

Town of Sherborn - Board of Health Regulations

I SEWAGE DISPOSAL

INTRODUCTION

These Regulations are adopted in accordance with Title 1, Regulation 2 of the State Environmental Code and Article 1 of the State Sanitary Code and are intended to supplement the State Codes. The State Codes have the force of State Law and establish minimum requirements. Where a local regulation is more strict, the local regulation shall prevail. The provisions of these regulations are based on General Law and the particular physical, environmental, hydrogeological, demographic and land use information and projections relative to the Town of Sherborn. No system or facility to be used for treating, neutralizing, stabilizing or disposing of wastewater from homes, public buildings, commercial or industrial buildings or any other types of establishments shall be located, constructed, altered, repaired or installed until a Disposal Works Construction Permit for such work shall have been issued by the Board of Health.

1.0 GENERAL REGULATIONS

1.1 REQUIRED PERMITS

Construction under a Building Permit or Foundation Permit shall not proceed until the Board of Health Permits for water supply and subsurface sewage disposal have been issued. No Building Permit or other Permit has precedence over a Board of Health Permit in this instance. All installers of sewage disposal systems shall have the required Board of Health Permits and a copy of the signed and approved plan shall be in their possession on the site while installing the system, to be available for the Board of Health or their designated Agent at the time of inspection.

No structure, for which a Disposal Works Construction Permit or a well permit from the Board of Health is required, shall be constructed or placed on any property within the town until such Board of Health permits shall have been issued.

1.2 BUILDER RESPONSIBILITY

Issuance of a Board of Health Permit does not relieve the builder of his responsibility to conform to the Sherborn Regulations for Domestic Water Supply and Sewage Disposal. The construction of cesspools or leaching beds is prohibited. The Board of Health will allow leaching beds only with alternative systems that utilize pressure dosing and have received state approval. An abandoned well shall not be used for any part of a subsurface sewage disposal system. The Board of Health strongly recommends against the installation of domestic garbage grinders.

1.3 APPROVED PLAN

No permit shall be issued until an approved plan has been signed by a majority of the members of the Board of Health, following a vote at a regular meeting.

1.4 WATER DISCHARGE AND DRAINAGE

Water discharge and drainage must comply with Title 5 of the State Environmental Code. No

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cooling water, ground water, discharge of roof drains, cellar drains or other liquids shall be discharged into the sanitary subsurface sewage disposal system. Any dry well for such purpose shall be located not less than 25 feet from any portion of any leaching area.

1.5 INTERCEPTOR DRAINS

Lowering the water table through the use of interceptor or curtain drains to permit marginal or unacceptable conditions to be improved to meet minimum requirements for the installation of subsurface sewage disposal systems is prohibited by the Board of Health. The Board of Health reserves the right to approve the installation of an interceptor drain for rehabilitation of an existing, failed system provided the following conditions are met to the Board's satisfaction:

- A. The bottom of any leaching area shall be six (6) feet above the high ground water table thus established, to the satisfaction of the Board of Health.
- B. No less than three (3) monitor wells shall be installed one (1) year prior to the approval and installation of the subsurface sewage disposal system.
- C. Location and installation of the monitor wells shall have the prior approval of the Board of Health.
- D. No less than three (3) inspections shall be conducted in three (3) separate months during the period from December 15 to April 27 during the year the monitor wells are in place. At least one of the inspections shall occur during the period from March 30 to April 27th.
- E. Measurement of the water levels in each monitor well shall be witnessed and recorded by the Board of Health or the Board's Agent as well as the applicant's engineer.

1.6 SEPTIC SYSTEM ABANDONMENT

Only a disposal works installer licensed by the Board of Health may perform septic abandonment.

2.0 AGENT

An Agent of the Board of Health is any person authorized by the Board to act under these regulations. No action required by these regulations shall be taken by the Agent without the approval of the Board of Health. The Agent may not vary these regulations without specific approval. Wherever reference is made to the Board of Health, it shall mean the Board of Health or its Agent.

3.0 PERMITS AND PLANS

3.1A DISPOSAL WORKS PERMITS

A Disposal Works Construction Permit shall be required prior to the start of any construction

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from which wastewaters will be generated. Such construction shall be performed only by persons or firms holding a current Disposal Works Installers Permit from the Board of Health.

3.1B TRENCH PERMIT

No soil testing shall be conducted, and no septic installation shall begin until the Board of Health receives a copy of the Trench Permit issued by the town.

3.2 PRE-CONSTRUCTION REQUIREMENTS

The disposal works installer, with a current Disposal Works Installer Permit issued by the Board of Health, shall participate in a pre-construction conference with the Health Agent, and the design engineer if necessary, prior to the start of any work. Subsurface sewage disposal systems shall not be constructed until all major plumbing has been installed in a dwelling or structure generating sanitary wastes.

3.3 PERMIT EXPIRATION

All Disposal Works Construction Permits and Well Permits shall expire two (2) years from the date of issue. After a permit has expired, the applicant shall submit a new application, a complete set of plans as required by this regulation, and shall pay a fee as may be set from time to time by the Board of Health. The permit application and plans shall show the applicant's name and shall comply with all regulations in force at the time of the renewal. Renewals shall not be accepted for a date prior to the expiration date of two (2) years from the date of issuance. New maximum water table elevations and soil testing shall be required, when, in the opinion of the Board of Health, the site conditions have undergone such modifications that make such re-testing necessary, or when new data has indicated that such initial testing may not appropriately describe the true conditions.

3.4.0 PLANS

3.4.1 PLAN REQUIREMENTS - The following shall be placed on the plan:

A. A drawing to scale (1"=10'; 1"=20'; 1"=30', as the situation may warrant) indicating dimensions of the building and building lot showing placement of the proposed building, individual subsurface sewage disposal system and additional area for 100% expansion of the disposal area (as defined in Section 10.2 of these regulations), driveway, well site and water service.

B. The location of all drains, natural features such as ledge or rock outcropping, distance to existing wells and sewage disposal systems on adjacent lots and any other type of construction which may be pertinent for placement and design of a proper disposal system.

C. The location of any watercourses, including streams, brooks, ponds, swamps, marsh or other wetlands.

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D. The precise locations of all manholes, catch basins, clean-out drain plugs, drains or known sources of water supply within 200 feet of the proposed sewage disposal system.

E. Two benchmarks and datum plane notation. One of the benchmarks shall be within fifty (50) feet of the proposed leaching area.

F. A locus map including the distance to the nearest intersecting street.

G. The results of the soil logs, soil classification and maximum water table elevations encountered for all test holes and the name of the individual who witnessed the tests for the Board of Health.

3.4.2 DESIGN REQUIREMENTS - The design of the proposed individual subsurface sewage disposal system shall be shown in detail, with benchmarks and datum plane notes including the following:

A. Elevation of existing and proposed contours at two (2) foot intervals, bottom of leach lines or pits, ledge, hardpan, till or any watercourses. Streams, ponds, swamps, marsh or other wetlands (as defined in Chapter 131, Section 40 of the Massachusetts General Laws), or any surface or subsurface drains shall also be included.

B. Invert elevation of the house sewer, inlet and outlet pipes of septic tank, inlet and outlet pipes of distribution box, elevation of the trench bottoms (base of stone), beginning and end of pipes in the trenches and proposed elevations of the system in the expansion area.

3.4.3 AS BUILT PLANS

A. AS BUILT PLANS shall be required showing the exact location of the on-site subsurface sewage disposal system and well after each system has been installed. These shall be submitted on a new plot plan signed by a registered sanitarian, civil or sanitary engineer. There shall be included a certification by said sanitarian or engineer that the system, including final grading, has been constructed in accordance with the approved plan and the terms of the permit. This plan shall be submitted before the final inspection is made by the Board of Health and before a Certificate of Compliance is issued. This AS BUILT PLAN shall remain on file at the Board of Health office.

B. A computerized copy of all AS BUILT plans (or, if AS BUILT plans are not computerized, final approved septic plans) shall be submitted when such plans are produced on computerized systems. Copies to be submitted shall be in a commonly accepted format able to be "read" by the Town of Sherborn GIS system.

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3.4.4 PLAN CHANGES - A new application and fee shall be required when in the opinion of the Board of Health:

- A. A plan is substantially changed or
- B. Additional soil test(s) must be conducted.

3.5 ALTERATIONS AND ABANDONMENT

Alterations and abandonment of wells, septic tanks, seepage pits, leaching trenches or other means of subsurface sewage disposal shall not be performed, constructed or installed until a permit has first been obtained from the Board of Health. If a system or any part of a system is to be abandoned, all tanks, manholes, boxes over six inches deep inside, or any system component whose collapse could create a danger, shall be pumped out (with proper disposal of the contents), the top of the structure crushed, and the structure filled with clean compacted naturally occurring earth or soil free of any vegetation such as branches and tree stumps, etc. (construction debris is not acceptable).

