



TOWN OF SALISBURY

BOARD OF HEALTH

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DANIEL RICHARD
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SUE RING
DENISE PETERSON
JILL TAPPER

BOARD OF HEALTH MEETING MINUTES

October 19, 2021

7:00 PM **Salisbury Town Hall**

Board Members Present:

Ron Laffely, Dan Richard, Denise Peterson, Sue Ring, Jill Tapper

Board Members Absent:

None

Staff:

John Morris-Health Director, Rich Berube – Deputy Health Director

Meeting called to order at 7:00 PM.

Minutes

Approval of September 7, 2021 minutes

(Ms. Peterson) makes a motion to accept the minutes as written. (Mr. Laffely) seconds that motion. Mr. Richard and Ms. Ring in favor, Ms. Tapper absent from that meeting so abstains. Motion carries and is passed

Approval of Executive Session Minutes of 9/7/21 meeting- discussion continued to November 16th meeting

Old Business Continued review of updated regulations.

(Mr. Morris) gives an overview of how every 3-5 years the regulations are looked at for possible updates, language changes, etc. He notes most of the changes for this edition are in Chapter 5 concerning septic and Title 5 Inspectors; Section 10 is also new concerning Dumpster Regulations. They are being placed on the property lines, they are overflowing, being picked up much too early. We want to license inspectors so there is more local control. All septic changes will be discussed under chapter 5.

The Board begins discussion on drafts of the updated fees and the updated regulations. All draft copies of the regulations and fee changes can be observed in the Board of Health Office, Salisbury Town Hall, 5 Beach Road.

General Board Discussion:

Discussion Chapter 1/Administrative Procedures: Chapter 1 discussion on 1.1.001 (2) which is Cost Recovery such as reimbursement for multiple inspections, Health Department posting notices etc. and the Board of Health is now producing Enforceable Agreements.

Chapter 4 (Tobacco Control) there are no changes. Chapter 1 & 2; some definitions have been expanded to pertain to certain aspects.

Discussion on **Fee Schedule** changes: only half a dozen changes total.

New fee for Certificate of Compliance (COC): (Mr. Morris) explains the procedure for obtaining a COC. He states the Health Department maintains all records concerning septic installation. Also included in the procedure is application processing, filing, scheduling and all administrative procedures. The certificate is the final OK for the system and it is used for closings etc. All paperwork is kept in the paper file.

(Mr. Richard) makes a motion to deny an additional fee for a Certificate of Compliance; Ms. Ring seconds. Mr. Laffely and Ms. Peterson vote in favor. Ms. Tapper votes against the motion. Consensus among members is that there should not be an additional fee. Vote is 4-1.

Unanimous decision to move the Disposal Works Installer Exam fee to Chapter 5 for clarity.

(Mr. Laffely) makes a motion to approve an increase for the Title 5 Installer exam. Mr. Richard seconds. All in favor, unanimous. 5-0

Fees for test holes. There is a (3) hour maximum; if it goes over this then every additional hour is \$75.

(Mr. Laffely) makes a motion to approve the increase as changed. Ms. Ring seconds. All in favor, unanimous. 5-0

Miscellaneous fees: Port-A-Potty Plan review.

(Mr. Laffely) makes a motion to deny a fee for Port-A-Potty Plan Review and to remove the Port-A-Potty permit as the Building Department includes that. Mr. Richard seconds. Ms. Peterson and Ms. Ring in favor. Ms. Tapper votes against the motion. 4-1

(Mr. Richard) notes discussion on the septic fees will be held off until the septic regulations are discussed in Chapter 5.

Fee review done. Discussion on slight change on Table of Contents. Will be addressed later.

(Mr. Morris) states that under the Administrative Section there will be a consent order for a compliance plan.

Section 1: Definitions. (Mr. Morris) states this will allow the Department to expand for a particular section of any regulation we are trying to enforce.

(Mr. Laffely) states some sections will have a definition pertaining to this regulation meaning it can be expanded or changed.

