>NO DISCHARGE AREA.....</b>	<b>40</b>
<b>PRIVATE DRINKING WATER REGULATIONS .....</b>	<b>41</b>
<b>PRIVATE DRINKING WATER CERTIFICATION .....</b>	<b>42</b>
<b>REQUIRED PRIVATE DRINKING WATER PARAMETERS .....</b>	<b>42</b>
<b>CONSTRUCTION OF LOCAL WELLS.....</b>	<b>44</b>
<b>FLOOD PLAIN DISTRICT – HEALTH REGULATION .....</b>	<b>44</b>
<b>GARABGE AND RUBBISH – ODOR OXIDIZER .....</b>	<b>45</b>
<b>MEDICAL WASTE TRANSPORTERS .....</b>	<b>45</b>
<b>PERCOLATION TESTS .....</b>	<b>45</b>
<b>ROADSIDE STAND REGULATIONS .....</b>	<b>45</b>
<b>SEPTIC SYSTEM ADDITIVES/CLEANERS REGULATION .....</b>	<b>45</b>
<b>SEPTIC PLAN DESIGN.....</b>	<b>47</b>
<b>SEWAGE DISPOSAL PERMITS.....</b>	<b>47</b>
<b>RULES AND REGULATIONS PERTAINING TO SEWER HAULERS .....</b>	<b>47</b>
<b>MUNICIPAL SEWER HOOKUP – EXISTING CESSPOOLS .....</b>	<b>48</b>
<b>TRASH HAULER REGULATIONS .....</b>	<b>49</b>
<b>WATER QUALITY PROTECTION.....</b>	<b>49</b>
<b>WELL DRIVERS PROTECTION.....</b>	<b>50</b>
<b>BOARD OF HEALTH FEES .....</b>	<b>51 &amp; 52</b>

**Animals****Fur-Bearing Animals****1. Location of Buildings:**

- A. Not less than 250 feet from the high water mark of any source of drinking water supply or any tributary thereof, or less than 250 feet from the high water mark of any open waters flowing directly or ultimately into any source of water supply.
- B. Not less than 50 feet of any room where milk is handled.
- C. For fur farms, refer to zoning. The Zoning Board of Appeals must approve any farm.

**2. Construction of Buildings:**

- A. All coops, cotes, hutches, or other buildings used to house rabbits, mink, foxes and other fur-bearing animals shall be of durable construction. All structures must be designed to prevent the harborage of rats and mice.
- B. All structures must be of sufficient size to accommodate the animals.

**3. Ventilation:**

- A. All buildings used to house animals must be properly ventilated and kept dry.

**4. Maintenance of Facility:**

- A. Nests shall be movable and cleaned frequently.
- B. Holding cages and areas beneath perches shall be cleaned frequently.
- C. Feed stations shall be maintained in proper sanitary condition.
- D. Interior of buildings shall be whitewashed (or equivalent treatment) at least once a year.
- E. Area shall be maintained in a clean and sanitary condition.

**5. Animal Waste and Storage:**

- A. A covered, ventilated, watertight storage facility constructed of any durable material for the storage of animal wastes shall be provided, and located as to promote frequent removal of wastes from the premises.
- B. Storage of animal waste shall not be less than 250 feet from the high water mark of any source of drinking water supply of any tributary thereof, or less than 250

feet from high water mark of any open watercourse flowing directly or ultimately to any source of water supply.

- C. Animal waste must be stored 50 feet from any dwelling and 50 feet from any property line. The waste storage area must be treated and maintained to eliminate odor or insect problems.
- D. Animals, such as rabbits, minks, foxes, etc. shall be kept in either an approved building or in an enclosure of adequate size. Said animals shall not be permitted to roam unrestricted outside the building or any other enclosure. Any such animal shall be deemed to be “at large” when it shall be off the premises and unaccompanied by the owner, agent or employee of the owner.

### **Horses and Ponies**

#### **1. Shots:**

- A. Every horse must have annual protective shots against sleeping sickness (Eastern-Western Encephalitis, Tetanus, and Coggins Equine Infectious Anemia). These tests must be completed by June 1 and a copy of the information must be submitted to the Board of Health.

#### **2. Stables:**

- A. A stable permit is required annually. This permit should be obtained from the Board of Health.
- B. Registration: Every owner of horses, ponies, mules, donkeys, sheep, goats, and bovines (cows) or herd animals, shall register with the Board of Health on or before December 31st of each year to obtain a stable permit.
- C. Location: Stables shall not be less than 250 feet from high water of any source of drinking water supply or any tributary thereof, or not less than 250 feet from high water of any open water course flowing directly or ultimately to any source of water supply.
- D. Housing: All animals shall be protected from severe weather. The stable should have a weather tight roof and sides, enough head room for the animal and be floored with any material that can be kept clean and dry.
- E. Head Clearance: Minimum of 8 feet for horses and 6 feet for ponies.
- F. Stall Size:
  - 1. Tie Stall (straight stall): 4 feet to 8 inches for horses not over 15.2 hands; 4 feet, 6 inches to 10 feet for larger horses; 3 feet 6 inches to 7 feet for ponies.

2. Box Stall: 6 feet by 6 feet for ponies; 10 feet by 10 feet for small horses; 12 feet by 12 feet for large horses.
- G. Light and Ventilation: Each stall should have at least one window which can be opened for draft-free ventilation. Cellar-type window, set above eye level in front of tie stall is good, two or more is required in a box stall. Cover with wire to prevent breakage and injury to horse. Some commercially designed stables are windowless, but these have special provisions for light and ventilation.
- H. Floor:
1. Ideal: 6' - 10" tamped clay over 2" or more of good drainage material such as sand or gravel.
  2. Excellent: Astro-Turf over proper base material.
  3. Good: 2" – 3" wooden planked, space laid over good drainage base.
- I. Bedding:
1. Best: Sawdust and/or shavings to depth of 3" – 6".
  2. Peat moss, shredded cane, straw (dust free).
- J. Hay Storage:
1. Best: Separate building for dust and fire control.
  2. Good: In loft or feed room.
- K. Water: Freely available, fresh, in regularly scrubbed impervious containers in stalls. Automatic waterers work very well, as long as the over-heated animal does not have access to them.
- L. Hose Bib Outlets Required: Provide a sufficient number of hose bib outlets so that the stable can be down and maintained in clean sanitary conditions.
- M. Grain Storage: Separate room or closet, in horse – proof and rodent – resistant container or bin. Keep dry. Check bottom regularly for signs of mold or spoilage.
- N. Corral/Paddock: 2,000 square feet is adequate for one horse (40' x 50', 20' x 100' etc.). Should be kept dry, clean and fenced and water must be available. A paddock or corral shall be provided of sufficient size predicated upon the number of animals. If the animal remains outside for periods longer than one hour, shade and fresh water must be present. Corrals and paddocks should be gently sloping to minimize standing pools of surface water. Horses should be allowed to roam on land and all be provided with adequate fences.

- O. Fencing: At least 5' high, material safe and clearly visible to horse or pony. Fencing shall be high enough to discourage jumping or reaching over and shall be installed so as to eliminate danger to the animal. Grazing animals shall be under controlled conditions by owner or keeper.
1. Ideal: Wooden planks or rails.
  2. Good: Smooth woven wire, smooth wire or charged wire (also smooth).
- P. Insect Control: When necessary, insecticides should be applied to the interior walls, ceilings and stall area. Insecticides should be applied to the exterior of the stable building to control fly population. All grain stores carry a full line of correctly labeled sprays and insect controls. Always use according to label.
1. Ideal: Fog or spray once weekly in stable and around manure storage area.
- Q. Maintenance: All animals must be maintained in good health and in clean conditions. Stalls shall be kept clean and bedded.
- R. Food Storage: Storage of food shall be independent of stall area and at least 6" above the floor of the shed. Grain shall be stored in covered metal containers. Toxic, pesticides, etc., shall not be stored near or around feed animals.
- S. Manure Storage:
1. A covered and ventilated, water tight storage facility constructed of any durable material approved by the Board of Health shall be provided for the storage of manure from inside the stable or from the grounds. Manure shall be removed from the stable or from the grounds. Manure shall be removed from the stable area to maintain the area in a clean and sanitary condition.
  2. Animal waste must be stored 50' from property line. The waste storage area must be treated and maintained to eliminated odor or insect problems.
  3. Manure must be stored not less than 250' from high water mark of any source of drinking water supply, or any tributary thereof, or not less than 250' from high water mark of any open water course flowing directly or indirectly to any source of water supply.
- T. Living and Sleeping Quarters: The stables shall not be used for human habitation.
- U. VIOLATIONS OF THESE RULES AND REGULATIONS WILL BE SUBJECT TO A FINE OF NOT LESS THAN \$50.00 AND LOSS OF STABLE PERMIT.

**Kennels****1. Dogs:**

- A. One pack or collection of dogs on single premises, enclosure, structure, building lot or portion thereof, whether maintained for breeding, boarding, sale, training, hunting, adoption, or other purposes, and including any shop where dogs are on sale, including every pack or collection of more than three dogs, three months old or over, owned or kept by a person on a single premises, irrespective of the purpose for which they are maintained.

