



BOARD OF HEALTH **RULES & REGULATIONS**

Adopted: March 24, 2011

John W. Morris, Regional Health Director (Appointed 2009)

Board of Health

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APPENDIX A – Amesbury News Advertisement

Appendix B – Board Adoption of Rules and Regulations (Meeting Minutes)

Appendix C – Fee and Fine Schedule

TOWN OF AMESBURY - REGIONAL HEALTH DEPARTMENT

11 School St. – Town Hall Annex – Amesbury, MA 01913
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The Amesbury Board of Health adopted these rules and regulations at the Board of Health meeting held on March 24, 2011 at the Amesbury Senior Center located at 9 School St., Amesbury, MA 01913. This meeting was advertised in the Amesbury News on March 4, 2011 and March 18, 2011 [Appendix A].

PURPOSE

The Board of Health has authority to adopt rules and regulations to supplement existing laws, and rules and regulations to provide further public health protection than afforded by existing laws that generally provide protection for minimum standards. It is the responsibility of the Board of Health to investigate areas of public health concern and make such rules and regulations as it deems necessary

AUTHORITY

The Board of Health is granted authority to make such rules and regulations pursuant to the Massachusetts General Laws (M.G.L.) Chapter 111, Section 31 and 122, (Appendix B). These rules and regulations are effective immediately upon publication in the Amesbury News dated April 1, 2011.

SUPERSEDING LAWS

These rules and regulations do not supersede any stricter laws in existence, and replaces existing regulations of the Amesbury Board of Health.

**CHAPTER 1
ADMINISTRATIVE PROCEDURES**

SECTION 1 - DEFINITIONS

1.1.001 ABUTTER

Any and all abutters within three hundred feet (300') of the property boundaries of the project under review as determined by policy, rule or ordinance.

1.1.002 BOARD

The Town of Amesbury Board of Health.

1.1.003 DAY

A calendar day unless otherwise noted.

1.1.004 THE MASSACHUSETTS STATE DEPARTMENT OF ENVIRONMENTAL PROTECTION

Shall be referred to as D.E.P.

1.1.005 THE MASSACHUSETTS STATE DEPARTMENT OF PUBLIC HEALTH

Shall be referred to as D.P.H.

1.1.006 THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY

Shall be referred to as the E.P.A.

1.1.007 PERSON

Any individual, partnership, company, corporation, trustee, trust, organization or applicant.

1.1.008 PLAN

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

1.1.009 SPECIAL INSPECTIONS/COST RECOVERY

(1.) SPECIAL INSPECTIONS

Any inspection conducted that 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 the 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 Board of Health may assess cost recovery charges to any person as defined in this chapter for costs incurred by the Board of Health to abate a nuisance deemed to cause a threat to public health, the environment, or a charge may be assessed for any emergency actions taken by the Board of Health to abate an imminent threat to public health or the environment or if the Board of Health is called or responds to an emergency. Cost Recovery charges may be assessed for services undertaken by the Board of Health for any public health response efforts as deemed necessary.

Failure by any person to properly reimburse the Board of Health 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 license or other approvals issued by the Health Department.

SECTION 2 - GENERAL ADMINISTRATIVE PROCEDURES

1.2.001

POLICY MEMORANDUMS

The Board of Health may 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, environment and the citizens of Amesbury.

1.2.002

STANDARD CONDITIONS

The Board of Health may 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 a final list. There may be special conditions deemed necessary and imposed for any project under review by the Board of Health. The following is the list of current standard conditions:

- (1.) A variance shall not take effect until it is properly recorded at the Registry of Deeds and a certified copy of the variance is returned to the Health Department 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 conditions shall be deemed a restriction and extend to all future owners of a property, business or license 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 the *Massachusetts General Laws Chapter 111, Section 150A*.
- (6.) 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 when applicable or deemed necessary by the Board of Health.
- (7.) Sewerage disposal methods that are provided by mechanical means such as a low pressure sewer system, grinder pump, etc., shall have a deed restriction attached that 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 is issued stating that the work has been satisfactorily completed.

- (10.) The order does not relieve the licensee 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 (2) years from the date of this order unless the time for completion has been extended to a specific date more than two (2) 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.) The order may be extended by the issuing authority upon application to the issuing authority at least thirty (30) days prior to the expiration date of the order.
- (13.) Any fill used in connection with a 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.) The 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 the order.
- (16.) The Board of Health's 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 Health Director.
- ~~(17.) Agents of the Board of Health or their designees, such as the Board of Health's 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 town 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 Health Department 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.

1.2.003

REQUEST FOR AN ADMINISTRATIVE DETERMINATION OF APPLICABILITY

Any person may request a Determination of Applicability by the Health Director in order to ascertain a finding of facts to determine the proper applicability of the Board of Health Rules and Regulations. The Health Director may issue a determination with conditions if he/she determines that actions will comply with the intent of the Board of Health regulations, and further provided that the same degree of public health and environmental protection can be maintained. The Health Director shall employ his/her best professional judgment practices

to make administrative determinations. The authority for the current Health Director or future Health Directors to grant an administrative determination must be authorized by a vote of the Board of Health.

1.2.003(a)

ADMINISTRATIVE ORDERS AND ENFORCEMENT

The Health Director may issue administrative orders to affect administrative enforcement actions. Orders may require but not be limited to, corrective action, license probation, conditional licenses issued by the Board of Health, the use of consultants in accordance with Section 4 of the Amesbury Health Regulations or other actions deemed necessary to enforce public health laws and regulations. In addition to administrative orders, the Health Director 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

A document containing an understanding between the Board of Health and the owner of a facility or the person acquiring ownership of a facility relative to compliance with any rules and regulations enforced by the Board of 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 and on any subsequent owner. 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 Health Director may be appealed to the Board for further review. The Board may rescind, sustain or modify any decision of the Health Director. Said appeal must be filed within twenty-one (21) days of the date of the issuance of a decision.

1.2.005

WAIVER OF REGULATIONS

A person may petition the Board of Health for a waiver of the regulations. If the Board of Health determines that a waiver will not have a detrimental affect to abutters, that it will not cause a public health threat or environmental harm and if a delay may cause a hardship, the Board may waive the regulation.

1.2.006

VARIANCE REQUEST

Any person may seek a variance of any Board of Health Regulation. The applicant must provide documentation to demonstrate a hardship that would result from strict enforcement of a regulation.

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 the 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 Health Department Office, either in hand or by certified mail. A proper submittal shall include but not be limited to the following:

- I. Properly & completely filled out application

2. Fee paid
3. Two (2) sets of plans if applicable
4. Certified abutters list from the Assessor's Office that must be dated within sixty (60) days of submission
5. Documentation supporting petitioner's request
6. Any pertinent information deemed necessary to set a hearing date

Step 2: The Health Department sets a hearing date after proper submission has been determined.

Step 3: Petitioner notifies all abutters by certified mail at least ten (10) days before the 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 Health Department 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, postal receipts verifying certified mail sent to qualified abutters.

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. (see Appendix C).
- (2.) The Health Director or designee 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 (105CMR 590.000), Article II (105CMR 410.00), and Title 5 (310CMR 15.000), 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 to determine requirements to assure compliance.

1.2.009

BOARD OF HEALTH AGENDA

The agenda for all Board of Health meetings shall close at 4:00 p.m. seven (7) days prior to the scheduled meeting. Hearings that 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 will 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 will be placed on the agenda after the seven (7) day shut-off period unless the Health Director is instructed to do so by a member of the Board of Health.

SECTION 3 - CONSULTING ENGINEER / CONSULTANT COORDINATION AND PLAN REVIEW COMMENTS

1.3.001

PLAN REVIEWS

It is the responsibility of the applicant or designated 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 will be reviewed and review comments issued within ten (10) business days upon submission of a completed application. If the design engineer/applicant consultant fails to coordinate properly and cooperate with the Board of Health, it shall be deemed just cause for denial of a project.

1.3.002

ABUTTER NOTIFICATION

It is the responsibility of the applicant and design engineer or other designated person, to properly notify all abutters in accordance with abutter notification procedures pursuant to Chapter 1, Section 1.2.007 of Amesbury Health Regulations.

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 will be established following receipt of the consulting engineer/consultant review comments. Failure to receive the consultant engineer/consultant review comments shall be deemed just cause for continuance of a hearing.

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 license 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 will submit a bill for services rendered directly to the applicant and the applicant will 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 public health or the environment requires that ordinary procedures be dispensed with, the Board of Health or authorized agent acting in accordance with the provisions of Section 30 of Chapter 111 of the Mass. 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 that passes without compliance 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/she may file a written petition to the Health Department requesting a hearing. He/she shall be granted a hearing as soon as possible. The

procedures for such hearing shall otherwise conform to the hearing requirements that would have existed had the order been issued under non-emergency circumstances.

SECTION 6 - ADMINISTRATIVE AUTHORITY

The Health Director 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, the Health Director shall have authority to enforce reasonable administrative policies for effective operation of the Health Department and enforcement of applicable laws, rules, and regulations. The authority for the current Health Director or future health directors to exercise administrative authority must be authorized by a vote of the Board of Health.

SECTION 7 - FEE SCHEDULES/BONDS

1.7.001

ADOPTION

The Board of Health may adopt reasonable fee schedules for certain licenses, 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 affect, only a majority vote of the Board of Health shall be required.

1.7.002

BONDS

The Board of Health may require bonds to be posted in a manner to be determined by the Board of Health as a condition for any project that 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 1.1.007 of Chapter 1 of the Amesbury Health Regulations that obtains a license, variance, waiver, determination of applicability or any other approval from the Board of Health, will be required to cooperate with the Health Department and agents fully during any inspection or investigation of any activity covered by the aforementioned licenses, approvals, etc. Said cooperation will be considered as the general duty of any person holding a license, obtaining a license or other approval from the Board of Health. Further, during any inspection or investigation, the Health Director or Board of Health 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 REVIEWS AND APPROVAL/TRANSFER OF PERMITS

1.9.001

APPLICATION

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 and/or approval of an application shall be in written form from the Health Department. Each submittal is subject to a review period of thirty (30) days.

1.9.002

TRANSFER OF PERMIT(S)

Any application submitted for a transfer of permit(s) will 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

SUPERSEDING REVIEW TIMES

Any state law, rule, or regulation that allows a greater review period of time than stated in Section 1.9.001 and 1.9.002 of the Amesbury Health Regulations shall be applicable.

1.9.004

EXPIRATION OF APPROVED PLANS

Approved plans not under construction may be subject to further review in order to determine compliance with current laws, rules or regulations.

SECTION 10 THROUGH 18

Reserved for future regulations, amendments, etc.

SECTION 19 - PENALTIES

1.19.001

FINES

Any person, firm or corporation violating or failing to comply with any provision of any rules and/or regulations of the Board of Health shall be warned and/or fined in accordance with the non-criminal disposition process; or subject to fines or enforcement action as allowed by law.

1st offense – written warning or \$100.00 fine

2nd offense – \$200.00 fine

3rd offense – \$300.00 fine

4th and subsequent offenses – \$300.00 fine and/or enforcement action

1.19.001(a)

TOBACCO CONTROL VIOLATIONS

Any employee of an establishment holding a tobacco license that sells tobacco products to people less than eighteen (18) years of age may be fined as follows, or other enforcement as allowed by law.:

1st offense – \$25.00 fine

2nd offense – \$50.00 fine

3rd and subsequent offenses – \$200.00 fine and/or other legal action as deemed necessary by the Board of Health. This provision does not apply to the establishment (owner) that may be fined as cited in section 1.19.001.