Page 1: 1.1.001 SPECIAL INSPECTIONS/COST RECOVERY

(2) **COST RECOVERY:** The Health Department, may assess cost recovery charges to any person as defined in this chapter for costs incurred by the Health Department to abate a nuisance deemed to cause a threat to public health or the environment, or a charge may be assessed for any emergency actions taken by the Health Department to abate an imminent threat to public health or the environment or if the Health Department is called/or responds to an emergency. Other costs may be assessed for court actions, multiple inspections or delivery of Health Department notices.

General Board Discussion on Cost Recovery. (Mr. Morris) gives examples of the procedure of responding to an emergency and all that is involved such as posting notices, assisting police to remove occupants etc. and how all of these things start adding up; someone has to pay for these extra actions instead of the tax payers. This is an example of cost recovery.

There is discussion on how this new fee is assessed to the person. An example would be court time, court parking, mailings, certified mail fees.

(Mr. Richard) feels this has to be to be more specific and that the board can further discuss it.

(Ms. Tapper) states that as a Town, it should include the time and cost of the Inspector's/employee time. (Ms. Peterson) states it needs more clarity. (Mr. Morris) states that every case is different so there are no set fees. The fees can be assessed for the actions he had to take

(Mr. Richard) states he is comfortable with assessing court action fees but not extra inspections. (Mr. Morris) then explains the inspection procedure for a court case. He states that taking an owner to court could add up to 6-7 hours. It depends on how any times you have to go back.

(Mr. Laffely) inquires as to what would be a 'not to exceed' amount.

Discussion continues by the Board on cost recovery charges and whether there should be a cap on these fees. (Mr. Laffely) makes a motion to change the paragraph and (Mr. Richard) states to accept as written and also ***add not to exceed \$600 with documentation of what the costs are. This does not include attorney fees.***

CHANGE TO FINAL DECISION: (Cost recovery)

(Ms. Ring) makes a motion to accept the added change to this paragraph. Keep the change as written. (Mr. Richard) seconds the motion. Therefore (2) votes to accept. Mr. Laffely, Ms. Tapper and Mr. Peterson are against; the section will come out. Motion 2-3.

Page 3: 1.2.003(b) ENFORCEABLE AGREEMENT: (Mr. Richard) reads aloud the paragraph below. **(Mr. Morris)** states it is a clarification of other laws. It is the new definition of an Enforceable Agreement. Motion made by Mr. Laffely, seconded by Ms. Peterson; unanimous. Motion accepted. 5-0. See new language below.

1.2.003(b) ENFORCEABLE AGREEMENT: shall mean a document containing an understanding between the Board of Health and the owner(s) of a facility or the person(s) acquiring ownership of a facility relative to compliance with any rules and regulations enforced by the Board Health (e.g. to upgrade a septic system or to connect the facility to a sanitary sewer pursuant to Title 5 within a specified time frame following the transfer of title **or other requirements to effect compliance with public health law, rules and regulations**). The agreement is legally binding upon the owner(s) and on any subsequent owner(s). The agreement shall in no way limit the powers or responsibilities of the Board of Health to enforce any rules and regulations or take any other action deemed necessary to protect public health, safety, welfare, or the environment.

Page 4: 1.2.007 Step 3: (only change): Petitioner notifies all abutters, as defined in Chapter 1, Section 1 of this regulation, by Certified Mail, Return Receipt Requested, at least ten (10) days before hearing. Notification shall include the variance the petitioner is seeking, reasons therefore, and also the date, time and place for the scheduled hearing. If a variance request procedure is provided for by other laws, rules, or regulations, that procedure shall supersede this variance request procedure.

Accepted as written. Mr. Laffely makes motion; Peterson seconds. Unanimous. Motion accepted 5-0.

Page 4: 1.2.009 BOARD OF HEALTH AGENDA: The agenda for all Board of Health meetings shall close at 4:00 pm, 7 days before the scheduled meeting. Hearings which require plan approval and notification of abutters must be submitted in enough time to provide a proper review by the Board's Consultant/Consulting Engineer. Therefore, before receiving a scheduled hearing date, all plans and calculations must be submitted and the Consultant/Consulting Engineer shall be allowed ten (10) business days to review all material submitted. The applicant will then be scheduled for the next available meeting. Further, no person or applicant shall be placed on an agenda without submission of proper applications, documents, reports, etc. unless the Director of Public Health is instructed to do so by a member of the Board of Health.