**2. Cats:**

- A. One pack or collection of more than three cats, three months or older, on a single premises, enclosure, structure, building, lot or portion thereof, whether maintained for breeding, boarding, training, sale, adoption, including any shop where cats are for sale.

**3. Kennel:**

- A. Dog and cat kennels shall be located not closer than 50' from any building used for human habitation, any church, school, public building, park, playground, hospital, nursing home or rest home, except upon written permission of the Board of Health.
- B. Dog and cat kennels shall be located not less than 50' from adjoining property lines or the line of any street, court or passageway.
- C. Not less than 250' from the high water mark of any source of drinking water supply or any tributary thereof or less than 250' from the high water mark of any open waters flowing directly or ultimately into any source of water supply.
- D. Not less than 30' from any room where milk is handled.
- E. Construction: Single and multiple housing units for dogs and cats should be of durable construction to protect structures from termites, dampness, deterioration and rodents.
- F. Floors: The floor surface in all kennels shall be smooth and non – absorbent and so constructed as to be easily cleaned. Floors and outside runs of each cubicle shall be cleaned at least once daily.
- G. Feed Rooms: The owner shall provide for tightly covered and vermin – proof storage of dried animal feed and shall provide refrigeration facilities for keeping of so called animal food, edible meat, fish and poultry. All equipment used at feeding stations shall be of easily cleaned material.
- H. Water Supply: An adequate quantity of potable water shall be provided for feeding of animals and cleaning purposes.

- I. Drainage: The kennel shall be provided with a sanitary drainage system connected to the public sewerage system. Provided that if, because of distance or ground conditions, connection to the public sewerage system is not practical, any other means of subsurface disposal of sewage approved by the Board of Health and in compliance with DEP Title 5, Sanitary Sewerage, may be installed.

**4. Storage of Animal Waste:**

- A. A covered, ventilated, water pit, or other approved storage container constructed of any durable material for the storage of animal wastes shall be provided and so located as to promote their regular removal from the premises.

**5. Premises:**

- A. To be maintained in a clean and sanitary condition. Feces must be removed on a regular basis.

**Piggeries**

Piggeries are not allowed in the Town of Wareham. However pigs may be kept as household pets.

**1. Location:**

- A. Buildings, pens or other such enclosures or runs used to house or confine pigs shall be located in accordance with section 143 of Chapter III of the M.G.L.:
  1. Not less than 200 feet from any dwelling used for human habitation, any church, school, public building, park, playground, hospital, nursing home or rest home, except upon written permission of the Board of Health.
  2. Not less than 150 feet from adjoining property lot lines or the line of any street, highway, courts, or passageway.
  3. Not less than 250 feet from the high water mark of any source of drinking water supply or any tributary thereof, or less than 250 feet from the high water mark of any open waters flowing directly or ultimately into any source of water supply.
  4. Not less than 50 feet from any room where milk is handled.

**2. Construction of Buildings:**

- A. All buildings used to house pigs shall be properly constructed and shall be designed, arranged, located, and maintained so as to minimize odors and to prevent the harborage, shelter, or feeding of rats and mice. Such buildings shall be so designed and constructed so that accumulation of offensive material can be readily removed.



**3. Feeding Troughs:**

- A. For indoor pens, watertight material of cement or metal shall be provided for feeding purposes and shall be kept in good repair. Such material shall be thoroughly cleaned each day.
- B. For outdoor pens or runs, pigs shall be fed from platforms built of heavy, watertight material on skids no less than one foot above the ground so arranged that the platform can be readily moved. If the feeding platform is elevated, the space between the ground and the platform shall be kept clean. No food, manure shall be allowed to accumulate on the platform or on the ground.

**4. Ventilation:**

- A. All buildings used to house pigs shall be properly ventilated.

**5. Restriction to Premises:**

- A. All pigs shall be kept either in an approved building, pen, enclosure, or run of adequate size. Pigs shall not be permitted to roam unrestricted outside the building, pen, enclosure, or run. Any animal shall be deemed to be "At-Large" when it is off the premises and unaccompanied by the owner, agent or employee of the owner or the caretaker.

**6. Maintenance of Facilities:**

- A. All buildings used for the housing of pigs shall be kept in a clean and satisfactory condition. Pens shall be cleaned at least twice weekly. Brood houses shall be cleaned daily.
- B. Refuse, including uneaten food and manure shall be immediately removed from the premises or shall be so kept that such material will not create odors noticeable off the premises, will not permit fly breeding, and will not have access to the pigs. Buildings should be painted or whitewashed at least once a year.

**7. Garbage and Storage of Garbage:**

- A. All garbage, regardless of previous processing, shall be thoroughly heated to at least 212 degrees Fahrenheit for at least 30 minutes before being fed to the pig. With exception to another treatment approved in writing by the Director of Livestock and Disease Control as being equally effective.
- B. A bin or other approved receptacle for receiving garbage shall be provided which shall be tightly covered. Bins, cans, wagons, trucks, and other receptacles for the storage of garbage shall be thoroughly cleaned after the garbage has been removed.

**8. Water Supply:**

- A. An adequate supply of water shall be provided.

**9. Spreading of Manure or Other Waste:**

- A. Manure shall be spread on land only when the land is in the plow, and manure so spread shall be plowed under within 48 hours. If uneaten garbage, manure, and refuse are collected in compost piles, they shall be treated or covered with earth, loam or other suitable material in sufficient amounts to eliminate any odor or nuisance. All such piles shall be at least 500 feet from any dwelling or highway. No garbage, manure or putrescible matter shall, except in the cultivation and use of the soil in ordinary methods of agriculture, be put upon the ground within 250 feet of the high water mark of any open waters flowing directly or ultimately into any source of water supply. Compost piles shall be sprayed daily with an approved insecticide during the fly breeding season.

**Section V: “Pooper- Scooper” Regulation:****1. Regulation:**

- A. The purpose of this regulation is to protect the foreshores, wetlands and waters of the Town of Wareham by restricting dogs from the public beaches of the Town of Wareham. No dog shall be allowed upon the salt water or fresh water beaches or marshes of the Town of Wareham either loose or on a leash.
- B. The dog owner shall keep control over the dog at all times that the dog is off the owner’s property. The dog owner shall be required to have in his possession a means to pick up all feces deposited by the dog on any public property. All feces collected shall be deposited in the owner’s rubbish containers.
- C. Any party in control of a dog in the absence of the owner, while the dog is off the owner’s property, shall be required to observe all rules and regulations pertaining to the owner as contained in this regulation.
- D. Seeing-eye dogs are the only exemption, when accompanied by the owner.

**2. Penalties:**

- A. Any person who violates this regulation shall be fined upon conviction at a minimum of \$25.00 and a maximum of \$100.00.

**3. Description of “Pooper – Scooper” acceptable to the Board of Health:**

- A. A device manufactured for the express purpose of picking up dog feces.
- B. Any sanitary means of collection, including, but not limited to, plastic container, rubbish bags and garbage bags.

**Section III: Poultry****1. Definition:**

- A. Poultry means domesticated bird, including chickens, turkeys, ducks, geese (other than wild), guinea fowl, pheasants and pigeons of any age and sex.

**2. Location:**

- A. All coops, hutches and other such buildings should be located 100' from wetlands and waterways. A buffer zone of a minimum of 1 foot in height is required consisting of wood timbers or grass seeded earth that will keep storm water runoff from running directly into the wetlands.
- B. Not less than 250' from the high water mark of any source of drinking water or any tributary thereof or less than 250' from the high water mark of any open waters flowing directly or ultimately into any source of water supply.
- C. No less than 50' from any room where milk is handled.

**3. Construction of Buildings:**

- A. All coops, hutches or other such buildings used for poultry shall be of durable construction. Such structures shall be designed so as to prevent the harborage of rats or mice.

**4. Ventilation:**

- A. All coops, hutches or other such buildings used to house poultry shall be properly ventilated and kept dry.

**5. Maintenance of Facilities:**

- A. Nests shall be movable and surrounding areas must be maintained in clean, sanitary condition, weekly. Perches and areas beneath perches shall be cleaned weekly. Surrounding areas are to be maintained in a clean and sanitary condition, weekly or as needed.
- B. Feed stations shall be maintained in proper sanitary condition. Interior of coops, hutches, structures, etc. shall be whitewashed (or equivalent treatment) at least once a year.

**6. Receptacles for Garbage or Refuse Food:**

- A. Garbage or waste refuse food shall not be fed to animals unless such food is placed in proper receptacles, which shall be kept clean. Such food may also be placed upon cement or other waterproof surface provided such surface is kept clean.

**7. Manure Storage:**

- A. A covered, ventilated, water tight storage facility constructed of any durable material for the storage of poultry waste shall be provided and so located as to promote regular removal of manure from the premises.
- B. Poultry waste must be stored 100' from any dwelling and 100' from property line, wetland line, public/private waterway. The waste storage area must be treated and maintained to eliminate odor and insect problems.
- C. Storage of poultry waste shall not be less than 250' from the high water mark of any source of drinking water supply or any tributary thereof, or less than 250' from high water mark of any open watercourse flowing directly or ultimately to any source of water supply.

**8. Restriction to Premises:**

- A. All poultry shall be kept in an approved building, run or enclosure of adequate size. Poultry shall not be permitted to roam unrestricted outside the building, run or enclosure. Any animal shall be deemed to be "at – large" when it is off the premises.