1.19.002

REVOCAION/SUSPENSION/ENFORCEMENT

The Board of Health may revoke or suspend for just cause any license, variance, waiver, determination of applicability or other approvals issued by the Board. In addition, the Board of Health may enforce the 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 that 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 and the revised By-laws of the Town of Amesbury, these rules and regulations will be binding upon all parties concerned.

Any ordinance of the town, rule or regulation of boards, commissioners and committees, the violation of which is subject to a specific penalty, may in the discretion of the town official who is the appropriate enforcing person be enforced by way of the method provided in M.G.L. c. 40, § 21D. "Enforcing person," as used in this section, shall mean any police officer of the Town of Amesbury with respect to any offense; the Building Inspector or designee; members of the Conservation Commission or designee; the Animal Control Officer or designee; the Board of Health or designee; and such other officials as the Municipal Council may designate each with respect to violation of ordinances and rules and regulations within their respective jurisdictions. If more than one (1) official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

CHAPTER 2 FOOD SERVICE ESTABLISHMENTS

SECTION 1 - DEFINITIONS

2.1.001

FOOD ESTABLISHMENT

Any food service establishment where food is prepared for sale and consumed on the premises; retail food store means any establishment where food and food products are offered to the consumer and intended for off-premises consumption; mobile food carts; caterers or residential kitchens. (105CMR 590.000 State Sanitary Code Chapter X)

2.1.002

SPECIAL INSPECTIONS

Special inspections 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/fine schedule.

SECTION 2 - SANITARY WASTE AND GREASE DISPOSAL

2.2.001

GREASE TRAPS

It has been determined that grease has become a major contributing factor to the cause of municipal sewer backups and clogging of sub-surface sewage disposal systems. Both of these factors can be remedied by installing 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 that generate grease at any phase of operation to prevent the discharge of such pollutants into the town municipal sewer system, or an on-site sub-surface 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.

Grease traps shall be designed using standards pursuant to the *Massachusetts State Environmental Code, Title 5, 310CMR 15.000 (inclusive), Water Pollution Control Regulations, 314CMR 12.08* or any other applicable federal, state, county, or local laws, by-laws and rules and regulations.

2.2.002

COMPLIANCE

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

2.2.003

GREASE TRAP MAINTENANCE

The permit holder is responsible to maintain grease traps in accordance with the *Massachusetts State Environmental Code, Title 5 Standards*, other applicable health regulations or as determined by Manufacturer's or the Board of Health.

2.2.004

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. The enclosure shall not be less than six feet

(6') in height. In cases where an 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

PLAN REVIEW

All food service establishments shall be subject to a plan review whether it is for new construction, rehabilitation, renovation, remodeling or changes in use, etc. Plans must identify the facility and layout. All equipment must be appropriately labeled and locations identified within the facility plan layout. Equipment must be commercial-grade and have the National Sanitation Foundation (NSF) rating or equivalent. If equipment is used or aged, it must state the name, age and condition of the 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 must be provided with adequate and conveniently located hand washing facilities for employees. Hand washing units must 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 device. 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 of locations sufficient for ease of cleaning and to prevent pooling.

2.3.005

EXTERIOR DUMPSTERS

Exterior dumpster facilities must be identified on all plans and must be constructed on a level, four inch (4") thick minimum concrete surface large enough to fit all dumpsters, grease dumpsters and must be enclosed so as to not create an offensive nuisance to abutters and the general public. Enclosures must not be less than six feet (6') in height. In cases where enclosures are 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 - NEW FACILITIES

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 professionally prepared plan may be requested by the Health Department.

2.3.008

FACILITY LAYOUT PLANS – EXISTING ESTABLISHMENTS

All current food service establishments shall provide an up-to-date facility layout plan to the Health Department prior to the issuance of the next permit renewal if required by the Health Department. 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

2.4.001

TEMPORARY FOOD PERMIT

Any hawkler, peddler or transient vendor who offers food or drink for sale as defined by Chapter X of the Massachusetts Sanitary Code shall obtain a temporary food permit from the Health Department. Said permit must identify the food items allowed for sale and must identify the person as defined in Chapter 1, Section 1, 1.1.007 of the Amesbury Health Regulations, responsible for the preparation of food items allowed for sale. All applicable regulations shall be complied with.

Any hawkler, peddler or transient vendor who fails to obtain a valid permit from the Health Department 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 vendor activities and may cause further legal action as deemed appropriate.

Massachusetts issued Hawker and Peddlers Permits do not supersede any required town permits. It is the responsibility of the person obtaining a permit to comply with any applicable laws, rules and regulations in force in the Town of Amesbury.

Health permits must be obtained by the vendor prior to any vendor activity at least ten (10) days in advance. Payment of the required fee(s) must be by check payable to the Town of Amesbury.

Any policies, guidelines or other requirements adopted by the Board of Health or implemented shall be applicable to all vendors.

2.4.002

PLAN REQUIREMENTS FOR TRANSIENT VENDORS / FESTIVAL VENDORS / TEMPORARY VENDORS

Each vendor shall be required to complete an application and file said application with the applicable fee due to the Health Department at least ten (10) days in advance.

Each vendor must provide a layout plan of all equipment to be used, a menu of food items to be served, copies of permits/licenses from other cities/towns, location of operations, ground cover mats to be used, at least two (2) fire extinguisher locations; food source locations (i.e., ice, prepared foods, etc.), Food Safety Manager certifications, person in charge and the name of the certified food safety manager to be in charge and on site.

All vendors must provide adequate cold and hot storage units appropriate for food items offered for sale. The Health Department 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 and temporary vendors must obtain a pre-operation inspection before the start of operations. At that time, the Health Director 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 fees submitted for permit, plans, reviews, etc., shall be considered forfeited.

SECTION 5 - IDENTIFICATION OF PREPARED FOODS/TEMPORARY CATERING

2.5.001

LABELING

Food items offered for sale in the Town of Amesbury that are prepared in a central location other than at the place so offered for sale or consumption, whether it be interstate or intrastate, must be labeled with the date of preparation, expiration sale date, ingredients and the name and address of the person responsible for the food item preparation.

2.5.002

CATERER PERMIT

Any caterer performing service in the Town of Amesbury, unless currently permitted by the Board of Health for such operation, shall be required to obtain a permit from the Health Department prior to conducting a catering operation in the Town of Amesbury. A proper application and fee must be submitted to obtain a permit.

2.5.003

CONSUMER ADVISORY NOTICE REQUIREMENT

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 food-borne illness, especially if you have certain medical conditions."

SECTION 6 - ESTABLISHMENT OWNERSHIP

2.6.001

PROOF OF OWNERSHIP

Food service establishments owned by a person as defined in Chapter 1, Section 1, 1.1.007 of the Amesbury Health Regulations shall be required to demonstrate proper ownership of the facility to the Health Department.

2.6.002

PROOF OF RENTAL/LEASE AGREEMENT

Food service establishments operated by a person that is not the owner of the facility shall be required to submit to the Health Department 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 responsibility of the permit holder from maintaining compliance with all applicable laws, rules or regulations whether they are Board of Health regulations or other ordinances, rules or regulations.

SECTION 7 - INSURANCE REQUIREMENTS

All food service establishments are required to obtain and maintain insurance for the purpose of emergency abatement action that may be deemed necessary by the Health Department to prevent nuisances, sources of filth and causes of sickness that may be injurious to public health and safety in the opinion of the Board of Health. Such insurance shall be in a minimum amount of one-hundred thousand dollars (\$100,000.00).

SECTION 8 - ADMINISTRATIVE PROCEDURES FOR FOOD SERVICE ESTABLISHMENTS

2.8.001

PERMIT EXPIRATION DATE

All permits for food service establishments 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. It is the responsibility of the permit holder to obtain a proper renewal application and submit it for review and approval to the Health Department.

2.8.002

CONSULTANT SERVICES

Consultant services may be employed by the Health Department 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 that is subject to the authority, approval or other review of the Board of Health pursuant to any statute or regulation. Any fees for services are the responsibility of the permit holder and/or applicant in accordance with Chapter 1, Section 4 of the Amesbury Health Regulations.

2.8.003

SPECIAL INSPECTIONS

Special inspections may mean any inspection conducted that 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 will be any inspection as defined by Chapter 1, Section 1.1.009 of the Amesbury Health 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 that prepare and/or serve only snacks.
2. Food establishments that sell only pre-packaged foods.
3. Food establishments that prepare and serve USDA meat and poultry products containing 120 PPM nitrite level & 3.5% brine concentration such as frankfurters.
4. 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 105CMR 590.000* 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 Amesbury Health 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 Amesbury Health Regulations.

SECTION 11 - CAPITAL IMPROVEMENTS

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

SECTION 12 THROUGH 21

Reserved for future regulations, amendments, etc.

SECTION 22 - SEVERABILITY

If any paragraph, sentence, phrase or word of these rules and regulations are declared invalid for any reason, the decision will 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 Amesbury, these rules and regulations will be binding upon all parties concerned.

CHAPTER 3
TANNING SALONS, PUBLIC AND SEMI-PUBLIC SWIMMING POOLS, BODY ART

SECTION 1 - TANNING SALON ESTABLISHMENTS

Tanning Salons shall meet the following requirements:

3.1.001

PERMIT REQUIREMENT / FEE

A tanning establishment will not be allowed to operate unless a permit is obtained from the Health Department. Proper plans must be submitted to the Health Department for review and approval with the permit application. All rooms must be identified and must be of sufficient size to accommodate a tanning device. The fee for a tanning salon establishment permit shall be in accordance with the current Board of Health fee schedule. Permits expire on Dec. 31st and must be renewed prior to January 1st of each year. Permits cannot be sold, assigned, or transferred.

3.1.002

TIMERS

Accurate timers must be installed to turn off the lamps after the Manufacturer's recommended exposure time. There must be an attendant present to monitor the operation of each individual tanning booth/bed. Shields are to be provided to protect users from coming into contact with the lamps and physical aids shall be provided to keep the user at the proper exposure distance. The temperature of the tanning booths/beds must be maintained below one-hundred degrees Fahrenheit (100°).

3.1.003

PROTECTION

Protection against electrical shocks and fires must be provided and must comply with all state and local regulations. Physical aids, such as handrails, are to be provided to help prevent falls.

3.1.004

SANITIZING

Non-transferable towels/cloths must be provided for patron use. All tanning devices must be cleaned and sanitized with disposable towels or cloths after every use. Reusable towels or cloths are not allowed for cleaning tanning devices.

3.1.005

WARNING SIGN

Tanning booths/beds shall have a prominently displayed sign no smaller than 8" x 10" that is easily legible and states the following warning:

**"DANGER - ULTRAVIOLET RADIATION - FOLLOW INSTRUCTIONS
REPEATED EXPOSURE MAY CAUSE SKIN CANCER**

As with natural sunlight, over-exposure 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 ultra-violet light. Consult a physician before using sunlamps and taking any medication, or if you believe yourself sensitive to sunlight. Pregnant women should consult with their obstetrician."

