

Town of Salisbury



Department of Public Health

Rules & Regulations

Effective October 17, 2017

Amended effective

December 28, 2018

Town of Salisbury

DEPARTMENT OF PUBLIC HEALTH

PREAMBLE

The following rules and regulations were adopted/amended by the Salisbury Board of Health at its meeting of October 17, 2017. The fee schedule also adopted at the meeting will become effective in accordance with a vote by the Board of Health.

PURPOSE:

The Salisbury Board of Health is responsible for the protection of the public health, welfare, and environmental in the Town of Salisbury. In an effort to protect the public, the following rules and regulations are promulgated to supplement those of the Massachusetts General Law.

AUTHORITY / APPLICABILITY:

These regulations are adopted pursuant to the authority of Massachusetts General Laws Chapter 111, Section 31 and Section 127 as well as Title 1, 310CMR11.02 and Title 5, 310CMR15.003 of the Massachusetts State Environmental Code, and Chapter II, Massachusetts State Sanitary Code, 105CMR400.015,100(B).

BODY ART DEFINITION:

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

TOBACCO CONTROL:

The Salisbury Board of Health does hereby find that: Numerous studies have been found that tobacco smoke is a major contributor to indoor air pollution and that breathing second-hand smoke is a cause of disease in non-smokers. At special risk are children, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Health hazards induced by breathing second-hand smoke include lung cancer, heart disease, negative birth outcomes, respiratory infection, decreased respiratory function, broncho-constriction, and broncho-spasm, allergies and irritations to the eyes, nose and throat.

Further, The Salisbury Board of Health finds cigarette smoking and other tobacco use by minors to be a continuing problem with grave public health consequences. In recognition of the Surgeon General's conclusion that nicotine is as addictive as cocaine or heroin and that tobacco is an initial drug preferred by young people and is associated with other drug use, action is needed to curtail the easy access of cigarettes and other tobacco products to minors.

Accordingly, the Town of Salisbury finds and declares that the purposes of this regulation are (1) to protect the public health and welfare by prohibiting smoking in public places (2) to guarantee the right of non-smokers to breathe smoke-free air, and to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke (3) to implement a strict and enforceable system to prevent the illegal sale of cigarettes and other tobacco products to minors.

Town of Salisbury

BOARD OF HEALTH

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CHAPTER 1 ADMINISTRATIVE PROCEDURES

SECTION 1 DEFINITIONS

ABUTTER: shall mean any and all abutters within one hundred (100) feet of the property boundaries of the project under review or in specific situations as determined by policy, rule or ordinance.

BOARD: shall mean the Town of Salisbury Board of Health.

DAY: shall mean a calendar day unless otherwise noted.

MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION: shall be referred to as D.E.P.

MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH: shall be referred to as D.P.H.

FEDERAL ENVIRONMENTAL PROTECTION AGENCY: shall be referred to as the E.P.A.

PERSON: shall mean any individual, partnership, company, corporation, trustee, trust, organization, or applicant.

PLAN: for the purposes of these regulations, shall be defined and interpreted as follows: Any drawings, calculations, test data, supplemental maps, any information utilized, requested or required to sustain the design of plans for submittal to the Board of Health.

1.1.001 SPECIAL INSPECTIONS/COST RECOVERY

(1) **SPECIAL INSPECTIONS:** shall mean any inspection conducted which is not routine, and is out of the ordinary. This shall include but not be limited to inspections to resolve court cases, inspections of code violations in Food Establishments, Markets, Restaurants, etc., inspections of construction projects or any inspection conducted outside normal working hours of the Health Department. In the case of Food Service Establishments, Special Inspections may be hand delivery of Special Notices, Pre-Operation Inspections, Complaint Investigation Inspections, or any other inspection deemed necessary by the Board of Health. All special inspections may be subject to special inspection fees in accordance with the current Board of Health fee schedule.

(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.

Cost Recovery charges may be assessed for services undertaken by the Health Department for any public health response efforts as deemed necessary.

Failure by any person to properly reimburse the Health Department for any cost recovery charges assessed shall be cause for further legal action to collect recovery costs as allowed by law, or may result in administrative actions to suspend, revoke, or modify any permit or other approvals issued by the Health Department.

SECTION 2 GENERAL ADMINISTRATIVE PROCEDURES

1.2.001 POLICY MEMORANDUM: The Board of Health may, at any time deemed necessary, adopt policies for the clear and concise interpretation of local and/or state regulations, for proper enforcement of local and/or state regulations, or adopt policies to protect public health, the environment, and citizens of Salisbury.

1.2.002 STANDARD CONDITIONS: The Board of Health may, at any time deemed necessary, establish a list of standard conditions that generally apply to all projects. The list will be in written form in order to properly inform applicants of their responsibilities once an approval is granted for any project.

This list of conditions shall not be considered as a final list. There may be special conditions deemed necessary and imposed for any project under review by the Board of Health. See Appendix A for a list of current standard conditions.

1.2.003 REQUEST FOR AN ADMINISTRATIVE DETERMINATION OF

APPLICABILITY: Any person may request a determination by the Director of Public Health in order to ascertain a finding of facts to determine the proper applicability of the Board of Health Rules and Regulations. The Director may issue a determination with conditions, if he/she determines that a person's actions will comply with the intent of its Board of Health regulations, and further provided that the same degree of public health and environmental protection can be maintained. The Director shall employ best professional judgment practices to make administrative determinations. The authority for the current Director of Public Health or future Directors of Public Health to grant an administrative determination must be authorized by a vote of the Board.

1.2.003(a) ADMINISTRATIVE ORDERS AND ENFORCEMENT: The Director of Public Health may issue administrative orders to affect Administrative Enforcement Actions. Orders may require but not be limited to corrective action, permit probation, conditional permits issued by the Board of Health, the use of consultants in accordance with Chapter 1, Section 1.4.001 of Salisbury Health Regulations, or other actions deemed necessary to enforce public health laws and regulations. In addition to administrative orders, the Director of Public Health may conduct enforcement conferences in order to inform persons, individuals, companies, corporations, etc. of pending actions and requirements to avoid further penalties.

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). 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.

1.2.004 APPEAL OF ADMINISTRATIVE DECISIONS: Any decision by the Director of Public Health may be appealed to the Board for further review. The Board may rescind, sustain, or modify any decision of the Director of Public Health. Said appeal must be filed within twenty-one (21) days of the date of the issuance of a decision. Late filings may be accepted at the Board of Health's sole discretion.

1.2.005 WAIVER OF REGULATIONS: A person may petition the Board of Health for a waiver of its regulation(s). If the Board of Health determines that a waiver will not have a detrimental effect to abutters, it will not cause a public health threat or environmental harm, and if a delay may cause a hardship, the Board may waive its regulation.

1.2.006 VARIANCE REQUEST: Any person may seek a variance of any Board of Health Regulation(s). The applicant must provide documentation to demonstrate a hardship which would result from strict enforcement of regulations. The applicant must also demonstrate that no other method or technology exists that would allow compliance with the regulations. Further, the applicant must employ every measure to assure the greatest degree of compliance that can be achieved. Variances may be granted if the majority of the Board finds that the petitioner has proposed to take adequate measures to protect the public health and environment, and the proposed variance is in keeping with the intent of these rules and regulations and that the grant of the variance will not be detrimental to the public health and environment.

1.2.007 VARIANCE REQUEST PROCEDURE/ABUTTER NOTIFICATION:

Step 1: Petitioner submits written variance request to the Board of Health office, either in hand or by certified mail. A proper submittal shall include, but may not be limited to the following:

- 1) Properly filled out application.
- 2) Appropriate fees paid.
- 3) Two (2) sets of plans, if applicable.
- 4) Certified Abutters list from the Assessor's Office which must be dated within sixty (60) days of submission.
- 5) Documentation supporting petitioner's request.
- 6) Any pertinent information deemed necessary to set hearing date.

Step 2: Office sets hearing date after proper submission has been determined.

Step 3: Petitioner notifies all abutters 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.

Step 4: Certified mail slips stamped by the post office shall be provided to the Board of Health office seven (7) days prior to the scheduled hearing with a copy of the notification to abutters.

Step 5: The night of the scheduled hearing, the petitioner shall provide, as evidence to the Board, the Post Return Receipt cards (Green Cards).

1.2.008 CERTIFICATE OF COMPLIANCE/OCCUPANCY INSPECTION:

(1) All projects approved by the Board of Health shall require a Certificate of Compliance, if applicable. A Certificate of Compliance form shall be utilized as the form

necessary to demonstrate that any project required to have a Certificate of Compliance has been completed to the satisfaction of the Board of Health. The fee for a Certificate of Compliance shall be in accordance with the current Board of Health fee schedule.

(2) The Director of Public Health or his designated Health Agent may inspect any premises requiring a “sign-off” for occupancy. During this inspection, compliance with Board of Health regulations, conditions and other laws such as, but not limited to, Chapter X (105CMR590.000), Article II (105CMR410.00), and Title 5 (310CMR15.000), shall be expected prior to the endorsement of any document pertaining to occupancy of the subject premises. If other laws are applicable to this inspection process, then compliance will also be expected with those respective laws. Affected parties are required to seek the assistance of the Health Department in determining requirements to assure compliance.

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 unless the Director of Public Health is instructed to do so by a member of the Board of Health.

SECTION 3 CONSULTANTS REVIEW

1.3.001 CONSULTING ENGINEER / CONSULTANT COORDINATION AND PLAN REVIEW COMMENTS: It is the responsibility of the applicant and his design engineer to facilitate coordination between all consulting engineers/consultants and other concerned parties, in order to facilitate an efficient review. The consulting engineer/consultant shall be allowed sufficient time to review all plans, calculations and any other material deemed necessary to complete the review. Plans shall be reviewed and review comments issued within ten (10) business days upon submission of a completed application. A design engineer/applicant’s consultant failing to coordinate properly and cooperate with the Board of Health shall be deemed just cause for denial of a project.

1.3.002 ABUTTER NOTIFICATION: It is the responsibility of the applicant and his/her design engineer, or other designated person, to properly notify all abutters in accordance with abutter notification procedures pursuant to Chapter 1, Section 2.007.

1.3.003 ADMINISTRATIVE DENIAL/HEARING DATE: Failure to submit a complete application shall be deemed an automatic denial of plans at an administrative level. A hearing date shall be established following receipt of the consulting engineer/consultant review comments. Failure to receive the consultant engineer’s/consultant’s review comments shall be deemed just cause for denial of plans.

1.3.004 APPEAL: Any person aggrieved by the comments or corrections recommended as a result of a plan review by the Board’s Consultant, may request a hearing from the Board of Health. The Board may make determinations, policies, or waive or rescind any recommendations of their consultant.

SECTION 4 CONSULTING ENGINEERS/CONSULTANT SERVICES

The Board of Health may engage consultant engineers, or other consultant services that it deems appropriate, for the purpose of the orderly operation of the Health Department, to effect public health and environmental protection. The Board of Health requires that an applicant for a permit or other approval under the Board of Health's Rules and Regulations agree, as a condition of the Board's acceptance of the application, to pay the cost of the professional services rendered to the Board of Health by the Board's Consulting Engineer/Consultant in connection with the application. The Board's Consulting Engineer/Consultant shall submit his or her bill for services rendered directly to the applicant, and the applicant shall be responsible for making full payment of such bill directly to the Board's Consulting Engineer/Consultant. Any approval, variance or waiver granted by the Board will not become effective until all outstanding invoices from the Consulting Engineer/Consultant have been paid by the applicant.

SECTION 5 EMERGENCY PROCEDURES

Whenever an emergency exists in which the interest of protecting the public health or the environment requires that ordinary procedures be dispensed with, the Board of Health or its authorized agent, acting in accordance with the provisions of Section 30 of Chapter 111 of the General Laws, may, without notice or hearing, issue an order reciting the existence of the emergency and requiring that such action be taken as the Board of Health deems necessary to meet the emergency. Notwithstanding any other provision of these regulations, any person to whom such order is directed shall comply therewith within the time specified in the order. Each day's failure to comply with the order shall constitute a separate offense. Upon compliance with the order and within seven (7) days after the day the order has been served, he may file a written petition in the office of the Board of Health requesting a hearing. He shall be granted a hearing as soon as possible. The procedures for such hearing shall otherwise conform to the hearing requirements which would have existed had the order been issued under non-emergency circumstances.

SECTION 6 ADMINISTRATIVE AUTHORITY

The Director of Public Health shall have the authority to formulate proper applications and procedures in order to effectively apply General laws, Statutes, Rules and Regulations and local rules and regulations. Further, he/she shall have authority to issue reasonable administrative policies for effective operation of the Health Department and enforcement of applicable laws, rules, and regulations.

The authority for the current Director of Public Health or future Directors of Public Health to exercise administrative authority must be authorized by a vote of the Board. The Board of Health reserves the right to modify any such policies.

SECTION 7 FEE SCHEDULES/BONDS

1.7.001 FEE SCHEDULES: The Board of Health may, at any time deemed necessary, adopt reasonable fee schedules for certain permits, hearings, and other matters it deems necessary to assess fees. All fees submitted with applications, etc. are non-refundable. In order for the fee schedules to take effect, only a majority vote of the Board of Health shall be required.

1.7.002 BONDS: The Board of Health may, at its discretion, require bonds to be posted in a manner to be determined by the Board of Health, as a condition, for any project which is subject to approval or any project within the purview of the Board of Health.

SECTION 8 INSPECTIONS/GENERAL DUTY REQUIREMENTS

Any person as defined by Section 1 of Chapter 1 of Salisbury Health Regulations which obtains a permit, license, variance, waiver, determination of applicability, or any other approval from the Board of Health, shall be required to cooperate with the Health Department and its agents fully during any inspection or investigation of any activity covered by the aforementioned permits, approvals, etc. Said cooperation shall be considered as the general duty of any person holding a permit or obtaining a permit or other approval from the Board of Health. Further, during any inspection or investigation, Salisbury Health Agents may require photographs, copies of records, documents, samples, or other material deemed necessary to complete said inspection or investigation. Failure to adhere to this general duty clause shall be deemed just cause for further enforcement action as deemed necessary by the Board of Health.

SECTION 9 PLAN REVIEW AND APPROVAL/TRANSFER OF PERMITS

1.9.001 PLAN REVIEW: Any plan submitted to the Board of Health for review and approval must be submitted with a completed application and shall be reviewed within thirty (30) days of submittal. Any denial of an application shall be in written form. Each submittal is subject to a review period of thirty (30) days.

1.9.002 TRANSFER OF PERMITS: Any application submitted for a transfer of permits shall be reviewed within thirty (30) days of submittal. Said application, if denied, shall state the reasons for denial in writing. Each submittal is subject to a thirty (30) day review period. Any permit issued by the Board of Health shall not be sold, assigned, or transferred without approval from the Board of Health.

1.9.003 SUPERCEDING REVIEW TIMES: Any state law, rule, or regulation which allows a greater review period of time as stated in Section 1.9.001 and 1.9.002 shall be applicable.

1.9.004 EXPIRATION OF APPROVED PLANS: Approved plans not permitted or under construction may be subject to further review in order to determine compliance with current laws, rules, or regulations.

SECTION 10 THROUGH SECTION 18

Reserved for future regulations, amendments, etc.

SECTION 19 PENALTIES

1.19.001 VIOLATIONS/FAILURE TO COMPLY: Any persons, firms, or corporations violating or failing to comply with any provision of any rules and regulations of the Board of Health, shall be warned or fined in accordance with the non-criminal disposition process adopted by * The Town of Salisbury 1984..

1st offense – written warning or one hundred (100) dollar fine

2nd offense – two hundred (200) dollar fine

3rd offense – and subsequent offenses – three hundred (300) dollar fine and/or enforcement action

1.19.002(a) TOBACCO CONTROL VIOLATIONS: Any employee of an establishment holding a Tobacco Sales Permit which sells tobacco products to persons under twenty-one (21) years of age may be fined as follows:

1st offense – fifty (50) dollar fine

2nd offense – one hundred (100) dollar fine

3rd and subsequent offenses – two hundred (200) dollar fine and/or other legal action as deemed necessary by the Board of Health. This provision does not apply to the establishment (owner) which may be fined as cited in section 1.19.001.

1.19.002(b) REVOCATION/SUSPENSION OF LICENSE, PERMIT The Board of Health may revoke or suspend, for just cause, any license, permit, variance, waiver, Determination of Applicability, or other approvals issued by the Board. In addition, the Board of Health may enforce its rules and regulations using any other established means of enforcement in addition to or in lieu of non-criminal disposition methods.

SECTION 20 SEVERABILITY

If any paragraph, sentence, phrase or word of these rules and regulations shall be declared invalid for any reason whatsoever, the decision shall not affect any other portion of these rules and regulations which shall remain in full force and effect and to this end the provisions of these rules and regulations are hereby declared severable. Notwithstanding the provisions that may be in conflict with the Massachusetts General Laws, the revised by-laws of the Town of Salisbury, these rules and regulations will be binding upon all parties concerned.