3.6 CERTIFICATE OF COMPLIANCE

The owner or other person or persons having control of any existing building or buildings shall not add to or alter to increase bedroom space as defined in Section 7.0 of these regulations without prior approval of the Board of Health. Construction shall not commence until a permit for alteration or approval of the adequacy of the sewage disposal system has been obtained from the Board of Health. Occupancy of any such construction shall not take place until a Certificate of Compliance has been issued by the Board of Health.

3.7 PERMIT FEES

A fee for the issuance of permits shall be charged and the rate shall be established by the Board of Health from time to time.

3.8 SUITABILITY

Foundation, building or plumbing permits for a dwelling or other structure shall not be issued until the Board of Health has approved the proposed lot as suitable for subsurface sewage disposal.

3.9 PERMIT CONDITIONS

All permits issued shall be subject to the conditions that all facilities shown shall be constructed in the location approved by the Board of Health. All permits issued shall be subject to the requirements of these regulations, and to such further conditions as the Board of Health shall prescribe.

4.0 APPLICATION PROCEDURES

A. SOIL TESTING

A completed application shall consist of the application form, the required fee, and a drawn-to-scale locus plan, no smaller than drawn on a scale of 50 feet to an inch, showing the proposed

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lot, the proposed location of the test holes and shall indicate generally the location of any water supplies, disposal systems or wetlands within 200 feet of the lot being tested as well as the distance to the nearest intersecting street. If there are no water supplies, disposal systems or wetlands within that distance, it shall be so stated on the plan.

B. PLAN SUBMITTAL

The application for a well and for a subsurface sewage disposal permit shall be on such form and in such detail, as the Board of Health shall prescribe, and shall be submitted with the required fee(s). The application and plan shall conform to the State Codes and the Sherborn Board of Health regulations. Before a permit can be issued, the applicant shall submit five (5) copies of such plans prepared by a qualified registered sanitarian, civil or sanitary engineer with street and assessors map number clearly indicated.

5.0 SITING OF SYSTEMS

5.1 TESTING REQUIREMENTS

A. Percolation tests shall be conducted after November 1st and completed before June 30th. Percolation test results shall not be accepted nor shall tests be observed at other times of the year except for the repair of overflowing or "backing up" septic systems, or when the existing system is a cesspool, or when the interests of public health are of priority as determined by the Board of Health. When soil testing is permitted at other than the times noted in the regulations, maximum groundwater determination shall be by the soils investigation technique approved by the State Title 5.

B. All Soil testing to determine maximum ground water elevation for septic system design and permits for a given year shall be conducted after November 1st and completed before April 29th, unless that date is extended by a vote of the Board of Health. If soil morphology is inconclusive for determining maximum high groundwater, testing engineers shall place monitor wells in the deep test pits. Ground water levels shall be measured by the engineer in such monitor wells between the 22nd and 29th of each allowed testing month for groundwater as may be applicable. All water levels measured are subject to a seasonal groundwater adjustment as determined by the Board of Health using the method as described in "U.S. Geological Survey, Water Resources Investigations, Open File Report 80-1205--Probable High Groundwater Levels in Massachusetts". Other adjustment values may be allowed by the Board on a case-by-case basis if supported by a preponderance of technical evidence to support such proposal by the design engineer. Applications for such testing during the ground water season shall be submitted on or before April 1st. Testing shall not be performed for applications received after that date.

C. There shall be a minimum of three (3) deep test pits evenly distributed within the limits of the proposed leaching area and integrated expansion area, plus any others that might be designated by the Board of Health Agent, either at the time of testing or during the plan review period. If ledge is encountered or indicated, a total of five (5) test holes shall be dug, one at each corner of the proposed leaching area and one in the center. An additional test pit shall be dug at the location of a proposed new structure. Deep test pits shall be dug

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to a minimum depth of five (5) feet below the bottom of the proposed leaching area, and in no event less than ten (10) feet deep. The results of the deep tests shall be shown in a graphical "log" format, showing soil strata with elevation, elevation of the ground surface, elevation of the bottom of the hole, elevation of any ledge or refusal encountered, the elevation of ground water if encountered, or indicate "none encountered" when applicable, the date of the test and the name of the Board of Health representative who observed such test. Deep test pit results shall not be accepted or observed by the Board of Health at other times of the year from that designated above, except for the repair of overflowing or "backing up" septic systems when the interests of the public health are of priority as determined by the Board of Health. The observation well shall consist of 4-inch schedule 40 PVC pipe. The observation well section placed within the deep observation test holes shall be perforated and wrapped with a filter material or backfilled with crushed stone, sand, etc. which will prevent the fine soil material (silts and clay) from clogging the well.

D. A minimum of two (2) stabilized percolation tests shall be performed at an elevation that is representative of the soil extending for a depth of five (5) feet below the leaching field and along its sidewalls. Additional tests shall be required, either at the time of testing or during the plan review period, when, in the opinion of the Board of Health or its Agent, the percolation rate is not consistent or similar between the two tests, when large disposal areas are required or where the soil structure varies. Percolation tests shall be conducted after November 1st and completed before June 30th. Percolation test results shall not be accepted nor shall tests be observed at other times of the year except for the repair of overflowing or "backing up" septic systems when the interests of the public health are of priority as determined by the Board of Health. Percolation tests shall be conducted in accordance with Title 5 of the State Environmental Code with the following modifications:

1. Percolation rates shall be expressed to the nearest integer minute per inch.
2. Reserved
3. The results of the percolation tests shall be tabulated on an inch-by-inch basis and that data shall be inscribed on the design plan. If the rate of water drop is not uniform, in the opinion of the Board of Health or its Agent, the test shall be repeated until such uniform rate is achieved.
4. The sewage application rates as designed in Title 5 shall not be interpolated. Measured values shall be rounded up to the next percolation rate value as stated in Title 5.
5. All tests shall be observed by an authorized representative of the Board of Health. A minimum of ten (10) days notice shall be required to schedule the Board of Health Agent to witness any tests. A test date shall then be established according to the Board of Health Agent's schedule. All tests shall be performed in natural soil that has not been disturbed or altered by previous filling, excavation, blasting or other means. All test pits shall be adequately protected by the applicant to prevent accidents to both humans and animals. The pits shall not be filled in until they have been inspected by the Board of Health Agent. After the tests are completed and all data has been recorded, the test holes shall be filled. Test holes shall not be left open overnight.

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5.2 PERCOLATION RATE

The maximum allowable percolation rate shall be 40 minutes per inch in order for soil to be considered suitable for the subsurface disposal of sewage. A rate exceeding 40 minutes per inch shall not be accepted.

5.3 WATERCOURSES AND WETLANDS - No portion of any septic system, including fill material, shall be constructed within the boundary of any watercourse or wetland.

6.0 RESERVED

7.0 SYSTEM SIZE AND DESIGN

A. All septic systems shall consist of a septic tank, a distribution box and a leaching area along with an expansion Leaching area. There shall be a minimum of one hundred (100) lineal feet of pipe, plus such additional length as indicated by the percolation tests. There shall be a minimum of four hundred (400) square feet of leaching area, plus such additional area as indicated by the percolation tests.

B. The pipes installed in the trenches shall be of four (4) inch diameter and of a material approved by the Sherborn Board of Health. Pipe from the septic tank to the distribution box shall be rigid PVC pipe, schedule 40. The depth of a leaching trench shall be a minimum of twelve (12) inches and a maximum of twenty four (24) inches below the invert of the distribution piping. The maximum width of a leaching trench shall be three (3) feet.

C. The distribution piping in leaching trenches shall be laid in a layer of washed crushed or washed gravel stone 1-1/4 to 1-3/4 inches in size, free from fines, iron or dust. The pipe shall be covered with four (4) inches of the same size stone. Upon this layer shall be placed at least a two (2) inch layer of washed crushed stone or washed gravel stone ranging from 1/8 to 1/2 inches in size, free from fines, iron or dust.

D. Clear spacing between leaching trenches shall be a minimum of six (6) feet (minimum distance between walls of adjacent trenches). The difference in elevation of successive adjacent leaching trenches shall be a maximum of twelve (12) inches.

E. RESERVED

F. No leaching trench or line shall be greater than one hundred (100) feet in length. The surface above the leaching area shall remain permeable and shall have no construction upon it.

G. The area over the leaching area shall not be made impermeable.

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7.1 LEACHING AREA SIZE

A. The maximum daily flow for a household for design purposes shall be based on water use of 55 gallons per capita per day. The number of people housed shall be based on two persons per bedroom.