3.1.006

EYE PROTECTION

Each tanning establishment shall have for the use of the patron goggles of sufficient quality to protect the user's eyes from the direct exposure to the lamp. Proper eye protection shall be worn when using the tanning devices.

3.1.007

EMERGENCY AID STATION

The owner or operator of said establishment is required to set aside an area to be designated as an emergency aid station. There shall be a trained attendant on duty during all hours that said activity is in actual operation. The attendant is required to be certified in the proper operation of tanning equipment by a recognized authority approved by the Board of Health. A non-pay telephone shall be installed in the emergency aid station in addition to first-aid equipment that is deemed necessary to insure the safety of the general public.

3.1.008

AGE REQUIREMENT

No person under the age of eighteen (18) years of age may use tanning facilities without parental guidance and/or permission. Said permission must be on file and available to the Board of Health.

3.1.009

MASS. STATE SANITARY CODE

The Board of Health adopts by reference the Massachusetts State Sanitary Code, 105CMR 123.000 as it exists at the time of adoption of this regulation and further, adopts by reference any and all future amendments of 105CMR 123.000.

SECTION 2 – MASS. STATE SANITARY CODE – PUBLIC AND SEMI-PUBLIC SWIMMING POOLS

3.2.001

MASS. STATE SANITARY CODE

The Board of Health adopts the Massachusetts State Sanitary Code, Chapter 5, 105CMR 435.000 related to public and semi-public swimming pools by reference as a local regulation and further, adopts all future regulations or amendments.

SECTION 3 -BODY ART (Piercing & Tattooing)

3.3.001

PURPOSE

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

3.3.002

AUTHORITY

The Board of Health, acting under the authority of Massachusetts General Laws Chapter 111, Section 31 & 122, and Chapter 140, Section 51, adopts the following rules and regulations governing the permitting and practice of body art and the operation of an establishment for body art.

3.3.003

DEFINITIONS

(1.) Aftercare

Written instructions given to the client specific to the body art procedure rendered about caring for the body art and surrounding area, including information about when to seek medical treatment when necessary.

- (2.) *Applicant*
Any person who applies to the Board of Health for either a body art establishment permit or practitioner permit.
- (3.) *Autoclave*
An apparatus for sterilization utilizing steam pressure at a specific temperature over a period of time.
- (4.) *Autoclaving*
A process that results in the destruction of all forms of microbial life including highly resistant spores by the use of an autoclave for a minimum of thirty (30) minutes at 20 lbs. of pressure (PSI) at a temperature of 270° Fahrenheit.
- (5.) *Blood-borne Pathogens Standard*
OSHA Guidelines contained in 29 CFR 1910.1030, titled "Occupational Exposure to Blood-borne Pathogens."
- (6.) *Board of Health or Board*
The Amesbury Board of Health.
- (7.) *Body Art*
The practice of physical body adornment by a licensed establishment and practitioners using 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 that are prohibited.
- (8.) *Body Art Establishment*
A location, place or business that has been granted a permit by the Board of Health, whether public or private, where the practice of body art is performed whether or not for profit.
- (9.) *Body Art Practitioner*
A specifically identified individual who has been granted a permit by the Board of Health to perform body art in an establishment that has been granted a permit by the Board of Health.
- (10.) *Body Piercing*
Puncturing or penetrating the skin of a client with pre-sterilized single-use needle and the insertion of pre-sterilized jewelry or other adornment into the opening. This definition excludes piercing of the earlobes with a pre-sterilized single-use stud-and-clasp system manufactured exclusively for ear-piercing.
- (11.) *Braiding*
The practice of cutting the strips of skin of a person. Strips are then intertwined with one another and placed onto such person so as to cause or allow the incised and interwoven strips of skin to heal in such intertwined condition.
- (12.) *Branding*
Inducing a pattern of scar tissue by use of a heated material (usually metal) to the skin making a serious burn that eventually becomes a scar.
- (13.) *Clean Room*
The area in a body art establishment used in the sterilization, sanitation or other cleaning of instruments and equipment used for the practice of body art.
- (14.) *Client*
A member of the public who requests a body art procedure at a body art establishment.

- (15.) *Contaminated Waste*
Waste as defined in 105CMR 480.000; *Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII and/or 29 Code of Federal Regulation parts 1910.1030*. This includes any liquid or semi-liquid blood or other potentially infectious material; contaminated items that would release blood or other potentially infectious material in a liquid or semi-liquid state if compressed; items on which there is dried blood or other potentially infectious material and is capable of releasing these materials during handling; sharps and any wastes containing blood or other potentially infectious materials.
- (16.) *Cosmetic Tattooing*
Also known as permanent cosmetics, micro pigment implantation or dermal pigmentation means the implantation of permanent pigment around the eyes, lips and cheeks of the face and hair imitation.
- (17.) *Disinfectant*
A product registered as a disinfectant by the U.S. Environmental Protection Agency (EPA).
- (18.) *Disinfection*
The destruction of disease causing micro-organisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.
- (19.) *Ear piercing*
Puncturing of the ear lobe with a pre-sterilized single-use stud-and-clasp ear-piercing system following the Manufacturer's instructions.
- (20.) *Equipment*
All machinery including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in connection with the operation of a body art establishment.
- (21.) *Exposure*
An event whereby there is an eye, mouth or other mucous membrane, non-intact skin or parenteral contact with the blood or bodily fluids of another person, or contact of an eye, mouth or other mucous membrane, non-intact skin or parenteral contact with other potentially infectious matter.
- (22.) *Germicidal Solution*
Any solution that destroys germs manually or by ultrasonic cleaning and is labeled as such.
- (23.) *Hand Sink*
A lavatory equipped with hot and cold running water under pressure used solely for washing hands, arms or other portions of the body.
- (24.) *Hot Water*
Water that attains and maintains a temperature 110°-130°F.
- (25.) *Instruments Used for Body Art*
Hand pieces, needles, needle bars and other instruments that may come in contact with a client's body or may be exposed to bodily fluids during any body art procedure.
- (26.) *Invasive*
Entry into the client's body either by incision or insertion of any instrument(s) into or through the skin or mucosa, or by any other means intended to puncture, break or otherwise compromise the skin or mucosa.

- (27.) *Jewelry*
Any ornament inserted into a newly pierced area that must be made of surgical implant grade stainless steel; solid 14k or 18k white or yellow gold; niobium; titanium; platinum; or a dense, low-porosity plastic that is free of nicks, scratches or irregular surfaces and has been properly sterilized prior to use.
- (28.) *Light Colored*
A light reflectance value of 70% or greater.
- (29.) *Minor*
Any person under the age of eighteen (18) years.
- (30.) *Mobile Body Art Establishment*
Any trailer, truck, car, van, camper or other motorized or non-motorized vehicle. A shed, tent, movable structure, bar, home or other facility wherein, or concert, fair, party or other event where one desires to or actually does conduct body art procedures, excepting only a permitted body art establishment.
- (31.) *Operator*
Any person who individually, jointly or severally with others owns or controls an establishment but is not a body art practitioner.
- (32.) *Permitting*
Board approval in writing to either operate a body art establishment or operate as a body art practitioner within a body art establishment. Board approval shall be granted solely for the practice of body art pursuant to these regulations. Said license is exclusive of the Establishment's compliance with other licensing or permitting requirements that may exist within community or political sub-division comprising the Board of Health's jurisdiction.
- (33.) *Person*
An individual, or form of business or social organization, or any other non-governmental legal entity including but not limited to corporations, partnerships, limited-liability companies, associations, trusts or unincorporated organizations.
- (34.) *Physician*
An individual licensed as a qualified physician by the Board of Registration in Medicine pursuant to M.G.L. c. 112 § 2.
- (35.) *Procedure Surface*
Any surface of an inanimate object that contacts the client's unclothed body during a body art procedure, skin preparation of the area adjacent to and including the body art procedure, or any associated work area that may require sanitizing.
- (36.) *Sanitary*
Clean and free of agents of infection or disease.
- (37.) *Sanitize*
The application of a U.S. EPA registered sanitizer on a cleaned surface in accordance with the label instructions.
- (38.) *Scarification*
Altering skin texture by cutting the skin and controlling the healing process of the body in order to produce wounds that result in permanently raised wheals or bumps known as keloids.

- (39.) *Sharps*
Any object, sterile or contaminated, that may intentionally or accidentally cut or penetrate the skin or mucosa, including but not limited to, needle devices, lancets, scalpel blades, razor blades and broken glass.
- (40.) *Sharps Container*
A puncture-resistant leak-proof container that can be closed for handling, storage, transportation and disposal and that is labeled with the international bio-hazard symbol.
- (41.) *Single-Use Items*
Products or items that are intended for one-time, one-person use and are disposed of after use on each client including but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups and protective gloves.
- (42.) *Sterilize*
The use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.
- (43.) *Tattoo*
The indelible mark, figure or decorative design introduced by insertion of dyes and/or pigments into or under the subcutaneous portion of the skin.
- (44.) *Tattooing*
Any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin resulting in permanent coloration of the skin or mucosa.
- (45.) *Temporary Body Art Establishment*
The same as Mobile Body Art Establishment.
- (46.) *Three-Dimensional (3D) Body Art, Beading or Implantation*
The form of body art consisting of or requiring the placement, injection or insertion of an object, device or other thing made of matters such as steel, titanium, rubber, latex, plastic, glass or other inert materials beneath the surface of the skin of a person. This term does not include body piercing.
- (47.) *Ultrasonic Cleaning Unit*
A unit approved by the Board physically large enough to fully submerge instruments in liquid that removes all foreign matter from the instruments by means of high frequency oscillations transmitted through the contained liquid.
- (48.) *Universal Precautions*
A set of guidelines and controls published by the Centers for Disease Control and Prevention (CDC), as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus (HIV) and Hepatitis B Virus (HBV) to Health-Care and Public-Safety Workers" in the *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.

3.3.004

EXEMPTIONS

- (1.) Physicians licensed in accordance with M.G.L. c. 112 § 2 who perform body art procedures as part of patient treatment are exempt 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.

3.3.005

RESTRICTIONS

- (1.) No tattooing or piercing of genitalia.
- (2.) No branding, scarification or braiding shall be performed on a person under any circumstances.
- (3.) Body piercing (*other than piercing of genitalia*) may be performed on a person under the age of 18 provided that the person is accompanied by a properly identified parent, legal custodial parent or legal guardian who has signed a form consenting to such procedure.
- (4.) No body art shall be performed upon an animal.
- (5.) The following body parts shall not be pierced: *uvula, tracheal area, neck, ankle, ribs or vertebrae, web area of the hand or foot, lingual frenum (tongue web), clitoris, any form of chest or deep muscle piercings, excluding the nipple, anus, eyelid (whether top or bottom), 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 be limited to so-called "triangles."*

The following practices are hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts:

(a.) *tongue splitting, braiding, three-dimensional beading; implementation tooth filing / fracturing / removal, cartilage modification, amputation, genital modification; introduction of saline or other liquids*

(b.) *No person shall establish or operate a Mobile or Temporary Body Art Establishment.*

3.3.006

OPERATION OF A BODY ART ESTABLISHMENT

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

Physical Plant

- (a.) Walls, floors, ceilings and procedure surfaces shall be smooth, durable, and free of open holes or cracks, light-colored, washable and in good repair. Walls, floors, and ceilings shall be maintained in a clean condition. All procedure surfaces, including client chairs & benches, shall be of such construction to be easily cleaned and sanitized after each client.
- (b.) Solid partitions or walls extending from floor to ceiling shall separate the Establishment's space from any other room used for human habitation, any food establishment or room where food is

prepared, any hair salon, any retail sales or any other such activity that may cause potential contamination of work surfaces.