**Waterfowl****1. Purpose:**

- A. The protection of the foreshores, marshes, wetlands, public swimming beaches, shell fishing, water quality and recreational uses from pollution created by unnatural harborage of waterfowl as the result of feeding or baiting by the public.
- B. No persons shall feed or bait any waterfowl, including but not restricted to ducks, geese, swans, pigeons and seagulls at any place within the Town of Wareham. "Feeding and Baiting" means the placing, exposing, depositing, distributing or scattering directly or indirectly, of shelled, shucked or unshucked corn, wheat, or other grains, seeds, breads, salt or nutritive substance in any manner or form so as to constitute for such birds a lure, attraction or enticement to, on or over any such areas where said feed items have been placed, exposed, deposited, distributed, or scattered. (Chapter 131 M.G.L.)
- C. Nothing in this regulation shall be construed to limit the feeding of domestic waterfowl, as defined by the Division of Marine Fisheries and Wildlife (DMF&W) by a farmer (Section 1A, Chapter 128).
- D. The Director of the DMF&W or his/her agent or designee, may authorize the emergency feeding of waterfowl and birds, when in his/her 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 must notify the Board of Selectman.

- E. Any person who violates any provision of this regulation shall be fined \$25.00 for each offense thereof. This regulation may be enforced by police officers, natural resource officers, shellfish constables, agents of the Board of Health, and environmental police officers.

### **Body Art Establishments and Practitioners – Piercing and Tattooing**

#### **1. Authority:**

- A. These regulations are promulgated under the authority granted to the Board of Health under M.G.L. 111, Section 31.

#### **2. Definitions:**

- A. Aftercare: Written instructions must be given to the client according to the specific procedure(s) rendered. The instructions must inform the client about caring for the body art and surrounding area, including information and when to seek medical treatment, if necessary.
- B. Applicant: Any person who applies to the Board of Health for either body art establishment permit or practitioner permit.
- C. Autoclave: The process which results in the destruction of all forms of microbial life, including highly resistant spores, by the use of an autoclave for a minimum of thirty (30) minutes at twenty (20) pounds of pressure (PSI) at a Temperature of 270 degrees Fahrenheit.
- D. Bloodborne Pathogens Standard: OSHA Guidelines contained in 29 CMR 1910.1030 entitled "Occupational Exposure to Bloodborne Pathogens."
- E. Body Art Practitioner: A specifically identified individual who has been granted a permit by the Board of Health, whether public or private, where the practices of body art are performed, whether or not for profit.
- F. Body Piercing: The puncturing or penetrating the skin of a client with pre-sterilized single-use needles and the insertion of pre-sterilized jewelry or other adornment into the opening. This definition excludes piercing of the earlobe with a pre-sterilized single-use stud and clasp system manufactured exclusively for ear piercing.
- G. 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 all the incised and interwoven strips of skin to heal in such intertwined condition.
- H. Branding: The use of a heated material (usually metal) to the skin, making a serious burn, which eventually becomes a scar.
- I. Cleaning Area: The area in a Body Art Establishment used in the sterilization or other cleaning of instruments or other equipment used for the practice of body art.

- J. Contaminated Waste: Waste is 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 liquid or semi-liquid blood or other potentially infectious material; contaminated items that would release blood or other potentially infectious material and which are capable of releasing these materials during handling or taking out sharps and any wastes containing blood or other potentially infectious material.
- K. Cosmetic Tattooing: The implementation of permanent pigment around the eyes, lips and cheeks of the face and hair imitation.
- L. Disinfectant: The product registered as a disinfectant by the U.S. Environmental Protection Agency (EPA).
- M. Disinfection: The Destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.
- N. 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.
- O. Equipment: All machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus used in connection with the operation of a body art facility.
- P. Exposure: An event whereby there is an eye, mouth or other mucus membrane, non-intact skin or parenteral contact with the blood or bodily fluids of another person or contact of an eye, mouth or other mucous membrane, non-intact skin or parenteral contact with the other potentially infectious matter.
- Q. Hand Sink: A lavatory equipped with hot and cold running water under pressure, used solely for washing hands, arms, or others portions of the body.
- R. Hot Water: Water that maintains the temperature of 110-130 degrees Fahrenheit.
- S. 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.
- T. Invasive: Entry into a client's body either by incision or insertion of any instruments or through the skin or mucosa, or by any other means intended to puncture, break, or otherwise comprise the skin or mucosa.
- U. 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 – density plastic, which is free of nicks, scratches, or irregular surfaces and has been properly sterilized prior to use.
- V. Light Colored: A light reflectance value of 70% or greater.

- W. Mobil 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 where one desires to or actually does conduct body art procedures.
- X. Operator: A person who individually, or jointly or severally with others, owns, or controls an establishment but is not a body art practitioner.
- Y. Permit: Board approval in writing to a body art establishment. Permits will only be granted to individuals or establishments who comply with all requirements.
- Z. 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 association work area which may require sanitizing.
- AA. Sanitize: The application of U.S. EPA registered sanitizer on a cleaned surface in accordance with the label instructions.
- BB. 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.
- CC. Sharps: Any object, sterile or contaminated that may intentionally or accidentally cut or penetrate the skin or mucosa, including but not limited too, needle devices, lancets, scalpel blades, razor blades, and broken glass.
- DD. 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.
- EE. Sterilize: The use of physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.
- FF. Tattoo: The indelible mark, figure or decorative design introduced by insertion of dyes or pigments into or under subcutaneous portion of the skin.
- GG. 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.
- HH. Three Dimensional (3D) Body Art or Beading 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.

- II. 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.
- JJ. Universal Precautions: Guidelines and controls, published by the Centers for Disease Control and Prevention (CDC).

### **3. Exemptions:**

- A. Physicians licensed in accordance with M.G.L. c. 112 s. 2 who perform body art 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.

### **4. Restrictions:**

- A. No tattooing or piercing of genitalia 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. No piercing will be allowed on any person under the age of 14 with the exception of the ear lobe.
- C. No body art shall be performed on an animal.
- D. The following piercing are hereby prohibited: uvula, tracheal area, neck, ankle, between the ribs or vertebrae, web area of hand or foot, lingual frenulum (tongue web), clitoris, any form of chest or deep muscle (excluding the nipple), anus, eyelid, gums, testicle, "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 vagina.
- E. The following practices are hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts: branding, scarification, tongue splitting, implementation, fracturing, removal, tattooing, cartilage, modification, amputation, genital modification, introduction of saline or other liquids.

### **5. Operation of Body Art Establishments:**

- A. Unless otherwise ordered or approved by the Board, each body art establishment shall be constructed, operated and maintained to meet the following minimum requirements:
- 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 used, all single-use sharps shall be immediately disposed of in approved sharps containers pursuant to 105 CMR 480.000.
2. All products applied to the skin, such as but not limited to body art stencils, applicators, gauze and razors, shall be single-use and disposable.
3. Hollow bore needles or needles with cannula shall not be reused.
4. All inks, dyes, pigments, solid core needles, and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions.
5. Inks, dyes or pigments may be mixed and may only be diluted with water from an approved potable source. Immediately before a tattoo is applied, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single-use paper cups or plastic cups. Upon completion of the tattoo, these single-use cups or caps and their contents shall be discarded.

C. Physical Plant

1. Walls, floors, ceilings, and procedures 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 chair or 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 this 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 divider 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 3 feet off the floor, except that at least 100 foot candles shall be provided at the level where the body art procedure is being performed, where instruments and sharps are assembled, and all cleaning areas.

6. All electrical outlets in operator areas and cleaning areas shall be equipped with approved ground fault (GFCI) 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 in 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 point, shall not be required to provide a separate toilet room within such body art establishment if Board-approved toilet facilities are located in a 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.
11. At least one covered, foot-operated waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily. Solid waste shall be stored in covered, leak proof, rodent resistant containers and shall be removed from the premises at least weekly.
12. At least one janitorial sink shall be provided in each body art establishment for use in cleaning the establishment and proper disposal on non-contaminated liquid wastes in accordance with all applicable Federal, State and local laws. Said sink shall be an 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 secure area specifically dedicated to the storage of all instruments and supplies.
14. The establishment shall have a customer waiting 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. No animals of any kind shall be allowed in a body art establishment except service animals used by persons with disabilities. Fish aquariums shall be allowed in waiting rooms and nonprocedural area.
16. 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.

D. 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 appropriate soap or disinfectant solutions and hot water (to remove blood and tissue residue) and shall be placed in 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-disposal 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 a 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 work stations 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 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 instrument.
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, and 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 body fluids, the items shall be washed in accordance with standards applicable to hospitals and medical care facilities, at a temperature of 160 degrees F or a temperature of 120 degrees F with the use of chlorine disinfectant.
- E. Posting Requirements (the following must 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. 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
    - c. A sign at or adjacent to the telephone indicating the correct emergency telephone numbers
  3. An occupancy and use permit as issued by the local building official.
  4. A current establishment permit.
  5. Each practitioner's permit.
- F. Establishment Record Keeping
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 for any and all body art procedures, including names and manufacturers and serial or lot numbers, if applicable.
    - f. Copies of waste hauler manifests
    - g. Copies of commercial biological monitoring tests
    - h. Exposure Incident Report (kept permanently)
    - i. A copy of these regulations
  2. Employee information, which shall include:
    - a. Full legal names and exact duties

- b. Date of birth
- c. Home address
- d. Home/work phone numbers
- e. Identification photograph
- f. Dates of employment
- g. Hepatitis B vaccination status or declination notification
- h. Training records

3. Client Information, which shall include:

- a. Name
- b. Age, valid photo identification
- c. Address of the client
- d. Date of the procedure(s)
- e. Name of the practitioner who performed the procedure(s)
- f. Description of the procedure(s) performed and the location on the body
- g. A signed consent form
- h. If the client is under 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.