A bedroom is any room other than a kitchen, dining room, living room, bathroom, den, playroom, family room, and/or library on the first floor. Any room (not equipped as a kitchen) on any level that has a door leading directly into a bathroom with a tub or shower is considered a bedroom. Any room above the first floor shall be considered to be a bedroom. In all cases the number of bedrooms shall not be less than one-half (1/2) the total number of rooms in the house rounded down (if necessary) to the closest whole number. To be counted as a room, the space must be habitable per the Massachusetts housing code. For systems installed after March 31, 1995 (Implementation date of State Title 5 revisions), the calculations of one-half (1/2) the total number of rooms rounded down (if necessary) shall only apply to dwellings of more than 8 rooms.

All single-family dwellings shall be designed for a minimum of three (3) bedrooms.

If the residential leaching area has not been designed with sufficient capacity to accommodate a garbage grinder, proof of a deed restriction shall be required prior to release of the approved plan.

B. The minimum leaching area to be installed shall be determined from the following table. The slowest percolation measured in the natural soil in the leaching field area shall govern the leaching area requirements.

Percolation Rate (minutes per inch)	Side wall & bottom area (gpd/square foot)	Side wall & bottom area (gpd/square foot)	Side wall & bottom area (gpd/square foot)
<u>Title 5 soil classes</u>	<u>Class I soils</u>	<u>Class II soils</u>	<u>Class III soils</u>
Less than or equal to 5	.74	.60	--
6	.70	.60	--
7	.68	.60	--
8	.66	.60	--
9	--	.60	--
10	--	.60	--
15	--	.56	.37
20	--	.53	.34
25	--	.40	.33
30	--	.33	.29
40	--	--	.25
Greater than 40	Not Permitted	Not Permitted	Not Permitted

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The minimum size leaching trench shall be 100 lineal feet of trench.

C. Additional leaching area for leaching trenches or seepage pits shall be as required by the Board of Health

7.2 SEPTIC TANKS

7.2.1 RESIDENTIAL

Single Family Dwellings - The effective liquid capacity shall be 200% of the design flow or a minimum hydraulic detention flow of 48 hours, whichever is greater. Minimum effective liquid capacity of the tank as measured below the outlet invert elevation shall not be less than 1500 gallons.

7.2.2 OTHER

When designed to serve facilities other than a single family dwelling unit, and whenever the calculated design capacity is greater than 1000 gallons per day, a two compartment tank or two tanks in series which meet(s) the design criteria of the State Environmental Code section 310 CMR 15.203 (are) is required. The minimum effective liquid capacity of each tank in series shall be 200% of the design flow. In no case shall the effective liquid capacity of each tank be less than 1500 gallons.

Restaurants: The septic tank capacity shall be 300% of the estimated maximum daily flow as estimated from the State Environmental Code or from actual water meter readings using a peak flow factor, whichever is larger. The peak flow factor shall be 2.0 times the average annual daily flow of days in use, unless data is otherwise available.

Schools: The septic tank capacity shall be 200% of the estimated maximum daily flow as estimated from the State Environmental Code or from actual water meter readings using a peak flow factor, whichever is larger. The peak flow factor shall be 2.0 times the average annual daily flow of days in use, unless data is otherwise available.

7.2.3 SEPTIC TANK DESIGN shall conform to all Title 5 requirements in effect as of April 1, 1996, shall be a two-compartment tank, and in addition, all residential **septic system tanks shall be designed as if a garbage grinder were installed.**

7.2.4 PUMP CHAMBERS - Whenever and wherever a system requires the pumping of liquid material to a leaching facility, the use of dual alternating pumps will be required. There shall be an alarm upon the failure of either pump.

7.3 PRESSURE DOSING SYSTEMS – Pressure dosing systems for distribution of septic tank effluent may be permitted if the pressure dosing system meets all State published guidelines.

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8.0 VERTICAL GRADES AND CLEARANCES

1. The bottom of any leaching area shall be a minimum of five (5) feet above the maximum high ground water table.
2. Subsurface sewage disposal systems shall not be constructed in fill that is to be placed directly on or near ledge, hardpan or other impervious materials or in any area where peat is present or when the maximum groundwater level is five (5) feet or less below natural surface grade. A depth of at least five (5) feet of pervious material (determined by percolation test) in natural soil shall be maintained below the bottom of the leaching area. The vertical distance from any leaching surface of a subsurface disposal system to bedrock, ledge, fractured ledge or impervious soil shall be a minimum of six (6) feet.
3. The finished grade over the disposal area shall not be more than two (2) feet and not less than twelve (12) inches from the top of the stone forming the distribution lines in the leaching field or from the inlet pipe of seepage pits. The disposal area shall be located and graded so that no surface water will accumulate in the area. The area within 25 feet of the disposal area shall be sloped to drain with at least two percent grade. All other grading shall comply with the State Environmental and Sanitary Codes.

4. WETLAND AND FLOOD PLAINS - WATER TABLE LIMITS

No subsurface sewage disposal system shall be constructed less than six (6) feet above the high water level in any area that is subject to periodic flooding. No basement floor shall be constructed less than two (2) feet above the high water level or ground water table. If a foundation drain is planned or existing, it must be shown on the plan along with its discharge point. Foundation drainage systems shall not terminate below the surface of the ground.

9.0 BACKFILL

To avoid sewage disposal problems resulting from improper backfill practices, there shall be strict adherence to Title 5 of the State Environmental Code and all other sections of the State Codes that relate to backfill.

10.0 DISTANCE REQUIREMENTS

10.1 WELL DISTANCE

No leach line, seepage pit or other means of subsurface disposal shall be placed closer than one hundred twenty five (125) feet from any private well or other private source of water supply to be used for drinking purposes or culinary uses. The distance from a well to a sewage disposal system shall be maximized as follows:

- A. No leaching area shall be less than one hundred twenty five (125) feet from a well located uphill from such leaching area.

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- B. No leaching area shall be less than one hundred fifty (150) feet from a well located downhill from such leaching area.
- C. When the soil percolation rate is less than three (3) minutes per inch, the distances noted in A and B above shall be increased by a minimum of twenty five (25) feet.

10.2 MINIMUM DISTANCES

All proposed subsurface sewage disposal areas and expansion areas shall be not less than ten (10) feet from any solid subsurface drain pipe if that drain invert is above the invert of the closest leaching trench, line, or bed, and twenty-five (25) feet from any solid subsurface drain pipe if the invert of that solid subsurface drain pipe is at or below the invert of the closest leaching trench, line, or bed. All subsurface sewage disposal areas and expansion areas shall also be twenty-five (25) feet from any curtain drain designed for that system, twenty (20) feet from any property line and one hundred twenty five (125) feet from any open surface drain or any watercourse, including streams, brooks, ponds, swamps or other wetlands (as defined in Chapter 131, Section 40 of the Massachusetts General Laws).

10.3 OTHER DISTANCES

All other distance requirements shall be as specified under Title 5 of the State Environmental Code. All distances shall be increased where required by conditions peculiar to a location or by other Town Regulations or By-Laws.

11.0 INSPECTIONS

A. AGENT INSPECTIONS

Before issuing any of the permits required, the authorized agent for the Board of Health shall inspect the property as shown on the submitted plan. The Board of Health or its Agent may require such further plans and tests, as they consider necessary.

B. INSPECTION LIMITATIONS

Inspections shall not be made when snow covers the ground, nor shall tests be performed in frozen soil.

C. NUMBER OF INSPECTIONS

Prior to any construction of the septic system, the builder shall submit to the Board of Health two (2) copies of the foundation plan certified by a registered surveyor, civil or sanitary engineer, showing elevations of the top of the cellar floor and top of the foundation and the location of the well."

There shall be a minimum of three (3) in-progress inspections of the disposal works. One inspection shall be conducted when the disposal area is excavated and the septic tank is in place, one when the construction of the septic system is completed except for backfilling and one when the finished grading of the lot is completed. The design engineer shall place the schedule of required inspections on the plan.

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D. INSPECTION REQUIREMENTS

All stone to be used in the leaching area shall be inspected prior to placement. The entire system, including the building sewer, shall remain exposed for the second inspection, and the distribution box shall be level and filled with water. A reasonable period of notification shall be given the Board of Health for an examination request.

12.0 LOCATION RECORD - The builder shall submit to the Board of Health two (2) copies of the House Certification Plan as submitted to the building inspector. This plan shall include the location of the well and sewage disposal system with respect to the foundation with sufficiently accurate dimensions to locate both in the future.