- c.) The establishment shall take all measures necessary to ensure against the presence or breeding of insects, vermin and rodents within the establishment.
- d.) The establishment shall be well ventilated and have an artificial light source equivalent to at least 20 foot candles that are three (3) feet off the floor, except that at least 100 foot candles shall be provided at the level where the body art procedure is being performed, where instruments and sharps are assembled and all cleaning areas.
- e.) All electrical outlets in operator areas and cleaning areas shall be equipped with approved ground fault protected receptacles.
- f.) A separate and readily accessible hand sink with hot and cold running water under pressure, preferably equipped with wrist or foot-operated controls and supplied with liquid soap and disposable paper towels stored in fixed dispensers, shall be readily accessible within the establishment. Each operator area shall have a hand sink.
- g.) In accordance with state regulations, proper biologic waste and sharp disposal of single-use items and needles exposed to body fluids shall be required. Only medical grade sharps containers that are puncture-resistant with tight-fitting lids are acceptable. A contract for bio-hazard transport & removal shall be on file with the local Board of Health.
- h.) There shall be a minimum of one toilet room containing a toilet and sink. The toilet room shall be within 300 feet of the body art establishment so as to be readily accessible to any client or practitioner.
- i.) 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.
- j.) At least one janitorial sink shall be provided in each body art establishment for use in cleaning the establishment and proper disposal of non-contaminated liquid wastes in accordance with all applicable Federal, State and Local laws. Said sink shall be of adequate size equipped with hot and cold running water under pressure to permit the cleaning of the establishment and any equipment used for cleaning.
- k.) All instruments and supplies shall be stored in clean, dry covered containers. Containers shall be kept in a secure area specifically dedicated to the storage of all instruments and supplies.
- l.) The establishment shall have a separate clean room. Every clean room shall have an area for the placement of an autoclave and/or other sterilization units to be located within a reasonable distance from the required ultrasonic cleaning unit.
- m.) 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.
- n.) No animals of any kind shall be allowed in a body art establishment except service animals used by persons with disabilities (e.g., Seeing Eye dogs). Fish aquariums shall be allowed in waiting rooms and non-procedural areas only.

- (o.) 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.

3.3.007

REQUIREMENTS FOR SINGLE-USE ITEMS INCLUDING INKS, DYES AND PIGMENTS

- (a.) 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 105CMR 480.000.
- (b.) 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.
- (c.) Hollow bore needles or needles with cannula shall not be reused.
- (d.) 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.
- (e.) Inks, dyes or pigments in powdered form are prohibited. Inks, dyes or pigments may be mixed and may only be diluted with water from an approved potable source. Immediately before a tattoo is applied, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single-use paper cups or plastic cups. Upon completion of the tattoo, these single-use cups and their contents shall be discarded.

3.3.008

POSTING REQUIREMENTS

The following shall be prominently displayed:

- (1.) A Disclosure Statement, a model of which shall be available for the Board of Health. (A Disclosure Statement shall also be given to each client, advising him/her of the risks and possible consequences of body art procedures.)
- (2.) The name, address and phone number of the Amesbury Board of Health and the procedure for filing a complaint.
- (3.) An emergency plan that includes:
 - (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 to be easily available and accessible to all employees and clients during all hours of operation.
 - (c.) A sign at or adjacent to the telephone indicating the correct emergency telephone numbers.
 - (d.) An Occupancy and Use Permit as issued by the local building official.
 - (e.) A current establishment permit.
 - (f.) A current license for each practitioner.

3.3.009

ESTABLISHMENT RECORDKEEPING

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

Establishment Information

- (1.) Establishment name
- (2.) Hours of operation
- (3.) Owner's name and address
- (4.) A complete description of all body art procedures performed
- (5.) An inventory of all instruments, body jewelry, sharps and links used for any and all body art procedures including names of manufacturer and serial or lot numbers if applicable (invoices or packing slips shall satisfy this requirement)
- (6.) Material Safety Data Sheet, when available, for each ink and dye used by the establishment
- (7.) Copies of waste hauler manifests
- (8.) Copies of commercial biological monitoring tests
- (9.) Exposure Incident Report (kept permanently)
- (10.) A copy of these regulations

Body Art Practitioner Information

- (1.) Full legal names and exact duties
- (2.) Date of birth
- (3.) Home address and phone numbers
- (4.) Identification photograph
- (5.) Dates of employment
- (6.) Hepatitis B vaccination series or proof of immunity
- (7.) Training records

Client Information (Client information shall be kept confidential at all times.)

- (1.) Name
- (2.) Age and valid identification
- (3.) Address of the client
- (4.) Date of the procedure
- (5.) Name of the practitioner who performed the procedure(s)

(6.) Description of procedure(s) performed and the location on the body

(7.) A signed consent form

(8.) If the client is a person under the age of 18, proof of parental or guardian identification, presence and consent including a copy of the photographic identification of the parent or guardian.

3.3.010

EXPOSURE CONTROL PLAN

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

3.3.011

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 inform the client verbally and in writing that the following health conditions will increase health risks associated with receiving a body art procedure:
 - 1. History of diabetes
 - 2. History of hemophilia (bleeding)
 - 3. History of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants etc.
 - 4. History of allergies or adverse reactions to pigments, dyes, or other sensitivities
 - 5. History of epilepsy, seizures, fainting, or narcolepsy
 - 6. Use of medications such as anticoagulants which interferes with blood clotting
 - 7. Any other conditions such as hepatitis or HIV

The establishment must require that the client sign a form confirming that the above information was provided, that they do not have a condition that prevents them from receiving body art, that they consent to the performance of the body art procedure and that they have been given the aftercare instructions as required in these regulations.

- (e.) A practitioner shall maintain the highest degree of personal cleanliness, conform to the 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 sterile disposable single-use non-latex gloves. Gloves shall be changed if they become pierced, torn or otherwise contaminated by contact with any unclean surfaces or objects, or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client and hands shall be washed before the next set of gloves is put on. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable single-use gloves does not preclude or substitute for hand washing procedures as part of a good person 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 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.

3.3.012

CLIENT SKIN PREPARATION

Preparation and care of a Client's skin area must comply with the following:

- (a.) Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.
- (b.) Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding where the body art procedure is to be placed shall be washed with soap and water and an approved surgical skin preparation, such as a five-minute Betadine scrub. If shaving is necessary, single-use disposable razors or safety razors with single-service blades shall be used. Blades must be discarded after each use and reusable holders shall be cleaned and autoclaved after use.

Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.

- (c.) 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 an appropriate covered container and disposed of in accordance with 105 CMR 480.000.
- (d.) 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 the contents. The applicator or gauze shall be used once and then discarded. The practitioner shall provide each client with verbal and written instructions on the aftercare of the body art site. The written instructions shall advise the client on:
 - (1.) Proper cleansing of the area that received the body art; and
 - (2.) Recommendation to contact a health care provider for unexpected redness, tenderness,

rashes or swelling at the site of the body art procedure; and

(3.) Unexpected drainage at or from the site of the body art procedure or a fever within 24 hours of the body art procedure; and

(4.) Unexpected redness, tenderness or swelling at the site of the body art procedure; and

(5.) The address and telephone number of the establishment.

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

3.3.013

EXPOSURE INCIDENT REPORT

An Exposure Incident Report must be completed by the close of the business day during which an exposure has or might have taken place by the involved or knowledgeable body art practitioner for every exposure incident occurring in the conduct of any body art activity.

Each Exposure Incident Report shall contain:

- (a.) A copy of the application and consent form for body art activity completed by any client or minor client involved in the exposure incident; and
- (b.) A full description of the exposure incident, including the portion of the body involved there; instrument(s) or other equipment implicated; and
- (c.) A copy of body art practitioner license of the involved body art practitioner; and
- (d.) Date and time of exposure; and
- (e.) Name of healthcare facility and phone number where exposed person was referred for further evaluation of acute treatment; a copy of any medical history released to the body art establishment or body art practitioner; and
- (f.) Information regarding any recommendation to refer to a physician or waiver to consult a physician by persons involved.

3.3.014

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 of Health that issued the permit with a copy to the injured client within five (5) working days of the occurrence or knowledge thereof. The report shall include:

- (a.) The name of the affected client; and
- (b.) The name and location of the body art establishment involved; and
- (c.) The nature of the injury, infection complication or disease; and
- (d.) The name and address of the affected Client's healthcare provider, if any; and

(e.) Any other information considered relevant to the situation.

3.3.015

COMPLAINTS

The Board of Health shall investigate complaints received about an establishment or practitioner that may violate any provision of the Board's regulations.

If the Board of Health 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 of Health shall notify the complainant of this finding and the reasons on which it is based.

If the Board of Health finds that an investigation is required because the alleged act or practice may be in violation of the Board's regulations, the Board of Health shall investigate and if a finding is made that the act or practice is in violation of the Board's regulations, then the Board of Health shall apply whatever enforcement action is appropriate to remedy the situation and shall notify the complainant of the action to be taken.

3.3.016

APPLICATION FOR BODY ART ESTABLISHMENT PERMIT

No person may operate a body art establishment except with a valid permit from the Board of Health. Applications for a permit shall be made on forms available from the Board of Health. An applicant shall submit all information required on the form and accompanying instructions. The term "application" as used herein shall include the original and renewal applications.

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

3.3.017

APPLICATION FOR BODY ART PRACTITIONER PERMIT

No person shall practice body art or perform any body art procedure without first obtaining a practitioner permit from the Board of Health. A practitioner shall be a minimum of 18 years of age.

In reviewing an application for a practitioner permit, the Board may consider experience, training and/or certification acquired in other states that regulate body art.

Training for all practitioners shall be approved by the Board of Health and at a minimum, shall include the following:

blood borne pathogen training program (or equivalent) which includes infectious disease control; waste disposal; hand washing disinfection and sterilization methods and techniques; sterilization equipment operation and methods of sanitization; current certification in First Aid and Cardiopulmonary Resuscitation (CPR).

Examples of courses approved by the Board include:

"Preventing Disease Transmission" (American Red Cross) and "Blood Borne Pathogen Training" (U.S. OSHA).

The applicant for a tattoo or body piercing practitioner permit shall provide documentation acceptable to the Board that they completed a course on anatomy and physiology at a college accredited by the New England Association of Schools and Colleges, and/or an approved credited course first approved by the Board of Health. This course must include instruction on the system of the integumentary system (skin).

The applicant for all practitioner permits shall submit evidence satisfactory to the Board of Health at least two (2) years of actual experience in the practice of performing body art activities of the kind for which the applicant seeks a body art practitioner permit to perform, whether such experience was obtained within or outside of the Commonwealth.

A practitioner license shall be conditioned upon continued compliance with all applicable provisions of these rules and regulations.