G. Exposure Control Plan

- 1. Each establishment shall create, update, and comply with the Exposure Control Plan. The Plan shall be submitted to the Board for review so as to meet all the requirements of OSHA regulations, to include, but not limited to, 29 Code of Federal Regulations 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.
- 2. No person shall establish or operate a mobile or Temporary Body Art Establishment.

**6. Standards of Practice:**

- 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 manufacturer's 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
    - 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
    - g. any other conditions such as hepatitis or HIV.
- E. 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 had been given the aftercare instructions as required by section 6, J-5.
- F. 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.
- G. 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 before the next set of gloves is put on. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable single-use gloves does not preclude or substitute for hand washing procedures as part of a good personal hygiene program.
- H. The skin of the practitioner shall be free of rash or infection. No practitioner affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that the person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.

- I. 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.
- J. 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 areas and skin surrounding where the body art procedure is to be placed shall be washed with soap and water or an approved surgical skin preparation. If shaving is necessary, single-use disposable razors or safety razors with single-service blades shall be used. Blades shall be discarded after each use, and reusable holders shall be 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.
  - 4. Petroleum jellies, soaps, and other products used in 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.
  - 5. The practitioner shall provide each client with verbal and written instructions on the aftercare of the body art site. The written instructions shall advise the client on the proper cleansing area of which received the body art. The address and telephone number of the establishment. A copy shall be provided to the client. A model set of aftercare instructions shall be made available to the Board.
  - 6. To consult a health care provider for:
    - a. unexpected redness or swelling at the site of the body art procedure
    - b. any rash
    - c. unexpected drainage at or from the site of the body art procedure
    - d. a fever within 24 hours of the procedure
- K. 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 Wastes, State Sanitary Code, Chapter VIII.

**7. Exposure Incident Report:**

- A. An Exposure Incident Report shall be completed by the close of 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 during any procedure.
- 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.
  - 3. Instrument(s) or other equipment implicated.
  - 4. A copy of the body art practitioner's license who was involved in the incident.
  - 5. Date and time of the exposure.
  - 6. A copy of any medical history released to the body art establishment or body art practitioner.
  - 7. Information regarding any recommendation to refer to a physician or waiver to consult a physician by persons involved.

**8. Injury and/or Complication Reports:**

- A. A written report of injury, infection complication or disease as a result of a body art procedure, complaint of injury, infection complication or disease shall be forwarded by the operator to the Board of Health, along with a copy to the injured client within five (5) working days of its occurrence or knowledge thereof. The report shall include:
  - 1. Name of affected client
  - 2. Name and location of the body art establishment involved
  - 3. Nature of the injury, infection complication or disease
  - 4. Name and address of the affected client's health care provider
  - 5. Any other information considered relevant to the situation



**9. Complaints:**

- A. The Board shall investigate complaints received about an establishment or practitioner's practices or acts which may violate any provision of the Board's regulations.
- B. If the Board finds that an investigation is not required because the alleged act or practice is not in violation of the Board's regulations, then the Board shall notify the complainant of this finding and the reasons on which it is based.
- C. If the Board finds that an investigation is required, because the alleged act or practice may be in violation of the Board's regulations, the Board shall investigate and if the finding is made that the act or practice is in violation of the Board's regulations, then the Board shall apply whatever enforcement action is appropriate to remedy the situation and shall notify the complainant of its action in this manner.

**10. Application for Body Art Establishment Permit:**

- A. No person may operate a body art establishment except with a valid permit from the Board.
- B. Applications for a permit shall be made on forms prescribed by and available from the Board. An applicant shall submit all information required by the form and accompanying instructions. The term "application" as used herein shall include the original and renewal applications.
- C. An establishment permit shall be valid from the date of issuance and shall expire on December 31 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
    - c. The body art practitioner(s) working at the establishment
  - 2. The manufactures, 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.

5. Exposure Report Plan
6. Such additional information as the Board may reasonably require.
7. The annual fee for the body art establishment permit shall be \$250.00.
8. A permit for a body art establishment shall not be transferable from one place or person to another.

**11. Application for Body Art Practitioner Permit (piercing only):**

- A. No person shall practice body art or perform any body art procedure without first obtaining a practitioner permit from the Board. The fee for a body art practitioner permit shall be \$150.00.
- B. A practitioner shall be a minimum of 18 years of age.
- C. A practitioner permit shall be valid from the date of issuance and shall expire each December 31 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. Telephone Number
  6. Places of employment as a practitioner
  7. Practitioner training and experience. 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.
  8. Training for all practitioners and apprentices shall be approved by the Board and at a minimum shall include the following:
    - a) Blood-borne pathogen training program (or equivalent) which includes infectious disease control, waste disposal, hand washing techniques, sterilization equipment operation and methods, sanitization, disinfection, sterilization methods and techniques. Local EMT's will provide courses approved by the Board including "Preventing Disease Transmission" (American Red Cross) and "Bloodborne Pathogens" (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.

- b) Current certification in First Aid and cardiopulmonary resuscitation (CPR).
- c) The applicant for a piercing practitioner permit shall provide documentation acceptable to the Board, that he/she completed a course on anatomy and physiology with a grade of C or better at a college accredited by the New England Association of Schools and Colleges, or comparable accrediting entity. This course must include instruction on the system of the integumentary system (skin).
- d) 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 of which the applicant seeks a body art practitioner permit to perform, whether such experience was obtained within or outside of the Commonwealth.
- e) A practitioner's permit shall be conditioned upon continued compliance with all applicable provisions of these rules and regulations.

## **12. Application for Body Art Practitioner Permit (Tattoo Only):**

- A. No person shall practice body art or perform any body art procedure without first obtaining a practitioner permit from the Board. The fee for a body art practitioner permit shall be \$150.00. The fee for an apprentice practitioner shall be \$75.00. A visiting practitioner shall be sponsored by a licensed establishment in the Town of Wareham and make application for a three day temporary permit. The fee shall be \$150.00.
- B. A practitioner shall be a minimum of 18 years of age.
- C. A practitioner permit shall be valid from the date of issuance and shall expire each December 31 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. Telephone Number

6. Places of employment as a practitioner
7. Practitioner training and experience. 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.
8. Training for all practitioners and apprentices shall be approved by the Board and at a minimum shall include the following:
  - a. Blood-borne pathogen training program (or equivalent) which includes infectious disease control, waste disposal, hand washing techniques, sterilization equipment operation and methods, sanitization, disinfection, sterilization methods and techniques. Local EMT's will provide courses approved by the Board including "Preventing Disease Transmission" (American Red Cross) and "Blood-borne Pathogens" (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.
  - b. Current certification in First Aid and cardiopulmonary resuscitation (CPR).
  - c. 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 of which the applicant seeks a body art practitioner permit to perform, whether such experience was obtained within or outside of the Commonwealth.
  - d. A practitioner's permit shall be conditioned upon continued compliance with all applicable provisions of these rules and regulations.

**13. 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:
  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 or 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 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.
  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 Section 14.
- C. Applicants denied a permit may reapply at any time after denial.

#### **14. Grounds for Suspension of Permit:**

- A. 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.

#### **15. 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 the suspension of a permit as noted in Section 12, a hearing shall be scheduled no later than 21 days from the date of the suspension.

**16. Severability:**

- A. 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.

**17. Fine for Violation:**

- A. The fine for a violation of any provision of these rules and regulations shall be \$100.00 for the first offense, \$200 for the second offense, \$300 for the third offense, and possible suspension of permit thereafter. Each day that a violation continues shall be deemed to be a separate offense.

**Camps (Recreational and Overnight), Cabins, and Trailer Parks**

**1. Licenses:**

- A. No person shall conduct, control, manage or operate, directly or indirectly, any recreational camp, overnight camp or cabin, motel or trailer coach park unless he is the holder of a license granted and issued by the Wareham Board of Health.
- B. Said license shall expire on December 31 in the year of issue and renewal fee shall be \$200.00 for Camps and Cabins, \$350.00 for Mobile Home Parks.
- C. Whoever runs the establishment who is not licensed shall be punished by a fine of not less than \$10.00 and not more than \$100.00.
- D. The trailer park operator shall, no later than the fifth day of each month, file with the Board of Health a list containing the amounts collected, together with the name and address of each owner or occupant of a trailer coach occupying space in the park during the preceding month.
- E. Each trailer park owner or operator shall number each space on the above specified list and shall designate on said list as to whether the lot is occupied or vacant.
- F. Each trailer park owner or manager shall pay a fee of \$12.00 per month or major portion thereof for each trailer coach occupying a space within the said trailer park. Such fee shall be deposited with the collector of taxes in the Town of Wareham no later than the tenth day of the following month.
- G. The failure of the trailer park owner or operator or agent thereof to pay the Collector of Taxes the above mentioned \$12.00 per month shall be subject to

revocation of any license by the Board of Health. Failure to comply shall be punishable by a fine of not less than \$10.00 nor more than \$100.00.