* Voted to adopt a by-law making the provisions of Chapter 40, Section 21D of the General Laws, relating to non-criminal disposition of violation of Town By-Laws, and the procedures set forth therein relative to notice, hearings, and payment of fines, applicable to violations of the By-Laws. Approved by the AG on August 21, 1984. Added May 14, 1984 ATM by Art.18

A. Any person taking cognizance of a violation of a specific ordinance, bylaw, rule or regulation which he is empowered to enforce, hereinafter referred to as the enforcing person, as an alternative to initiating criminal proceedings, may give to the offender a written notice to appear before the clerk of the district court having jurisdiction thereof at any time during office hours, not later than 21 days after the date of such notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place for his required appearance. Such notice shall be signed by the enforcing person, and shall be signed by the offender whenever practicable in acknowledgement that such notice has been received.

B. The enforcing person shall, if possible, deliver to the offender a copy of said notice at the time and place of the violation. If it is not possible to deliver a copy of said notice to the offender at the time and place of the violation, said copy shall be mailed or delivered by the enforcing person or by his commanding officer or the head of his department or by any person authorized by such commanding officer, department or head to the offender's last known address, within 15 days after said violation. Such notice as so mailed shall be deemed a sufficient notice, and a certificate of the person so mailing such notice it has been mailed in accordance with this section shall be facie evidence thereof.

C. At or before the completion of each tour of duty, or at the beginning of the first subsequent tour of duty, the enforcing person shall give to his commanding officer or department head those copies of each notice of such a violation he has taken cognizance of during such tour which have not already been delivered or mailed by him as aforesaid. Said commanding officer or department head shall retain and safely preserve one copy and shall, at a

time not later than the next court day after such delivery or mailing, deliver the other copy to the clerk of the court before which the offender has been notified to appear. The clerk of each district court and of the Boston Municipal Court shall maintain a separate docket of all such notices to appear.

D. Any person notified to appear before the clerk of a district court as hereinbefore provided may so appear and confess the offense charged, either personally or through a duly authorized agent or by mailing to such clerk with the notice such specific sum of money not exceeding \$200.00 as the Town shall fix as penalty for violation of the ordinance, bylaw, rule or regulation. Such payment shall if mailed be made only by postal note, money order or check. The payment to the clerk of such sum shall operate as a final disposition of the case. An appearance under this subsection shall not be deemed to be a criminal proceeding. No person so notified to appear before the clerk of a district court shall be required to report to any probation officer, and no record of the case shall be entered in any probation records.

E. If any person so notified to appear desires to contest the violation alleged in the notice to appear and also to avail himself of the procedure established pursuant to this section, he may, within 21 days after the date of the notice, request a hearing in writing. Such hearing shall be held before a district court judge, clerk, or assistant clerk, as the court shall direct, and if the judge, clerk, or assistant clerk shall, after hearing, find that the violation occurred and that it was committed by the person so notified to appear, the person so notified shall be permitted to dispose of the case by paying the specific sum of money fixed as a penalty as aforesaid, or such lesser amount as the judge, clerk, or assistant clerk shall order, which payment shall operate as a final disposition of the case. If the judge, clerk, or assistant clerk shall, after hearing, find that the violation alleged did not occur or was not committed by the person notified to appear, that finding shall be entered in the docket, which shall operate as a final disposition of the case. Proceedings held pursuant to this subsection shall not be deemed to be criminal proceedings. No person disposing of a case by payment of such a penalty shall be required to report to any probation officer as a result of such violation, nor shall any record of the case be entered in the probation records.

F. If any person so notified to appear before the clerk of a district court fails to pay the fine provided hereunder within the time specified or, having appeared, does not confess the offense before the clerk or pay the sum of money fixed as a penalty after a hearing and finding as provided in the preceding subsection. The clerk shall notify the enforcing person who issued the original notice, who shall determine whether to apply for the issuance of a complaint for the violation of the appropriate ordinance, bylaw, rule or regulation.

APPENDIX A

1. This variance shall not take effect until it is properly recorded at the Registry of Deeds and a certified copy of this variance is returned to the Board of Health office indicating that a marginal reference was made on the original deed.
2. Any changes in the plan submitted and approved shall require immediate notification to the Board of Health by the Design Engineer and applicant. Further review and approval may be required at that time.
3. An as built plan may be required by the Board of Health before the approval of any occupancy permit, or other documentation to satisfy the intent of the Board of Health's approval of any project.
4. All approvals with or without conditions shall be deemed a restriction and extend to all future owners of a property, business, or permit holder.
5. There shall be no stump dumps or dumping of any solid waste or liquid waste on site. Such activity shall constitute a violation of Massachusetts General Laws Chapter 111, Section 150A.
6. These conditions, imposed by the Board of Health, cannot be changed without the written approval by the Board of Health and only after a proper public hearing is held.
7. Sewerage disposal methods which are provided by mechanical means such as a low pressure sewer system, grinder pump, etc. shall have a deed restriction attached, which indicates that the homeowner is responsible for the proper maintenance and upkeep of said system from the dwelling to the municipal sewer line.
8. All drainage structures shall be installed and functioning in accordance with design standards prior to the approval of an occupancy permit. A status letter may be submitted as proof of compliance with this condition, to satisfy the intent of the Board of Health.
9. Upon completion of the work described herein, the applicant shall forthwith request in writing that a Certificate of Compliance be issued stating that the work has been satisfactorily completed.
10. This order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state or local statutes, ordinances, by-laws or regulations.
11. The work authorized by these conditions shall be completed within two years from the date of this order, unless the time for completion has been extended to a specific date more than two years from the date of issuance and both that date and the special circumstances warranting the extended time period are set forth in this order.
12. This order may be extended by the issuing authority upon application to the issuing authority at least 30 days prior to the expiration date of this order.

13. Any fill used in connection with this project shall be clean fill, containing no trash, refuse, rubbish or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles or parts of any of the foregoing.
14. This order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
15. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this order.
16. The Board of Health Consulting Engineer/Consultant shall conduct inspections to ensure compliance with approved plans and conditions. All inspections shall be conducted in accordance with an inspection schedule approved by the Director of Public Health.
17. Agents of the Board of Health or their designee's, such as the Board of Health Consulting Engineer or others so designated shall have access to property covered by these conditions to make inquiries, conduct inspections, or take actions deemed necessary to protect the public health and the environment.
18. The applicant must provide final approved plans for any project covered by the conditions. Final plans are considered plans approved by all city departments.
19. Any approval, variance or waiver granted by the Board will not become effective until all outstanding invoices from the Consulting Engineer/Consultant have been paid by the applicant.
20. These conditions must be properly recorded at the Registry of Deeds and a certified copy of these conditions must be returned to the Board of Health office indicating that a marginal reference was made on the original deed, prior to the Health Department approval of any building permit, occupancy permit, certificate of compliance, or any other approval required by the Board of Health.
21. Any special conditions deemed necessary and imposed by the Board of Health.

CHAPTER 2

FOOD SERVICE ESTABLISHMENTS

SECTION 1 DEFINITIONS

FOOD ESTABLISHMENT: shall mean any food service establishment where food is prepared for sale and consumed on the premises or retail food store which means any establishment where food and food products are offered to the consumer and intended for off-premises consumption or mobile food units, caterers, or residential kitchens. (105CMR590.000 State Sanitary Code Chapter X)

SPECIAL INSPECTIONS: shall include any inspections in excess of two (2) follow ups of a routine inspection and may be subject to special inspection fees in accordance with the current Board of Health fee schedule

SECTION 2 SANITARY WASTE AND GREASE DISPOSAL

2.2.001 GREASE DISPOSAL: It has been determined that grease has become a major contributing factor to the cause of municipal sewer backups and clogging of subsurface sewage disposal systems. Both of these factors can be remedied by installation of a properly sized and installed grease trap. Exterior grease traps of industrial capacity and use shall be designed, installed, and constructed in all Food Service Establishments which generate grease at any phase of its operation in the Town of Salisbury to prevent the discharge of such pollutants into the Town of Salisbury Municipal Sewer System or an on-site subsurface sewage disposal system. Other alternative and innovative approved methods of grease removal and disposal may be used if approved by the Health Department. All newly constructed facilities must install industrial type grease traps if feasible, or comply with alternative and innovative methods of grease removal.

2.2.002 GREASE TRAPS: Grease traps shall be designed using standards pursuant to the Massachusetts State Environmental Code, Title 5, 310CMR15.000 (inclusive), Water Pollution Control Regulations, 314CMR12.08 or any other applicable Federal, State, County, or Local Laws, By-Laws, and Rules and Regulations.

2.2.003 COMPLIANCE WITH REGULATIONS: All establishments shall comply with this regulation as determined by the Board of Health. The Board of Health may grant an extension of time if, in its opinion, a documented hardship exists. However, no extension of time shall exceed two (2) years. Failure to comply shall be deemed just cause for administrative action which may include but not be limited to fines, permit suspension or revocation, probation, or other administrative action deemed necessary by the Board of Health.

2.2.004 GREASE TRAP MAINTENANCE: It shall be the responsibility of the permit holder to maintain grease traps in accordance with the Massachusetts State Environmental Code, Title 5 standards, other applicable health regulations, or as determined by manufacturers, or the Board of Health.

2.2.005 EXTERIOR GREASE DUMPSTERS / CONTAINERS: Exterior grease dumpsters or containers must be located in a suitable area and must be constructed on a level surface large enough to fit all dumpsters, or containers and grease dumpsters and enclosed so as to not create an offensive nuisance to abutters and the general public. Enclosure 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.

SECTION 3 MINIMUM PLAN REQUIREMENTS

2.3.001 FOOD ESTABLISHMENT PLAN REVIEW: All food service establishments shall be subject to Plan Review whether it be for new construction, rehabilitation, renovation, remodeling, changes in use, etc. Plans shall identify the facility and layout. All its equipment must be appropriately labeled, and identify its designated location within the facility plan layout. Equipment must be commercial grade and have National Sanitation Foundation (NSF) or equivalent rating. If equipment is used or aged it must state the name, age, and condition of such equipment.

2.3.002 TOILET FACILITIES: Employee toilet facilities that are adequate and conveniently located shall be provided by all food service establishments. Each food service establishment with a seating capacity of over fifty (50) patrons shall provide toilet facilities for employees that are separate from the toilet facilities provided for patrons. Separate facilities must be provided for male and female patrons and at least one (1) unisex toilet facility for male and female employees, if allowed by law. This regulation shall apply to all newly constructed facilities and significantly renovated facilities.

2.3.003 HAND WASHING FACILITIES: Each food service establishment shall be provided with adequate and conveniently located hand washing facilities for its employees. Hand washing units shall be equipped with hot and cold or tempered running water, hand cleansing soap or detergent from a dispensing unit, and sanitary towels from a dispensing unit or other hand drying devices. Common towels are prohibited. Hand washing facilities shall be located in the food preparation area and other areas as deemed necessary and in sufficient quantity as determined by the Board of Health. These hand washing facilities must be clearly identified as "Food Handler Hand Washing Facility Only".

The hand wash sinks in the common restrooms designed for use by patrons, or employees, cannot be considered as hand washing facilities for food preparation areas to be used by food handlers.

2.3.004 FLOOR DRAINS: Floor drains must be installed in a number and in locations sufficient for ease of cleaning, and to prevent puddling.

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.

2.3.006 ACCESSORY EXTERIOR FACILITIES: Any accessory exterior facilities utilized by the establishment in any manner, must be identified on the facility layout plan.

2.3.007 FACILITY LAYOUT PLANS: All facility layout plans for newly constructed facilities must be professionally prepared, drawn to scale, and stamped by a qualified individual. No work

may commence until an approval is granted by the Health Department. Existing facilities may prepare renovation plans that can be easily read and understood, however, a professional prepared plan may be requested by the Health Department.

2.3.008 FOOD ESTABLISHMENT LAYOUT PLAN: All current food service establishments shall provide an up to date facility layout plan to the Health Department prior to the issuance of the establishments next permit renewal, if required by the Health Department.

2.3.009 FACILITY REQUIREMENTS REQUIRED: These requirements shall apply to those facilities currently under review or proposed, and shall be required of facilities that expand, remodel, or renovate, as determined by the Health Department.

SECTION 4 TRANSIENT VENDORS / FESTIVAL VENDORS / TEMPORARY VENDORS /SEASONAL FOOD ESTABLISHMENTS

2.4.001 PERMITTING: Any hawker, peddler, transient vendor, or seasonal food establishment who offers food or drink for sale as defined by Chapter X of the Massachusetts Sanitary Code shall obtain a permit from the Board of Health and said permit shall identify the food items allowed for sale and shall identify the person as defined in Chapter 1 Section 1.006 responsible for preparation of food items allowed for sale. All applicable regulations shall be complied with.

Any hawker, peddler, transient vendor, or seasonal food establishment who fails to obtain a valid permit from the Board of Health shall be ordered to immediately cease and desist the operation of food sales. Failure to comply with a valid order by the Health Department could necessitate police assistance to terminate the non-permitted activities, and may cause further legal action, as deemed appropriate.

Massachusetts issued Hawker and Peddlers permits do not supersede any required Town permits including but not limited to Board of Health permits. It is the responsibility of the person obtaining a permit to comply with any applicable laws, rules, and regulations in force from the Town of Salisbury.

Health permits must be obtained by the vendor or seasonal food establishment prior to any activity at least 10 days in advance. In the case of seasonal food establishments, permits must be obtained 45 days before the start of operations. Payment of the required fees must be by check to the Town of Salisbury.

2.4.001(a) POLICIES & GUIDELINES: Any policies, guidelines, or other requirements adopted by the Board of Health or implemented pursuant to Chapter 1 Section, 1.2001, or Chapter 1 Section 1.6.001 shall be applicable to all vendors, and seasonal food establishments.

2.4.002 PLAN REQUIREMENTS FOR TRANSIENT VENDORS, FESTIVAL VENDOR & TEMPORARY VENDORS

1. Each vendor shall be required to complete an application and file said application with applicable fees to the Board of Health at least 10 days in advance.
2. Each vendor must provide a layout plan of all equipment to be used, a menu of food items to be served, copies of permits from other cities/towns, provide location of operations, ground cover mats to be used, at least 2 fire extinguisher locations, food

source locations (i.e.: ice, prepared foods, etc.), Food safety manager certifications, identify the person in charge, and certified food safety manager to be in charge and on site.

3. All vendors must provide adequate cold and hot storage units appropriate for food items offered for sale. The Board of Health may determine that some food items may not be allowed and may issue a restricted permit.

2.4.003 PRE OPERATION INSPECTION: All transient vendors / Festival vendors / Temporary vendors, and seasonal food establishments shall obtain a pre operation inspection before the start of operations. At that time the Board of Health agent will determine if a permit will be issued. Failure to comply with applicable laws, rules, or regulations may be cause to deny issuance of a permit. In that case any fee's submitted for permits, plans, reviews etc. shall be considered forfeited.

SECTION 5 IDENTIFICATION OF PREPARED FOODS/TEMPORARY CATERING

2.5.001 LABELING OF FOOD ITEMS: Food item(s) offered for sale in the Town of Salisbury which are prepared in a central location other than at the place so offered for sale, or consumption, whether it be inter or intra state, shall be labeled with the date of preparation, expiration sale date, ingredients, and the name and address of the person responsible for food item(s) preparation.

2.5.002 PERMITTING: Any caterer performing service in the Town of Salisbury, unless currently permitted by the Board of Health, for such operation shall be required to obtain a permit from the Board of Health prior to conducting a catering operation in the Town of Salisbury. A proper application and fee must be submitted to obtain a permit. A permit may be issued if the Health Department deems it appropriate.

2.5.003 CONSUMER ADVISORY NOTICE: All establishments if required to provide a Consumer Advisory Notice, shall post the following notice on all menus, in not less than an 11 font size.

CONSUMER ADVISORY NOTICE

“Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions.”

SECTION 6 ESTABLISHMENT OWNERSHIP

2.6.001 DEMONSTRATE PROPER OWNERSHIP: Food service establishments owned by a person as defined in Chapter 1, Section 1.006 shall be required to demonstrate proper ownership of the facility to the Board of Health.

2.6.002 RENTAL OR LEASING AGREEMENT: Food service establishments operated by a person that is not the owner of the facility shall be required to submit to the Board of Health a copy of their rental or leasing agreement if requested. Permit holders are solely responsible for maintaining compliance with all applicable laws, rules, and regulations, a lease or rental agreement may not supersede the permit holders responsibility for maintaining compliance with all applicable laws, rules, or regulations whether they are Board of Health regulations or, other By-Laws, rules, or regulations.

SECTION 7 INSURANCE REQUIREMENTS

2.7.001 All food service establishments shall be required to obtain and maintain insurance for the purpose of emergency abatement action that may be deemed necessary by the Board of Health to prevent nuisances, sources of filth, and causes of sickness which may, in its opinion, be injurious to the public health, and safety. Such insurance shall be in the minimum amount of one hundred thousand (\$100,000) dollars.

SECTION 8 ADMIN PROCEDURES FOR FOOD SERVICE ESTABLISHMENTS

2.8.001 NON-TRANSFERABLE, NOT FOR SALE: All permits for food service establishments shall expire December 31st of each year and are “NON-TRANSFERABLE”, “NON-ASSIGNABLE”, and “NOT FOR SALE”. All permits must be renewed thirty (30) days prior to expiration, or in the case of seasonal food establishments 45 days prior to the start of operations. It is the permit holder’s responsibility to obtain a proper renewal application and submit it for review and approval.