(Mr. Morris) states all information/evidence needs to be submitted before the meeting so the Board can become informed.

(Mr. Laffely) makes a motion to accept as written. Ms. Peterson seconds. Unanimous. Motion accepted 5-0.

SECTION 3 CONSULTANTS REVIEW

Page 4: 1.3.001 CONSULTING ENGINEER / CONSULTANT COORDINATION AND PLAN REVIEW

COMMENTS: It is the responsibility of the applicant and his/her design engineer, or consultant(s) to facilitate coordination between all consulting engineers/consultants and other concerned parties, in order to facilitate an efficient review. (Ms. Ring) makes a motion to accept as written. Ms. Peterson seconds. Unanimous. Motion accepted 5-0.

Board discusses changes/updates on Page 5. Mostly are language changes or clarifications. **(Mr. Richard)** makes a motion to accept the changes as indicated on pages 5 and 6. Ms. Ring seconds. Unanimous. Motion accepted 5-0.

Page 13:

~~**2.3.005 EXTERIOR DUMPSTERS:** Exterior dumpster facilities must be identified on all plans and must be constructed on a level four (4) inch thick minimum, concrete surface large enough to fit all dumpsters and grease dumpsters and enclosed so as to not create an offensive nuisance to abutters and the general public. Enclosures must be not less than six (6) feet in height. In cases where enclosure is not possible, dumpsters must be properly maintained so as to not create a nuisance or become offensive to the public.~~

(Mr. Morris) requests to remove this section and add it to Chapter 5. Also, renumber remaining pages as needed.

(Mr. Laffely) makes a motion to accept as written. Ms. Peterson seconds. Unanimous. Motion accepted 5-0.

Page 19: CHAPTER 3 SECTION 2 PUBLIC AND SEMI PUBLIC SWIMMING POOLS

In order to provide the best protection for swimmers/bather in pools regulated by the Board of Health; lifeguards/pool attendants shall be required to be on duty at all times the pool is in operation. Lifeguards are preferred by the Board of Health. If pool attendants are used, the following conditions must be complied with:

1. The attendant must be able to stand easily above the water level when in the pool at the shallow end, at least one (1) foot, and on duty for ALL hours of operation. If the pool attendant is unavailable or away from the pool area, the pool area will be closed for the interim.
- ~~2. An Emergency Response System Alarm is wired from the pool area into at least, but not limited to, two (2) manned stations.~~
- ~~3. The Emergency Response Alarm is activated prior to the attendant entering the pool in an emergency.~~
 - ~~i. Emergency.~~
4. An Emergency Response Policy is written which must be approved by the Board of Health. **This policy must be understood by ALL personnel.**
 - ~~i. This policy must be understood by ALL personnel.~~
5. The Emergency Response Policy is available for the public review.

6. A sign in log is kept of all swimmers using the pool including the entry and departure time.
7. It is clearly posted in multiple locations, that a lifeguard is not on duty and a pool attendant Signage must be visible on all sides of the pool.
 - i. ~~Will be observing all pool activity.~~

~~All pool attendants must have as a minimum the following training:~~

- ~~a. CPR Training~~
- ~~b. First Aid Training~~
- ~~c. Anti Choking Training~~
- ~~d. Ability to remove large objects out of the water~~

~~—— If the above criteria is not met for pool attendants, a lifeguard is mandatory.~~

The Board of Health adopts the Massachusetts State Sanitary Code, Chapter V, 105CMR435.000 related to Public and Semi-Public Swimming Pools by reference as a local regulation, and further adopts all future regulations or amendments.

(Mr. Morris) states that most pools are seasonal and it is very expensive to install emergency response system alarms.

(Mr. Laffely) makes a motion to accept as written. Ms. Peterson seconds. Unanimous. Motion accepted 5-0.