- H. Every holder of a license for recreational camps, overnight camps, or cabins, motels, or trailer coach parks shall keep or cause to be kept in permanent form, a register in which shall be recorded the true name in ordinary use, address and registration of occupant or owner of a trailer coach or motor vehicle renting space at such a park, date of entering and date of leaving. Such register shall be retained by the holder of the license for a period of at least one year from date of last entry and shall be open to inspection by the licensing authority, their agents and the police.

Whoever knowingly and willfully violates any provision of this section shall be punished by a fine of not less than \$5.00 nor more than \$100.00.

- I. The owner or operator of any recreational camp, overnight camp or cabin, motel or trailer coach park shall maintain all entrances and exits and all roads within the area in good condition, free of debris, glass or litter.
- J. The owner or operator of any recreational camp, overnight camp or cabin, motel or trailer coach park, shall provide for each unit an adequate water supply and sewage facilities.
- K. The owner or operator of any recreational camp, overnight camp or cabin, motel or trailer coach park, shall provide for the occupants, adequate rubbish barrels and facilities for garbage disposal and shall maintain the premises in a sanitary condition, free of debris, glass, litter, etc.
- L. No trailer coach shall be less than 75 feet in distance from any pond, stream or waterway.
- M. The trailer park owner or operator shall keep all trailer coach lots on a proper grade to eliminate water, either stagnant or otherwise form gathering or being deposited beneath any trailer coach.
- N. Each and every mobile home in the Town of Wareham is required to have skirting of an approved material from ground level to the first floor on all four sides to eliminate the collection of trash, debris and a harborage for animals.
- O. Failure to comply with any of the above regulations shall be cause to revoke or suspend the license granted by the Board of Health.

### **Catering**

#### **1. Authority:**

- A. The Wareham Board of Health adopts this regulation in accordance with M.G.L., Chapter III, Section 31. Under the authority of this section, violators may be punished by a fine of not more than \$200.00.

**2. Definitions:**

- A. Catered Function Site: Any food establishment or location which is used for functions at which food is to be prepared and/or served by a caterer.
- B. Caterer: Any person who prepares food intended for individual portion service and transports in to another location, who prepares and serves food at a food service establishment other than the one for which he holds a permit, for service at a single meal, party or similar gathering.

**3. Provisions:**

- A. No person/caterer shall serve any meals within the Town of Wareham without first obtaining a permit from the Board of Health. Permits may be obtained at the Board of Health office for a charge of \$150.00 annually for caterers whose base of operation is in the Town of Wareham and \$50.00 per function for caterers whose base is in another town, or town-based caterers who cater three or less functions per year.
- B. Cumulative per function fees will not constitute the fees for annual permit, i.e., four \$50.00 per function fees will not be construed as satisfying the annual fee requirement, since these fees are for two separate permits.
- C. Each cater whose base of operation is within the Town of Wareham shall operate from a licensed food establishment, inspected and approved by the Wareham Board of Health.
- D. Each caterer must provide the Wareham Board of Health with notification on a form provided by the Wareham Board of Health 48 hours prior to catering a function.
- E. Each caterer whose base of operation is not within the Town of Wareham shall provide the Board of Health with a copy of their current food establishment permit from the town in which their base of operation is located and must notify the Board of Health in writing 48 hours prior to a catered function.
- F. It is the responsibility of the owner renting or leasing a catered function site to keep a function log which must be maintained and make available for review by the Wareham Board of Health. This log must indicate the date of each catered function, the caterer's business name and address or the caterer's base of operation, and the permit number issued by the Wareham Board of Health where the caterer maintains a base of operation.
- G. All caterers shall comply with the State Sanitary Code, Article X – Minimum Sanitation Standards for Food Service Establishments and Vending Machines.
- H. If a caterer fails to obtain a permit and/or an inspection, he will be punished by a fine of not more than \$200.00.



**Food Handlers:****1. Certificates:**

- A. All persons handling food or food equipment in any restaurant, drugstore, or other establishment where food or drink is dispensed for consumption on the premises must have a food handlers certificate obtained from the Board of Health.
- B. Any person 16 years old and under will be required to produce a work permit when making application to the Board of Health for a Food Handlers Certificate.
- C. Food Handler Certificates will expire one year from the date of issue.
- D. Proprietors of any types of food handling or processing must provide the Wareham Board of Health with a list of their food handlers.
- E. All meat cutters, butchers, and persons engaged in the process of wrapping or packaging meat and food products shall be required to obtain a Food Handler Certificate immediately.
- F. Violation of this regulation will be cause for the Board of Health to recommend to the Board of Selectmen that the Common Victualer's License be revoked.

**Mobile Food Units and Pushcarts****1. Regulations:**

- A. All mobile food units shall comply with 105 CMR 590.029.
- B. Single service articles shall be stored in a container with a lid. This container shall be maintained in a clean, sanitary condition.
- C. Waste receptacles shall be provided at every stop.
- D. All operator accessible toilets and hand washing facilities enroute must be registered with the Board of Health, including proprietor's written approval of facility usage.
- E. All bases of operations shall be registered with the Board of Health, including photocopies of their current Food Service permits. Food receipts for each day's product shall be carried in the unit and be available for inspection.
- F. All mobile food units shall be inspected prior to permit issuance.
- G. All mobile food units shall have the company name, telephone number, address and I.D. number plainly displayed on both sides of the unit.
- H. All units shall be properly licensed, insured and registered.
- I. All mobile food unit operators shall comply with 590.011.

- J. All mobile food unit operators shall be required to carry a current food handler card issued by the Wareham Board of Health.
- K. No animals shall be allowed within the vehicle or serving unit.
- L. A valid State Hawker's and Peddler's License shall accompany the vehicle at all times.
- M. All gas fired units must be inspected and approved by the local gas inspector.
- N. Fees: \$125.00 for each vehicle and \$75.00 for Mobile Food Pushcart

**No Smoking Regulation for Food Service Establishments/Lounges/Bars**  
**And**  
**The Sale of Tobacco Products to Minors**

**Statement of Purpose**

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 eighty percent of all smokers begin smoking before the age of eighteen years, (Centers for Disease Control and Prevention, "Youth Surveillance – United States 2000," 50MMWR1 (Nov. 2000); and whereas nationally in 2000, sixty-nine percent 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 an estimated three thousand minors begin smoking every day in the United States (See, Cancer Facts & Figures – 1993," American Cancer Society); 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; now, therefore it is the intention of the Wareham Board of Health to curtail the access of tobacco products by minors.

**1. Authority:**

- A. The Town of Wareham, pursuant to Massachusetts General Laws Chapter III, Section 31, adopts these regulations as reasonable health regulations designed to protect and improve the health of its residents.

**2. Definitions:**

- A. Bar/Lounge: An establishment with a food service license, devoted primarily to serving alcoholic beverages for consumption by guests on the premises, in which the consumption of food is only incidental to the consumption of such beverages.
- B. Employee: A person who performs services for wages or other consideration.
- C. Employer: A person, partnership, corporation, trust, or other organized group, including the County of Wareham and any department or agency thereof, and any municipal entity, which utilizes the services of two (2) or more employees.

- D. Food service Establishment: An establishment having one or more seats, in which food is served to the public that is a covered area and/or located within a permanent structure. A food service establishment is further defined as an establishment devoted primarily to serving food for consumption by guests, where the consumption of alcoholic beverages is only incidental to the consumption of food.
- E. Function Room/Hall: A separate, enclosed room used for private functions within a food service establishment.
- F. Smoking: The lighting of, or having in one's possession any lighted cigarette, cigar, pipe, or other tobacco product.
- G. Tobacco: Cigarettes, cigars, snuff, chewing tobacco or tobacco, pipe tobacco or tobacco in any of its forms.
- H. Minor: Any individual who is under the age of eighteen (18).
- I. Permit Holder: Any person engaged in the sale or distribution of tobacco products directly to consumers who applies for and receives a tobacco sales permit or any person who is required to apply for a tobacco sales permit pursuant to these regulations, or his or her business agent.
- J. Person: An individual, employer, employee, retail store manager or owner, or the owner or operator of any establishment engaged in the sale or distribution of tobacco products directly to consumers.
- K. Self Service Display: Any display from which customers may select a tobacco product without assistance from an employee or store personnel, excluding vending machines.
- L. Vending Machine: Any automated or mechanical self service device which upon insertion of money, tokens or any other form of payment, dispenses cigarettes or any other tobacco product.

### **3. Tobacco Sales Permit:**

1. No person shall sell or otherwise distribute tobacco at any retail establishment within the Town of Wareham without first obtaining a tobacco sales permit issued annually by the Wareham Board of Health.
2. As part of the application process, the applicant will be provided with the Wareham Board of Health regulation. Each applicant is required to sign a statement declaring; that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco sales regarding both state laws regarding the sale of tobacco and this regulation.
3. Each applicant is required to provide proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a tobacco sales permit can be issued.