3.3.018

GROUND FOR DENIAL OR REVOCATION OF PERMIT OR REFUSAL TO RENEW

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

- (a.) Any actions that indicate that the health or safety of the public would be at risk.
- (b.) Fraud, deceit or misrepresentation in obtaining a license or renewal.
- (c.) Criminal conduct that the Board of Health determines to be of such a nature as to render the establishment, practitioner or applicant unfit to practice body art as evidenced by criminal proceedings resulting in a conviction, guilty plea or plea of nolo contendere, or an admission of sufficient facts.
- (d.) Any present or past violation of the Board's regulations governing the practice of body art.
- (e.) Practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability.
- (f.) Being habitually drunk or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects.
- (g.) Knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a license.
- (h.) Continuing to practice while his/her permit is lapsed, suspended, or revoked and having been disciplined in another jurisdiction in any way by the proper licensing/ permitting authority for reasons substantially the same as those set forth in the Board's regulations.
- (i.) Other just and sufficient cause which the Board of Health may determine would render the establishment, practitioner or applicant unfit to practice body art.

The Board shall notify an applicant, establishment or practitioner in writing of any violation of the Board's regulations for which the Board of Health intends to deny, revoke, or refuse to renew a permit. The applicant, establishment or practitioner shall have seven (7) days after receipt of such written notice in which to comply with the Board's regulations. The Board of Health may deny, revoke or refuse to renew a permit if the applicant, establishment or practitioner fails to comply after said seven (7) days. Applicants that are denied a permit may reapply at any time after denial.

3.3.019

GROUND FOR SUSPENSION OF PERMIT

The Board of Health 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 of Health determines that an establishment and/or a practitioner is an immediate and serious threat to the public health, safety or welfare. The suspension of a permit shall take effect immediately upon written notice of such suspension by the Board of Health.

3.3.020

PROCEDURE FOR HEARING

Suspension of a Permit

- (a.) After a Board suspension of a permit, a hearing shall be initiated pursuant to 801 CMR 1.00 et seq. (Standard Adjudicatory Rules of Practice and Procedure), no later than twenty-one (21) calendar days after the effective date of the suspension.
- (b.) 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 of Health.
- (c.) 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 and serious threat to the public health, safety or welfare. The hearing officer shall issue a written decision that contains a summary of the testimony and evidence considered and the reasons for the decision.

Denial, Revocation, or Refusal to Renew a Permit

- (a.) 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 801 CMR 1.00 et seq.
- (b.) 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.

3.3.021

~~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.

3.3.022

~~SEVERABILITY~~

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

3.3.023

FINE FOR VIOLATION / PENALTIES / SUSPENSION / REVOCATION

The fine for a violation of any provision of these rules and regulations shall be \$100.00 for the first offense. The establishment license shall be suspended for thirty (30) days for a second offense. The establishment license shall be revoked for a third offense. Each day that a violation continues shall be deemed a separate offense.

3.3.024

NON-CRIMINAL DISPOSITION

In accordance with M.G.L. Chapter 40, Section 21D and Chapter 1.1.3 of the By-laws and Regulations of the Town of Amesbury, whoever violates any provision of these rules and regulations may be penalized by non-criminal disposition.

SECTION 4 - DUMPSTER REGULATIONS

These regulations apply to all dumpsters in the Town of Amesbury, whether for residential, commercial or industrial uses. The Amesbury Board of Health or an agent thereof reserves the right to enforce these regulations on any container/dumpster if it is deemed by the Board to be a public health hazard or creates a nuisance.

**3.4.001
DEFINITIONS**

(1.) Dumpster

Any container other than a conventional trash can with lid intended for the temporary outdoor storage of rubbish, garbage, recyclable materials, putrescible solid waste or refuse of any sort.

(2.) Self-Enclosed Dumpster

Any dumpster and/or compactor with no visible opening whose access is by means of a chute-type apparatus connected directly to the building being served, other than a conventional trash can with lid intended for the temporary outdoor storage of rubbish, garbage, recyclable materials, putrescible solid waste or refuse of any sort.

(3.) Board

The Amesbury Board of Health.

(4.) Person

Any individual, business, firm, contractor, corporation, applicant, property owner or agent, whose dumpster is placed on their property.

(5.) DSC

The Disposal Service Contractor who owns and/or provides the dumpster.

**3.4.02
PERMITTING**

No person shall maintain or operate a dumpster with a volume capacity greater than three (3) cubic yards without first obtaining a dumpster permit from the Health Department at least three (3) days prior to installation. If a dumpster is to be placed on town property, the owner of said property must obtain an Obstruction Permit from the Department of Public Works, in addition to a Dumpster Permit from the Health Department.

**3.4.003
DSC REQUIREMENTS**

No DSC shall provide or service a dumpster to a person from town for the purpose of storage, removal or transportation of garbage, rubbish, or other offensive substances without first making sure the person has obtained a dumpster permit from the Health Department. All permits shall expire at the end of the calendar year in which they are issued, but may be renewed annually upon receipt of a written application and renewal fee.

**3.4.004
FEES**

The permit fee shall be in accordance with the current Board of Health fee schedule, per establishment, per calendar year. Permits shall be issued based on site specific criteria, including the submittal of photos/sketches and any other pertinent information required by the Board for approval.

**3.4.005
EXCEPTIONS TO REGULATIONS**

- (a.) Containers/dumpsters with less than a three (3) cubic yard capacity.
- (b.) Containers/dumpsters that are for the sole purpose of containing post-process recyclable materials as defined under the Town of Amesbury Recycling Program unless it is associated with, or within close proximity to, a food establishment, restaurant or any other use that requires a food service license.

(c.) Temporary containers/dumpsters dumpsters.

(d.) Self-contained/enclosed dumpsters approved by the Board of Health.

3.4.006

CONTRACTOR RESPONSIBILITIES

The DSC shall make sure the dumpster is deodorized, washed or sanitized as necessary at the time of emptying or as directed by order of the Board of Health. The DSC shall have the name of the business and telephone number of the business conspicuously displayed on each dumpster.

3.4.007

HOURS OF EMPTYING

The emptying of the contents of the dumpster by the DSC shall not commence before 7:00 a.m. and cannot continue after 9:00 p.m. The Board of Health may modify these hours if in reasonable judgment the Board of Health is convinced that the public health and safety or public welfare would be better served and a nuisance would not be created. The Board of Health shall be guided in this regard by the location proximity to residential homes.

3.4.008

HAZARDOUS WASTE

No truck that hauls dumpster contents shall be used to transport hazardous or bio-materials or waste.

3.4.009

BOARD OF HEALTH RIGHTS

The Board of Health may attach any condition to the permit of the person whose property the dumpster is on to assure the health, safety, welfare or quality of life of the citizens of the Town of Amesbury.

3.4.010

CLEANLINESS

The dumpster shall be rodent proof. For those dumpsters that have a hole located in the lower area of the dumpster near the rear wall of the container, a permanent seal secured with sheet metal or wire mesh strong enough to prevent rodents from entering the dumpster is required. All holes in any dumpster shall be less than 1/4" in diameter.

3.4.011

AUTHORIZED AGENT / PROPERTY OWNER'S RESPONSIBILITY

- (1.) Each dumpster shall be located at a Board of Health approved distance from the lot line so as not to interfere with the safety, convenience or health of an abutter. The location of the dumpster shall be approved by the Board of Health.
- (2.) Each dumpster shall be located a minimum of fifteen feet (15') from any industrial, commercial or residential building.
- (3.) All permanent dumpsters shall be located on a surface of material impervious to water (asphalt, concrete, etc.) unless otherwise approved by the Board of Health.
- (4.) Each dumpster shall be located a minimum of twenty feet (20') from any wetland resource area. The location in proximity to wetlands must also be approved by the Amesbury Conservation Commission or agent thereof.

3.4.012

ENCLOSURES

The Board of Health hereby requires all dumpster sites (other than temporary sites) to be fully enclosed or screened with permanent, solid fencing being as tall or taller than the dumpster and extending down to the existing ground grade. Each enclosure shall be provided with latching gates and are to be closed at all times except when the process of placing refuse in the dumpster is proceeding.

3.4.013

ESTABLISHMENT RESPONSIBILITY

It shall be the responsibility of the person whose property is being serviced to maintain the dumpster area free from odors, scattered or windblown debris, overflow and all other nuisances including but not limited to, rodents.

3.4.014

LIDS

It is the responsibility of the person whose property is being serviced by the dumpster(s) to maintain the lid(s) in a closed condition at all times except when actually in the process of placing in or removing refuse from the dumpster(s).

3.4.015

USAGE

Dumpsters are to be used only by those individuals who are authorized by the person whose property is being serviced. All unauthorized use shall be considered trespass of private property. The person whose property is being serviced may post a sign stating "Unauthorized Use is Prohibited by the Board of Health".

3.4.016

SERVICE TIMES - COMMERCIAL/INDUSTRIAL

Dumpsters are not to be filled after 9:00 p.m. or before 7:00 a.m., or after the close of the business day for commercial property & industrial uses.

3.4.017

TEMPORARY DUMPSTERS

No person shall maintain or operate a temporary dumpster (gondola or roll-off type) without first obtaining a thirty (30) day temporary dumpster permit from the Health Department at least two (2) days prior to installation. Said permit may be renewed for an additional thirty (30) days upon receipt of a written re-application. The person shall comply with all the provisions of these regulations that are applicable to the operation of a dumpster including all temporary dumpsters for on-site use by construction, renovation or repair firms.

The fee for each temporary dumpster permit shall be set by the Board of Health on the approved fee schedule.

3.4.018

COMPLIANCE

Random inspections and sanitary surveys of in-place dumpsters/temporary dumpsters and surrounding areas may be conducted by an agent of the Board of Health to verify compliance with the dumpster regulations. All violations of local and state regulations shall be corrected in accordance with said regulations.

3.4.019

FINES

The Amesbury Board of Health or agent thereof reserves the right to enforce these regulations on any container / dumpster if it is deemed by the Board to be a public health hazard or creates a nuisance. The Board of Health may levy fines upon the person and/or DSC in accordance with M.G.L. Ch. 40, Section 21D. Fines will be fifty dollars (\$50.00) per violation. Each day that the violation remains uncorrected constitutes a separate violation. Other enforcement action may be taken as allowed by law.

3.4.020

PERMIT SUSPENSION / REVOCATION

If corrective action as ordered by the Board of Health or Health Director is not taken by the person whose property is being serviced or the DSC within the time limit set forth by such order, the Board of Health may suspend or revoke the dumpster permit or take such legal action as necessary to correct the violation.

3.4.021

SEVERABILITY

If any provision of this regulation is held to be unconstitutional or in violation of State Law, it shall not affect any other provision of the administration thereof.

3.4.022

WAIVERS

The Board may grant a waiver and/or add conditions to a dumpster permit or to an existing dumpster permit currently in effect. Waivers shall be granted only when in the opinion of the Board:

- (1.) The person requesting a waiver has established that enforcement of the regulations from which a waiver is sought would be manifestly unjust, considering all the relevant facts and circumstances of the individual case; and
- (2.) The person requesting a waiver has established that a level of environmental protection, public health hazard and nuisance control is at least equivalent to that provided within the dumpster regulations.

New construction projects, as determined by the Board, will NOT be granted a waiver to the dumpster regulations.