2.8.002 CONSULTANT’S SERVICES: Consultant’s services may be employed by the Board of Health as deemed necessary and in the best interest of public health protection.

The Board may engage consultant services to assist the Board of Health in reviewing, assessing, training, or evaluating any project, proposal, activity or function which is subject to the authority, approval or other review of the Board of Health pursuant to any statute or regulation. The selection of such consultant services shall be determined by the Board of Health. Any fees for services shall be the responsibility of the licensee(s), applicants, or persons, in accordance with Chapter 1, Section 4.001.

2.8.003 SPECIAL INSPECTIONS: shall mean any inspection conducted which is not routine, and is out of the ordinary. This shall include but not be limited to inspections to resolve court cases, inspections of code violations in Food Establishments, Markets, Restaurants, etc. or any inspection conducted after normal working hours of the Health Department. In the case of Food Service Establishments, Special Inspections shall be any inspection as defined by Chapter 1, Section 1.1.009 of these regulations. Special inspections are subject to special inspection fees.

2.8.004 MINIMUM FOOD PROTECTION/TRAINING CERTIFICATION: All food service establishments must assign a Person in Charge (PIC) that must be knowledgeable about food safety and the prevention of food borne illness. Each establishment must also have at least one (1) person who is eighteen (18) years of age who has passed a recognized food safety exam. This person must be responsible for overseeing the day to day preparation of food. The following exemptions apply to this section:

- 1) Daycare operations which prepare and/or serve only snacks.
- 2) Food establishments which sell only pre-packaged foods.
- 3) Food establishments which prepare and serve USDA meat and poultry products containing 120 PPM nitrite level, 3.5% brine concentration such as frankfurters.
- 4) Or other establishments with limited food sales and preparation as determined by the Board of Health.

SECTION 9 ADOPTION OF STATE AND FEDERAL FOOD CODE

The Board of Health adopts the Massachusetts State Sanitary Code 105CMR590.000 and the 1999 Federal Food Code by reference, and any revisions now or in the future, as a local

regulation. Said Sanitary code and Federal food code may be enforced by the Board of Health and violations of said codes are subject to penalties as described in Chapter 1, section 19 of the Salisbury Board of Health rules and regulations.

SECTION 10 PENALTIES

Any person holding a permit for an establishment or individual permit may be subject to penalties and enforcement action in accordance with Chapter 1, Section 19 of the Salisbury Board of Health Rules and Regulations.

SECTION 11 CAPITAL IMPROVEMENTS

The Board of Health may at any time deemed necessary, require any establishment to make capital improvements if it deems necessary for compliance with rules and regulations or is deemed to be in the best interest of public health protection.

SECTIONS 12 THROUGH 21

Reserved for future regulations, amendments, etc.

SECTION 22 SEVERABILITY

If any paragraph, sentence, phrase or word of these rules and regulations shall be declared invalid for any reason whatsoever, the decision shall not affect any other portion of these rules and regulations which shall remain in full force and effect and to this end the provisions of these rules and regulations are hereby declared severable. Notwithstanding the provisions that may be in conflict with the Massachusetts General Laws, the revised by-laws, or ordinances of the Town of Salisbury, these rules and regulations will be binding upon all parties concerned.

CHAPTER 3
SUN TANNING / SWIMMING POOL / BODY ART

SECTION 1 SUN TANNING SALON ESTABLISHMENTS: Sun tanning salons shall meet the following requirements:

- A. No establishment shall operate a Sun tanning salon without first obtaining a permit from the Board of Health. Proper plans drawn to a scale of 1/4 inch = 1 foot must be submitted to the Board of Health for review and approval. All rooms must be identified and must be of sufficient size to accommodate a sun tanning device. Permits shall expire on December 31st of each year. A permit holder must apply for a permit renewal at least thirty (30) days prior to the expiration of said permit.
- B. Accurate timers shall be installed to turn off the lamps after the manufacturer's recommended exposure time. There shall be an attendant present to monitor the operation of each individual tanning booth/bed. Shields shall be provided to protect users from coming in contact with the lamps and physical aids shall be provided to keep the user at the proper exposure distance. Temperature of sun tanning booths/beds shall be maintained below one hundred (100) degrees Fahrenheit.
- C. Protection against electrical shocks and fires shall be provided, and comply with all state and local regulations. Physical aids, such as handrails, shall be provided to help prevent falls.
- D. Non Transferable towels/cloths must be provided for patron use. All tanning devices must be cleaned and sanitized with disposable towels or clothes. Reusable towels or clothes are not allowed for cleaning tanning devices.
- E. Tanning booths/beds shall have a prominently displayed eight (8) inch by ten (10) inch easily legible warning that states:

“DANGER – ULTRAVIOLET RADIATION – FOLLOW INSTRUCTIONS, REPEATED
EXPOSURE MAY CAUSE SKIN CANCER

As with natural sunlight overexposure can cause eye injury and sunburn. Repeated exposure may cause premature aging of the skin and skin cancer. Medications or cosmetics applied to the skin may increase your sensitivity to ultraviolet light. Consult a physician before using lamp and taking any medication or if you believe yourself sensitive to sunlight. Pregnant women should consult with their obstetrician.”

- F. Each sun tanning booth/bed shall have, for the patron's use, goggles of sufficient quality to protect the user's eyes from the direct exposure to the sunlamp. Proper eye protection shall be worn when using the tanning devices.
- G. The owner or operator of said establishment is required to set aside an area to be designated as emergency aid station. There shall be a trained attendant on duty during all hours that said activity is in actual operation. The attendant shall be required to be certified in the proper operation of sun tanning equipment by a recognized authority approved by the Board of Health. A non-pay telephone shall be installed in the emergency aid station and first aid equipment that is deemed necessary to insure the safety of the general public.

- H. No person under eighteen (18) years of age may use these facilities without parental guidance and/or permission. Said permission must be on file on the proper Board of Health form for inspection.
- I. The fee for Sun tanning Salon Establishment's Permit shall be in accordance with the current Board of Health fee schedule. All permits shall expire on December 31st to be renewed on or before January 1st of each year. All permits cannot be sold, assigned, or transferred.
- J. The Board of Health adopts by reference the Massachusetts State Sanitary Code, 105CMR123.000 as it exists at the time of adoption of this regulation and further adopts by reference any and all future amends of 105CMR123.000.

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
 - i. Emergency.
- (4) An Emergency Response Policy is written which must be approved by the Board of Health.
 - 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
 - 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.

The Board of Health, Town of Salisbury, on November 18, 2008, in accordance with and under the authority granted by Chapter III, Section 31 of the Massachusetts General Laws, promulgated and adopted the following regulation:

SECTION 3 BODY ART

3.3.001 PUPOSE AND SCOPE: The purpose of the Model Regulations for Body Art Establishments is to set forth a model regulatory scheme for use by communities where Boards of Health seek to enact regulations governing the practice of body art.

3.3.002 DEFINITIONS:

AFTERCARE: means written instructions given to and signed by the client, specific to the body art procedure(s) rendered, about caring for the body art and surrounding area, including information about when to seek medical treatment if necessary.

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

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

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

BLOODBORNE PATHOGENS STANDARD: means OSHA Guidelines contained in 29 CFR 1910.1030, entitled "Occupational Exposure to Blood Borne Pathogens." See 10(0)(I)(c).

BOARD OF HEALTH OR BOARD: means the Board of Health that has jurisdiction in the community in which a body art establishment is located including the Board or officer having like powers and duties in towns where there is no Board of Health.

BODY ART: means the practice of physical body adornment by permitted establishments and practitioners using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, and scarification. This definition does not include practices that are considered medical procedures by the Board of Registration in Medicine, such as implants under the skin, which are prohibited.

BODY ART ESTABLISHMENT OR ESTABLISHMENT: means a location, place, or business has been granted a permit by the Board, whether public or private, where the practices of body art are performed, whether or not for profit.

BODY ART PRACTITIONER OR PRACTITIONER: means a specifically identified individual who has been granted a permit by the Board to perform body art in an establishment that has been granted a permit by the Board.

BODY PIERCING: means puncturing or penetrating the skin of a client with pre-sterilized single-use needles and the insertion of pre-sterilized jewelry or other adornment into the opening.

This definition excludes piercing of the earlobe with a pre-sterilized single-use stud-and-clasp system manufactured exclusively for ear-piercing.

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

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

CONTAINMENT WASTE: means waste as defined in 105CMR 480.000: Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII.

DEPARTMENT: means the Massachusetts Department of Public Health or its authorized representatives.

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

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

EAR PIERCING: means the puncturing of the lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system following the manufacturer's instructions.

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

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

HOT WATER: means water that attains and maintains a temperature 110° – 130° F.

INSTRUMENTS USED FOR BODY ART: means hand pieces, needle bars, and other instruments that may come in contact with a client's body or may be exposed to bodily fluids during any body art procedure.

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

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

Only the materials below are suitable for insertion in a new piercing:
Sterile Medical Plastic

- Implant grade surgical steel
- Solid 18 carat or 22 carat gold (14 carat may also be used if available from supplier)
- Niobium
- Platinum
- Titanium

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

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

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

PERSON: means an individual, any form of business or social organization or any other nongovernmental legal entity, including but not limited to corporations, partnerships, limited liability companies, associations, trusts or unincorporated organizations.

PHYSICIAN: means an individual licensed as a qualified physician by the Board of Registration in Medicine pursuant to M.G.L. c. 112 § 2.

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

SANITARY: means clean and free of agents of infection or disease.

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

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

SHARPS: means any object, sterile or contaminated, that may intentionally or accidentally cut or penetrate the skin or mucosa, including, but not limited to, needle devices, lancets, scalpel blades, razor blades, and broken glass.

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

SINGLE USE ITEMS: means products or items that are intended for one-time, one-person use and are disposed of after use on each client, including, but not limited to, cotton swabs or balls,

tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups, and protective gloves.

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

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

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

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

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

WORKSTATION: means the area within a body art establishment exclusively used in and during the conduct of body art upon a client.

3.3.003 EXEMPTIONS

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

3.3.004 RESTRICTIONS

1. No tattooing, piercing of genitalia, branding or scarification shall be performed on a person under the age of 18. See 3.3011 Prohibited Activities.
2. Body piercing, other than piercing the genitalia, may be performed on a minor 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. See 3.3.012 Permitted Activities.

3.3.005 OPERATION OF BODY ART ESTABLISHMENTS

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

3.3.005(a) PHYSICAL PLANT

1. Walls, floors, ceilings, and procedure surfaces shall be smooth, non-porous, free of open holes or cracks, light-colored, washable, and in good repair. Walls, floors, and ceilings shall be maintained in a clean condition.
2. No operator shall permit the use of a Body Art Establishment as a barber shop, hair salon, nail salon, massage parlor, bar, food establishment, human habitation, bowling alley or for any other use that may cause the contamination of instruments, equipment, or workstation.
3. The establishment shall take all measures necessary to ensure against the presence or breeding of insects, vermin, and rodents within the establishment.
4. Each body art work station shall have a minimum of 45 square feet of floor space for each practitioner to ensure a safe operation. Multiple body art workstations shall be separated by a divider or a partition at a minimum.
5. The establishment shall be well ventilated and provided with an artificial light source equivalent to at least 20 foot candles 3 feet off the floor, except that at least 100 foot candles shall be provided at the level where the body art procedure is being performed, and where instruments and sharps are assembled.
6. A separate, readily accessible hand sink with hot and cold running water under pressure, preferably equipped with wrist or foot operated controls and supplied with liquid soap, and disposable paper towels stored in fixed dispensers shall be readily accessible in each workstation.
7. 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.
8. 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.
9. At least one janitorial sink shall be provided in each body art establishment for use in cleaning the establishment and proper disposal of non-contaminated liquid wastes in accordance with all applicable Federal, State and Town of Salisbury local laws. Said sink shall be adequate size equipped with hot and cold running water under pressure. A sink separate cleaning sink from the janitorial sink shall be required to clean equipment in the cleaning area.
10. Sanitary Sewer – The establishment's waste water shall be interconnected with the municipal sanitary sewer network, including back flow and cross connection prevention mechanical systems.
11. All instruments and supplies shall be stored in clean, dry, and covered containers. Containers shall be kept in a secure area specifically dedicated to the storage of all instruments and supplies.
12. The establishment shall have a separate cleaning area. Every cleaning area shall have an area for the placement of an autoclave or other sterilization unit located or positioned a minimum 36 inches from the required ultrasonic cleaning unit.

13. The establishment shall have a customer waiting area, exclusive and separate from any workstation, instrument storage area, cleaning area or any other area in the body art establishment used for body art activity.
14. No animals of any kind shall be allowed in a body art establishment, except service animals used by persons with disabilities (e.g., Seeing Eye Dogs). Fish aquariums shall be allowed in waiting rooms and nonprocedural areas.
15. Smoking, eating, or drinking is prohibited in the area where body art is performed, with the exception of fluids being offered to a client during or after a body art procedure.

3.3.005(b) REQUIREMENTS FOR SINGLE USE ITEMS INCLUDING INKS, DYES AND PIGMENTS

1. Single-use items shall not be used on more than one client for any reason. After use, all single-use sharps shall be immediately disposed of in approved sharps containers pursuant to 105 CMR 480.000.
2. All Products applied to the skin, such as but not limited to body art stencils, applicators, gauze and razors, shall be single use and disposable.
3. Hollow bore needles with a 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-used paper cups or plastic caps. Upon completion of the tattoo, these single-use cups or caps and their contents shall be discarded.

3.3.005(c) SANITATION AND STERILIZATION MEASURES AND PROCEDURES

1. All non-disposable instruments used for body art, including all reusable solid core needles, pins stylets, shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water, (to remove blood and tissue residue), and shall be placed in an ultrasonic unit operated in accordance with manufacturer's instructions.
2. After being cleaned, all non-disposable instruments used for body art shall be packed individually in sterilizer packs and subsequently sterilized in a steam autoclave. All sterilizer packs shall contain either a sterilizer indicator or internal temperature indicator. Sterilizer packs must be dated with an expiration date not to exceed six (6) months.
3. The autoclave shall be used, cleaned, and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of the autoclave must be available to the Board. Autoclaves shall be located away from workstations or areas frequented by the public.
4. Each holder of a permit to operate a body art establishment shall demonstrate that the autoclave used is capable of attaining sterilization by monthly spore destruction tests. These tests shall be verified through an independent laboratory and forwarded to the Board of Health. The permit shall not be issued or renewed until documentation of the autoclave's ability to destroy spores is received by the Board. These test records shall be retained by the operator for a period of three (3) years.

5. All instruments used for body art procedures shall remain stored in sterile packages until just prior to the performance of a body art procedure. After sterilization, the instruments used in body art procedures shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.
6. Sterile instruments may not be used if the package has been breached or after the expiration date without first repackaging and re-sterilizing.
7. If the body art establishment uses only sterile single-use, disposable instruments and products, and used sterile supplies, an autoclave shall not be required.
8. When assembling instruments used for body art procedures, the operator shall wear disposable medical gloves and use medically recognized techniques to ensure that the instruments and gloves are not contaminated.
9. Re-usable cloth items shall be mechanically washed with detergent and dried after each use. The cloth items shall be stored in a dry, clean environment until used.

3.3.005(d) POSTING REQUIREMENTS

The following shall be prominently displayed:

1. A Disclosure Statement, approved by 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.

General information regarding Body Art, including, at the minimum, the following statements:

Tattoos are permanent.

The removal of tattoos and scars require surgery or other medical procedures to remove that may result in scarring of the skin.

Information as to the side effects of Body Art, including, but not limited to, hypertrophic scarring, possible adverse reaction to ink/dye/pigment, possible change in color of ink/dye/pigment over time, a decreased ability of a physician to locate skin melanoma concealed by tattoos, brands, scars and other forms of Body Art, possible nerve damage, febrile illness, tetanus, systemic infection, and keloid information.

2. The name, address, and phone number of the local Board of Health that has jurisdiction and the procedure for filing a complaint.
3. An Emergency Plan, including:
 - a. A plan for the purpose of contacting police, fire or emergency medical services in the event of an emergency;
 - b. A telephone in good working order shall be easily available and accessible to all employees and clients during all hours of operation; and
 - c. A sign at or adjacent to the telephone indicating the correct emergency telephone numbers.
4. Ann occupancy and use permit as issued by the local building official.
5. A current establishment permit.
6. Each practitioner's permit.

3.3.005(e) ESTABLISHMENT RECORD KEEPING

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

1. Establishment information, which shall include:
 - a. Establishment name;
 - b. Hours of operation;

- c. Owner's name and address;
 - d. A complete description of all body art procedures performed;
 - e. An inventory of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers and serial or lot numbers, if applicable. Invoices or packing slips shall satisfy this requirement;
 - f. A material Safety Data Sheet, when available, for each ink and dye used by the establishment; and
 - g. A copy of those regulations.
2. Employee information, which shall include:
 - a. Full names and exact duties;
 - b. Date of birth;
 - c. Home address;
 - d. Home/work phone numbers; and
3. Client information, which shall include:
 - a. Name;
 - b. Date of birth;
 - c. Address of client;
 - d. Date of procedure;
 - 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 as specified by 6(0)(2); and
 - h. If the client is a person under the age of 18, proof of a parental or guardian identification, presence and consent including a copy of the photographic identification of the parent or guardian.
4. Client information shall be kept confidential at all times.