4. The fee for a tobacco sales permit shall be determined by the Wareham Board of Health. All such permits shall be renewed annually on or before December 31st.
5. A separate permit is needed for each retail establishment selling tobacco.
6. Each tobacco sales permit shall be displayed at the retail establishment in a conspicuous place.
7. No tobacco sales permit holder shall allow any employee to sell cigarettes or other tobacco products until such employee reads this regulation and state laws regarding the sale of tobacco and signs a statement, a copy of which will be placed on file in the office of the employer, that he/she has read the regulation and applicable state laws.
8. A tobacco sales permit is non-transferable, except a new permit will be issued to a retailer who changes location.
9. Issuance of a tobacco sales permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation.

**4. Free Distribution:**

No person shall distribute, or cause to be distributed, any free samples of tobacco products. No tobacco sales permit holder shall redeem or honor any coupons or vouchers redeemable for tobacco or tobacco products within the Town of Wareham.

**5. Out of Package Sales:**

No person may sell or cause to be sold or distribute or cause to be distributed, any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.

**6. Self Service Displays:**

All self-service displays of tobacco products are prohibited. All humidors including, but not limited to, walk-in humidors must be locked.

**7. Tobacco Vending Machines:**

All tobacco vending machines are prohibited.

**8. Tobacco Sales to Minors Prohibited:**

1. No person shall sell tobacco products or permit tobacco products to be sold to a minor, or not being the minor's parent or legal guardian, give tobacco products to a minor.

2. In conformance with and in addition to Massachusetts General Law, Chapter 270, section 7, a copy of Massachusetts General Laws, Chapter 270, section 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be provided by the Massachusetts Department of Public Health and made available from the Wareham Board of Health. Such notice shall be at least 48 square inches and shall be posted at the cash register which receives the greatest volume of tobacco product sales in such a manner so that it may be readily seen by a person standing at or approaching the cash register. Such notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor. For all other cash registers that sell tobacco products, a notice shall be attached which is no smaller than nine (9) square inches, which is the size of the sign provided by the Massachusetts Department of Public Health. Such notice must be posted in a manner so that it may be readily seen by a person standing at or approaching the cash register. Such notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of no less than four (4) feet or more than nine (9) feet from the floor.
3. Identification: Each person shall verify by means of government issues photographic identification containing the bearer's date of birth that the purchaser is 18 years old or older. Verification is required for any person under the age of 27.
4. All retail sales of tobacco must be face to face between the seller and the buyer.

**9. Prohibition of Smoking in Food Service Establishments, Lounges and Bars:**

- A. Smoking shall be prohibited in all food service establishments, lounges and bars as of January 1, 1999.

**10. Posting:**

- A. Every person having control of a premises where smoking is prohibited by this regulation shall conspicuously display on the premises, including the primary
- B. entrance doorway, signs reading "Smoking Prohibited by Law". Posting of the international symbol for "No Smoking" (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be deemed as compliance.

**11. Violations and Penalties:**

- A. It shall be the responsibility of the permit holder and/or his or her agent to ensure compliance with all sections of this regulation pertaining to his/her place of business or any person in violation of any section of this regulation. The violator shall receive:
  1. In the case of a first violation, a fine of one hundred dollars (\$100.00).
  2. In the case of a second violation, a fine of two hundred dollars (\$200.00) and the permit shall be suspended for seven (7) consecutive business days.

3. In the case of three or more a fine of three hundred dollars (\$300.00) and the permit shall be suspended for thirty (30) consecutive business days.

- B. The Wareham Board of Health shall provide notice of the intent to suspend a tobacco sales permit, which notice shall contain the reasons therefore and establish a time and date for a hearing, which date shall be no earlier than seven (7) days after the date of said notice. The permit holder 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. The Wareham Board of Health after a hearing, may suspend the tobacco sales permit. All tobacco products shall be removed from the retail establishment upon suspension of the tobacco sales permit. Failure to remove all tobacco products shall constitute a separate violation of this regulation.
- C. Any permit holder who does not pay the assessed fine within twenty-one (21) days from fine issuance may be subject to criminal proceedings.
- D. Non-Criminal Disposition:

Whoever violates any provision of this regulation may be penalized by the non-criminal method of disposition as provided in General Laws, Chapter 40, section 21 D or by filing a criminal complaint at the appropriate venue. Each day any violation exists shall be deemed to be a separate offense.

- E. Enforcement:

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

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

## **6. Severability:**

- A. 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.

## **7. Effective Date:**

The amended regulation shall take effect on January 1, 2006.

**Tanning Facilities****1. Authority:**

- A. This regulation is adopted by the Wareham Board of Health under the authority of the M.G.L., Chapter 11, Section 31, and Section 208.

**2. Purpose:**

- A. These regulations are intended to protect the public health and safety relative to the use of Tanning Facilities. In addition, licensing of these facilities by the Board of Health is required by Chapter 111, Section 207-214.

**3. Definitions:**

- A. Tanning Device: Any equipment or device that emits electromagnetic radiation with wavelengths in the air between 200 and 400 NM used for tanning the skin, including, but not limited to, a tanning booth, tanning bed, sunlamp which includes high pressure tanning lamp. Tanning device shall also include any accompanying equipment, including, but not limited to, protective eye wear, timers and/or handrails.
- B. Tanning Facility: Is any location, place, area, structure or business which provides access to any tanning devices.
- C. Owner: Any person who has effective control or legal ownership of a tanning facility operation.
- D. Operator: Any person performing duties and rendering services to the public who use the tanning facilities.

**4. Regulations:**

- A. All tanning facilities are required to make application to the Town of Wareham Board of Health for Tanning Facility License, effective July 1, 1991. The permit expires one year from date of issue.
- B. Fee for licenses is \$175.00 plus \$30 per unit. Annual renewal of license shall be completed ten days prior to the expiration of the existing license.
- C. All facilities shall be accessible for inspection during normal operational hours. All facilities shall be accessible a minimum of two times per year. All tanning facilities shall comply with M.G.L. Chapter III, Sections 208-214.

**Title V Board of Health Regulations****1. As Built Plans:**

- A. In an effort to provide us with uniformity of subsurface sewage disposal system plans, the Board requires the Assessors sheet number, lot number(s), and street name for specific identification.

- B. The Board also requires the engineer to provide certified “as built” plans of subsurface sewage systems and foundations.

**2. Cesspool Regulations:**

- A. These regulations are pursuant to Chapter II, Section 31, M.G.L.
- B. At the time of the inspection of a septic system for title transfer the leaching facility and/or cesspool must be uncovered as part of the inspection.
- C. Any existing cesspool and/or leaching facility shall be documented to have a minimum of a four foot separation between the bottom of the cesspool and/or leaching facility and existing maximum high groundwater, and four feet of effective depth inlet to bottom of cesspool or leaching pit.
- D. Any cesspool and/or leaching facility deemed not to have this four foot separation will be considered a failed system and an upgrade will be required.
- E. All cesspools and privies are considered to be nonconforming and shall be upgraded to meet standards set forth in Title V at the time of title transfer.

**3. No Discharge Area:**

- A. Authority:
  - 1. These regulations are pursuant to Chapter III, Section 31, M.G.L.
- B. Purpose:
  - 1. This regulation is intended to protect the public health and the coastal waters of the Town of Wareham.
- C. Provisions:
  - 1. The Wareham Board of Health prohibits all vessels from discharging any sewage, whether treated or untreated, into the costal waters of Wareham as determined by the State of Massachusetts and designated by the United States Environmental Protection Agency.
  - 2. Boat sewage shall be disposed of through available boat sewage pumpout facilities within the Town of Wareham, or though other approved means outside of the Town of Wareham boundaries. Port-a Potties and all similar container devices shall be emptied at onshore dump stations, restrooms, or by other approved means outside of the Town of Wareham boundaries.
  - 3. All vessels registering for mooring (harbor permits) within the Town of Wareham shall be inspected by the Harbormaster, or his designee, for compliance with the Marine Sanitation Device Coast Guard Regulation.



4. Any violation of the NDA regulation shall be punishable by a fine of \$50.00 and a warning for the first offense, a fine of \$200.00 for the second offense, and a fine of \$500.00 and a loss of mooring rights for one year upon conviction of a third offense.
5. This Board of Health regulation may be enforced by the Wareham Board of Health, the Shellfish/Harbormaster Department, and any applicable State and Federal enforcement agencies.

#### **4. Private Drinking Water Regulations:**

- A. These regulations pertain to those water systems which are not presently regulated by the Commonwealth of Massachusetts Department of Environmental Protection.
- B. Definitions:
  1. Private Drinking Water Supply: A system for the provision of drinking water for human consumption.
  2. The system has less than fifteen (15) service connections and regularly serves an average of less than twenty-five (25) individuals daily, at least sixty days of the year.
- C. Laboratory Certification:
  1. No laboratory shall conduct the analyses of drinking water required by these regulations and report to the supplier of the water and to this Board of Health for the purpose of complying with these regulations, unless the DEP has certified the laboratory as being capable of conducting uniform, professional and reliable analyses, and as being capable of documenting the validity of analytical data introduced.
  2. Laboratories shall conduct analyses, documentation of analytical results, and date reporting in compliance with the regulations and guidelines contained in the Massachusetts Drinking Water Regulations, unless amended herein.
- D. Private Water Sample Collection:
  1. Private water samples shall be collected, contained, and preserved (if necessary), prior to delivery to a certified laboratory for analysis, according to the MA Drinking Water Regulations.
  2. Sufficient information shall accompany each sample to permit absolute identification. The specific information which must be provided to the certified laboratory when submitting a sample for analyses include:
    - a. The sample source;
    - b. The location of the sampling site;
    - c. The date and time of the collection;

- d. Prescribed sample preservation techniques employed (if preservation is necessary);
- e. The name and signature of the person collecting the sample;
- f. The name and signature of the person possessing the sample after the collection and prior to laboratory receipt of the sample.