13.0 MANHOLES AND CLEANOUTS

13.0.1 A manhole or cleanout shall be required at any change of slope or at any change in

direction of the principle sewage distribution line greater than 45 degrees and in any event there shall be cleanouts or manholes at a minimum of 150 feet apart. No septic tank shall be located more than 50 feet from the structure that it serves.

13.0.2 LINE AND GRADE - Both the building sewer and the pipeline from the septic tank to the distribution box shall be laid in a straight line in a uniform slope unless provided with cleanouts and manholes as in Section 13.0.1.

14.0 RESERVED

15.0 CONSTRUCTION IN FILL

Construction of disposal areas in clean granular fill shall be permissible under the following conditions:

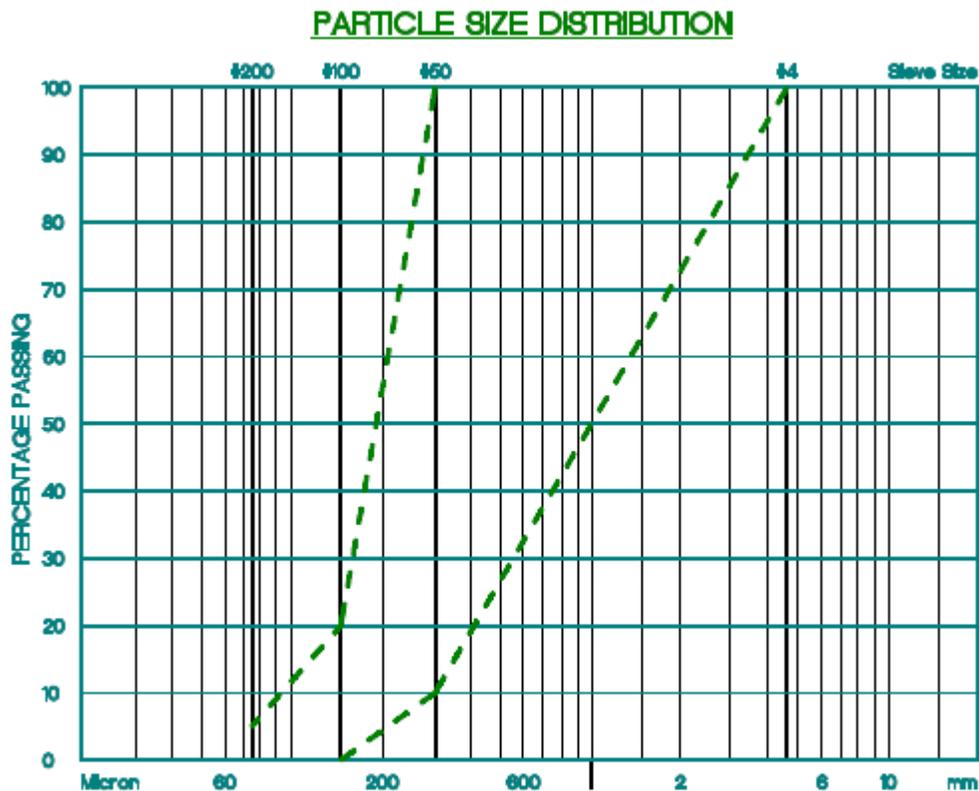
- A. Where the impervious material can be excavated to pervious material below and replaced with clean gravel fill, and a pervious strata at least five (5) feet thick in natural soil can be maintained below the bottom of the disposal area.
- B. Where a depth of at least five (5) feet of pervious material in natural soil can be maintained below the bottom of the leaching area. In no case shall excavation be allowed into impervious material without penetrating into pervious materials. Penetration shall be made beyond any soil that is organic, such as loam, peat or subsoil.
- C. Fill material for systems constructed in fill shall consist of select on-site or imported soil material. The fill shall be comprised of clean granular sand, free from organic matter and deleterious substances. Mixtures and layers of different classes of soil shall not be used. The fill shall not contain any material larger than two inches. A sieve analysis, using a #4 sieve, shall be performed on a

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representative sample of the fill. Up to 45% by weight of the fill sample may be retained on the #4 sieve. Sieve analyses also shall be performed on the fraction of the fill sample passing the #4 sieve, such analyses must demonstrate that and material meets each of the following specifications:

SIEVE SIZE	EFFECTIVE PARTICLE SIZE	% THAT MUST PASS SIEVE
# 4	4.75 mm	100%
# 50	0.30 mm	10% - 100%
#100	0.15 mm	0% - 20%
#200	0.075 mm	0% - 5%

A plot of the sieve analyses of the portion of the sample passing the #4 sieve shall fall on or between the lines on the following graph:



It shall be the responsibility of the engineer to show that this requirement is met, by submission to the Board of Health the results of a sieve analysis of a sample taken from the installed fill.

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16.0 FILL RESTRICTIONS

The filling, dredging or altering of land that is submerged during any portion of the year in order to provide a sufficient area to make it suitable for building purposes shall not be considered acceptable. Such lands (Chapter 131, Section 40 of the Massachusetts General Laws) shall be considered as not suitable for subsurface sewage disposal.

17.0 PURCHASE WARNING

Anyone contemplating the purchase of land for building purposes should make careful inquiry into the problems of maximum water table, drainage and soil conditions with a registered sanitarian, civil or sanitary engineer before committing themselves to an irrevocable purchase agreement.

18.0 PRIVIES AND CHEMICAL TOILETS

18.1 PRIVIES - Permanent privies shall not be allowed.

18.2 RESERVED

18.3 TEMPORARY FACILITIES - When no approved sanitary facilities exist on the site, all builders and contractors shall provide approved temporary sanitary facilities at their work sites. These facilities shall remain on the site from the first day of operation until completion of the contract.

19.0 RESERVED

20.0 MAINTENANCE

20.1 REQUIREMENT FOR ADVICE TO OCCUPANTS

Prior to the issuance of a Certificate of Compliance by the Board of Health, the applicant shall:

- A. Provide a permanent chart at a location in the dwelling near the water supply pressure tank which shows the as-built location on the lot of the well, septic tank, distribution box and leaching area.
- B. The chart shall also contain a written advisory as follows: "The Board of Health recommends that the septic tank be inspected annually. The septic tank shall be pumped when the depth of the sludge at the bottom of the tank plus the depth of scum at the top of the tank are one-third or more of the total tank liquid depth below the outlet pipe."

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C. Instruction and directions as applicable for any water supply treatment units or sewage

pumps shall be provided. Manufacturer's technical data for all such equipment and the location and telephone number at which maintenance and emergency assistance may be obtained shall be included.

20.2 CLEANERS OR ADDITIVES - Chemical cleaners or additives shall not be used in septic systems. Such cleaners or additives can contaminate ground water and be drawn into well water supplies.

21.0 SECONDARY TREATMENT UNITS

The use of State approved secondary treatment units shall be permitted without a Variance Hearing unless specifically in conflict with the intent of these regulations, as determined by the Board of Health.

22.0 VARIANCE PROCEDURES

- A. The Board of Health may vary the application of any of its rules and regulations, or of State Regulation, Title 5, the Environmental Code, when so empowered to do so, for any case, when, in its opinion, (1) the enforcement thereof would do manifest injustice; and (2) the applicant has proved that the same degree of environmental protection required under the regulations can be achieved without strict application of the particular provision.

Every request for a variance shall be in writing and shall state the specific variance sought and the reasons therefore. No variance shall be granted except after the applicant has notified all abutters, i.e. owners of any property within 300-feet, including properties outside the Town of Sherborn, if applicable, by certified mail, return receipt requested, at his/her own expense at least ten (10) days before the Board of Health meeting at which the variance request will be on the agenda. No hearing date for a variance shall be scheduled until a Negative Determination of Applicability or Order of Conditions has been received by the Board of Health from the Conservation Commission.

When a variance to the required distance to a property line is requested, a Registered Land Surveyor shall verify the property line(s) for inclusion on the plot plan.

Any variance granted or denied shall be in writing and shall be conspicuously posted for thirty days following its issuance and shall be available to the public at all reasonable hours in the office of the Board of Health while it is in effect.

When, in its opinion, it is in the public health interest, the Board may require that the variance granted be placed on record by a document filed at the Registry of Deeds.

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- B. Any variance or other modification authorized to be made by these regulations may be subject to such qualification, revocation, suspension or expiration as the Board of Health expresses in its grant. A variance or modification authorized to be made by these regulations may otherwise be revoked, modified or suspended, in whole or in part, only after the holder thereof has been notified in writing and has been given an opportunity to be heard.

23.0 VIOLATIONS - Violation and penalty shall be as in Title 5 of the State Environmental Code.

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II
DOMESTIC WATER SUPPLY

1.0 PERMITS

1.1 In order to enforce the provisions of Article 11 of the State Sanitary Code, Regulation 4, "Water Supply", a permit from the Board of Health shall be required for the development of a suitable source of water supply prior to the start of any construction on a building or buildings intended for human occupancy where water will be used. The State is the permitting authority for Closed Loop Geothermal Ground Source Heat Pump Wells.