3.3.005(f) HEPATITIS B VACCINATION SERIES

An applicant for a Body Art Establishment shall provide to the Local Approving Authority and shall provide to the owner of any establishment in which the applicant intends to perform Body Art activity, valid documentation stating:

- Certification of completed vaccination:
- Laboratory evidence of immunity;
- Documentation stating that the vaccine is contraindicated for medical reasons.
- Contraindication requires a dated and signed licensed health care professional's statement specifying the name of the Body Art Practitioner Licensee applicant employee and the vaccine cannot be given: or, Certificate of vaccination declination HBV, i.e. for medical or religious reasons as provided in M.G.L. c. 76§15.

3.3.006 STANDARDS OF PRACTICE

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

- A. A practitioner shall perform all body art procedures in accordance with Universal Precautions set forth by the U.S. Centers for Disease Control and Prevention.
- B. A practitioner shall refuse service to any person who may be under the influence of alcohol or drugs.
- C. Practitioners who use ear-piercing systems must conform to the 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 (bleeding)
 - c. History of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants etc.:
 - d. History of allergies or adverse reactions to pigments, dyes, or other sensitivities;
 - e. History of epilepsy, seizures, fainting, or narcolepsy;
 - f. Use of medications such as anticoagulants, which thin the blood and/or interfere with blood clotting; and
 - g. Any other conditions such as hepatitis or HIV.
 - h. History or suspicion of adverse reaction to latex or containing latex.
 2. Require that the client sign a form confirming that the above information was provided, that the client does not have a condition that prevents them from receiving body art, that the client consents to the performance of the body art procedure and that the client has been given the aftercare instructions as required by section 6(K)
- E. A practitioner shall maintain the highest degree of personal cleanliness, conform to best standard hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, the practitioner must thoroughly wash their hands in hot running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.
- F. In performing body art procedures, a practitioner shall wear disposable single-use gloves. Gloves shall be changed if they become pierced, torn, or otherwise contaminated by contact with any unclean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed in accordance with section (E) before the next set of gloves is put on. Under no circumstances shall a single-use gloves be used on more than one person. The use of disposable single-use gloves does not preclude or substitute for hand washing procedures as part of a good personal hygiene program.
- G. The skin of the practitioner shall be free of rash or infection. No practitioner affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that that person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.
- H. Any item or instrument used for body art that is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.
- I. Preparation and care of a client's skin area must comply with the following:

1. Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.
 2. Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding where body art procedure is to be placed shall be washed with soap and water or an approved surgical skin preparation. If shaving is necessary, single-use disposable razors or safety razors with single-service blades shall be used. Blades shall be discarded after each use, and reusable holders shall be cleaned and autoclaved after use. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after single use.
 3. In the event of bleeding, all products used to stop the bleeding or to absorb blood shall be single use, and discarded immediately after use in appropriate covered containers, and disposed of in accordance with 105 CMR 480.000.
- J. Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to receive a body art procedure with sterile gauze or other sterile applicator to prevent contamination of the original container and its contents. The applicator or gauze shall be used once and then discarded.
- K. The practitioner shall provide each client with verbal and written instructions on the aftercare of the body art site. The written instructions shall advise the client:
1. On the proper cleansing of the area which received the body art;
 2. To consult a health care provider for:
 - a. Unexpected redness, tenderness or swelling at the site of the body art procedure;
 - b. Any rash;
 - c. Unexpected drainage at or from the site of the body art procedure; or
 - d. A fever within 24 hours of the body art procedure; and
 3. Of the address and phone number of the establishment.
- A copy shall be provided to the client. A model set of aftercare instructions shall be made available by the Department.
- L. Contaminated waste shall be stored, treated and disposed in accordance with 105 CMR 480.000: Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII.

3.3.007 INJURY REPORTS

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

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

3.3.008 COMPLAINTS

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

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

3.3.009 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 automatically expire on 12/31 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; and
 - c. The body art practitioner(s) working at the establishment;
 - 2. The manufacturer, model number, model year, and serial number, where applicable, of the autoclave used in the establishment;
 - 3. A signed and dated acknowledgement that the applicant has received, read and understood the requirements of the Board's body art regulations;
 - 4. A drawing of the floor plan of the proposed establishment to scale for a plan review by the Board, as part of the permit application process; and,
 - 5. Such additional information as the Board may reasonably require.
- E. The Board fee for an establishment permit shall be in accordance with the current Board of Health fee schedule. Operating an establishment without a permit is subject to fine per violation per day. The fine shall be in accordance with the current Board of Health fine for non-permitted establishments contained within the current fee schedule.
- F. A permit for a body art establishment shall not be transferable from one place or person to another.

3.3.010 APPLICATION FOR BODY ART PRACTITIONER PERMIT

- A. No person shall practice body art or perform any body art procedure without first obtaining a practitioner permit from the Board. The fee for a Practitioner permit shall be in accordance with the current Board of Health fee schedule. Practicing without a practitioner permit is subject to fine per violation per day and shall be in accordance with the current Board of Health fee schedule.
- B. A practitioner shall be a minimum of 18 years of age.
- C. A practitioner permit shall be valid for (1) calendar year and must be renewed on 12/31.
- D. Application for a practitioner permit shall include:

1. Name;
2. Date of birth;
3. Residence address;
4. Mailing address;
5. Phone number;
6. Place(s) of employment as a practitioner; and
7. Training and/or experience as set out in (E) below.

E. Practitioner Training and Experience

1. Training for all practitioners shall be approved by the Board and shall include the following:
 - a. “Blood borne pathogen training program” (OSHA as regulated) which includes infectious disease control; waste disposal; hand washing techniques; sterilization equipment operation and methods; and sanitization, disinfection and sterilization methods and techniques; and
 - b. Current First Aid and cardiopulmonary resuscitation (CPR renewed annually).
 - c. Current “Preventing Disease Transmission” (American Red Cross). (OSHA).
 - d. The applicant for a body piercing, branding and scarification practitioner permit shall provide documentation that s/he completed:

For practitioner without experience, requirements are below in section e. Anatomy & Physiology I with a C or better from a college accredited by the New England Association of Schools & Colleges, or comparable accrediting entity, or other acceptable education. This course work must include instruction on the systems of the integumentary system (skin). The applicant for a tattoo practitioner permit shall provide documentation that s/he completed:

Evidence of at least two (2) years actual experience in the practice of performing Body Art activities of the kind for which the applicant seeks a Body Art License to perform.

3.3.011 PROHIBITED ACTIVITIES

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

Cosmetic tattooing, also known as permanent cosmetics, micro implantation or dermal pigmentation, is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts.

The following Body Piercings are hereby prohibited:

Piercing of the Uvula.

Piercing of the tracheal.

Piercing of the neck.

Piercing of the ankle.

Piercing between the ribs or vertebrae.

Piercing of the web area of the hand or foot.

Piercing of the tongue web (lingual frenum).

Piercing of the clitoris.

Piercing of the anus.

Piercing of the eyelid, whether top or bottom.

Any form of chest or deep muscle piercing - excluding the nipple.

The form of piercing known as pocketing.

Piercing of the gums.

Piercing or skewering of a testicle.

So called “deep” piercing of the penis – meaning piercing through the shaft of the penis, or “trans-penis” piercing in any area from the corona glandis to the pubic bone.

So called “deep” piercing of the scrotum – meaning piercing through the scrotum, or “transcrotal” piercing.

So called “deep” piercing of the vagina – to include, but not limited to triangles.

Tongue Splitting – the cutting, splitting or other bifurcation of the tongues is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts.

Braiding – the braiding of the skin is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts.

Three Dimensional Body Art, including beading, and implantation is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts.

Tooth filing or shaping or the intentional fracturing or extraction of a tooth is hereby prohibited unless performed by a Dentist licensed by the Commonwealth of Massachusetts.

Cartilage Modification – the cutting, notching, sculpting or other modification of cartilage is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts.

Amputation – the intentional amputation of any body part is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts.

Genital Modification – modification by means of sub-incision, bifurcation, castration, male or female nullification or other surgical means is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts.

The introduction of Saline Solution or other liquid into the body for the purpose of causing modification of the body is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts.

3.3.012 BODY PIERCINGS THAT ARE PERMITTED

Eyebrow, ear, nipple, nose (nostril and septum only), naval and lip.

3.3.013 GROUNDS FOR DENIAL PERMIT, REVOCATION OF PERMIT, OR REFUSAL TO RENEW PERMIT

A. The Board may deny a permit, revoke a permit or refuse to renew permit on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for revocation or refusal to renew:

1. 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 nature as to render the establishment, practitioner or applicant unfit to practice body art as evidenced by criminal proceedings resulting in conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts;
4. Any present or past violation of the Board's regulations governing the practice of body art;
5. Practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;
6. Being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
7. Knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring permit;
8. Continuing to practice while his/her permit is lapsed, suspended, or revoked; and
9. Having been disciplined in another jurisdiction in anyway 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 permit. The applicant, establishment or practitioner shall have seven (7) days after receipt of such written notice in which to comply with the Board's regulations. The Board may deny,

revoke or refuse to renew permit, if the applicant, establishment or practitioner fails to comply after said seven (7) days.

3.3.014 GROUNDS FOR SUSPENSION OF PERMIT

The Board may summarily suspend a permit pending a final hearing on the merits on the question of revocation if, based on the evidence before it, the Board determines that an establishment and/or 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.

3.3.015 PROCEDURES FOR HEARINGS

A. Suspension of a Permit

1. After a Board's suspension of a permit, a hearing shall be initiated pursuant to 801CMR1.00 et seq. (Standard Adjudicatory Rules of Practice and Procedure), no later than twenty-one (21) calendar days after the effective date of suspension.

2. Upon written request to the Board of Health, the establishment or practitioner shall be afforded an opportunity to be heard concerning the suspension of the permit by the Board.

3. In cases of suspension of a permit, the hearing officer shall determine whether the Board has proved by a preponderance of the evidence that there existed immediately prior to or at the time of the suspension an immediate or serious threat to the public health, safety or welfare. The hearing officer shall issue a written decision, which contains a summary of the testimony and evidence considered and the reasons for the decision.

B. Denial, Revocation, or Refusal to Renew a Permit

1. If the Board determines that a permit shall be denied, revoked, or not renewed pursuant to the Board's regulations, the Board shall initiate a hearing in accordance with 801CMR1.00 et seq.

2. Following the hearing, the hearing officer shall issue a written decision that contains a summary of the testimony and evidence considered and the reasons for the decision.

3.3.016 UNAUTHORIZED PRACTICE OF BODY ART

The Board shall refer to the appropriate District Attorney, Attorney General, or other law enforcement official any incidents of unauthorized practice of body art.

3.3.017 SEVERABILITY

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

CHAPTER 4 TOBACCO CONTROL

SECTION 1 DEFINITIONS

The following words and phrases, whenever used in this regulation, shall be construed as defined in this section:

ADVERTISING: means a form of notice or communication intended to call public attention to a product in the hopes of selling it. Advertising includes posters, pamphlets, matchbook covers and point of purchase materials.

BAR: means an area which is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. Although a restaurant may contain a bar, the term “Bar” shall not include the restaurant dining area.

BUSINESS: means any sole proprietorship, partnership, joint venture, non-profit agency, corporation or other business entity, including retail establishments where goods or services are sold, professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered, and who employ one (1) or more full or part time employees.

EMPLOYEE: means any person who is employed full or part time by any employer in consideration for direct or indirect monetary wages.

EMPLOYER: means any person, partnership, corporation, including a municipal corporation, or non-profit entity, who employs the services of one (1) or more individual persons other than themselves.

ENCLOSED AREA: means a space bounded by four walls and a roof.

MEMBERSHIP ASSOCIATION *, a not-for-profit entity that has been established and operates, for a charitable, philanthropic, civic, social, benevolent, educational, religious, athletic, recreation or similar purpose, and is comprised of members who collectively belong to:

- (i) a society, organization or association of a fraternal nature that operates under the lodge system, and having 1 or more affiliated chapters or branches incorporated in any state; or
- (ii) a corporation organized under chapter 180; or
- (iii) an established religious place of worship or instruction in the commonwealth whose real or personal property is exempt from taxation; or
- (iv) a veterans’ organization incorporated or chartered by the Congress of the United States, or otherwise, having 1 or more affiliated chapters or branches incorporated in any state.

Except for a religious place of worship or instruction, an entity shall not be a membership association for the purposes of this definition, unless individual membership is required for all members of the association for a period of not less than 90 days.

MUNICIPAL BUILDING: for the purpose of this regulation, municipal building means the town offices, library, police/fire station, schools and school administration building, water treatment plant, department of public works, all municipal maintenance buildings, and municipal vehicles.

PLACE OF EMPLOYMENT: means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and class rooms, employee cafeterias and hallways. A private residence is not a “place of employment” unless it is used as a child care or health care facility.

PROPERLY VENTILATED AREA: means an area which is separately ventilated directly to the outside and shall not allow any air to recirculate through the building ventilation system.

POINT OF PURCHASE: means the register at which the purchase of tobacco is being made.

PUBLIC PLACE: means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, health facilities, Laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, theaters and waiting rooms. A private residence is not a “public place”.

* Please note that this definition of “membership association” Is the verbatim definition contained in Chapter 270, Section 22 (the state smoking ban law).

RESTAURANT: means any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, and any other eating establishment which gives or offers food for sale to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.

RETAIL FOOD STORE: means a store or stall which sells any food products or candy and snack packages, including but not limited to markets, convenience stores, variety stores, pharmacies, and gas mini-marts.

RETAIL TOBACCO STORE: means a retail store utilized for sale of tobacco products and accessories and in which the sale of other products is merely incidental.

SELF SERVICE DISPLAY: means free-standing displays of cigarettes, chewing tobacco or other tobacco products from which individual packages or cartons may be selected by the customer.

SERVICE LINE: means any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

SMOKING: means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, or other tobacco product.

SPORTS ARENA: means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice skating rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

TOBACCO AND/OR TOBACCO PRODUCT: Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, or electronic cigarettes, electronic cigars, electronic pipes, electronic hookah, or other similar products, regardless of nicotine content, that rely on vaporization or aerosolization. "Tobacco product" includes any component or part of a tobacco product. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other medical purposes and which is being marketed and sold or prescribed solely for the approved purpose.

TOBACCO VENDING MACHINE: means any machine or device designated for or used for the vending of cigarettes, cigars, tobacco, or tobacco products upon the insertion of coins, trade checks, or slugs.

SECTION 2 PROHIBITION OF SMOKING IN PUBLIC PLACES

4.2.001 SMOKING PROHIBITED IN ENCLOSED PLACE: Smoking shall be prohibited in all enclosed public places and work places within the Town of Salisbury in accordance with Massachusetts General Law Chapter 270, Section 22. Smoking is also prohibited in the following places:

1. The Salisbury Board of Health hereby adopts by reference Massachusetts General law Chapter 270, section 22 as a local regulation, and all future laws, rules, regulations; or amendments of existing laws.
2. Smoking shall be prohibited in all outdoor areas of restaurants, bars, taverns and any other outdoor place where food, and/or alcoholic beverages, and / or non-alcoholic beverages are sold to the public and served to the public, or otherwise consumed or carried by the public, within the confines of a food service establishment.

4.2.002 NON-SMOKING ESTABLISHMENT: Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment or facility may declare that entire establishment or facility as a non-smoking establishment.

4.2.003 DESIGNATED SMOKING AREA: Notwithstanding any other provision of these regulations, smoking may be permitted in the following places and/or circumstances:

1. Private residences except those portions used as a childcare or health care office.
2. Hotel and motel rooms rented to guests that are designated as "smoking rooms", provided that at least 40% of the rooms are smoke free at all times. A room so assigned shall have self-closing doors. A designated smoking room in a hotel, motel, inn, bed and breakfast and lodging home shall be clearly marked as a designated smoking room on the exterior of all entrances from a public hallway and public spaces; and in the interior of the room.

Instead of marking each room, an establishment may designate an entire floor of residential rooms as smoking. The floor shall be conspicuously designated as smoking at each entranceway on to the floor. Smoking shall not be allowed in the common areas of the floor, such as halls, vending areas, ice machine locations and exercise areas and shall comply with paragraph (4).

SECTION 3 POSTING OF SIGNS

The owner, operator, manager or other person having control of a building or other place shall post the following signage.

No smoking signs or the international NO Smoking symbol (Consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a bar across it) shall be clearly, sufficiently and conspicuously posted in every building, restaurant or other place where smoking is regulated by this regulation or other laws, rules, or regulations in existence.