3.4.023

REQUESTING A WAIVER

- (1.) Every request for a waiver shall be in writing accompanied by sketches, pictures or any other information required for the Board's consideration.
- (2.) The applicant shall make reference to the specific section of the dumpster regulations for which a waiver is sought and a statement in compliance with 3.4.022 (1) (2) of the Amesbury Health Regulations.
- (3.) No application for a waiver shall be complete until the applicant has notified all abutters by certified mail at his/her own expense at least ten (10) days prior to the Board of Health meeting at which the waiver request will be on the agenda. The notification shall reference the specific section(s) of the dumpster regulations from which a waiver is sought, a statement of the standards set forth in the dumpster regulations and the date, time and place where the application will be discussed.
- (4.) Any waiver granted by the Board of Health shall be in writing. Any denial of a waiver shall also be in writing and shall contain a brief statement of the reasons for the denial. A copy of each waiver shall be available to the public at all reasonable hours in the Board of Health office.

3.4.024

PENALTIES

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

3.4.025

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 Amesbury, these rules and regulations will be binding upon all parties concerned.

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CHAPTER 4 TOBACCO CONTROL

SECTION 1 - DEFINITIONS

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

(1.) **ADVERTISING**

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.

(2.) **BAR**

An area that is devoted to serving 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 does not include the restaurant dining area.

(3.) **BUSINESS**

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.

(4.) **EFFECTIVELY SEGREGATED**

(1.) The size and location of non-smoking and smoking-permitted areas are designed, designated, or juxtaposed so that smoke does not cause harm or intrude into the area occupied by people who are not smoking.

(2.) In buildings where existing ventilation systems are in place, areas designated as smoking areas should be located where reasonably possible in proximity to exhaust vents.

(5.) **EMPLOYEE**

Any person who is employed full or part-time by any employer, in consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a non-profit entity. A self-employed person is not considered an employee.

(6.) **EMPLOYER**

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.

(7.) **ENCLOSED AREA**

A space bounded by four walls and a roof.

(8.) **MEMBERSHIP ASSOCIATION**

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

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:

(1.) A society, organization or association of a fraternal nature that operates under the lodge system, and having one (1) or more affiliated chapters or branches incorporated in any state; or

- (2.) A corporation organized under chapter 180; or
- (3.) An established religious place of worship or instruction in the Commonwealth whose real or personal property is exempt from taxation; or
- (4.) A Veterans' organization incorporated or chartered by the Congress of the United States, or otherwise having (one) 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 ninety (90) days.

(9.) *MUNICIPAL BUILDING*

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

(10.) *PLACE OF EMPLOYMENT*

Any enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including but not limited to, work areas, employee lounge, 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.

(11.) *PROPERLY VENTILATED AREA*

An area that is separately ventilated directly to the outside and shall not allow any air to re-circulate through the building ventilation system.

(12.) *POINT OF PURCHASE*

The register at which the purchase of tobacco is being made.

(13.) *PUBLIC PLACE*

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.

(14.) *RESTAURANT*

Any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, and any other eating establishment that gives or offers food for sale to the public, guests, employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities, except that the term restaurant shall not include a cocktail lounge or tavern if said cocktail lounge or tavern is a bar. The definition of employer shall not apply to restaurants.

(15.) *RETAIL FOOD STORE*

A store or stall that sells any food products or candy and snack packages, including but not limited to markets, convenience stores, variety stores, pharmacies and gas mini-marts.

(16.) *RETAIL TOBACCO STORE*

A retail store utilized for sale of tobacco products and accessories and in which the sale of other products is merely incidental.

(17.) **SELF SERVICE DISPLAY**

A free-standing display of cigarettes, chewing tobacco or other tobacco products from which individual packages or cartons may be selected by the customer.

(18.) **SERVICE LINE**

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.

(19.) **SMOKING**

Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or other tobacco product.

(20.) **SPORTS ARENA**

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.

(21.) **TOBACCO VENDING MACHINE**

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

WHERE PROHIBITED

Smoking shall be prohibited in all enclosed public places and work places within the Town of Amesbury in accordance with *Massachusetts General Law Chapter 270, Section 22*. Smoking is also prohibited in the following places:

- (1.) 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.
- (2.) The Amesbury 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.

4.2.002

NON-SMOKING ESTABLISHMENT DECLARATION

Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment or facility may declare the entire establishment or facility as a non-smoking establishment.

4.2.003

WHERE ALLOWED

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 child-care or health-care office.
- (2.) Hotel and motel rooms rented to guests that are designated as "smoking rooms" provided that at least 75% of the rooms are smoke-free at all times. A room so assigned shall have self-closing doors. No change in room designations shall take place without prior written approval of the Board of Health. 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 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.

- 1.) The bar area of a membership association, provided that it is separated from the non-smoking area of the private club by location in a separate room or by means of physical barriers that completely enclosed the bar area of the membership association utilizing self-closing doors and is served by a Board of Health approved key entry system that prohibits entry by the general public into the bar area, and employees must be members of the membership association. Any bar area that permits smoking cannot be used for bingo or beano.

SECTION 3 - POSTING OF SIGNS

The owner, operator, manager or other person having control of a building or other place shall post 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). 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 MINORS PROHIBITED

4.4.001

TOBACCO SALES PERMIT REQUIRED

No person or entity shall sell tobacco products within the Town of Amesbury without a tobacco sales permit issued by the Health Department. A permit is required annually for each location and permits are non-transferable. A tobacco sales permit shall be purchased annually by Dec. 31st. The fee for a one (1) year tobacco sales permit shall be in accordance with the current Board of Health fee schedule.

4.4.002

SALES TO MINORS / PENALTIES

It shall be a violation of this regulation for any person to sell cigarettes, chewing tobacco, snuff or any tobacco in any of its forms to any person under the age of eighteen (18) or, not being a parent or guardian, to give a cigarette, chewing tobacco, snuff, or any tobacco in any of its forms to any person under the age of eighteen (18) in conformance with *Massachusetts General Laws Chapter 270, Section 6*.

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 (1) year.

After the third offense within one (1) year, the tobacco sales permit will be revoked for ninety (90) days. Compliance monitoring of tobacco sales to minors may be enforced through periodic inspections. Inspections may include the attempted purchase of tobacco products by minors 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 license 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 for retail. The notice shall be that notice provided by the Massachusetts Department of Health.

Such notice shall be at least 48 square inches and shall be posted at the cash register that 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 that is no smaller than 9 square inches that 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. All employees selling cigarettes, chewing tobacco or other tobacco products in any form will positively establish the Purchaser's age as eighteen (18) years or older, unless the seller has some other conclusive basis for determination the buyer is over the age of eighteen (18) by means of photographic identification. No employee shall sell cigarettes or other tobacco products to a person under the age of eighteen (18) years who has a note from an adult requesting such sale.

4.4.005

POSSESSION

No person under the age of eighteen (18) may have in his/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 Amesbury.

SECTION 5 – VENDING MACHINES

The use of vending machines for dispensing tobacco products is not permitted except in private clubs, bars or taverns holding a liquor license in the Town of Amesbury. 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 minors may be enforced through periodic inspections. Inspections may include the attempted purchase of tobacco products by minors 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 Health Director or his/her designee.

SECTION 7 – VIOLATIONS AND PENALTIES

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. It shall be unlawful for any person to smoke in any area where smoking is prohibited by these provisions. Any person who violates this regulation may be punished in accordance with applicable Massachusetts General Laws and Town of Amesbury Health Regulations, Chapter 1, Section 1.19.001, 1.19.002, or Chapter 4, Section 4.4.002 as deemed appropriate by the Health Department.

SECTION 8 – NON-RETALIATION

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 – PUBLIC EDUCATION

The Board of Health shall engage in a continuing program to explain and clarify the purposes and requirements of this regulation to citizens affected by it, and to guide owners, operators and managers in their compliance with it. Such programs may include publication of a brochure for affected businesses, individuals and employees explaining the provisions of this regulation, in addition to employee policies/notices.

SECTION 10 – 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 11 – VARIANCES

4.11.001

VARIANCE REQUEST

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.

4.11.002

HEARING NOTICE

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.

4.11.003

GRANTING OF A VARIANCE

Variances may be granted for up to one (1) year and extended for like periods upon submission of a renewal application which states that no license for alteration of the premises or of the ventilation system have been applied for or granted, and that no such alterations have been made since the last granting of a variance.

4.11.004

RECORDS

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 12 - 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.

CHAPTER 5
ENVIRONMENTAL AND MISCELLANEOUS REGULATIONS

SECTION 1 - GENERAL CONSTRUCTION REGULATIONS

5.1.001

HORSE BARNs / LIVESTOCK BARNs

Horse barns and livestock barns shall not be constructed within one-hundred (100) feet of a surface water supply, private well or a water course.

5.1.002

FLOOR DRAINS

Purpose of regulation; it has been determined that:

- (1.) floor drains in industrial and commercial facilities are often tied to a system leading to a leaching structure or a septic system; and
- (2.) poor management practices and accidental and/or intentional discharges may lead petroleum; and
- (3.) other toxic or hazardous materials into these drainage systems in facilities managing these products; and
- (4.) improper maintenance or inappropriate use of these systems may allow the passage of contaminants or pollutants entering the drain to discharge from the leaching structure or septic system to the ground; and
- (5.) discharges of hazardous wastes and other pollutants to floor drains leading to leaching structures and septic systems have repeatedly threatened surface and groundwater quality throughout Massachusetts; and
- (6.) surface and ground water resources in the Town of Amesbury contribute to drinking water supplies.

5.1.003

DEFINITIONS

For the purposes of this regulation, the following words and phrases shall have the following meanings:

(1.) *Commercial and Industrial Facility*

A public or private establishment where the principal use is the supply, sale and/or manufacture of services, products, or information, including but not limited to: manufacturing, processing; or other industrial operations; service or retail establishments; printing or publishing establishments; research and development facilities; small or large quantity generator of hazardous waste; laboratories; hospitals.

(2.) *Department*

The Massachusetts Department of environmental Protection.

(3.) *Discharge*

The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, incineration, or placing of toxic or hazardous material or waste upon or into any land or waters of the Commonwealth. Discharge includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site leaching structure or sewage disposal system.

(4.) Floor Drain

An intended drainage point on a floor constructed to be otherwise impervious which serves as the point of entry into any sub-surface drainage, treatment, disposal, containment, or other plumbing system.

(5.) Leaching Structure

Any sub-surface structure through which a fluid that is introduced will pass and enter the environment, including but not limited to, dry wells, leaching catch basins, cesspools, leach fields and oil/water separators that are not water-tight.

(6.) Oil/Water Separator

A device designed and installed so as to separate and retain petroleum based oil or grease, flammable wastes as well as sand and particles from normal wastes while permitting normal sewage or liquid wastes to discharge into the drainage system by gravity. Other common names for such systems include MDC traps, gasoline and sand traps, grit and oil separators, grease traps and interceptors.

(7.) Toxic Or Hazardous Material

Any substance or mixture of physical, chemical or infectious characteristics posing a significant, actual or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or waters within the Town of Amesbury. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as toxic or hazardous under Massachusetts General Laws (M.G.L.) Chapter 21C and 21E or Massachusetts Hazardous Waste regulations (310 CMR 30.000), and also include such products as solvents, thinners and pesticides in quantities greater than normal household use.

(8.) Use of Toxic or Hazardous Material

The handling, generation, treatment, storage or management of toxic or hazardous materials.