Page 62: SECTION 4 LICENSING OF DISPOSAL WORKS INSTALLERS, SEPTAGE HAULERS, OFFENSIVE SUBSTANCE HAULERS AND TITLE 5 SYSTEM INSPECTORS

(Mr. Laffely) makes a motion to accept the title change as written. Ms. Peterson seconds. Unanimous. Motion accepted 5-0.

Page 64 through Page 68. 5.4.003 through 5.4.006 LICENSING OF TITLE 5 SYSTEM INSPECTORS: Title 5 System Inspectors

(Mr. Richard) states that this is a completely new section. **(Mr. Morris)** explains how these new regulations protects the homeowners and future homeowners. He states he has had problems with the state licensed inspectors and has gotten no response from the state. Title 5 requires that an inspector be licensed and the town has adopted that.

(Mr. Berube) explains the department has had issues with certain inspectors; no response from state on getting them into line or suspending them. He and Mr. Morris decided to pursue this licensing, which they currently have in Billerica, as there have been problems with unprofessional inspectors which have resulted in court cases. This results in control at the local level; the same as Installers and Haulers. They have to take an exam and prove they are qualified. The inspectors will now be more accountable to the town than the state.

(Mr. Berube) goes through all the new regulations. We want more detail than what the state requires.

(Mr. Morris) states that if this is approved the department will not accept a report if the inspector is not licensed. He explains that whoever sends in reports will have to pay the fee and take the exam. They will be put on notice that to continue to work in Salisbury they have to take the exam. The inspector will have to take the Salisbury exam along with the state exam.

(Mr. Richard) inquires as to the fee. The Board goes back to the fee schedule. (Mr. Morris) explains there is a one-time test fee of \$75. Annual licenses will remain at \$100.

(Mr. Laffely) makes a motion to accept the whole section 5.4.003 through 5.4.006 as written and also including the associated fees as shown below. Ms. Peterson seconds. Unanimous. Motion accepted 5-0.

Title 5 System Inspector License	\$ 100.00
Title 5 System Inspector Exam (\$50 Proctor, \$25 Town)	\$ 75.00
Title 5 System Inspection Report Review (\$50 Contractor, \$50 Town)	\$ 100.00

Page 68: 5.5.003 RESIDENTIAL WASTE COLLECTION

1. CONTAINER: Shall be a suitable receptacle, with a capacity no greater than thirty-five (35) gallons, constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting and having a tight- fitting lid capable of preventing entrance into the container by vectors and spillage. The mouth of a container shall have a diameter greater than or equal to that of the base. The weight of a container and its contents shall not exceed seventy-five (75) pounds. Pasteboard cartons, paper bags, and wooden crates are not suitable receptacles for weekly collection and may not be collected by the contractor. All garbage and rubbish shall be stored in said containers, and/or sealed boxes or sealed construction grade trash bag.
2. Refuse shall be placed curbside no later than 7:00 AM of the day of collection and the contractor shall not commence collection earlier. (Remove this sentence) Residents may not place refuse containers curbside before 5:00 p.m. the day before collection.
3. Prior to collection it is the resident's responsibility to maintain safe and sanitary conditions at the curbside collection point and to otherwise comply with these regulations.
4. Containers shall be removed within twelve (12) hours after daily collection and must be stored out of sight of public view in a secure location. **(REMOVE THIS):** However, containers must be removed no later than 7:00 p.m. the day of collection. **(REMOVE THIS)**

(Mr. Berube) explains that there have been so many trash complaints. Trash barrels are left out all week, tipping over, no tops on containers etc. The Board discusses, in general, the trash problems in Salisbury; i.e. in the summer with day visitors and barrels left out constantly.

See comments above for changes the Board discussed.

(Mr. Richard) makes a motion to accept the changes as written and also add the sentences as shown above. Ms. Peterson seconds. Unanimous. Motion accepted 5-0.

Page 71: Section 7 5.7.001 (3)

6. No horse barn or stable shall be located within one hundred (100) feet of a private well, Flood Plain or water course. ~~as defined in 5.1.003~~

(Ms. Ring) makes a motion to accept the changes as written. Mr. Laffely seconds. Unanimous. Motion accepted 5-0.