SECTION 4 TOBACCO SALES TO PERSONS UNDER THE MINIMUM LEGAL SALES AGE PROHIBITED

4.4.001 TOBACCO SALES PERMIT REQUIRED: No person or entity shall sell tobacco products within the Town of Salisbury without a tobacco sales permit issued by the Salisbury Board of Health. A permit is required annually for each location and permits are non-transferable. A tobacco sales permit shall be purchased annually by June 30th. The fee for a one (1) year tobacco retailer permit shall be in accordance with the current Board of Health fee schedule.

4.4.002 SALES TO PERSONS UNDER THE MINIMUM LEGAL SALES AGE: No person shall sell tobacco products or permit tobacco products, as defined herein, to be sold to a person under minimum legal sales age. Effective December 28, 2018, the minimum legal sales age in Salisbury is 21. Violations of this regulation shall be punished by a suspension of tobacco permit for a period of one (1) day for the first offense, suspension of tobacco permit for a period of three (3) days for the second offense within one year, and suspension of tobacco permit for a period of thirty (30) days for the third offense within one year. After the third offense within one year the tobacco sales permit will be revoked for ninety (90) days. Compliance monitoring of tobacco sales to persons under the minimum legal sales age may be enforced through periodic inspections. Inspections may include the attempted purchase of tobacco products by persons under the minimum legal sales age under the supervision of an agent of the enforcing authority. The Board shall suspend or revoke a tobacco sales permit granted pursuant to this regulation upon determination that a permit holder has committed violations of this regulation. The Board shall provide notice to the permit holder of the intent to suspend or revoke the 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's decision and the reasons therefore, in writing. All tobacco products shall be removed from the premises upon suspension or revocation of the tobacco sales permit. Failure to remove all tobacco products shall constitute a separate violation of this regulation.

4.4.003 POSTING OF STATE LAW: In conformance with Massachusetts General Laws, 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 that notice provided by the Massachusetts Department of Public Health. Such notice shall be at least 48 square inches and shall be posted at the cash register which receives the greatest volume of single tobacco package 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 4 feet or greater than 6 feet from the floor. For all other cash registers that sell cigarettes, a notice shall be attached which is no smaller than 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 4 feet or more than 6 feet from the floor.

4.4.004 EMPLOYEE STATEMENT: No person, firm, corporation, establishment, or agency, selling cigarettes, chewing tobacco, or other tobacco products in any of its forms shall allow anyone to sell or distribute cigarettes, or other tobacco products in any of its forms until the employee has read the Board of Health regulations and the State Laws pertaining to the sale or distribution of tobacco products and has signed an affidavit, supplied by the Board of Health to be kept on file at the establishment. The employee's signature will verify that all the applicable state and local regulations have been read and understood. This file must be made available for inspection upon request by the Board of Health or its agent(s). All employees selling cigarettes, chewing tobacco, or other tobacco products in any form will positively establish the purchaser's age as twenty-one (21) years or older, unless the seller has some other conclusive basis for determination the buyer is over the age of twenty-one (21) by means of photographic identification. ID verification is required for any person under the age of forty (40). No employee shall sell cigarettes or other tobacco products to a person under twenty-one (21) years of age who has a note from an adult requesting such sale.

4.4.005 POSSESSION: No person under the age of twenty-one (21) may have in his or her possession cigarettes, chewing tobacco, snuff, rolling papers, or any other tobacco product in any of its forms, unless the minor is engaged in conducting a compliance check operation under the supervision of an adult or sells cigarettes when employed to do so. Any person violating this provision shall be subject to immediate confiscation of said tobacco products by the enforcing authority.

4.4.006 SELF SERVICE AND FREE STANDING DISPLAYS: No person shall sell or offer for sale tobacco products by means of a self-service or a free standing display, however, advertising displays in which tobacco products are accessible only by an employee may be placed anywhere in the store.

4.4.007 PACKAGING: It is unlawful to sell cigarettes out of the manufacturer's package with required health warnings. Sale or distribution of tobacco products in any form other than an original factory-wrapped package is prohibited.

4.4.008 FREE SAMPLES: No free samples of tobacco products shall be distributed within the Town of Salisbury.

SECTION 5 – VENDING MACHINES

The use of vending machines for dispensing tobacco products is not permitted except in private clubs, barrooms or taverns holding a liquor license in the Town of Salisbury. Those machines shall not be located in any entryway, but shall be located within ten (10) feet of the bar within the establishment and in the direct line of sight of the bartender. A lockout device, acceptable to the Board of Health or its agent must be installed. The tobacco vending machine must be posted with a sign not less than 6 x 6 stating, **“ATTENTION! THIS MACHINE IS EQUIPPED WITH A LOCKOUT DEVICE. TO PURCHASE A TOBACCO PRODUCT YOU MUST FIRST SEE THE PERSON IN CHARGE”**. Compliance monitoring of tobacco sales to persons under the minimum legal sales age may be enforced through periodic inspections. Inspections may include the attempted purchase of tobacco products by persons under the minimum legal sales age under the supervision of an agent of the enforcing authority.

SECTION 6 – ENFORCEMENT:

Enforcement of this regulation shall be implemented by the Board of Health, the Director of Public Health or their designees.

SECTION 7 – VIOLATIONS AND PENALTIES:

1. It shall be unlawful for any person, who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this regulation to fail to comply with any of its provisions.
2. It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions.
3. Any person who violates any provision of this regulation shall be guilty of an infraction, punishable by fines pursuant to Chapter 1, Section 1.19.001 and 1.19.001(a).
4. Any person who violates this regulation may be punished in accordance with, applicable Massachusetts General Laws and Town of Salisbury Board of Health regulations.

SECTION 8 – NONRETALIATION

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any right to a smoke-free environment afforded by this regulation.

SECTION 9 – OTHER APPLICABLE LAWS:

This regulation shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable health, safety or fire codes, regulations or statutes.

SECTION 10 – VARIANCES

1. Written application may be made to the Board of Health for a variance from these regulations. The Board may grant a variance to avoid manifest injustice provided that the decision shall not conflict with the spirit of any minimum standard established by these regulations.
2. Notice of a hearing upon an original application for a variance must be posted with the public notice of the Board of Health meeting at which it is to be considered.

3. Variances may be granted for up to one year and extended for like periods upon submission of a renewal application which states that no permit for alteration of the premises or of the ventilation system(s) have been applied for or granted and that no such alterations have been made since the last granting of a variance.
4. A copy of any variance granted under this section shall be maintained on the premises for which it is issued for public inspection and a notice of the variance shall be posted at the entrance.

SECTION 11 - SEVERABILITY: Each provision of this regulation is construed as separate to the extent that if any section, item, sentence, clause, or phrase is determined to be invalid or unenforceable for any reason, the remainder of these regulations shall continue in full force and effect.

**EFFECTIVE DECEMBER 28, 2018, THE MINIMUM LEGAS SALES AGE IN
SALISBURY MA IS (21)**

**CHAPTER 5
ENVIRONMENTAL AND MISCELLANEOUS REGULATIONS**

SECTION 1 GENERAL CONSTRUCTION REGULATIONS

5.1.001 CONNECTION TO PUBLIC WATER SUPPLY: In order to promote and preserve the public health the Board of Health requires that all new structures intended for human habitation be connected to the public water supply where said water supply is within three hundred (300) feet of the structure.

WELL REGULATIONS

5.1.002 PURPOSE: These regulations are intended to protect the public health and general welfare by ensuring that private wells are constructed in a manner that will protect the quality of the groundwater derived from private wells.

5.1.003 AUTHORITY: The Salisbury Board of Health, as authorized by Massachusetts General Laws, Chapter III, section 31, adopts these regulations. These regulations supersede all previous regulations adopted by the Board of Health pursuant to the construction of private wells.

5.1.004 DEFINITIONS:

AGENT: Any person designated and authorized by the Board to execute these regulations. The agent shall have all the authority of the appointing Board and shall be directly responsible to the Board and under its direction and control.

APPLICANT: Any person who intends to have a private well constructed.

AQUIFER: A water bearing geologic formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield significant quantities of water to wells and springs.

BENTONITE GROUT: A mixture of bentonite (API Standard 13A) and water in a ratio of not less than one pound of bentonite per gallon of water.

BOARD: The Board of Health of Salisbury Massachusetts or its authorized agent.

BUSINESS OF DRILLING: A person who charges a fee for digging or drilling a well, or a person who advertises for hire the availability to drill wells within the Commonwealth of Massachusetts.

CASING: Impervious durable pipe placed in a boring to prevent the walls from caving and to serve as a vertical conduit for water in a well.

CERTIFIED LABORATORY: Any laboratory currently certified by the Department of Environmental Protection for drinking water. Provisional certification shall also qualify.

CONCRETE: A mixture consisting of Portland cement (ASTM Standard C150, type I or API Standard 10, Class A), sand, gravel, and water in a proportion of not more than five parts of sand plus gravel to one part cement, by volume, and not more than six gallons of water. One part cement, two parts sand, and three parts gravel are commonly used with up to six gallons of water.

DEP: The Commonwealth of Massachusetts Department of Environmental Protection.

DCR: The Commonwealth of Massachusetts Department of Conservation and Recreation.

NEAT CEMENT GROUT: A mixture consisting of one bag (94 pounds) of Portland cement (ASTM Standard C150, Type I or API Standard 10, Class A) to not more than six gallons of clean water. Bentonite (API Standard 13A), up to two percent by weight of cement, shall be added to reduce shrinkage. Other additives, as described in ASTM Standard C494, may be used to increase fluidity and/or control setting time.

PERSON: An individual, corporation, company, association, trust, or partnership.

PRIVATE WELL: Any driven or drilled hole, with a depth greater than its largest surface diameter developed to supply water intended and/or used for human consumption and not subject to regulation by 310 CMR 22.00. Dug wells are prohibited in the Town of Salisbury except as they currently stand. A private well shall not include irrigation wells.

PUMPING TEST: A procedure used to determine the characteristics of a well and adjacent aquifer by installing and operating a pump.

REGISTERED WELL DRILLER: Any person registered with the Department of Conservation and Recreation/Office of Water Resources to drill wells in the Commonwealth of Massachusetts.

SAND CEMENT GROUT: A mixture consisting of Portland cement (ASTM Standard C150, Type I or API Standard 10, Class A), sand, and water in the proportion of one part cement to

three or four parts sand, by volume, and not more than six gallons of water per bag (94 pounds) of cement. Up to five percent, by weight of bentonite (API Standard 13A) shall be added to reduce shrinkage.

STATIC WATER LEVEL: The level of water in a well under non-pumping conditions.

STRUCTURE: A combination of materials assembled at a fixed location to give-support or shelter, such as a building, framework, retaining wall, fence, or the like.

Also, refer to the DEP Private Well Guidelines for additional terms.

5.1.005 WELL CONSTRUCTION PERMIT: The property owner or his designated representative shall obtain a permit from the Health Department before the commencement of construction of a private well.

Each permit application to construct a well shall include the following:

- 1) The property owner's name and mailing address, telephone number, proposed or existing site use, site address and Assessor's Map & Parcel Numbers.
- 2) The well driller's name, address, telephone number and proof of valid state registration.
- 3) The permit application shall include a written description of visible prior and current land uses within two-hundred (200) feet of the proposed well which represent a potential source of contamination, including but not limited to waste sites and agricultural land uses.
- 4) A plan prepared by a professional engineer or professional land surveyor showing the location of the proposed well in relation to existing or proposed above or below ground structures. Every plan submitted for approval must be dated and bear the stamp and signature of the preparer. The plan shall be of suitable scale (one inch = 20 feet or fewer) and contain the following:
 - A. Site Address, including Assessor's Map & Parcel Nos.
 - B. A locus plan to show the location of the site, including the nearest existing street.
 - C. The location of all existing and proposed structures on the site and identification of those to be served by the private well.
 - D. The holder and location of any public ways or easements appurtenant to or which could affect the private well.
 - E. The location of existing or proposed impervious areas, including driveways and parking areas within one-hundred (100) feet radius of the proposed well, which could affect the private well.
 - F. Location and dimension of the private well.
 - G. North arrow and existing and proposed contours.
 - H. Location of existing or proposed subsurface sewage disposal systems within one-hundred (100) feet radius of the proposed well.
 - I. Location of existing or proposed subsurface and above surface fuel storage tanks within one-hundred (100) feet radius of the proposed well.
 - J. Location of existing or proposed water lines and other subsurface utilities, which could affect the proposed well.

- K. Location of any surface waters, rivers or wetlands within one-hundred (100) feet of the proposed well.
 - L. Location of existing or proposed potential sources of contamination within one-hundred (100) feet radius of the proposed well, including but not limited to, subsurface drains, leaching basins and dry wells.
 - M. Location of existing private wells within one-hundred (100) feet radius of the proposed well.
 - N. A note on the plan listing any variances requested from this bylaw
- 45
- 5) Proof that the owner of any property abutting the applicant's property has been notified of the applicant's intention to install a well.
 - 6) A permit fee in accordance with the current Board of Health fee schedule shall be required.

The permit shall be on site at all times that work is taking place. Each permit shall expire one (1) year from the date of issuance unless revoked for cause. Permits may be extended for an additional six (6) months period if the Board receives a written request before the one-year expiration date.

No additional fee shall be charged for a permit extension, provided there is no change in the plans for the proposed well.

Well Construction Permits are transferable, upon approval of an application to transfer a permit.

The Board may choose to require additional information pertaining to the location of waste sites, underground storage tanks, agricultural land uses, and or utility rights of way that are within 500-1000 feet of the well site.

5.1.006 WATER SUPPLY CERTIFICATE: The issuance of a Water Supply Certificate by the Board shall certify that the private well may be used as a drinking water supply. A Water Supply Certificate must be issued for the use of a private well before the issuance of an occupancy permit for an existing structure or before the issuance of a building permit for new construction, which is to be served by the well.

The following shall be submitted to the Board of Health to obtain a Water Supply Certificate: a well-construction permit

- a) A copy of the Water Well Completion Report as required by the DCR Office of Water Resources (313 CMR 3.00).
- b) A copy of the Pumping Test Report required pursuant to Section VII of these regulations.
- c) A copy of the Water Quality Report required pursuant to Section VIII of these regulations.
- d) A copy of the pressure testing report required pursuant to Section VI of these regulations, if applicable.

Upon the receipt and review of the above documents, the Board shall make a final decision on the application for a Water Supply Certificate. A final decision shall be in writing and shall comprise one of the following actions:

- a) Issue a Water Supply Certificate

- b) Deny the applicant a Water Supply Certificate and specify the reasons for the denial.
- c) Issue a conditional Water Supply Certificate with those conditions that the Board deems necessary to ensure fitness, purity and quantity of the water derived from that private well. Said conditions may include but not be limited to requiring treatment or additional testing of the water.

5.1.007 WELL LOCATION AND USE REQUIREMENTS: In locating a well, the applicant shall identify all potential sources of contamination that exist or are proposed within one-hundred (100) feet radius of the site. When possible, the well shall be located up gradient of all potential sources of contamination and shall be as far removed from potential sources of contamination as possible, given the layout of the premises.

Each private well shall be accessible for repair, maintenance, testing, and inspection. The well shall be completed in a water bearing formation that will produce the required quantity of water under normal operating conditions.

Each private well shall be located at least ten (10) feet from any property line. The centerline of a well shall, if extended vertically, clear any projection from an adjacent structure by at least five (5) feet.

Each private well shall be located a minimum of twenty-five (25) feet from the normal driving surface of any public roadway or a minimum of 15 feet from the road right-of-way, whichever is greater.

Each private well shall be located at least twenty-five (25) feet, laterally, from the normal high water mark of any lake, pond, river, stream, ditch, or slough. When possible, private water systems shall be located in areas above the 100-year floodplain.

Each private well shall be located a minimum of fifteen (15) feet from a gas line or overhead electric distribution line and shall be at least twenty-five (25) feet from an electric transmission line that is in excess of 50 kV. When subsurface utilities are already in place, Dig Safe shall be contacted at least three (3) days before drilling begins.

Private Wells shall NOT be installed on lots with on-site sewage disposal systems, unless said lot complies with 310 CMR 15.214 (Title V – Nitrogen Loading Limitations).

A water supply line, suction line or well shall be located a minimum of ten (10) feet from a building sewer constructed of durable corrosion resistant material with watertight joints, or fifty (50) feet from a building sewer constructed of any other type of pipe, fifty (50) feet from a septic tank, one-hundred (100) feet from a leaching field, and one-hundred (100) feet from a privy. Water supply lines shall be installed at least 10 feet from and with 18 inches separation from any sewer line. If a variance is requested pursuant to Section XV for the crossing of water supply lines and sewer lines, both pipes shall be constructed of class 150-pressure pipe and shall be pressure tested to assure water-tightness.

The Board reserves the right to impose minimum lateral distance requirements from other potential sources of contamination not listed above. All such special well location requirements shall be listed, in writing, as a condition of the well construction permit.

5.1.008 WATER QUANTITY REQUIREMENTS: The applicant shall submit to the Board for review and approval a Pumping Test Report.