5.1.004

PROHIBITIONS

With the exception of discharges that have received (or have applied and will receive) a Department issued permit prior to the effective date of this regulation, no floor drain(s) shall be allowed to discharge, with or without pre-treatment (such as oil/water separator), to the ground, a leaching structure, or septic system in any industrial or commercial facility if such floor drain is located in either:

- (a.) an industrial or commercial process area; or
- (b.) a petroleum, toxic or hazardous materials and/or waste storage area; or
- (c.) a leased facility without either A or B of this section, but in which the potential for a change of use of the property to use which does have either A or B is, in the opinion of the Board of Health or its' agent, sufficient to warrant the elimination of the ground discharge at the present.

5.1.005

REQUIREMENTS FOR EXISTING FACILITIES

A.) The owner of the facility in operation prior to the effective date of this regulation with a prohibited (as defined under Section 5.1.004) floor drain system shall:

- (1.) Where possible, disconnect and plug all applicable inlets to and outlets from applicable leaching structures, oil/water separators, and/or septic systems;

(2.) Remove all existing sludge in oil/water separators, septic systems, and where accessible, leaching structures. Any sludge determined to be a hazardous waste shall be disposed of in accordance with state hazardous waste regulations, 310 CMR 30.000. Remedial activity involving any excavation and/or soil or groundwater sampling must be performed in accordance with appropriate Department policies;

(3.) Alter the floor drain system so that the floor drain shall be either:

(a.) connected to a holding tank that meets all applicable requirements of Department policies and regulations, with hauling records submitted to the Board of Health at the time of hauling;

(b.) connected to municipal sanitary sewer line, if available, with all applicable Department and local permits; or

(c.) permanently sealed. (Any facility sealing a drain shall be required to submit for approval to the Board of Health a hazardous waste management plan detailing the means of collecting, storing and disposing any hazardous waste generated by the facility, including any spill or other discharge of hazardous materials or wastes).

B.) Any oil/water separator remaining in use shall be monitored weekly, cleaned not less than every 90 days, and restored to proper conditions after cleaning so as to ensure proper functioning. Records of the hauling of the removed contents of the separator shall be submitted to the Board of Health at the time of hauling.

C.) Compliance with all provisions of this regulation must be accomplished in a manner consistent with Massachusetts Plumbing, Building and Fire code requirements.

D.) Upon complying with one of the options listed under Section V.A.3, the owner/operator of the facility shall notify the Department of the closure by filing the Department's UIC Pre-Closure Form BRP WS-06d (which may be obtained by calling 617.292.5770) with the Department, and sending a copy to the Board of Health.

5.1.006

EFFECTIVE DATES FOR ALL FACILITIES

The effective date of this regulation is the date posted on the front page of the regulation, which shall be identical to the date of adoption of the regulation.

(A.) Existing Facilities:

(1.) Owners or operators of a facility affected by this regulation shall comply with all its provisions within (120) days of the effective date;

(2.) All applicable discharges to the leaching structures and septic systems shall be discontinued immediately through temporary isolation or sealing of the floor drain.

(B.) New Facilities:

(1.) As of the effective date of the regulation, all new construction and/or applicable change of use within the Town of Amesbury shall comply with the provisions of this regulation.

(2.) Certification of conformance with the provisions of this regulation by the Board of Health shall be required prior to issuance of construction and occupancy permits.

(3.) The use of any new oil/water separator shall comply with the same requirements

as for existing systems.

5.1.007

PENALTIES

Failure to comply with provisions of this regulation shall be deemed a public health nuisance pursuant to M.G.L. Chapter III, Section 127 and will result in the levy of fines of not less than \$200.00, but no more than \$1,000.00. Each day's failure to comply with the provisions of this regulation shall constitute a separate violation.

SECTION 2 - PERMITTING OF DISPOSAL WORKS INSTALLERS, SEPTAGE HAULERS, OFFENSIVE SUBSTANCE HAULERS

5.2.001

PERMITTING 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 Installers Permit from the Health Department. 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 Amesbury Health Regulations.
- (2.) Satisfactory completion (80%) 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.) ~~Permits for Disposal Works Installers are renewed annually on or before Dec. 31st 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

5.2.002

PERMITTING OF SEPTAGE HAULERS, SEPTAGE HAULING COMPANIES AND OFFENSIVE SUBSTANCE HAULERS

- (1.) No person(s) and/or companies shall remove and transport septage and offensive substances through the streets of the Town of Amesbury in which the septage or offensive substances were first collected without first obtaining a permit from the Health Department, and takes 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.) Permits are issued for a one (1) year period. All permits must be renewed on or before Dec. 31st 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 Health Department prior to the issuance of a permit. No permit 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 Health Department 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 Health Department 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 Health Department. 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.

5.2.003

Title V

The Amesbury Board of Health adopts the Massachusetts State Environmental Code, Title V, 310CMR 15.000 as the local regulation for the Town of Amesbury.

SECTION 3 - MISCELLANEOUS REGULATIONS

No person as defined in Chapter 1 Section 1.007 of the Amesbury Health Regulations 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 of the Amesbury Health Regulations.

SECTION 4 - RULES AND REGULATIONS RELATIVE TO THE USE OF RECOMBINANT DNA TECHNOLOGY

5.4.001

USE OF RECOMBINANT DNA TECHNOLOGY

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 Amesbury Board of Health may from time to time promulgate.

The Institutional Bio-Safety 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 Amesbury Board of Health, one of who shall be the Health Director. 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 Bio-Safety Committee, except to the extent that disclosure is necessary to alleviate any public health hazard.

The minutes of all meetings of the Institutional Bio-Safety Committee shall be delivered to the Health Department 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 text shall remain on file in the records of the institution for inspection at all times by any member of the Committee.

The institution shall prepare a Bio-Safety 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 Bio-Safety Committee.

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 Bio-Safety 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. Amesbury 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 Bio-Safety Committee. Any environmental release shall be reported immediately.
- (f.) Any significant or potentially DNA related employee illness shall be reported to the Institutional Bio-Safety Committee.
- (g.) It shall be the duty of the Institutional Bio-Safety Committee to investigate any case of potentially work-related illness associated with the use of DNA. 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 Amesbury Board of Health may retain competent professional assistance in the conduct of such inspection. The institution shall reimburse the Town of Amesbury 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 Bio-Safety Committee. Any inspection reports shall be delivered to the Health Department only after all confidential and proprietary information has been removed. Such reports shall then become public record. The full text of the inspection

report or review shall remain on file in the records of the institution for inspection at all reasonable times by any member of the Committee.

5.4.002

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

SECTION 5 - REGULATIONS REGARDING STABLING OF HORSES

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 December 31st 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.
- (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, livestock, stable or barn shall be located within one hundred (100) feet of a private well, Flood Plain or water course as defined in 5.1.001 of the Amesbury Health Regulations.
- (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 Amesbury. 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 6 - CARNIVALS, FESTIVALS AND CIRCUS

5.6.001

INSPECTION

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. The provisions of *105 CMR 590.000* shall apply to food concessions.

5.6.002

FOOD PROTECTION

Plastic shields shall be provided on concession stands featuring cotton candy, taffy apples, pop corn, and whenever deemed necessary to prevent contamination from dirt, dust, sneezing, etc.

5.6.003

SLEEPING / SMOKING

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

5.6.004

DUMPSTERS

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 wind blown litter.

5.6.005

POTABLE WATER SUPPLY

Acceptable water supply, which is in compliance with applicable codes, shall be required.

5.6.006

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. A minimum of five (5) portable chemical toilets are to be provided, two (2) for each sex and one (1) handicapped. Additional units shall be required, if in the opinion of the Health Department, they are necessary.

5.6.007

INOCULATIONS

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.

5.6.008

FEE

An application and applicable fees in accordance with the current Board of Health fee schedule (Appendix C) to hold a carnival, festival, or circus must be submitted to the Health Department 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.

5.6.009

BOND

There shall be a cash bond posted in the amount of \$2,000.00 and a bond agreement submitted with the Health Department 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.

5.6.010

The Board adopts by referred 150 CMR 590.000 for all food service establishments located at festivals.

SECTION 7 - HOUSING STANDARDS

5.7.001

MASS. STATE SANITARY CODE

The Board of Health adopts by reference 105CMR 400.000 Chapter I and 105CMR 410.000 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.

SECTION 8 - THROUGH 20

Reserved for future regulations, amendments, etc.

SECTION 21 - PENALTIES

5.21.001

COMPLIANCE

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, of the Amesbury Health Regulations.

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 Town of Amesbury, these rules and regulations will be binding upon all parties concerned.

PROPOSED REGULATIONS FOR THE HEALTH DEPT.

**LEGAL NOTICE
Town of Amesbury
Board of Health
Legal Notice**

The Amesbury Board of Health will hold a public hearing on March 24, 2011 at 7:00 p.m. at the Amesbury Senior Center, 9 School St., to review and adopt proposed regulations for the Health Department.

The Health Regulations will include five chapters of proposed regulations addressing administrative functions, food service establishments, fair & public and semi public swimming pools, environmental matters, floor drains, housing matters, fee schedules, tanning salons, body art and tattooing, dumpsters, odors, noise, carnivals, festivals, and an overall complete comprehensive set of local regulations.

Copies of the proposed regulations are available for public review at the Health Department, 11 School St., or on-line at the Town's website at www.amesbury-ma.gov. Proposed fees are also in the Amesbury Public Library reference section.

Inquiries are to be directed to Regional Health Director John Morris at (978) 388-8134.

AD# 12461350
Amesbury News 3/4, 3/10/11

APPENDIX A

Legal Notices

SUMMARY ADOPTED REGULATIONS

**TOWN OF AMESBURY
LEGAL NOTICE
BOARD OF HEALTH
SUMMARY PUBLICATION OF
ADOPTED REGULATIONS**

At the Board of Health meeting on March 24, 2011, the Board adopted a comprehensive set of rules and regulations which are summarized below. These rules and regulations were adopted pursuant to the authority granted under Massachusetts General Laws Chapter 149, Sections 51 and 122. Five chapters of regulations and a fee schedule were adopted.

SUMMARY

Chapter 1: Administrative procedures which relate to policy memorandums, a set of standard conditions which may apply to a variance or other approval of the Board, administrative determinations, enforceable agreements, appeals of administrative decisions, waiver of regulations, variance requests, certificate of non-compliance, consultant reviews, use of consultants, emergency procedures, general duty requirements, plan review and approval, transfer of permits, penalties for violation of regulations, and a severability clause for regulations in whole or part declared invalid by a court of competent jurisdiction.

Chapter 2: Regulates food service operations such as restaurants, retail stores, supermarkets, etc. within the Town of Amesbury. It regulates areas of special inspections, sanitary waste and grease disposal, grease traps, compliance conditions, grease trap maintenance, minimum plan requirements for designing, renovating, remodeling or submission of plans for new construction, transport vendor requirements, temporary food permits, identification of prepared foods, establishments ownership, insurance requirements, consultant services, adoption of the Massachusetts State Sanitary Code 105CMR 590.00B and the 1999 Federal Food Code. The chapter also regulates capital improvements requested by the Health Department, penalties for violations and a severability clause for sections deemed invalid.