**5. Required Private Water Certification:**

- A. No private water supply shall be made operable for the purpose of obtaining drinking water, excepting supervised testing or cleansing of the system, or collecting water samples; without first obtaining the Certification of Private Water Supply from the Board. Failure to comply with this requirement is subject to a fine, not to exceed \$50.00 at the discretion of the Board. Each day of operation of the private water system for the purpose of obtaining drinking water without certification by the Board shall constitute a separate offense.
- B. Private water samples shall be analyzed and results of the analyses submitted to this Board of Certification of Private Water Supply.
- C. New systems shall be certified by this Board prior to use. Whenever an onsite sewage disposal facility or new home construction is to be serviced by the public water system, the private water system shall be certified prior to the issuance of a
- D. Certificate of individual sewage disposal system or a Certificate of Occupancy by this Board.
- E. Whenever an existing well is altered by relocating, construction or repair to the well (excluding pump and/or distribution system), or installation of any water treatment equipment (excluding filters to remove particulate matter.)
- F. Prior to sale of property, which included the private water supply, the new owners shall be provided a copy of the current Certification of Private Water Supply by the seller.

**6. Required Test Parameters:**

- A. Private water samples shall be analyzed for the following parameters (maximum allowable concentration of contaminants):
  - 1. Iron: .03 mg/l
  - 2. Manganese: .05mg/l
  - 3. Sulfate: 250mg/l
  - 4. Chloride: 250mg/l
  - 5. Hardness: 150mg/l
  - 6. pH: 6 to 8

## 7. Nitrate: 10mg/l

- B. The Board of Health will grant no variances allowing the use of water with or without treatment, which exceeds the maximum allowable concentration of total coliform bacteria. The Board will not approve new sources of private water which exceeds standards other than total coliform bacteria unless treatment is provided
- C. which renders water of acceptable quality to the user. Efficiency of treatment must be demonstrated by analyzing the treated water for the contaminants listed above and submitting the test results to the Board.
- D. If the Board determines that water treatment is sufficient to reduce the contaminant concentrations listed above a variance will be granted for the use of the private water system providing that the person complies with the following:
  - 1. Inspection of the treatment equipment installation and certification by the Board's plumbing inspector to the effect that the installation meets existing codes and that no bypass plumbing exists which would supply untreated drinking water to the user.
  - 2. Registry of the variance by an agent of the Board at the expense of the person obtaining the variance on the certificate of Title of property containing the water supply, treatment equipment, and all user water outlets.
  - 3. All treatment equipment shall be properly maintained at all times by the user and subject to compliance inspection by the Board upon 24 hours notice that an inspection will be made.
  - 4. Upon inspection by this Board, if treatment deficiencies are indicated, the Board may cause treated and/or raw water samples to be collected and analyzed at user expense to demonstrate compliance with the paragraph above.
  - 5. Failure to comply with all condition of the variance shall, at the discretion of this Board, result in revocation of:
    - a. The variance allowing use of the treatment equipment
    - b. The Certification of Private Water Supply
    - c. The Certificate of Occupancy of the water user or owner
  - 6. Owners who sell, rent or lease property listed in the variance shall inform prospective buyers, tenants, or leasees, respectively, of all aspects of the variance, such information shall be signed by both the owner and the buyer, tenant, or leasee. The owner retains responsibility for all compliance with the condition of the variance, such information shall include (but not limited to):
    - a. Treatment equipment owner's manual, spare parts and supplies availability

- b. Estimated maintenance costs
- c. Full explanation of the owner's commitments to comply with the conditions of the variance

**7. Construction of Location of Wells:**

- A. No well shall be installed until a permit to install has been obtained from this Board or its agent. The fee for this permit shall be set by this Board from time to time.
- B. A plot plan shall be submitted to the Board prior to the issuance of a permit to install the well. The plot plan shall be constructed by a professional engineer to surveyor and shall include, but not be limited to the following:
  - 1. Boundaries and area of the property containing the well
  - 2. Location of abutting streets and private ways
  - 3. Location of the homes and septic disposal systems serviced by the well
  - 4. Distances from the well to the nearest street, home leaching field, and property boundary.
- C. New wells shall be located at least 25 feet from the street and 150 feet from any septic waste leaching system in the vicinity, and other distances as per Title 5, Section 3.7, State Environmental Code.
- D. All well points shall be constructed of stainless steel. All elbows or connectors used on plastic pipe below finished grade shall be constructed of durable plastic or stainless steel.
- E. Evidence of the yield of the well shall include a demonstration test by the well contractor, in a manner satisfactory to the Board's agent, that the well will deliver a minimum of five gallons per minute for a four hour continuous period. The water flow requirement may be lowered when large storage, and/or storage pressure tanks are provided.
- F. The physical location of the well shall be marked on the property by a durable boundary marker, placed 6 inches above the finished grade.

**8. Flood Plain District – Health Regulation:**

- A. The Wareham Board of Health, in reviewing all proposed water and sewage facilities to be located in the flood plain district established under the zoning by-law shall require:
  - 1. New and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems.

- B. New and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

**9. Garbage and Rubbish – Odor Oxidizer:**

- A. From July 1 through October 31 of each year which is considered the “odor season”, all restraints, retail and wholesale food markets, fish markets and seafood processor plants shall apply an odor oxidizer, such as hydrated lime or sodium bicarbonate or masking agent to all food wastes in sufficient quantities to retard or eliminate offensive odors.

**10. Medical Waste Transporters:**

- A. Application must be made to the Wareham Board of Health for a permit to transport medical waste in Wareham. The fee for this permit is \$25.00.

**11. Percolation Tests:**

- B. All percolation tests will be taken in any wet area that has a questionable water table, only during the months of November through April. All tests will be at the discretion of the Board of Health. The Board of Health may require modifications if adverse conditions are encountered at other times of the year.

**12. Roadside Stand Regulations:**

- A. Must have toilet facilities within distance of 50 feet.
- B. Must have portable water available on site.
- C. Shade must be provided for eatables offered for sale.
- D. The sale of fish or shellfish shall be governed by rules and regulations for the sanitary control of the shellfish industry relative to fish and fish products.
- E. All stands must be registered with the Board of Health and permit obtained from this governing body.
- G. All stands shall be set back 25 feet or more from the edge of the roadway, highway, street or other route of vehicular traffic.
- H. Proper containers shall be provided for fruits and vegetables that have decomposed.
- I. Shellfish must be maintained under proper refrigeration at all times, and kept in containers which are sanitary and protected from the direct rays of the sun and other elements conducive to spoilage or contamination.
- J. Mobile units shall conform to the preceding regulations when utilized as a roadside stand.

**13. Septic System Additives/Cleaners Regulation:**

- A. The Wareham Board of Health under the authority of Chapter III, Section 31 of
- B. M.G.L. and to protect the public health from contamination of ground and surface water bodies, prohibits the dispensing of the following chemicals, commonly found in septic system additives/cleaners, to an on site subsurface septic system.
- C. A list of prohibited chemicals follows:
  - 1. Methylene chloride
  - 2. 1,1,1 trichloroethane
  - 3. Trichloroethylene
  - 4. Tetrachloroethylene
  - 5. Carbon Tetrachloride
  - 6. Ethylene glycol monophenylether
  - 7. Acids (ex. H<sub>2</sub>O<sub>4</sub>, A<sub>12</sub>, (SO<sub>4</sub>)<sub>3</sub>)
  - 8. Orthodichlorobenzene
  - 9. Orthochlorotolunene
  - 10. Dichloromethane
  - 11. Petroleumdistillates
  - 12. Naphthalene
  - 13. Benzenes
  - 14. Bases (ex. KOH, CuSO<sub>4</sub>)
- D. Further, any establishment which sells septic system additives/cleaners must post the following notice in the direct vicinity of these products so as to be noticeable to someone purchasing them:
  - 1. "WARNING: IT IS ILLEGAL TO INTRODUCE ANY OF THE ABOVE LISTED CHEMICALS INTO A SEPTIC SYSTEM IN THE TOWN OF WAREHAM."
  - 2. "A PRODUCT CONTAINING ANY OF THESE CHEMICALS CANNOT BE USED AS A SEPTIC SYSTEM ADDITIVE/CLEANER DUE TO THEIR CONTAMINATION EFFECT ON THE GROUNDWATER."
  - 3. "PLEASE READ THE LIST OF INGREDIENTS CAREFULLY!"