Page 73. Chapter 5.9.003 Housing/Definitions.

Add this to regulations: OPERATOR: An operator is anyone operating a bed and breakfast establishment, hotel, lodging house, short-term rental or motel. An operator can be an owner, lessee, sub-lessee, holder of a mortgage, licensee, or anyone else operating a short-term rental. An operator does not have to be a resident of Massachusetts or a Massachusetts-based business for the room occupancy rental rules to apply.

(Mr. Morris) states this information is being added to bring this regulation into compliance with the new short-term rental occupancy tax. There are about 1600 people in the program, about 400 are for personal use and about 1200 are short term rentals. The short-term rentals need to register with the DOR. **This refers to 5.9.005 (c6) re: Certificate of Registration.** The Town will send out a letter to those with short-term rentals to register their property. The Town is then reimbursed once the state is paid the occupancy tax. It does not apply if you live on the property more than (90) days.

(Ms. Ring) makes a motion to accept this new section as written. Mr. Laffely seconds. Unanimous. Motion accepted 5-0.

Page 75: 5.9.005 CERTIFICATE OF HABITABILITY (C)

(c) An owner of rental or leased property may obtain a Certificate of Habitability by filing an application on a form prescribed by the Board of Health. The owner must be able to demonstrate that:

1. Town water and wastewater bills are current;
2. Real estate taxes are current;
3. The dwelling unit conforms to the Fire Department's requirements relative to smoke detectors and carbon monoxide detectors and;
4. The dwelling unit(s) is in "move in condition", i.e. vacant, clean, walls painted, appliances clean and in good working order, bathroom fixtures of a smooth impervious material, floors, walls and ceilings in good condition.
5. The unit complies with 105CMR 410.000 and local regulations
6. **Show proof of Certificate of Registration that the owner/operator has registered with the DOR relative to the Room Occupancy Excise Tax for room rentals such as hotels, motels, bed and breakfast establishments, lodging houses and Airbnb's.**

(Ms. Ring) makes a motion to accept this new section as written. Mr. Laffely seconds. Unanimous. Motion accepted 5-0. **Motion also unanimous to add contents of C6 above to the Certificate of Habitability application.**

Page 76-Section 10: Dumpster Regulations.

(Mr. Richard) states this section is completely new and will be available for public viewing; therefore no need to read the whole provision. Board has general discussion. (Mr. Laffely) states it does not mention hazardous waste. (Mr. Morris) responds it has nothing to do with hazardous waste; this subject is construction dumpsters.

(Mr. Richard) states the Board will be continue the review and update to the new regulations to the next meeting.

New Business

COVID-19 BOOSTER VACCINATION UPDATE

The Health Department is running a clinic at the Council on Aging from 9-12 on Saturday, October 23rd. Again, Conlin Pharmacy is providing the vaccine and staff in addition to our Town volunteers. As of today, Moderna is not approved for the booster so it will only be Pfizer.

HOUSING UPDATE

Mr. Morris states he and the Building Commissioner are still working on properties to take to court. The pandemic put everything behind. He will be filing around (6) cases. Also, they are starting another potential receivership list

LITIGATION UPDATE

The case with the 193 Atlantic Ave. has not changed. The confidential session notes were emailed to all Board members.

Health Officer Reports

July 1 - September, 2021 – Discussion

Nurse Report

July 1 - September, 2021-Discussion on cases

Correspondence - None

Public Comments-NONE

Discussion on next meeting date; it will be on **November 16th at 7PM.**

ADJOURN

(Mr. Laffely) motions to adjourn; Ms. Petersen seconds the motion., Mr. Richard, Ms.Tapper and Ms. Ring vote in favor to adjourn, 0 opposed. Meeting adjourns at 8:55PM.

Date: 12-07-21

D R
Daniel Richard

Sue Ring

Ron Laffely

Jill Tapper 12/7/21
Jill Tapper

Denise Peterson

Respectfully submitted by Teresa K. Mahoney

Teresa K. Mahoney 12/7/21
Teresa K. Mahoney Date