Chapter 3: Regulations related to the permitting and operation of tanning salons, adoption of the Massachusetts State Sanitary Code 105CMR 123.000 and adoption of the Massachusetts State Sanitary Code 105CMR 435.000, body art/tattooing and tattooing permitting, sanitary conditions for operation, application procedures and requirements for practitioners. Chapter 3 also addresses dumpster siting and permit requirements and penalties for violations and a severability clause for

Chapter 4: Tobacco regulations prohibiting smoking in certain areas, requirements for certain positions of skins, regulations for the prohibition of tobacco sales to minors, requirement for permits to conduct tobacco sales and vending machines. It further spells out enforcement and penalty procedures for violations of the Amesbury Rules and Regulations, adopts other applicable laws by reference and spells out the criteria and process for receiving a variance. A provision for severability of any clause deemed invalid is also contained in this chapter.

Chapter 5: This chapter pertains to general construction regulations for horse barns and livestock barns, which limits the distance of these structures to private water wells and water sources. It further includes regulations for floor drains and requirements for removal of said drains to prevent pollution to water supply sources. Chapter 5 also regulates the permitting of disposal works, installers, and septic/offensive substances haulers. An exam and annual permitting fees are required, and the Massachusetts State Environmental Code, Title 5, 310CMR 15.000 is adopted as a local regulation.

Part of the Chapter 5 regulations includes miscellaneous violations for cases that create excess noise, odors, materials, substances, waste, sink, sewage, oil, fuel, debris material or any noxious substance which escape into the environment. Recombinant DNA is regulated and requires companies to meet certain criteria and obtain a permit from the Health Department.

The stabling of horses is regulated and carnivals, festivals and circuses are regulated and require proper permits from the Health Department.

Chapter 2 of the Massachusetts State Sanitary Code, 105CMR 400.000 and 410.000 are adopted for housing standards. Penalties for violations and a severability clause for sections deemed invalid have been adopted.

A fee schedule which includes fees for all permits, inspections, consultants, court processes, hearings, document preparation, purchase of regulations and late renewal fees are also adopted.

Therefore, in accordance with the Massachusetts General Laws, these Rules and Regulations are effective on April 1, 2011 upon publication.

John W. Morris,
Regional Health Director

AD# 12473270
Amesbury News 4/1/11

APPENDIX B

Board of Health Meeting March 24, 2011

The meeting was called to order at 7:02 p.m.

Members Present: Amy Courtney, James Schaepe, Lorri Fucile, Katherine Sullivan and Matt Steinel

Also in Attendance: John Morris, Cindy Roberts, Lynn Doyle & Robert Desmarais

MEETING MINUTES APPROVAL – February 24, 2011

Motion by Matt Steinel to accept the meeting minutes with discussed corrections, seconded by James Schaepe.
Vote Unanimous.

NEW BUSINESS

Adoption of Rules and Regulations / Fee Schedule

Rules and Regulations are effective April 1, 2011, Fee Schedule effective January 1, 2012.

The Board will receive (1) page with signatures of the Board Members accepting the Rules and Regulations, (2) a copy of the newspaper article scheduled to be printed on April 1, 2011 in the Amesbury News advertising the acceptance of the Rules and Regulations, and (3) a copy of the letter sent to DEP posting the Rules and Regulations to complete their booklets.

Motion by Matt Steinel, seconded by James Schaepe.

Vote Unanimous.

Lake Attitash Association – Lake Issues (Cindy Roberts, Lake Attitash Association in attendance.)

Cindy Roberts is here to update the Board on lake issues and inform the Board that a Notice of Intent is being filed with the Conservation Commission in May.

Cindy states that Eurasian Milfoil has invaded about 100 acres of the lake, which is about 1/3rd of the lake. This is an invasive weed that spreads rapidly. The problem is that if nothing is done, the invasive weed will take over the entire lake. The result is native plants will be dispersed, a breeding ground for mosquitoes will be created, swimming (entanglement), boating and fishing may become nearly impossible.

In addition, there have continually been problems with algae blooms at the Lake, which have led to cyanobacteria and lake warnings/closures because of the potential release of toxins. The EPA plans to perform testing at the lake this summer, which will determine the sources of the nutrients, including from within the sediment itself. The results of the EPA testing will be a watershed management plan.

The Lake Attitash Association (board of 10 members) is filing a Notice of Intent to use Floridone (herbicide for milfoil) and copper sulfate (algaecide for algae blooms) to combat the milfoil/algae bloom problem throughout the 360 acre lake. Once under control, hand harvesting/pulling/suction harvesting, etc., can assist in removing the milfoil. Longer term solution for algae bloom control will be provided in the EPA's watershed management plan.

Cindy will keep the Board informed. There are no plans to use the herbicide or algaecide this summer.

Plumbing Code / Title 5

An advisory from DEP states that they are looking into a conflict with the plumbing code regarding grease traps. The Town is following correct procedure and no further action is required at this time.

Bacteria Disks

Some were found in Amesbury last week. Any calls received are being referred to Enpro. There is an update on the Town web-site. This is a very low-level contamination.

UPDATE

Fluoride Update (Robert Desmarais, DPW Director in attendance.)

There is currently no funding available to install the fluoride equipment necessary to fluoride the water through liquid form. Rob feels that adding powder fluoride as previously done is not effective as the problem is with the product that is received from China. Tests have been performed on this fluoride and testing has come back inconclusive regarding the benefits. In addition, the product does not seem to dissolve properly in the water clogging the equipment. Batches of fluoride received come in too inconsistently for Amesbury to place in the water. Rob states that it may be possible, near the end of the Water Treatment Plant upgrade, to allocate funds for the completion of the liquid fluoride equipment system needed to upgrade the system. This would be six months to one year.

Jack asks whether or not public comment would be beneficial to see if there is a need for fluoride. The vote to institute fluoride into town water was passed in 1967. Since that time, there are more ways for residents to receive fluoride through daily products used. A ballot question may be beneficial in order see if funding for fluoride is necessary. The Board would be required to have a public hearing to vote on whether they feel that fluoride should be added to the water, prior to a ballot question being submitted to the public. The next public vote would be November 2011.

Jack will research how to post this as a ballot question and report back to the Board for a decision to move forward r November.

Risk Assessment

At present, we are awaiting for the amended proposal. John states that he has requested funds in the FY12 Budget to cover the cost of a risk assessment program, but feels that with the recent state of the budget, this request may be denied.

Nurse Report – June through December

The Board received a breakdown by each town (Amesbury and Salisbury) of communicable diseases, flu clinics and vaccinations given. The Board requests further clarification on the breakdowns given on the report, meaning broadening the types of visits people come for, what is being done at home-bound visits, etc. The Board also states that they asked the nurse if she feels she has enough time to perform her duties and the nurse has yet to get back to the Board. It was stated that the nurse performs a lot of work at home and the Board would like details of what type of work is being brought home to determine if there is a need for a full-time nurse, since that need was established to be non-existent with the previous administration.

John will come up with a detailed format to re-present to the Board to further explain the duties of the nurse.

The Board is requesting the nurse attend quarterly meetings to further explain the reports.

The meeting adjourned at 8:45 p.m.

APPENDIX C

BOARD OF HEALTH FEE SCHEDULE

Fees may be pro-rated

DESCRIPTION	FEE	DESCRIPTION	FEE
FOOD SERVICE PERMITS		SEPTIC	
Restaurant / Nursing Home	\$150.00 plus \$1.00 per seat	Disposal Works Installer	\$125.00
Daycare	\$150.00	Septic Hauler	\$125.00
Church Kitchen	\$75.00	Disposal Works Construction Permit	\$150.00
Caterer	\$75.00	Disposal Works Minor Repair Permit	\$75.00
Frozen Dessert (in establishment)	\$25.00	Perc Test - up to 4 hours	\$200.00
	\$300.00 1st 25K sq. ft. / \$50.00 each additional 1K sq. ft. to a maximum of \$400.00		
Large Retail Grocery Store (25K+ sq. ft.)		Perc Test - after 4 hours, per hour	\$50.00
Small Retail Grocery Store ((up to 25K sq. ft.)	\$150.00 up to 10K sq. ft.	Septic Hauler Test	\$25.00
Retail (pre-packaged food only)	\$75.00	Septic Installer Test	\$50.00
Mobile Food Cart (pre-packaged food)	\$75.00	Septic Plan Review - new dwelling	\$200.00
Mobile Food Service	\$100.00	Septic Plan Review - repair/upgrade existing system	\$75.00
Residential Kitchen (baked goods only)	\$75.00	Septic Plan Revision Review - new dwelling	\$50.00
		Septic Plan Revision Review - repair/upgrade existing system	\$50.00
Temporary Food (one day permit)	\$50.00	MISCELLANEOUS	
Seasonal Food (3 events year/same food)	\$100.00		
Re-Inspection Fee - Food Service Establishment	\$50.00	Certificate of Compliance	\$25.00
OTHER PERMITS		Document Preparation	\$25.00 fir 2 pages / \$2.00 per page additional
Bed & Breakfast	\$100.00	Housing - 2nd and subsequent re-inspections	\$50.00
Beach Permit (2 year)	\$100.00	Housing - Section 8 inspections and re-inspections	\$50.00
		Institutional Bio-Safety Committee Meeting Attendance (as required under NIH guidelines for Recombinant DNA Research)	\$110.00
Body Art Establishment	\$200.00	Late Permit Fee Renewal	\$50.00
Body Art Practitioner	\$100.00	Permit Transfer	\$75.00
Burial Permit	\$25.00	Plan Reviews (food service, other establishments, general)	\$50.00/hour - Maximum fee of \$150.00
Campground	\$200.00	Purchase of Rules & Regulations	\$15.00
Funeral Director	\$50.00		
	\$100.00 1- 20 rooms \$200.00 20-50 rooms \$300.00 50-80 rooms \$450.00 80+ rooms	Recombinant DNA Research	\$100.00
Hotel / Motel			
Public Swimming Pool	\$150.00	Special Inspection (1st hour)	\$75.00 first hour / \$50.00 each additional hour
Public Swimming Pool Re-inspection	\$50.00	Well Permits	\$75.00
Recreational Camp	\$100.00		
	\$100.00 1-5 beds \$150.00 5-10 beds \$200.00 10+ beds		
Tanning			
Tobacco	\$75.00		
COURT			
Civil Process	\$100.00		
Court Appearance	\$150.00		
Hearing Fee: Administrative Determination of Applicability	\$75.00		
Hearing Fee: Variance Request / Waiver Request	\$75.00		
Housing Court - Criminal case filing fee (to be assessed after 2nd failed re-inspection and upon filing for a Show Cause hearing)	\$150.00		



REGIONAL HEALTH DEPARTMENT
11 School St. – Town Hall Annex - Amesbury, MA 01913
Tel. 978.388.8134 / Fax 978.388.7874
www.amesburyma.gov

John W. Morris, Regional Health Director

morrisj@amesburyma.gov

May 5, 2011

Massachusetts DEP
Watershed Permitting Group
1 Winter St. – 6th Floor
Boston, MA 02108

Attn: Central Registry

Re: Rules & Regulations

TO WHOM IT MAY CONCERN:

Please find enclosed a copy of the newly adopted rules and regulations and fee schedule for the Amesbury Board of Health.

The regulations have been advertised in the local newspaper, posted on the Town's web-site and a copy provided to the Town Clerk. Please take the appropriate action to place these regulations in your central registry.

Thank you for your assistance.

Sincerely,


John W. Morris,
Regional Health Director

JWM / dml

Enclosure