**14. Septic Plan Design:**

- A. All individual sewage disposal systems for new single family dwellings shall be designed to accommodate at least one more bedroom than will actually exist in the newly constructed home. This will allow for future expansion of the home with less likelihood of a need to alter the septic system. At the discretion of the Health Agent, this rule shall also apply to septic system repairs, with the exception of subsurface sewage disposal systems proposed or upgraded in areas of D.E.P. designated Zone II areas.

**15. Sewage Disposal Permits:**

- A. No person or firm shall engage in the construction, alteration, installation or repair of any individual sewage disposal system without first obtaining a Disposal Works Installer's Permit from the Wareham Board of Health. Such permits shall expire at the end of six months, unless earlier revoked for cause by this Board.
- B. Disposal Works Construction Permits shall expire six months from the date of issue.

**16. Rules and Regulations Pertaining to Sewer Haulers:**

Permits: No person shall engage in the pumping or transportation of the contents of privies, cesspools, septic tanks, holding tanks, or other offensive substances without first obtaining a permit from any municipal agency in the Town of Wareham or the Commonwealth of Massachusetts.

**A. Equipment:**

- 1. No person shall use equipment to remove or transport the contents of privies, cesspools, septic tanks, or holding tanks, or other offensive substances unless such equipment has first been inspected by the Wareham Board of Health.
- 2. Haulers shall not allow sewage to remain in their vehicles overnight and sight glass shall be visible on all mobile tanks.
- 3. Mobile tanks shall be securely mounted on trucks. They shall be watertight and provided with a leak proof cover and tight discharge valves.
- 4. Mobile tanks shall be provided with a vent constructed in a manner that will permit the escape of gas, but not the liquid contents of the tank.
- 5. Suction or pressure hoses shall be in good repair.
- 6. Pumps shall be maintained in condition that will prevent the leakage of sewage.

**B. Disposal:**

- 1. Disposal of sewage shall be by discharge to the sanitary sewerage works located at the Wareham Water Pollution Control Facility which has been designated for this purpose. All rules of the

2. Wareham Water Pollution Control Facility shall be complied with during the discharge of sewage at said facility.

C. Transportation:

1. The contents of privies, cesspools, septic tanks or holding tanks shall be transported in a manner that will not create a nuisance or a health hazard.

D. Intercommunity Disposal:

3. The contents of privies, cesspools, septic tanks, holding tanks, or other sewage originating in any city or town may be disposed of in the Town of Wareham's Water Pollution Control Facility. Any person engaged in the pumping and transportation of said sewage shall be duly licensed in the Town of Wareham.

E. Maintenance:

1. Any equipment or hazardous material used for the pumping or transportation of sewage and parked in any area zoned for residential purposes must not have an odor which is noxious, offensive or injurious to the health, safety and well being of the public.

G. Parking:

1. Any equipment used for pumping or transportation of sewage and parked in any area zoned for residential purposes must not have an odor which is noxious, offensive to the health, safety and well being of the public.

H. Fees:

1. A permit fee for the pumping and/or transportation of the contents of privies, cesspools, septic tanks, holding tanks, or other offensive substances may be charged by the Board of Health at the time of the application for said permit.

I. Penalties:

1. Any person who shall violate any provision of these Rules and Regulations for which penalty is not otherwise provided in any of the General Laws for the Commonwealth of Massachusetts shall, upon conviction, be fined not less than \$10.00 nor more than \$50.00.

**17. Municipal Sewer Hookup – Existing Cesspools**

- A. Effective January 1, 1990 it shall be mandatory that once an establishment, dwelling, or institution has made connections to the municipal sewerage system, that the existing cesspools be emptied of all contents and that it further be filled in and covered to grade, causing this facility to be rendered safe and out of operation. The Board of Health shall be notified upon completion of the above.



**18. Trash Hauler Regulations:**

- A. All trash haulers licensed in the Town of Wareham shall be required to charge one all inclusive fee which will include trash pickup and recycling services to all clients in the Town of Wareham. Notification of recycling services shall go out to all customers with each quarterly billing.
- B. Trash hauler permits shall be valid for one calendar year, expiring on December 31<sup>st</sup>. Permits are renewable annually on or before that date and are subject to review and approval by the Board of Health.
- C. Each applicant shall submit to the Board of Health a number of customers to be served and a process for resolving residential complaints relative to collection. Any application which fails to include all information requested by these Board of Health regulations shall be deemed incomplete and shall be denied.
- E. All permitted haulers shall provide trash and recycling services at least equal to the level of Wareham municipal service and in compliance with the State of Massachusetts solid Waste Master Plan and DEP regulations. Recycling containers shall be provided to all customers at no extra charge.
- E. Each permitted hauler shall submit monthly reports listing the tonnage of refuse and recyclables that has been collected. All permitted haulers are required to provide copies of weight slips or vendor receipts to document tons of both recyclables and trash collected. Said report shall be submitted to the Town Municipal Maintenance office and Board of Health beginning one month from the application approval date and continuing each month during which the applicant holds a valid permit. Failure to provide this required information may result in suspension, modification, or revocation of the permit.
- F. Any member of the Board of Health or its agents, Municipal Maintenance Director or other designee of the Board of Health may enforce this section. Any violation of this regulation, the Department of Environmental Protection regulation or the Massachusetts General Laws by the permitted hauler shall be grounds for suspension, modification, or revocation of the permit.
- G. An application fee of \$150 per vehicle shall be submitted with all applications.

**19. Water Quality Protection:**

- A. Pursuant to Chapter 111, Section 31 M.G.L., the Wareham Board of Health voted at its regular meeting held on May 6, 2003 to establish for new construction the setback requirement of 150 feet for all soil absorption systems (S.A.S.) from a watercourse, wetland (as defined by the wetland protection act 310 CMR 10.00), pond, stream, river and all water wells. Groundwater flow direction shall be indicated on all submitted plans.
- B. Existing Lots: A waiver may be granted by the Wareham Board of Health upon receipt of an application for wavier by the property owner and/or his agent.

**20. Well Drivers Regulations:**

- A. All well drivers and drillers doing business within the Town of Wareham must register with the Board of Health.
- B. All well drivers and drillers shall procure a permit from the Board of Health for which there shall be a fee of \$125.00 for a new well and \$25.00 for a repair to an existing well.
- C. A plot plan of lot and location of well to be driven must be approved by the Board.
- D. Any individual or home owner who engages in digging his own well must abide by these rules.
- E. Upon completion of the well, a water sample shall be tested by a certified laboratory and the results filed with the Board of Health.
- F. Violations of the above regulation shall be punishable by a fine not less than \$10.00 nor more than \$50.00.

**Board of Health Fees Revised June 2008****Title V Related**

Title V Inspection Report Filing & Certificate	\$50
Percolation Test (new construction)	\$475
Percolation Test (upgrade)	\$275
Septic Plan Review	\$100
Commercial Septic Plan Review	\$300
Alternative System Plan Review	\$250 *
Variance Request	\$150
Disposal System Construction Permit (includes 2 inspections-open hole & final)	
Residential-new or upgrade	\$250
Residential repair- (single component)	\$150
Commercial- new or upgrade	\$500
Commercial repair (single component)	\$200
Alternative System	\$300*
Abandonment of Title V System	
Commercial	\$300
Residential	\$100
Septic Installer (expires 12/31)	\$200
Septic Installer License Test	\$125
Well Permit	\$125
Public Information Request	\$5+ \$.10 per copy
Late Filing Fee	\$75

**Food Service Establishments**

0-15 seats	\$150
16-50 seats	\$175
51-100 seats	\$200
101-200 seats	\$250
Over 200 seats	\$300
Temporary Food Service	\$100
Mobile Food Service	\$125
Mobile Food – Pushcart	\$75
Food Service Est. Plan Review - Commercial	\$300
Food Service (Bakery)	\$150

**Food Service Catering**

Annual	\$150
Per Event	\$50

**Retail Food Service**

Limited Retail Food	\$50
0-1000 square feet	\$175

Greater than 1000 square feet	\$225
Wholesale Food	\$200
Frozen Dessert	\$20
Milk & Cream	\$15
Bed & Breakfast	\$100 + \$10 each room
Residential Kitchen	\$125
Food Handler Permit	\$5
Tobacco Sales	\$150
Roadside Stand	\$75
Camps/Cabins/Mobile Home Parks	\$200
Innholder	\$125 + \$15 per room
Lodging House	\$125 + \$15 per room
Motel	\$225 + \$20 per room
*\$10.00 additional for each room requiring re-inspection	
Voluntary Chapter II Inspection	\$75
Funeral Director/Facility	\$100
Burial Permit	\$25
Tattoo Facility	\$275
Tattoo Practitioner	\$150
Tattoo Practitioner (visitor)	\$150
Tattoo Apprentice	\$100
Piercing Facility	\$275
Tanning Facility	\$175+\$30 per bed unit
Stable	\$125
Swimming Pools (commercial)	\$150
Special Purpose Pools	\$75
Porta Potties (each unit)	\$10
Commercial Porta Potties – 1-5/12 months	\$150
Sewer Hauler	\$150
Rubbish Hauler	\$150
Rubbish Hauler Dumpster	\$150*
Restaurant, 2 <sup>nd</sup> inspection after Violation	\$50*
Medical Waste Transportation Permit	\$25*
Asbestos Violation	\$125*

\* New Fees