1.2 PERMIT REQUIREMENTS

No private or semi-public water supply shall be installed, altered or repaired until a permit has been obtained from the Board of Health or its Agent. The fee for this permit shall be set by the Board of Health from time to time. A permit so granted shall expire 24 months from the date of issue unless construction is begun.

1.3 PERMIT APPLICATION

A plot plan shall be submitted with the application for a well permit to the Board of Health indicating the proposed location of the well, all buildings, boundary lines and septic systems (within 200 feet).

1.4 PERMIT RELEASE REQUIREMENTS

No foundation or building permit shall be issued until the well is installed, completed and has been demonstrated to supply water of the quality and quantity specified herein. No occupancy of the building the well is to serve shall be permitted until an acceptable tested water sample has been obtained from a tap in the building.

1.5 WELL PUMP AND STORAGE TANK PERMITS

A Well Pump and Storage Tank Permit shall be required. This shall be obtained from the Board of Health after the well has been approved by the Board for suitability both as to water quality and quantity.

2.0 DEFINITIONS

2.1 WELL

Includes any pit, pipe excavation, spring, casing, drill hole or other source of water to be used for any purpose of supplying potable water in the Town of Sherborn and shall include dug wells, driven or tubular wells, drilled wells (artesian or otherwise) and springs, gravel packed, gravel walled wells, gravel developed and wash borings and as further described in U.S. Environmental Protection Agency Manual of Individual Water Supply Systems.

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2.2 WATER SYSTEMS

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

2.3 PRIVATE WATER SUPPLY

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

2.4 SEMI-PUBLIC WATER SUPPLY

Any water system serving or intended to serve water for human consumption or for domestic uses or purposes including, but not limited to, multiple dwellings, restaurants, dairies, schools, institutions, campgrounds, recreational camps for children, state/town forests, parks and beaches.

2.5 DRIVEWAY

A private road giving access from a public way to a building on abutting grounds.

2.6 RIGHT-OF-WAY

A strip of land within which is built a public road; a path or route that may lawfully be used.

2.7 TRAVELED WAY

The component of the thoroughfare between the curbs, or when there is no curb, the area between the edge of pavement on both sides on which vehicles normally travel.

3.0 SANITARY PERFORMANCE

The well contractor shall observe sanitary measures and precautions in the performance of his work in order to prevent pollution or contamination of the well. Use of water from streams, swamps or abandoned wells for drilling shall be prohibited.

4.0 WELL DRILLERS

Well drillers must be registered with the Massachusetts Water Resources Commission. A copy of such registration shall be available on site for the Agent's review.

5.0 WELL PROTECTION

No well shall be drilled in standing water or "low spots" that may allow ponding of rainfall, run-off or ground water surfacing. The casing shall be set sufficiently into bedrock and properly sealed to keep out surface water or entry of any other surface or subsurface contamination. The well cap shall be eighteen (18) inches above surface grade. A four (4) foot diameter apron shall be constructed around the casing sloping away at a maximum of eight (8) horizontal to one (1) vertical in all directions to the finished grade. The casing shall be sealed with cement grout to

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six (6) feet below grade or to bedrock, whichever is less. Wells installed downgrade of septic systems shall have the casings sealed with cement grout from the apron at surface grade to

twenty (20) feet below grade or to bedrock. When bedrock is encountered within twenty (20) feet of surface grade, the seal shall be extended at least five (5) feet into the impervious (bedrock) formation.

6.0 WELL LOCATION

The distance from a well to a sewage disposal system shall be maximized

- A. No well shall be less than one hundred twenty five (125) feet from a leaching area located downhill from such well.
- B. No well shall be less than one hundred fifty (150) feet from a leaching area located uphill from such well.
- C. When the soil percolation rate is less than three (3) minutes per inch, those distances shall be increased by a minimum of twenty five (25) feet.
- D. Wells shall be located no less than fifty five (55) feet from the edge of the traveled way or fifty (50) feet from the edge of the right-of-way, whichever is greater. Wells shall be located no less than twenty (20) feet from a driveway.
 - 1.) When protected in a manner approved by the Board of Health, the well may be located no closer than 5 feet from a driveway.
- E. Domestic wells shall be located no less than twenty five (25) feet from any lot line, seventy five (75) feet from any adjacent well, ten (10) feet from any building or projection thereof, fifty (50) feet from any part of the subsurface sewage disposal system.
- F. Wells used for irrigation purposes shall be located no less than twenty-five (25) feet from any lot line, one hundred fifty (150) feet from any adjacent well, ten (10) feet from any building or projection thereof, fifty (50) feet from any part of the subsurface sewage disposal system.
- G. The distance may be increased by the Board of Health when, in its opinion, adverse conditions exist.

7.0 NUMBER OF WELLS

There shall be a separate well for each house. The well serving that house shall be located within the lot boundaries of the house site. No well shall be used to supply more than one dwelling (Chapter 40, Section 54 MGL).

8.0 PUMP HOUSES

Pump houses, pump rooms and pit-less adapters shall be installed in accordance with the "Individual Water System" USEPA manual.

9.0 PUMP HOUSE PROTECTION

Pump houses, pump or pipe pits and wells shall be designed and constructed so as to prevent flooding, freezing and the entrance of sources of pollution or contamination.

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10.0 APPROVALS

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

11.0 WELL SPECIFICATIONS

11.1 WELL YIELD

There shall be a minimum yield of 300 gallons per bedroom per day at twenty (20) lbs. per square inch (psi) at the highest fixture serviced. A bedroom shall include any undeveloped area that could be made into a bedroom. System capacity for "semi-public" water supplies must be adequate to meet the projected needs.

11.2 STORAGE

All demands for water shall be provided from storage in a pressure tank. Pressure tanks for individual home installations shall be of a diaphragm type and have a minimum capacity of thirty six (36) gallons. Pressure tanks may be installed in series to meet storage volume requirements.

12.0 TESTS

A log of the well, showing depth and type of overburden, depth of casing installed below surface grade, diameter of casing and diameter of the hole in the rock, static water level and the pumping rate which can be sustained for at least four (4) hours, at a constant drawn down depth.

- A. A pump test shall be made with the faucet open to waste for a four (4) hour constant pumping period using a pump capable of producing a flow rate at least twice that specified in 12.0(G) below.
- B. In the event the well is exhausted during the initial four (4) hour pump testing period, the faucet shall be so regulated after suitable well recovery (of not more than thirty (30) minutes) in order to allow pumping at a constant rate for an additional four (4) hours at a constant drawdown depth to determine the yield.
- C. A sustained pumping rate of two (2) gallons per minute for a four (4) hour period shall be the minimum rate.
- D. The well (after pump testing) shall recover to within ninety five percent (95%) of the original static water level within a twenty four (24) hour period.
- E. Testing and evidence to show satisfactory well yield and recovery shall be demonstrated

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in the presence of the Agent for the Board of Health.

F. The results of all testing shall be submitted on an approved form to the Board of Health for approval and the well contractor shall be responsible for all data submitted.

G. Quantity tests shall be performed by competent pump or well drilling contractors and a well shall produce a supply for each dwelling unit served by an on-site well as follows:

<u>WELL DRAWING DEPTH</u> (minimum)	<u>WELL YIELD GPM--4 HRS.</u>
to 100 feet	5
100 to 200 feet	4
200 to 300 feet	3
300 and over	2

13.0 AUXILIARY POWER

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

14.0 GRADE TERMINATION

A pit-less adapter shall be provided such that the permanent watertight casing of the well shall terminate a minimum of eighteen (18) inches above the finished grade and/or the elevation of 100-year flood.

15.0 WELL ABANDONMENT

A. If a well fails and an emergency replacement well is requested, the failed well shall be abandoned.

B. ABANDONMENT PROCEDURES

1. Sand and Gravel Wells – Sealing materials are watertight substances that prevent water and contaminants from entering and seeping through abandoned wells. The proper procedure for the decommissioning of these wells will be the following: the casing will be cut off 4 feet below the surface. Fill material (clean sand, gravel or pea gravel or crushed stone) will be used to fill the casing to within 10 feet of the top of the cut off casing. The upper 10 feet will be filled with a mixture of neat cement and 6% bentonite by weight. The plugging material shall be allowed to flow out the top and along the sides of the casing to assure that a proper seal is established. The upper 4 feet of soil from the top of the casing to the surface shall be properly compacted.
2. Bedrock Wells – Bedrock well casings will be cut off 4 feet below the surface. To prevent the transport of fill material into fractures, it is recommended that

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larger diameter fill material, such as gravel or pea gravel, be used. The well will be filled to the base of the well casing. The casing shall then be filled with a mixture of neat cement and 6% bentonite by weight. The plugging material shall be allowed to flow out and along the sides of the casing to assure that a proper seal is established. The upper 4 feet of soil from the top of the casing to the surface shall be properly compacted.