The Pumping Test Report shall include:

- the name and address of the well owner
- well location referenced to at least two permanent structures or landmarks
- date the pumping test was performed
- depth at which the pump was set for the test
- location for the discharge line
- static water level immediately before pumping commenced
- discharge rate
- if applicable, the time the discharge rate changed
- pumping water levels and respective times after pumping commenced
- maximum draw-down during the test, duration of the test, including both the pumping time and the recovery time during which measurements was taken
- recovery water levels and respective times after cessation of pumping
- reference point used for all measurements

In order to demonstrate the capacity of the well to provide the Required Volume of water, a pumping test shall be conducted in the following manner:

1. The volume of water necessary to support the household's daily need shall be determined using the following equation: (number of bedrooms plus one bedroom) x (110 gallons per bedroom) x (a safety factor of 2) = number of gallons needed daily.
2. The storage capacity of the well shall be determined using the measured static water level and the depth and radius of the drill hole or casing.
3. The Required Volume shall be calculated by adding the volumes of water in (1) and (2) above. This required volume of water that must be pumped from the well within a 24-hour period.

The pumping test may be performed at whatever rate is desired. Following the pumping test, the water level in the well must be shown to recover to within eighty-five (85) percent of the prepumped static water level within a twenty-four (24) hour period.

Example calculations are provided in Appendix A.

The DEP Private Well Guidelines section entitled "Water Quantity (Pumping Tests)" provides a table of values listing gallons of water per foot of water column length for various casing or hole diameters and a table of flow volumes in gallons per- minute and corresponding flow volumes in gallons per day.

5.1.009 WATER QUALITY TESTING REQUIREMENTS: After the well has been completed and disinfected, and prior to using it as a drinking water supply *or* irrigation, a water quality test shall be conducted.

A water sample shall be collected either after purging three (3) well volumes or following the stabilization of the pH, temperature and specific conductance in the pumped well. The water sample to be tested shall be collected at the pump discharge or from a disinfected tap in the pump discharge line. In no event shall a water treatment device be installed before sampling.

The water quality test, utilizing an applicable US EPA approved method for drinking water testing shall be conducted by a laboratory certified by the EPA or the DEP and shall include analysis for the following parameters and the results shall not exceed most current standards for public water supplies and any other DEP specified standards from the Mass DEP Office of Research and Standards (ORS).

Note – For the DEP's recommended list of water quality testing parameters for which a potable private well should be tested, refer to the DEP website

<http://www.mass.gov/dep/brp/dws/privwell.htm>. Board regulations require that potable wells meet Massachusetts' primary and secondary drinking water standards and specified guidelines. These standards for private wells are excerpted and noted in the most recent update of "DEP Recommended Parameters and Testing Frequency for Private Wells."

At present, the Board requires that the following volatile, organic, in-organic compounds be analyzed at a minimum:

- Arsenic
- Chloride
- Copper
- Fluoride
- Hardness
- Iron
- Lead
- Manganese
- pH
- Sodium
- Coliform Bacteria
- Nitrate/Nitrite

Refer to DEP Website for acceptable amounts of each parameter. In areas dependent on bedrock aquifers, the Board requires that in addition to the parameters listed above, Gross Alpha Screen and Radon tests be performed. Please refer to DEP Website for acceptable amounts.

For wells completed in bedrock, the Board may require tests for radon, arsenic, and selenium. In areas where current or historical Aldrin use includes agriculture, the Board requires testing for pesticides, herbicides, and arsenic.

Additional test requirements for Volatile Organic Compounds (VOCs) and Synthetic Organic Compounds (SOCs) are required for areas known to be, or suspected as being, contaminated by other hazardous materials listed in the DEP/ORS Standards and Guidelines for Chemicals in Massachusetts Drinking Waters. The Salisbury BOH may require additional testing in the regulation for other contaminants of concern.

Following a receipt of the water quality test results, the applicant shall submit the Water Quality Report, completed by the certified laboratory, to the Board, which includes:

- 1) A copy of the certified laboratory's test results.
- 2) The name of the individual who performed the sampling.
- 3) The name of the Board's witness when applicable.
- 4) Where in the system the water sample was obtained.

The Board reserves the right to require retesting of the above parameters, or testing for additional parameters when, in the opinion of the Board, it is necessary due to local conditions or for the protection of the public health, safety, welfare and the environment. All costs and laboratory arrangements for the water testing are the responsibility of the applicant.

The Board may choose to collect the water sample or may require that the water sample be collected by an employee of the certified lab performing the analyses.

The owner of every well intended for human consumption including those serving a property which is rented or leased shall have its water tested at a laboratory certified by the EPA or the DEP for the following chemical and bacteriological standards at a minimum of once a year: coliform bacteria, nitrate-nitrogen, pH, conductivity, sodium, and iron. All other listed chemical parameters should be tested at a minimum every ten (10) years. Where water quality problems are known or suspected to exist, the Board may require more frequent testing, or testing for additional parameters.

The owner of the property shall make results of all water quality tests available to all tenants of the property and the Board. In cases where the well water does not meet the water quality standards outlined above, the Board may require the property owner to provide an alternative approved source of drinking water for the tenants.

Before selling, conveying, or transferring title to real property, the owner shall have tested the water of every private potable well serving that property. A water sample from each well shall be submitted to a laboratory certified by the EPA or the DEP for testing for the parameters outlined under Water Quality above. This water quality test shall be performed not more than one (1) year prior to transfer of the property. Results of the water test shall be submitted to the Salisbury BOH before property transfer on a form provided by the Board on which the owner will certify that the sample was taken from the well serving the property being transferred. In addition, the owner shall give copies of all water test results of which he/she has knowledge (regardless of age of results) for the private potable well in question to any buyer and/or broker identified with the transfer. In the event that there is no buyer at the time the water is tested, a copy of all water test results must be given by the owner to the buyer before the property is put under agreement.

5.1.010 WELL CONSTRUCTION REQUIREMENTS: Pursuant to 313 CMR 3.00, no person in the business of drilling shall construct a well unless registered with the DCR/Office of Water Resources.

Any work involving the connection of the private well to the distribution system of the residence must conform to the local plumbing code. All electrical connections between the well and the pump controls and all piping between the well and the storage and/or pressure tank in the house must be made by a pump installer or registered well driller, including the installation of the pump and appurtenance in the well or house.

A physical connection is not permitted between a water supply that satisfies the requirements of these regulations and another water supply that does not meet the requirements of these regulations without prior approval of the Board.

A. General Well Design and Construction

All private water supply wells shall be designed such that:

- 1) The materials used for the permanent construction are durable in the specific hydro-geologic environment that occurs at the well site.
- 2) No unsealed opening will be left around the well that could conduct surface water or contaminated groundwater vertically to the intake portion of the well or transfer water from one formation to another.

Permanent construction materials shall not impart toxic substances, taste, odors, or bacterial contamination to the water in the well.

The driller shall operate all equipment according to generally accepted standards in the industry and shall take appropriate precautions to prevent damage, injury or other loss to persons and property at the drilling site.

Well construction design shall insure that surface water does not enter the well through the opening or by seepage through the ground surface. Construction site waste and materials shall be disposed of in such a way as to avoid contamination of the well and the aquifer. During any time that the well is unattended, the contractor shall secure the well in a way as to prevent either tampering with the well or the introduction of foreign material into the well.

Well yield shall be measured and recorded at least every fifty (50) feet during drilling.

All water used for drilling, well development, or to mix a drilling fluid shall be obtained from a source that will not result in contamination of the well or the water bearing zones penetrated by the well. Water shall be conveyed in clear sanitary containers or water lines and shall be chlorinated to an initial concentration between 50 mg/l and 100 mg/l.

A free-chlorine residual of 10 mg/l shall be maintained in any water used at the drill site. Water from wetlands, swamps, ponds and other similar surface features shall not be used.

All drilling equipment, including pumps and down-hole tools, shall be cleaned and disinfected before drilling each new well or test hole.

All drilling fluids shall be nontoxic. Drilling fluid additives shall be stored in clean containers and shall be free of material that may adversely affect the well, the aquifer, or the quality of the water to be pumped from the well, surfactants should be biodegradable.

All wells, including those that have been hydro-fractured, shall be developed in order to remove fine materials introduced into the pore spaces or fractures during construction. One or more of the following methods shall be used for development: overpumping, backwashing, surging, jetting, air lift pumping.

The completed well shall be sufficiently straight so that there will be no interference with installation, alignment, operation or future removal of the permanent well pump.

Also, refer to the DEP Private Well Guidelines section entitled “General Well Design and Construction” for additional considerations for the construction of wells.

B. Well Casing

Private water supply wells shall be constructed using either steel or thermoplastic well casing. The casing shall be of adequate strength and durability to withstand anticipated formation and hydrostatic pressures, the forces imposed on it during installation, and the corrosive effects of the local hydro-geologic environment.

Steel casing shall be used with cable tool drilling or when the casing is installed in an open drill hole in which formation materials may collapse against the casing.

All casing used in the construction of private water supply wells shall be free of pits, breaks, gouges, deep scratches and other defects. If previously used casing is installed, it shall be decontaminated and disinfected before installation.

Installation of water well casing shall be done in a manner that does not alter the shape, size, or strength of the casing and does not damage any of the joints or couplings connecting sections of the casing. A standard driveshoe shall be used when casing is installed. The drive shoe shall be either welded or threaded to the lower end of the string of casing and shall have a beveled metal cutting edge forged, cast, or fabricated for this specific purpose.

Upon completion of the installation procedure, the entire length of the casing above the intake shall be watertight.

For wells completed above grade, the casing shall extend at least 12 inches above the finished ground surface unless the well is located in a floodplain. For wells constructed in a floodplain, the casing shall extend at least two feet above the level of the highest recorded flood. The top of the casing shall be reasonably smooth and level.

1. Steel Casing

Steel casing shall consist of schedule 40 pipe that complies with materials standards approved by the American Water Works Association (AWWA).

Segments of steel casing shall be coupled by using threaded casing, coupling, or by welding the joint. Recessed or reamed and drifted couplings shall be used on threaded casing and no threads shall be left exposed once the joint is completed. When welded casing joints are used, they shall conform to the most recent revision of AWWA C206, "Standard for Field Welding of Steel Water Pipe." The weld shall be at least as thick as the wall thickness of the well casing and shall be fully penetrating. When completed, a welded casing joint shall have a tensile strength equal to or greater than that of the casing.

2. Thermoplastic Casing

Thermoplastic casing used in the construction of private water supply wells shall be capable of withstanding pressures equal to or greater than 200 pounds per square inch and shall conform to the most recent revision of American Standard Testing of Materials (ASTM) Standard F480, "Specification for Thermoplastic Water Well Casing Pipe and Couplings Made in Standard Dimension

Ratios (SDR)." In addition, the casing and couplings shall meet the requirements of the most recent revision of National Sanitation Foundation Standard Number 14, entitled "Plastics Piping System Components and Related Materials." Materials complying with Standard Number 14 can be recognized by the marking "NSF-WC."

Thermoplastic casing shall be stored in such a manner as to prevent deformation, sagging, or bending. Storage of thermoplastic casing and couplings in direct sunlight shall be avoided. Thermoplastic casing shall be installed only in an oversized drill hole and shall not be driven, pushed, or forced into a formation. Thermoplastic casing shall be joined by mechanical means only. When pulling back thermoplastic well casing to expose a well screen, the force applied shall not exceed the casing weight.

C. Well Screen

A well screen is necessary for all drilled wells that are completed in unconsolidated formations. Wells completed in bedrock do not require a screen unless the bedrock formation is brittle in nature or has a potential for collapse. The well screen aperture openings, screen length, and diameter shall be selected so as not to limit the aquifers' water yielding characteristics while preventing access of soil particles that would detract from well efficiency and yield.

Refer to the DEP Private Well Guidelines section entitled "Well Screen" for additional information about screen materials and construction joints, sealing, and methods of installation.

D. Grouting and Sealing

Private wells drilled in bedrock shall be grouted from the top of the weathered rock interface to fifteen (15) feet into competent bedrock. Either neat cement grout or sand cement grout shall be used and it shall be emplaced using standard grouting techniques as described in the DEP Private Well Guidelines.

All wells completed with the casing extending above grade shall have a surface seal designed to eliminate the possibility of surface water flowing down the annular space between the well casing and the surrounding backfilled materials. The surface seal shall extend to a depth below the local frost line.

Refer to the DEP Private Well Guidelines section entitled "Protective Well Seals" for additional information about materials and methods used for grouting.

E. Pumps and Pumping Equipment

All pumps shall be installed either below the frost line with a pitless adapter or in some other heated and protected sanitary location. Above ground pumps shall be installed in sheltered, dry, accessible locations and shall be protected from freezing.

Shallow-well pumps shall be installed as near the well or water source as possible to minimize suction lift.

Deep-well reciprocating pumps shall be installed directly over the well. Submersible and helical rotor pumps must be installed in the well. A deep-well jet pump may be offset from the well.

F. Wellhead Completion

Well casing shall not be cut off below the land surface unless a pitless adapter or a pitless unit is installed or an abandoned well is being permanently plugged. Well casing terminating above-grade shall extend at least 12 inches above the predetermined ground surface at the wellhead except when the well is located in a floodplain. When a well is located in a floodplain, the well casing shall extend at least 2 feet above the level of the highest recorded flood. The top of the well casing shall be reasonably smooth and level.

Any well that does not terminate at the ground surface in the base of a pump shall be equipped with a sanitary seal or watertight cap designed to prevent surface water and foreign matter from entering the well. A flowing artesian well shall be equipped with a shut-off valve and backflow preventer so that the flow of water can be stopped completely when the well is not in use.

All wells except flowing artesian shall be vented. The opening of the vent pipe shall be covered with a 24 mesh corrosion resistant screen and shall be large enough to prevent water from being drawn into the well through electrical conduits or leaks in the seal around the pump when the pump is turned on. The vent pipe shall terminate in a downward position at or above the top of the casing.

All connections to a well casing made below ground shall be protected by either a pitless adapter or a pitless unit that complies with the most recent revision of National Sanitation Foundation Standard Number 56, entitled "Pitless Well Adapters."

Above-grade connections into the top or side of a well casing shall be at least 12 inches above the established ground surface or two feet above the level of the highest known flood, whichever is higher. Above-grade connections shall be sealed so that they are watertight.

The ground immediately surrounding the well casing shall be sloped downward and away from the well in all directions to eliminate the possibility of surface water ponding

Refer to the DEP Private Well Guidelines, section entitled "Well Head Completion" for additional information about wellhead completion including capping, venting, connections, and grading.

G. Disinfection

Upon completion of well construction, the well contractor shall disinfect the well. If a pump is to be installed by the well contractor immediately upon completion of the well, the contractor shall disinfect the well and the pumping equipment after the pump has been installed.

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If the pump is not installed upon completion of the well, the pump contractor shall, upon installation, disinfect the well and the pumping equipment. The pump contractor shall also disinfect the entire water supply system after any maintenance or repair work is done on the pump.

When a well is disinfected, the initial chlorine concentration shall be 100 mg/l throughout the entire water column.

For newly constructed or altered wells in which the pump is not immediately installed, the chlorine concentration used to disinfect the well shall be 100 mg/l. Upon installation of the pump, disinfection of the well, the pumping equipment, and the distribution system, if connected, shall be accomplished with a chlorine concentration of 100 mg/l.

The disinfectant solution shall remain, undisturbed, in the well for a minimum of two (2) hours. After all the chlorine has been flushed from the water supply system, a water sample shall be collected and submitted to a state certified laboratory. For new wells, the sample shall be tested pursuant to this regulation. For wells that have undergone repair, the sample shall be tested for coliform bacteria and any other parameters deemed appropriate by the Board.

5.1.011 DECOMMISSIONING REQUIREMENTS: Abandoned wells, test holes, and borings shall be decommissioned so as to prevent the well, including the annular space outside the casing, from being a channel allowing the vertical movement of water.

The owner of the private well shall decommission the well if the well meets any of the following criteria:

- 1) Construction of the well is terminated before completion of the well.
- 2) The well owner notifies the Board that the use of the well is to be permanently discontinued.
- 3) The well has been out of service for at least three years.
- 4) The well is a potential hazard to public health or safety and the situation cannot be corrected.
- 5) The well is in such a state of disrepair that its continued use is impractical.
- 6) The well has the potential for transmitting contaminants from the land surface into an aquifer or from one aquifer to another and the situation cannot be corrected.

The property owner shall be responsible for ensuring that all abandoned wells and test holes or borings associated with private well installation are properly plugged. Only registered well drillers may plug abandoned wells, test holes, and borings.

In the case of new well construction, all test holes and borings shall be plugged before the well driller completes work at the site.

Abandoned overburden wells or borings shall be completely filled with a grout that cures with a final permeability of less than 1×10^{-7} cm/sec. Wells shall be plugged with neat cement grout, sand cement, grout, concrete, or bentonite grout. In the case of bedrock wells, the borehole within the bedrock shall be filled with gravel and the casing above the bedrock filled with grout as specified for overburden wells.

Regardless of the type used, the grout:

- 1) Shall be sufficiently fluid so that it can be applied through a tremie pipe from the bottom of the well upward.
- 2) Shall remain as a homogeneous fluid when applied to the subsurface rather than disaggregating by gravity into a two-phase substance.
- 3) Shall be resistant to chemical or physical deterioration.
- 4) Shall not leach chemicals, either organic or inorganic, that will adversely affect the quality of the groundwater where it is applied.