16.0 PIPES AND EQUIPMENT

- A. All service pipes and connections shall be of non-toxic materials and meet the specifications approved by the New England Water Works Association.
- B. The installation of pipes shall be such that they are protected from crushing, freezing and/or attack by animals or rodents.
- C. Dissimilar metals should be discouraged in the water system. The use of non-conductive plastic inserts between pipes and fittings or the installation of sacrificial anodes is helpful in minimizing electric corrosion problems.
- D. Electrical service grounds shall not be attached to water piping. All electrical service and controls of the well must be permitted, inspected and approved according to Town and State regulations.

17.0 WATER QUALITY AND QUANTITY SPECIFICATIONS

17.1 SANITARY PROTECTION

Sanitary protection shall be incorporated into the construction of the well. All newly completed wells shall be disinfected in accordance with instructions from the U.S. Environmental Protection Agency Manual of Individual Water Supply Systems.

17.2 SAMPLING/QUALITY

A minimum of two (2) water samples shall be submitted to a state approved laboratory for analysis, consistent with the requirements of the Board of Health. One sample shall be taken when the well installation is completed and one shall be taken from a tap in the dwelling before occupancy. All results shall be submitted to the Board for approval. Acceptance of water quality shall also be based on its conformance to the normal characteristics of ground water in the area, as well as established state and federal drinking water standards.

17.3 LABORATORY TESTS

- A. A chemical, physical and bacteriological analysis of water, conducted by a Massachusetts Certified Laboratory, shall be required. Water that does not meet the accepted standards of agencies of the State or Federal Government for potable water supplies shall be grounds for the rejection of the well.

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B. A bacteriological test to indicate a 0 per 100 ml coliform density shall be required. A total bacteria count shall also be determined at 35 C (35 degrees Celsius).

C. Chemical and physical analysis, including testing for volatile organic compounds (EPA 524) shall be required. Analysis shall be performed at least for pH, color, odor, iron, turbidity, manganese, ammonia nitrogen, nitrite nitrogen, nitrate nitrogen, alkalinity, total hardness, sodium, chlorides, lead and arsenic.

D. Concentrations shall not exceed the following:

Color	15 units
Turbidity	5 Std. Turbidity Units
Manganese	0.05 mg/l
Nitrate Nitrogen	10 mg/l
Chloride	250 mg/l
Iron	0.3 mg/l
Sodium	* 20 mg/l

* Sodium content exceeding this level shall be made known to the occupant(s) and/or owner(s) in writing and copy of such notification, signed by the occupant(s) and owner(s) submitted to the Board of Health.

E. Other parameters shall be evaluated on a case-by-case basis by the Board of Health to establish the water's suitability as a private or semi-public water supply.

F. Where applicable, water quality of semi-public water supplies shall comply with effective regulations of the U.S. Environmental Protection Agency and the Commonwealth of Massachusetts.

G. If any concentration of volatile organics is detected or the sodium concentration is greater than 28 mg/l, a document shall be attached to the deed and recorded in the South Middlesex Registry of Deeds, which identifies the chemicals, their concentrations and health effects. A whole house treatment system for the removal of volatile organics shall be installed if they are detected.

17.4 WATER CONDITIONING

Permanent disinfection of a polluted supply shall be prohibited. If the natural water quality does not meet the physical and chemical criteria as listed in Section 17.3, water conditioning shall be required. Water softener or other treatment backwash shall not be discharged into the septic system. Treatment units shall be installed with the capability of bypassing such units if necessary or desired.

17.5 PROHIBITIONS

A. Surface water supplies for private or semi-public water supplies shall be prohibited.

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B. Cisterns shall be prohibited.

C. Cross connections for whatever purpose shall not be allowed without a written permit from the Massachusetts Department of Public Health and approval by the Sherborn Board of Health.

17.6 OTHER USE PROHIBITIONS

Wells used for drinking water and domestic water supply shall not be used to provide water for ground water heat pump systems, for water cooling or air conditioning systems or irrigation. Any well used for such systems shall be approved by the Board of Health only after the applicant has submitted evidence to the satisfaction of the Board of Health that such use will not disrupt any quantity or quality of water from any nearby well, to satisfy the manufacturer's recommendations for proper equipment operation.

18.0 ENFORCEMENT

A. The provisions of Title 1 of the State Environmental Code shall govern the enforcement of these regulations.

B. Orders: Service and Content

1. If an examination as provided for in Sections 12.0 and/or 17.3 reveals failure to comply with the provisions of these regulations, the Board of Health may order the person or company responsible to comply with the violated provision.
2. The inspection and these regulations cannot be construed as a guarantee by the Town of Sherborn or its Agents that the water system will function satisfactorily.
3. The Board of Health may require a restriction to be recorded in the Registry of Deeds in cases that, in the opinion of the Board of Health, the water analyses show marginal compliance with the criteria of these regulations.

19.0 VARIANCE PROCEDURES

A variance to the well regulations may be granted by a vote of the Board at a regularly scheduled meeting upon receipt and review of written application/request for such variance, and payment of the required fee. However, variances to side lot setback and distance to an adjacent well not on the applicant's property will require a full Hearing with abutter notification.

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III

**PUBLIC AND ENVIRONMENTAL HEALTH REVIEW REGULATIONS AND
STANDARDS FOR OTHER THAN A SINGLE FAMILY DWELLING ON A
SINGLE LOT**

1.0 AUTHORITY

This regulation is adopted under M.G.L. Chapter 111, Section 31, which gives the Board of Health (hereafter designated as "the Board") authority to make reasonable health regulations, violations for which shall be punished by a fine of not more than 300 dollars. This regulation is also adopted under M.G.L. Chapter 111, Section 122, which directs the Board of Health to examine into all nuisances, sources of filth, and causes of sickness within its town, which may, in its opinion, be injurious to the public health and to destroy, remove, or prevent the same as case may require. This regulation is also adopted under M.G.L. Chapter 111, Section 143.

2.0 PURPOSE

These regulations are intended to protect the public and environmental health, provide adequate water supply and wastewater treatment, and ensure that there will be adequate protection against flooding, siltation, and other drainage problems.

These regulations are also intended to make certain that earth removal projects will (a) maintain a depth to groundwater which is adequate for the construction of subsurface wastewater disposal systems under both local regulations and the State Environmental Code and (b) not be injurious to water supply and (c) will be carried out so as to provide adequate protection against flooding, siltation, and other drainage problems.

3.0 JURISDICTION

3.1 ENVIRONMENTAL HEALTH IMPACT REPORT

The applicant for any proposed project of ten (10) or more dwelling units, whether in a subdivision or on an approved roadway, or any commercial or industrial development with a gross floor area exceeding 7500 square feet, or a design sewage flow of 4400 gallons per day or greater, or any Planned Unit Development (PUD), or any earth removal project exceeding 350 cubic yards of material per lot, or 1000 cubic yards of material per project, shall submit an ENVIRONMENTAL HEALTH IMPACT REPORT (EHIR) to the Board of Health. The report shall meet the criteria required by this and all other applicable Board of Health regulations, and shall provide specific information relative to the operation of the proposed sewage treatment and disposal systems, including soil conditions, surface drainage calculations, hydrogeologic descriptions of groundwater resources and movement, effects of precipitation, and wastewater treatment methodology. The applicant shall also estimate the impact of the project on public and private water supply sources.

3.2 ENVIRONMENTAL HEALTH PERMIT

The applicant for any project that meets the criteria stated above shall be required to obtain an ENVIRONMENTAL HEALTH PERMIT from the Board of Health.

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3.3 ALL OTHER PROJECTS

All other projects within the jurisdiction of the Board of Health and which require approval from the Board of Health shall be required to meet the standards and criteria which are set forth in Sections 8.0, 12.0 and 13.2.

4.0 BURDEN OF PROOF

Any applicant required to file an EHIR with the Board shall have the burden of proving by submission of clear and convincing evidence that the proposed work shall not have unacceptable, significant individual or cumulative effect upon the public or environmental health.

5.0 DEFINITIONS

Person: Every individual, partnership, corporation, firm, association, group, or governmental entity, owning property or carrying on an activity subject to this regulation.

Board: Board of Health

6.0 APPLICATIONS FOR PERMITS

6.1 GENERAL

Written application shall be filed with the Board for all activities that come under the jurisdiction of this regulation. The application shall include such information and plans as are necessary by the Board to describe the proposed activities and their effects upon the public health and the environment. No such activities shall commence without receiving and complying with a permit issued by the Board pursuant to these regulations.

The EHIR shall be filed with the Board of Health within 24 hours of any other filings or applications to any municipal boards or commissions. (See Section 6.2)

6.2 OTHER APPLICATIONS

The Board may, in appropriate cases, accept as part of the application and plans under this regulation, the following filings to other municipal boards or commissions:

- A. Notice of Intent filed with the Conservation Commission
- B. Building Permit application filed with the Building Inspector.
- C. Earth Removal Permit application filed with the Special Permit Granting Authority.
- D. Preliminary and Definitive Plans and Planned Unit Development applications filed with the Planning Board.

In such case, additional information shall be required when applicable to provide the complete submittal requirements of this regulation.

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6.3 FEES

At the time of application or request to the Board, the applicant shall pay a filing fee as may be set from time to time by the Board.

In addition to the filing fee, the Board shall require the applicant to pay reasonable costs and expenses borne by the Board of Health or other town agencies for specific expert engineering and consultant services deemed necessary by the Board to review the applications. Said payment can be required at any point in the deliberations prior to a final decision being rendered. Said services may include, but are not necessarily restricted to general engineering analysis, hydrogeologic and drainage analysis, and legal advice including public health and environmental land use law.

7.0 WATER SUPPLY

The proposed source of water supply shall provide water of a quantity and quality in accordance with Town, State, and Federal water supply standards for domestic use. In the case of sites to be served by on-site wells, a hydrogeological evaluation showing ground water flow directions and the proposed placement of wells and septic systems. Zones of Contribution to wells shall be delineated except for the following: (a) Single or Two Family Dwellings; (b) Single Family residential subdivisions; or (c) Projects where the required well yield is 1375 gallons per day or less. This evaluation shall be performed by a qualified engineer or geologist, at the expense of the applicant, to be reviewed by the Board of Health for this determination.

8.0 SEWAGE DISPOSAL - The applicant shall submit evidence that:

1. The proposed location of the project has soil conditions suitable for the subsurface disposal of sanitary or other applicable types of wastewaters in accordance with the regulations of the Board of Health along with all applicable state and federal regulations.
2. Wastewater disposal shall meet the strictest minimum standards of current Commonwealth of Massachusetts or Federal regulations of surface or ground waters. For any subdivision having ten (10) or more dwelling lots or any project having a minimum design wastewater flow of 4400 gallons per day, a hydrogeological evaluation shall be performed by a qualified engineer or geologist, at the expense of the applicant, to be reviewed by the Board of Health for this determination. Hydrogeological evaluations shall include determination of geologic stratigraphy, determination of ground water flow directions, determination of maximum ground water elevation, determination of minimum groundwater elevation when relevant, evaluation of water table mounding, and prediction of down-gradient water quality impacts. Maximum ground water elevation shall be determined by direct observation during the season of the year when the water table is high as determined by the Board and as adjusted by the method described in "U.S. Geological Survey, Water Resources Investigations, Open File Report 80-1205 - Probable High Groundwater Levels in Massachusetts", or subsequent revisions thereof.

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9.0 SPECIAL INDUSTRIAL AND COMMERCIAL REQUIREMENTS

These regulations shall apply to any and all projects for industrial or commercial projects or for any other project except for the construction of single and two family dwellings. These regulations shall also apply to industrial or commercial operations conducted on residential dwelling property of any size, and also to any hobbyist operation that utilizes materials on the Massachusetts Substance List.

A single party of responsibility shall be designated for the proposed project and shall be the applicant of record. The single party of responsibility shall be the owner of the subject building or facility and shall not be an individual tenant therein. All applications for permits from the Board of Health shall be submitted by this responsible party. All limitations and conditions with regards to any waste, wastewater or atmospheric discharge shall be the responsibility of the responsible party, who shall see that all tenants operate within the limitations and conditions of the permits issued. The Board of Health reserves the right to take whatever appropriate action might be necessary against an individual tenant. However, the Board of Health shall hold the responsible party as the entity of primary responsibility.

Septic tanks serving any commercial or industrial facility shall have the contents of the septic tank serving the facility sampled and tested on an annual basis for volatile organic compounds (EPA 624) AND pH, as well as any other parameters required by the Board of Health on a case by case basis. The sampling shall be performed and the results submitted to the Board of Health without having to be requested. The sample shall be taken in the time period of March, April, or May of each year and the results submitted to the Board of Health prior to July 1st.

All floor drains, except as serving only sanitary facilities, shall be discharged to a tight collection tank and taken away by a licensed waste hauler. Such floor drains shall not be discharged to a septic system, storm drain, dry well, or other surface or subsurface discharge point.

The Board of Health may, on a case-by-case basis, require that each tenant of a multi-use facility shall have a separate discharge point to the septic system. Each such discharge shall be equipped with a flow meter. Where water usage records will accurately reflect the wastewater discharge, a water usage meter may be acceptable. Otherwise, it will be required to install an effluent or discharge meter.

Applicants for facilities subject to this regulation which require Board of Health project evaluation shall complete the Board of Health "OPERATIONS INFORMATION QUESTIONNAIRE" which is available from the Board of Health office.

All facilities that store, use, manufacture, or discharge any materials, compounds, or chemicals that are on the Massachusetts Substance List shall file a contingency plan with the Board of health. It shall be updated on an annual basis or when any changes are made in such items.

10.0 Reserved

11.0 Reserved

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12.0 DRAINAGE

1. The proposed drainage for a subdivision or project shall not cause an increase of more than 10% nor a decrease of more than 10% in either the total volume of runoff discharged offsite, or total rate of runoff discharged offsite, as compared with the respective discharge offsite prior to the development. Such condition shall be required for storms of 2, 10, and 100-year frequency events.
2. No channelization of surface runoff shall be allowed offsite without the written consent of the owner of the land affected, in the form of a permanent grant of easement, recorded at the Registry of Deeds.
3. In cases where runoff infiltration cannot, in the opinion of the Board of Health, be appropriately implemented because of the possibility of contamination of water supply, or because of extremely poor infiltrative and permeability characteristics of the soil, the requirement as regards volume may be waived by the Board of Health, provided the applicant provides such additional preventive measures to prevent any increase in elevation or duration of downstream flood elevations. Such additional measures may be, but are not restricted to, the construction of compensatory flood storage facilities and/or the creation of additional wetlands.
4. If detention or retention ponds are utilized, slopes shall be no steeper than 4 horizontal to 1 vertical, and design water depth shall not exceed three (3) feet. Minimum bottom slope for "dry" detention areas shall be two (2) percent.
5. Poor infiltrative and permeability conditions are defined as a soil permeability of less than 1×10^{-4} centimeters per second. Unless, in the opinion of the Board of Health, such testing is not applicable for a particular site, all permeability tests shall be in-situ field bore hole tests for permeabilities in the acceptable range as specified above. If permeability testing is desired to be performed in soils of lesser permeability, laboratory tests for hydraulic conductivity shall be performed on undisturbed samples by the Falling Head Permeability Test using flexible membrane triaxial test cells with back pressure (Army Corps of Engineering Manual EM 1110-2-1906 Appendix VII).
6. The storm water management design shall include a control strategy and plan for Best Management Practice (BMP) for any particular development or project and shall accomplish the following goals.
 1. Reproduce, as nearly as possible, the hydrological conditions in the ground and surface waters prior to development.
 2. Provide the best level of removal for urban pollutants using BMPs.
 3. Have an acceptable future maintenance burden.