The plugging materials shall be introduced at the bottom of the well or boring and placed progressively upward to a level approximately four (4) feet below the ground surface. Sealing

materials shall never be poured from the land surface into the well, borehole, or annular space being sealed.

The well driller shall emplace the surface seal no sooner than 24 hours after the well or boring has been plugged. Before the surface seal is placed, casing remaining in the hole shall be cut off. The remaining four feet at the top of the well or boring shall then be filled with concrete. The top of the seal shall comprise a concrete slab above the top of the plugged well or boring. This concrete slab shall be at least six inches thick and shall be at least two feet greater in diameter than the well casing or borehole wall.

Refer to the DEP Private Well Guidelines section entitled "Decommissioning Abandoned Wells, Test Holes, and Dry or Inadequate Borings," for additional information and specific recommendations regarding plugging procedures and other aspects of decommissioning private wells.

5.1.012 TESTING OF POTABLE WATER: At the Board of Health's discretion, annual testing of potable water may be required and certified by a Massachusetts Certified Laboratory. Also more frequent testing of the potable water may be necessary depending upon the analysis report. All costs incurred are the responsibility of the property owner, agent, or their representative and not the Town of Salisbury.

5.1.013 LIVESTOCK/HORSE BARN: Livestock or Horse barns shall not be constructed within one hundred (100) feet of a surface water supply, private well, or a water course defined in 5.1.003 nor shall any well be constructed within one hundred (100) feet of a livestock or horse barn.

5.1.014 ENFORCEMENT: The Salisbury BOH shall investigate violations of these regulations and/or violations of any Water Supply Certificate conditions and may take such actions as the Board deems necessary for the protection of the public health and the enforcement of these regulations.

If any investigation reveals a violation of these regulations or the Water Supply Certificate Conditions, the Salisbury BOH shall order the private well owner to comply with the violated provisions(s).

These orders shall be in writing and served in the following manner:

- (a) personally, by any person authorized to serve civil process, or;
- (b) by any person authorized to serve civic process by leaving a copy of the order at the well owner's last and usual place of abode, or
- (c) by sending the well owner a copy of the order by registered or certified mail, return receipt requested, if the well owner is within the Commonwealth, or
- (d) if the well owner's last and usual place of abode is unknown or outside the Commonwealth, by posting a copy of the order in a conspicuous place on or about the premises.

5.1.015 HEARING: The private well owner to whom any order has been served may request a hearing before the Board by filing with the Board within 7 days after the day the order was served, a written petition requesting a hearing on the matter. Upon receipt of such petition, the Board shall set a time and place for such hearing and shall inform the well owner thereof in writing. The hearing shall be commenced not later than 30 days after the day on which the order

was served. The Board, upon application of the well owner, may postpone the date of hearing for a reasonable time beyond such 30-day period if in the judgment of the Board the well owner has submitted a good and sufficient reason for such postponement, or the Board chooses to do so for other reasons. At the hearing, the well owner shall be given an opportunity to be heard and show why the order should be modified or withdrawn. After the hearing, the Board shall sustain, modify, or withdraw the order and shall inform the well owner in writing of its decision. If the Board sustains or modified the original order, it shall be carried out within the time allotted in the original order or in the modification.

Every notice, order, or other record prepared by the Board in connection with the hearing shall be entered as a matter of public record in the office of the Salisbury Town Clerk, or in the office of the Board.

In a written petition for a hearing is not filed with the Board within 7 days after the day an order has been served or if after a hearing, the order has been sustained in any part, each day's failure to comply with the order as issued or modified shall constitute an additional offense.

5.1.016 APPEAL: Any person aggrieved by the final decision of the Board may seek relief therefrom within thirty (30) days in any court of competent jurisdiction, as provided by the laws of this Commonwealth.

5.1.017 PENALTIES: Any person who violates any provision of these regulations, or who fails to comply with any order by the Board, for which a penalty is not otherwise provided in any of the General Laws shall upon conviction be fined not less than ten dollars (\$ 10.00) nor more than five hundred dollars (\$ 500.00). Each day's failure to comply with an Order shall constitute a separate violation.

5.1.018 VARIANCE: The Board may, after a public hearing, grant a variance to the application of these regulations when, in its opinion, the enforcement thereof would do manifest injustice, and the applicant has demonstrated that the equivalent degree of protection will still be provided to the private water supply without strict application to particular provisions of these regulations.

Every request for a variance shall be made in writing and shall state the specific variance sought and the reasons therefore. The writing shall contain all the information needed to assure the Board that, despite the issuance of a variance, the public health and environment will be protected. Notice of the hearing shall be given by the Board, at the applicant's expense, at least ten (10) days prior thereto, by certified mail to all abutters of the property upon which the private well is located and by publication in a newspaper of general circulation in the town or city in which the private well is located. The notice shall include a statement of the variance sought and the reasons therefore. Any grantor denial of a variance shall be in writing and shall contain a brief statement of the reasons for approving or denying the variance. A copy of each variance shall be conspicuously posted for thirty (30) days following its issuance and shall be available to the public at all reasonable hours in the Office of the Town Clerk or Office of the Health Department. No work shall be done under any variance until thirty (30) days elapse from its issuance, unless the Board certifies in writing that an emergency exists.

Any variance may be subject to such qualification, revocation, suspension, condition, or expiration as is provided in these regulations or as the Board expresses in its grant of the variance. A variance may otherwise be revoked, modified or suspended, in whole or in part,

only after the holder thereof has been notified in writing and has been given an opportunity to be heard, pursuant to Section XII of these regulations.

5.1.019 SEVERABILITY: If any provision of these regulations or the application thereof is held to be invalid by a court of competent jurisdiction, the invalidity shall be limited to said provision(s) and the remainder of these regulations shall remain valid and effective. Any part of these regulations subsequently invalidated by a new state law or modification of an existing state law shall automatically be brought into conformity with the new or amended law and shall be deemed to be effective immediately, without recourse to a public hearing and the customary procedures for amendment or repeal of such regulation.

5.1.020 EFFECTIVE DATE: These regulations were adopted by vote of the Salisbury, Massachusetts Board of Health, at their regularly scheduled meeting held on September 5, 2006 and are to be in full force and effect on and after January 1, 2007. Before said date, these regulations shall be published and a copy thereof be placed on file in the Salisbury Health Department Office and filed with the DEP, Division of Wastewater Management (formerly Division of Water Pollution Control) in Boston. These regulations or any portions thereof may be amended, supplemented or repealed, at any time deemed necessary, by the Board, with notice as provided by law, on its own motion or by petition.

5.1.021 DISCLAIMER: The issuance of a well permit shall not be construed as a guarantee by the Board or its agents that the water system will function satisfactorily nor that the water supply will be of sufficient quality or quantity for its intended use

APPENDIX A

Section 1 WATER QUANTITY REQUIREMENTS – Sample Pump Report Calculations

Example 1: a one bedroom house with a well six (6) inches in diameter and contains 200 ft. of standing water:

- 1) 1 bedroom + 1 bedroom = (2 bedrooms) x (110 gallons per bedroom) x (safety factor of 2) = 440 gallons needed daily.
- 2) The volume of a 6-inch well is 1.5 gallons for every foot of water column length. Therefore, (200 ft. of standing water) x (1.5 gal/ft.) = 300 gallons.
- 3) 440 gallons + 300 gallons = 740 gallons that must be pumped from the well in 24 hours or less to demonstrate suitable capacity. Recovery up to 85% of the static water level must also occur within 24 hours after cessation of pumping.

Example 2: For a 4 bedroom house with a well that is six (6) inches in diameter and contains 100 ft. of standing water:

- 1) 4 bedroom house + 1 bedroom = (5 bedrooms) x (110 gallons per bedroom) x (safety factor of 2) = 1,100 gallons needed daily.
- 2) The volume of a 6-inch well is 1.5 gallons for every foot or water volume length. Therefore, (100 ft. of standing water) x (1.5 gal/ft.) = 150 gallons.
- 3) 1,100 gallons + 150 gallons = 1250 gallons that must be pumped from the well in 24 hours or less to demonstrate suitable capacity. Recovery up to 85% of the static water level must also occur within 24 hours after cessation of pumping.

SECTION 2 DESIGN CRITERIA FOR SEPTIC SYSTEMS

5.2.001 Percolation tests may be performed at any time of the year provided that weather conditions are conducive to testing. Percolation tests shall be performed by a Massachusetts Registered Professional Engineer, a Massachusetts Registered Sanitarian, or a D.E.P. approved Soil Evaluator in the presence of a representative from the Board of Health. The Director of Public Health or his designee will make determinations relative to suitable weather conditions for conducting tests.

5.2.002 Deep hole tests may be conducted at any time during the year provided a D.E.P. approved Soil Evaluator makes and records on site the soil evaluation as required in Title 5. This test may be conducted provided that weather conditions are conducive to testing. The Director of Public Health or his designee will make determinations relative to suitable weather conditions

for conducting tests. All deep hole testing conducted for design of a sewage disposal system shall be performed in the presence of an authorized representative of the Board of Health.

5.2.003 The Board of Health or its agents shall have sole authority to make final determinations as deemed necessary regarding deep-hole testing.

5.2.004 PERCOLATION TESTING FOR THE UPGRADE OF AN EXISTING SYSTEM: Conditions may exist as to make a percolation test difficult. At the discretion of the Director of Public Health or his designee and with the concurrence of the soil evaluator, the perc rate may be based upon existing data from abutting properties with similar physical conditions. Where multiple perc test results exist, the slowest rate shall be used for the system upgrade design.

5.2.005 A complete application and fee in conformance with the current Board of Health fee schedule, for the observation of soil and ground water testing shall be submitted prior to scheduling. Any parcel of land to be tested shall be staked out so that property boundaries are clearly visible.

5.2.006 A fee for all Disposal Works Construction Permits in conformance with the current Board of Health fee schedule, as applicable, is required prior to issuance. A Disposal Works Construction permit granted by the Board of Health shall expire three (3) years from date of issue. An extension of one (1) year may be granted with administrative approval.

5.2.007 All subsurface sewage disposal systems for new construction of single family dwellings and multiple family dwellings, including condominiums shall be designed to accept a minimum flow of four hundred forty (440) gallons of effluent per day for each dwelling unit. All subsurface sewage disposal systems must be designed and contained on the lot or property it is to service. If a four hundred forty (440) gallon per day design cannot be achieved, then a system may be designed for a design flow of three hundred thirty (330) gallons per day only if a deed restriction limiting the use of the dwelling to three (3) bedrooms is provided. The deed restriction shall state: "This dwelling is restricted to use as a three (3) bedroom home. Any change in use or expansion of use shall require written approval from the Board of Health. This restriction shall become null and void upon an approved connection to the municipal sewer system. The owner(s) and subsequent owner(s) shall disclose this restriction to any potential buyers of the property." No new system shall be designed for less than three hundred thirty (330) gallons per day.

5.2.008 VENTING OF SOIL ABSORPTION SYSTEMS: All soil absorption systems connected to a vent shall be equipped with a suitable air filtering system.

5.2.009 INDIVIDUAL ON-SITE SEWAGE TREATMENT FACILITIES: The construction of individual sewer treatment facilities shall be allowed only by approval of the Board of Health.

SECTION 3

5.3.001 PRIMARY AND RESERVE GRADES LEACHING FACILITY:

(1) In table form, give the following information for the primary and reserve leaching area. Line number, beginning invert, ending invert (if applicable) bottom elevation, and water table elevation (for each leaching structure or line).

5.3.002 OTHER PLAN REQUIREMENTS:

- (1) Assessor's plate and parcel number.
- (2) Title stating the following (in any order or form):
 - (a) Subsurface Sewage Disposal System in Billerica
 - (b) Street
 - (c) Scales
 - (d) Bar Scale
 - (e) Date
 - (f) Name and address of designer and job number
- (3) Locus map showing the site within the Town.
- (4) If there is a request for a variance from the Board of Health or 310CMR15.000 requirements, it shall be noted on the plan.
- (5) The following designer's certification shall be on the plan. I hereby warranty that this plan meets all requirements of 310CMR15.000 Title 5 of the State Environmental Code, and all applicable regulations of the Town of Salisbury, Board of Health. I assume liability for any errors and/or omissions in the design of this sewage disposal system. I certify that this plan has been reviewed by me personally and to the best of my knowledge and belief is correct and free of errors. This warranty must be signed and dated by a Registered Professional Engineer or Registered Sanitarian.

Date

Registered Professional Engineer, or Registered Sanitarian

- (6) Any other information or data to support full compliance with Title 5.
- (7) If the plan has been prepared by a Registered Sanitarian then it shall also bear the stamp and signature of a Professional Land Surveyor or a note indicating the name of the land surveyor who prepared the topography, his address and date when it was performed.
- (8) Proposed sewage disposal systems that create significant changes in the existing topography may be subject to a drainage review. The design engineer shall be prepared to provide any information deemed necessary to make this determination.
- (9) The design engineer shall provide to the Board of Health and its agents, any information deemed necessary to complete a review of any proposed sewage plan.

SECTION 4 LICENSING OF DISPOSAL WORKS INSTALLERS, SEPTAGE HAULERS, OFFENSIVE SUBSTANCE HAULERS

5.4.001 LICENSING OF DISPOSAL WORKS INSTALLERS: No person shall engage in the construction, upgrade or expansion of any sewage disposal system without first obtaining a Disposal Works Installer's License from the Board of Health. The following requirements must be met by all persons currently holding or applying for a Disposal Works Installer's License:

- (1) The person(s) shall demonstrate capacity of knowledge and experience of the proper construction and installation of sewage disposal systems in accordance with Title 5 and Salisbury Health Regulations.
- (2) Satisfactory completion (70%) of a written/oral test based on Title 5 of the State Environmental Code and local Health Regulations. This test will be administered during the

months of March and November on the 1st and 3rd Monday of the month by appointment only. A test fee is required in accordance with the most current Board of Health fee schedule. This test may be required annually or as often as the Board of Health deems necessary.

(3) License's for Disposal Works Installers are renewed annually on or before July 1 of each year. A proper application, fee and proof of the following minimum insurance requirements is required prior to renewal:

- (a) Public Liability \$100,000 - \$300,000
- (b) Property damage \$50,000
- (c) Underground hazards
- (d) Completed operations

The fee for a disposal works license shall be in accordance with the current Board of Health fee schedule.

5.4.002 LICENSING OF SEPTAGE HAULERS, SEPTAGE HAULING COMPANIES AND OFFENSIVE SUBSTANCE HAULERS: No person(s) and/or companies shall remove and transport septage and offensive substances through the streets of the Town of Salisbury in which the septage or offensive substances were first collected without first obtaining a license from the Board of Health. The following requirements must be met by all persons and companies currently holding or applying for the aforementioned licenses.

(1) Satisfactory completion (70%) of a written/oral test based on Title 5 of the State Environmental Code and local Health Regulations. This test will be administered during the months of March and November on the 1st and 3rd Monday of the month by appointment only. A test fee is required in accordance with the most current Board of Health fee schedule. This test may be required annually or as often as the Board of Health deems necessary.

(2) Licenses are issued for a one (1) year period. All licenses must be renewed on or before July 1st of each year. A properly completed application containing all required information including all disposal sites or treatment works, approved by DEP, where the hauler is authorized to dispose of septage and offensive substances and the applicable fee(s) shall be submitted to the Board of Health prior to the issuance of a license. No license shall be transferred except with the written approval of the Board of Health.

(3) Copies of all contracts or other agreements between the hauler and the receiving facility including any permits to discharge septage and offensive substances shall be submitted to the Board of Health upon request.

(4) Septage and Offensive Substance Haulers shall note all activity on a system pumping form approved by the Board of Health and the report shall be submitted to the Board of Health on a monthly basis. Whenever the contents of a septic tank, cesspool, leaching pit, grease trap, portable toilet or other holding tanks are pumped, the conditions shall be noted on the report. If there was no activity for a particular month, then that shall be reported to the Board of Health. Pumping reports shall be properly completed with all required information including the treatment works where the hauler disposed of septage and offensive substances.

(5) Grease traps shall be inspected monthly for maintenance and shall be cleaned by a licensed septage hauler whenever the level of the grease is twenty-five (25) percent of the

effective depth of the trap, or at least every three (3) months, whichever is sooner. This activity shall be noted on a monthly pumping report submitted to the Board of Health.

SECTION 5 MISCELLANEOUS REGULATIONS

5.5.001 IMPROPER DISPOSAL, NOISE, ODORS:

(1) No person as defined in Chapter 1 Section 1.006 shall improperly dispose of any rubbish, refuse, bulky waste, hazardous waste, junk, scrap, sewage, offal, demolition material, building material waste or any noxious substance, or allow any such substance to escape into the environment. Further, no person shall create excessive noise, or allow offensive odors, materials, substances, etc. as determined by the Health Department, to escape into the environment which in the opinion of the Health Department causes harm to other persons. Any act in violation of this regulation shall constitute a nuisance relative to Massachusetts General Laws Chapter 111, Section 122 and shall be punishable as the law allows or may be punishable by non-criminal disposition provided for under Chapter 1 Section 19.001.

(2) **ASBESTOS DISPOSAL:** The Board of Health requires a permit for asbestos removal and disposal. Said permit may be issued after all information and applicable fees are submitted to the Board of Health.

5.5.002 PRIVATE SOLID WASTE DISPOSAL AND COLLECTION: All persons that use commercial waste containers shall keep said containers, all appurtenant structures, and ground areas properly maintained and in a clean and sanitary manner.

(1) Collection and disposal for private solid waste shall not commence prior to 7:00 a.m. and shall cease no later than 7:00 p.m.

(2) The Board of Health may require certain persons, deemed to be creating a public health nuisance, to take appropriate action to abate said public health nuisance to the satisfaction of the Board of Health.

SECTION 6 RULES AND REGULATIONS RELATIVE TO THE USE OF RECOMBINANT DNA TECHNOLOGY

5.6.001 USE OF RECOMBINANT DNA TECHNOLOGY:

(1) The experimentation with, or use of, recombinant DNA technology shall be undertaken only in strict conformity with the current "Guidelines" of the National Institute of Health (NIH), or in conformity with such superseding laws and regulations as may be established by other Federal Agencies or by Act of Congress; and in conformity with this regulation and other health regulations as the Board of Health may at any time deemed necessary, promulgate.

(2) The Institutional Biosafety Committee required by the NIH Guidelines should be broad-based in its composition. It should include members from a variety of disciplines within the institution. It shall also include at least two (2) community representatives appointed by the Salisbury Board of Health, one of who shall be the Director of Public Health. The two (2) community representatives shall be bound to the same provisions on non-disclosure and non-use of proprietary information and trade secrets as other members of the Institutional Biosafety Committee, except to the extent that disclosure is necessary to alleviate any public health hazard.

The minutes of all meetings of the Institutional Biosafety Committee shall be delivered to the Board of Health within ten (10) days of the meeting after first removing any proprietary

information and trade secrets therefrom. Such minutes shall be public records. The full test shall remain on file in the records of the institution for inspection at all times by any member of the Committee.

(3) The institution shall prepare a Biosafety Manual which describes how the NIH Guidelines will be implemented at the institution. The manual should include provisions defining the following:

- (a) Work project and containment level approval process.
- (b) Personnel training requirements.
- (c) Medical surveillance program,
- (d) Standard laboratory rules and practices.
- (e) Emergency procedures.

This manual shall be approved by the Institutional Biosafety Committee.

(4) The institution shall observe the following requirements:

(a) Personnel training requirements shall be appropriate to the task assigned. Training shall include orientation to the NIH Guidelines and/or any superseding laws and regulations, the Biosafety Manual and general laboratory safeguards.

(b) Emergency procedures shall describe actions to be taken if an accident contaminates personnel, the laboratory or the environment, and procedures for notification of appropriate governmental agencies. Salisbury Police, Fire and Public Health Officials shall be trained in appropriate emergency response procedures.

(c) The institution shall, subject to the limitations of available technology, utilize personnel and laboratory monitoring techniques appropriate to each organism's degree of hazard.

(d) The institution shall, to the extent possible, ensure the purity of host organism strains and test resulting recombinant containing organisms for resistance to commonly used therapeutic antibiotics.

(e) Any significant breach of containment and the associate remedial action shall be reported to the Institutional Biosafety Committee. Any environmental release shall be reported immediately.

(f) Any significant or potentially rDNA related employee illness shall be reported to the Institutional Biosafety Committee.

(g) It shall be the duty of the Institutional Biosafety Committee to investigate any case of potentially work-related illness associated with the use of rDNA. The results of such investigation shall be forwarded to the Director of Public Health. All personnel medical records shall be kept confidential and shall not be public records.

(h) The Institution shall allow inspection and review of practices and procedures under this regulation. The Salisbury Board of Health may retain competent professional assistance in the conduct of such inspection. The institution shall reimburse the Town of Salisbury for the direct expense of up to one (1) inspection or review per year.

Any inspector shall be subject to the same requirements regarding the confidentiality of trade secret and proprietary information as a community resident member of the Institutional Biosafety Committee. Any inspection reports shall be delivered to the Board of Health only after all confidential and proprietary information has been removed. Such reports shall then become public record. The full text of the inspection or review shall remain on file in the records of the institution for inspection at all/reasonable times by any member of the Committee.

5.6.002 RESTRICTIONS ON THE USE OF RECOMBINANT DNA TECHNOLOGY:

(1) Experimentation with, or use of, recombinant DNA requiring a P3 or P4 level of containment shall not be permitted.

(2) Use of recombinant DNA technology shall not be permitted in areas for residential purposes.

5.6.03 A permit to conduct recombinant DNA shall be required and shall expire on December 31st of each year. The fee for a permit shall be in accordance with the current Board of Health fee schedule.

SECTION 7 REGULATIONS REGARDING STABLING OF HORSES

5.7.001 No person, firm, or corporation, owning or responsible for the custody of horses or ponies shall keep said animals or occupy any buildings, shed or other structure which does not conform with the requirements of these regulations for the purpose of stabling such animal, unless a permit is first issued and the provisions of these regulations are fully complied with.

(1) All permits shall expire June 30th of each year but may be renewed annually provided the applicant is then qualified to receive a permit and the premises for which a renewal is sought has been inspected by the Animal Inspector. Further a proper application and fee must be submitted.

(2) No structure for the stabling of horses shall be smaller than will adequately house such animals, nor shall such stable be less than nine (9) feet by thirteen (13) feet, with a minimum ceiling height of eight (8) feet. Five hundred (500) square feet of corral space for each horse shall be provided. This corral space will be adequately fenced so as to prevent the escape of the horses therefrom.

(3) The walls and roof of the stable shall be constructed to be weather proof. The use of rotten half burned or inferior lumber is prohibited. The interior of the stable shall be free from any protrusions (i.e.: nails or splinters) liable to injure the animals.

(4) The door of every stable shall be no less than four (4) feet by seven (7) feet, properly hung, so as to be weather proof when closed.

(5) Properly sized receptacles, adequate for the number of permitted horses, shall be provided for the storage of grain. Sanitary space shall be maintained for the storage of hay and bedding. An adequate supply of clean water shall be maintained convenient to the stable.

(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

(7) The individual stalls in a stable shall be separately partitioned in a suitable manner and faced with suitable boards to a height of four (4) feet above the stall floor. Such stall shall be provided with adequate drainage. Each box stall shall be no less than ten (10) feet in width by ten (10) in depth. Four (4) feet by eight (8) feet is to be considered a straight stall. A service space shall be provided in the rear of not less than nine (9) feet in width.

(8) A suitable manure storage area must be designated on the property which is adequate for the number of permitted horses. Said manure shall be properly disposed of when necessary. The designated area must be located maintained to avoid causing a nuisance. The stable shall be maintained in clean, sanitary condition at all times and the interior shall be cleaned as often as necessary to maintain sanitary conditions.

(9) Any lawfully permitted premises, building shed or other structures used for the purpose of stabling horses which create such a condition as to be dangerous to the public health in any way or to be injurious, noxious or offensive to the neighborhood, shall be declared to be a nuisance as determined by the Board of Health pursuant to Massachusetts General Laws Chapter 111, Section 122.

(10) All property owners with horse/stable permits issued by the Board of Health are required to comply with all other applicable laws, rules or regulations of the Commonwealth of Massachusetts and the Town of Salisbury. It shall be the responsibility of the permit holder to assure compliance with applicable laws, rules or regulations other than the Board of Health.

SECTION 8 CARNIVALS, FESTIVALS AND CIRCUS'

5.8.001 INSPECTIONS: All midway food concessions shall be inspected prior to actual opening date. Items of concern, include, but not limited to, those that are potentially hazardous, such as tuna fish, chicken salad, egg salad, etc.

5.8.002 FOOD PROTECTION: Plastic shields shall be provided on concession stands featuring cotton candy, taffy apples, popcorn, and whenever deemed necessary to prevent contamination from dirt, dust, sneezing, etc.

5.8.003 No sleeping or smoking shall be allowed in any midway food concession stand.

5.8.004 Dumpsters and/or refuse containers shall be provided in a quantity to contain all rubbish and shall be emptied as conditions require. Refuse containers should be placed in locations determined by the Board of Health. All areas including the midway shall be cleaned daily to eliminate windblown litter.

5.8.005 POTABLE WATER SUPPLY: Water shall be supplied from the Town water system and shall be under pressure. Hot and cold water shall be provided under pressure at all food concession stands.

5.8.006 SANITARY WASTES: All trailers with chemical toilets shall not discharge contents into the environment, but shall have them pumped or cleaned out as needed. Waste water from washing procedures shall be controlled so as not to create a nuisance. The minimum portable chemical toilets are to be provided, according to existing Massachusetts plumbing codes for anticipated attendance. Additional units shall be required, if in the opinion of the Board of Health, they are necessary.

5.8.007 Before any horses and/or ponies or other animals are allowed on the grounds of the carnival, festival, or circus, evidence shall be produced of valid inoculations against encephalitis, tetanus and the result of the Coggins test.

5.8.008 An application and applicable fees in accordance with the current Board of Health fee schedule to hold a carnival, festival, or circus must be submitted to the Board of Health office seven (7) days before the event is to open. Approval of an application and final inspection must be completed of the premises twenty-four (24) hours before said event is to open.

5.8.009 There shall be a cash bond posted in the amount of two thousand (2,000) dollars and a bond agreement submitted with the Board of Health prior to issuance of a permit. The bond will be returned after a special inspection of the premises, after the event closes, and there are no outstanding violations which need correction. The Board of Health may waive this bond for non-profit organizations upon request.

SECTION 9 HOUSING INSPECTIONS AND RENTAL PERMITS

The Town of Salisbury hereby enacts a regulation whereby owners of rental property must obtain a Certificate of Habitability prior to renting or leasing certain dwelling units.

5.9.001 HOUSING STANDARDS: The Board of Health adopts by reference 105CMR400.000 Chapter I and 105CMR410.000 Chapter II of the Massachusetts State Sanitary Code as local regulations. Further, all future Amendments to existing laws shall be considered adopted as local regulations.

5.9.002 HOUSING INSPECTIONS and RENTAL PERMIT REGULATIONS: The Town of Salisbury hereby enacts a regulation whereby owners of rental property must obtain a Certificate of Habitability prior to renting or leasing certain dwelling units.

FINDINGS: This Regulation is enacted in accordance with the Board of Health's authority as set forth in Massachusetts General Law c. 111, § 31, and the Sanitary Code 105CMR 410.000 Minimum Standards of Fitness for Human Habitation., and 105CMR 400.000.

5.9.003 DEFINITIONS

BOARD: means the Salisbury Board of Health

DWELLING: means every building or shelter including but not limited to rooming houses and temporary housing used or intended for human habitation and every other structure or condition located within the same lot line whose existence causes or is likely to affect noncompliance with the provisions of 105CMR 410.

DWELLING UNIT: means the room or group of rooms within a dwelling used or intended for use by one person, family or household for living, sleeping, cooking and eating. Dwelling Unit shall also mean a condominium unit.

OWNER: means every person who alone or severally with others:

- (a) Has legal title to any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park; or

- (b) Has care, charge or control of any dwelling or dwelling unit, mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix. Trustee or guardian of the estate of the holder of legal title; or
- (c) Is a mortgagee in possession of any such property; or
- (d) Is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
- (e) Is an officer or trustee of the association of unit owners of a condominium?
- (f) Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. Owner also means every person who operates a rooming house.
- (g) Renting or Leasing means any arrangement whereby an owner of a dwelling unit allows any third party that is not a member of the owners immediate family to occupy said dwelling unit for purposes of household living, sleeping, cooking and eating.
- (h) Season and Short Term Rentals means all rentals or leases of dwelling units for term not lasting more than 5 months.
- (i) Tenant means any person occupying a dwelling unit through a lease or rental arrangement with an owner.

5.9.004 INTENT

- (a) Although the laws established by the Commonwealth and Federal agencies are of a minimum nature, they are deemed to be generally adequate to protect the public health and the environment in the interest of present and future residents of Salisbury.
- (b) However, specific identifiable local conditions may require more stringent regulations to protect these interests with respect to rental housing. It is with this intent that the Salisbury Board of Health, pursuant to the statutory authority granted them in the General Laws of the Commonwealth, the amendments and additions thereto, and by the power thereto enabling, and in accordance therewith the State's Sanitary Code, in the interest of and for the preservation of the public health, have adopted the following Regulation.
- (c) This is a local regulation that was adopted by the Board of Health to ensure that tenants are moving into housing that meets the Minimum Standards for Fitness for Human Habitation as defined in the State Sanitary Code.

5.9.005 CERTIFICATE OF HABITABILITY

- (a) Prior to renting or leasing a dwelling unit to a tenant that is not a member of the owner's immediate family, the owner of said dwelling unit must obtain a Certificate of Habitability from the Board of Health.

- (b) This requirement for a Certificate of Habitability shall apply to any rental or leased dwelling unit, currently occupied by a tenant or will be occupied by a tenant. In the case where dwelling units are currently occupied, property owners must receive a Certificate of Habitability within one year from the effective date of this regulation. In the case where a dwelling unit is vacant or will be rented or leased in the future the property owner must obtain a Certificate of Habitability prior to rental. In all cases, each time a rental or leased unit is vacated a new Certificate of Habitability must be obtained by the property owner prior to allowing the unit to be occupied, and each unit must obtain a new Certificate of Habitability every five (5) years. Nothing in this section shall be construed as limiting the Board's authority with respect to enforcement of the State Sanitary Code or local regulation for any occupied dwelling.
- (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:
- Town water and wastewater bills are current;
 - Real estate taxes are current;
 - The dwelling unit conforms to the Fire Department's requirements relative to smoke detectors and carbon monoxide detectors and;
 - 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.
 - The unit complies with 105CMR 410.000 and local regulations
- (d) Upon receipt of a completed application, the Health Department or its designee shall conduct an inspection of the premises in accordance with the procedures set forth in 105CMR 410.821 and 410.822. If the inspection reveals that the dwelling unit does not comply with this Regulation or the provisions of 105CMR 410, the Health Department may deny the application or issue such orders as it deems appropriate under the circumstances. Any owner aggrieved by the Health Department's decision may request a hearing before the Board. Such request shall be in writing and received by the Board within seven (7) days of receipt of the Health Department's decision.
- (e) Term – Once issued, the Certificate of Habitability shall remain in effect until the dwelling unit is vacated, or expires, except for seasonal and short term rentals (see paragraph 4 below). The owner of the dwelling unit shall apply for a new Certificate of Habitability prior to renting or leasing a dwelling unit to a new tenant.
- (f) Issuance of a Certificate of Habitability shall be based solely upon the condition of the dwelling unit at the time of inspection. The issuance of a Certificate of Habitability shall not preclude enforcement of the State Sanitary Code or any other pertinent statute, bylaw, rule or regulation if violations are brought to the Health Department's attention after the issuance of a Certificate of Habitability.
- (g) The fee for inspections, administrative fees, and issuance of a Certificate of Habitability shall be in accordance with the current Board of Health fee schedule.

5.9.006 SEASONAL AND SHORT TERM RENTALS

Owners of dwelling units wishing to rent or lease those units on a short term or seasonal basis must obtain a Certificate of Habitability from the Board of Health. A Certificate of Habitability will be valid for five (5) years notwithstanding turnovers and vacancies of the dwelling unit. Applications for an Annual Certificate of Habitability must be received from April 1 to June 30th. Upon receipt of an application for an Annual Certificate of Habitability, an inspection will be conducted in accordance with the procedures of Section 3 (d) above.

5.9.007 PENALTIES

Failure to obtain a Certificate of Habitability for any dwelling unit subject to this Regulation shall result in the Owner being fined for each and every day that the unit is occupied without the required certificate. The fine shall be in accordance with fines identified within the current Board of Health fee schedule.

The provisions of this Regulation may also be enforced by the Salisbury Police Department, Board of Health or its agent through non-criminal disposition pursuant to the provisions of G.L. c.40, § 21D, and General Bylaws Ch. 1, § 1-6. For purposes of non-criminal disposition, each violation of this Regulation shall be subject to a fine as defined within the current Board of Health fee schedule. Each day's failure to comply with the provisions of this Regulation shall constitute a separate violation.

The Board may enforce this Regulation or enjoin violations thereof through any lawful process, and the election of one remedy by the Board shall not preclude enforcement through other lawful process.

SECTION 10 THROUGH 20

Reserved for future regulations, amendments, etc.

SECTION 21 PENALTIES

Any persons, firm, or corporations violating or failing to comply with any provision of these rules and regulations, shall be penalized in accordance with the penalty provisions of Chapter 1, Section 19 inclusive.

SECTION 22 SEVERABILITY

If any paragraph, sentence, phrase or word of these rules and regulations shall be declared invalid for any reason whatsoever, the decision shall not affect any other portion of these rules and regulations which shall remain in full force and effect and to this end the provisions of these rules and regulations are hereby declared severable. Notwithstanding the provisions that may be in conflict with the Massachusetts General Laws, the revised by laws of the city of Salisbury, these rules and regulations will be binding upon all parties concerned.