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4. Have a neutral effect on the natural and human environment.
 5. Be appropriate for the site, given physical constraints.
 6. Provide a sufficient level of health and environmental protection during the construction phase.
7. Design of BMPs and Infiltration and Detention structures shall be according to procedures acceptable to the Board of Health such as are described in the publications entitled:

"Controlling Urban Runoff - A practical manual for planning and designing urban BMP's" - Department of Environmental Programs - Metropolitan Washington Council of Governments

"Underground Disposal of Storm Water Runoff - Design Guidelines Manual", February 1980, Federal Highway Administration - Department of Transportation, which is similar to:

"Recharge Basins for Disposal of Highway Storm Drainage", Research report 69-2, of the New York Department of Transportation

American Society of Civil Engineers Publication entitled "Design of Urban Runoff Quality Controls" - ISBN 0-87262-695-4

American Society of Civil Engineers Publication entitled "Urban Runoff Quality - Impact and Quality Enhancement Technology" - ISBN 0-87262-577-X, 1986

"Erosion and Sediment Control in Site Development- Massachusetts Conservation Guide - Volume 1"

13.0 EARTH REMOVAL STANDARDS

13.1 SUBMITTAL REQUIREMENTS

Plans for any proposed earth removal operation exceeding 350 cubic yards of material per lot or 1000 cubic yards per project, shall be filed with the Board of Health and shall contain the following information and meet the following criteria:

- A. An EARTH REMOVAL RESTORATION PLAN, prepared by a Registered Engineer or Registered Land Surveyor, at a scale of eighty feet to the inch or larger, containing all information necessary to evaluate the site, the proposed earth removal operation, and the proposed restoration of the site after the operation is complete, including the following:
- B. Location of the perimeter of the proposed excavation,
- C. Property lines, abutting owners of record, and buildings or other structures on the property or within two hundred feet of the site boundaries or within

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- five hundred feet of the earth removal operation site,
- D. Private wells within 1000 feet and public wells within 2640 feet of the earth removal operation site,
- E. Location of walls, fences, test pits, test borings, observation wells with logs, streams and pools, and wetlands on the site,
- F. At least three permanent bench marks, with elevations thereon, used in topographical surveying, and referenced to the N.G.V.D. datum,
- G. Adjacent public streets, private ways, and service roads,
- H. The perimeter and topography of any existing excavation as of the date of the application,
- I. Depth of removal within the area, shown by five-foot contours or other contour interval found to be appropriate by the Board, and final spot elevations,
- J. Proposed lateral support to all adjacent property,
- K. Proper provision for safe and adequate water supply and sanitary sewage disposal, and for temporary and permanent drainage on the site,
- L. Topography shown by five foot contours or other contour interval found to be appropriate by the Board, and spot elevations of the area of removal as restored and to at least two hundred feet beyond the perimeter of that area,
- M. The location and method to be used in providing permanent drainage and erosion and sediment control,
- N. Location of proposed lot lines, if any, as shown on a preliminary or definitive subdivision plan filed with the Planning Board of the Town.
- O. Evidence that health and safety concerns have been adequately addressed with provisions that shall be maintained throughout the proposed operation.

13.2 STANDARDS

- A. In order to provide for potential subsurface sewage disposal systems, no excavation shall occur closer than ten feet from the maximum groundwater elevation, as determined by the procedure described in Section VIII of this regulation.
- B. There shall be no increase or decrease of surface water flow off the site,
- C. There shall be no potential adverse effect on public health or safety, or the health or safety of persons living, working, or otherwise present in the neighborhood, due to excessive noise, dust, or any other condition that may result from the proposed operation,
- D. There shall be no potential adverse impact on surface waters, public or private wells, as a result of the proposed operation,
- E. Lateral support shall be maintained for all adjacent properties, and no banks shall be left after completion of operations with a slope that exceeds one-foot vertical rise in four feet of horizontal distance,
- F. Any access to an excavated area or areas shall be adequately posted with "Keep Out" "Danger" signs,
- G. During operations, any excavation, quarry, bank, or work face having a

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depth of ten feet or more and/or creating a slope of more than thirty degrees downward shall be fenced. Such fence shall be located ten feet or more from the upper edge of the excavation and shall be at least six feet in height.

- H. No boulders in excess of a volume of 20 cubic yards and no trees or stumps or demolition or construction waste materials shall be buried on-site.
- I. Notwithstanding any standard otherwise required in this regulation, the operation and restoration shall comply with the standards contained in the Massachusetts Conservation Guide, Volumes I and II, United States Department of Agriculture, Soil Conservation Service.
- J. At the time of restoration, the areas subject to this regulation shall be covered with a minimum of four inches of compacted topsoil and seeded with an appropriate grass or legume.

14.0 ENVIRONMENTAL HEALTH IMPACT REPORT - SCOPE AND GENERAL SUBMITTAL REQUIREMENTS

Plans submitted pursuant to this regulation shall include but not be limited to the following:

1. Proposed Source of Water Supply
2. Data for a sufficient number of test holes, soil logs, maximum ground water elevations, and properly conducted percolation tests to:
 - A. Demonstrate clearly that the soil conditions are generally suitable for subsurface sewage disposal and will meet the needs of the project. In the case of a subdivision, each and every lot shall be shown to be suitable for such purpose.
 - B. To determine the pattern of ground water flow.
3. A topographical map of the property, with contours referring to Mean Sea Level, showing the location and elevation of all test holes, how the surface drainage is to be handled, including nearby affected areas, and all pertinent physical features, including ponds, swamps, wetlands, water supplies, seasonal watercourses, swales, areas of ledge and rock. Also, where ever applicable, an overlay of Flood Plain, Drainage Watershed areas, USDA Soil Map Characterization for soil type and hydrologic group, USDA Soil Limitations for Septic Tank Sewage Disposal, and Aquifer Designation.
4. Sufficient data to demonstrate no deleterious individual or cumulative impact of subsurface sewage disposal upon groundwater quality. Failure to do so may result in findings by the Board of Health that such affected lots cannot be used for building sites without injury to the public health.
5. Hydrologic and hydraulic calculations and data to support the proposed design for the runoff drainage system. Both volume and flow rate of runoff, before and after development, must be clearly stated and shall be in accordance with the specifications previously designated herein. Calculations shall be performed using the most recent procedures of the U.S.D.A. Soil Conservation Service such as are

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described in TR-20 "Computer Program for Project Formulation-Hydrology" (SCS 1983), National Engineering handbook-Section 4-Hydrology (SCS 1985), and Technical Release No. 55 "Urban Hydrology for Small Watersheds" (SCS 1986). Structure design shall comply with the standards of USDA SCS Publication TR-60 for containments for detention and retention areas. Additional design guidelines may be on file with the Board of Health.

6. Evidence to demonstrate clearly to the Board of Health that water supply shall be adequate as previously designated herein.
7. Evidence to demonstrate clearly to the Board of Health that the effect on ground and surface waters shall be in accordance with the specifications previously designated herein.
8. In order for a plan subject to these regulations to be considered "complete", it shall include all items required by these regulations, including an appropriate fee that may be set from time to time by the Board of Health. Incomplete submittals shall be returned as incomplete forthwith to the applicant, following a vote of disapproval by the Board of Health, without review. The plan must then be resubmitted and be subject to Board of Health review to demonstrate that it meets all Board of Health requirements before it shall be considered approved.
9. Failure to submit adequate or correct data or information as required will constitute grounds for Board of Health denial of the permit for the project site as a whole or of individual lots or portions therein.

15.0 OTHER PERMITS

No well permits or Disposal Works Construction Permits shall be granted for any project subject to this regulation until the Board has issued the Environmental Health Permit.

16.0 FINDINGS REQUIRED

Prior to granting a permit under these regulations, the Board shall make findings with supporting documentation. The Board may issue the Environmental Health Permit, based on the review of the impacts of the project documentation as specified in this regulation, if said Board finds that the proposed project will comply with all of the standards of this regulation.

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IV
DESIGN, OPERATION AND MAINTENANCE
of
SMALL WASTEWATER TREATMENT FACILITIES

1.0 PERMIT REQUIREMENTS

1.1 DISPOSAL WORKS CONSTRUCTION PERMIT

No system or facility to be used for treating, neutralizing, stabilizing or disposing of wastewater from homes, public buildings, commercial or industrial buildings or any types of establishments shall be located, constructed, installed, operated, altered or repaired until a DISPOSAL WORKS CONSTRUCTION PERMIT for such shall have been issued by the BOARD OF HEALTH. No construction of any building or facility that relies upon such wastewater system or facility shall be allowed until a DISPOSAL WORKS CONSTRUCTION PERMIT shall have been issued by the Board of Health.

Such system or facility as regulated herein shall include, but not be restricted to, SEWERS serving such facility, WASTEWATER PUMPING STATIONS, WASTEWATER TREATMENT WORKS, ALL WASTEWATER TREATMENT OPERATIONS, SLUDGE TREATMENT AND MANAGEMENT, DISINFECTION, ADVANCED WASTE TREATMENT, SUBSURFACE DISPOSAL AND LAND TREATMENT, WASTEWATER RECYCLING AND RE-USE.

Such system or facility as regulated herein shall be referenced as SMALL WASTEWATER TREATMENT PLANT ("SWWTP").

1.2 CERTIFICATE OF COMPLIANCE AND OPERATIONS PERMIT

No SWWTP as permitted herein shall be placed in service, nor shall new buildings or facilities or additions to existing buildings or facilities which rely upon such SWWTP be occupied or used until the Board of Health has issued a Certificate of Compliance and Operations Permit.

1.3 SERVICE AREA AND LIMITATIONS

The SWWTP shall not serve a volume of sewage flow from any subject project in excess of the aggregate volume that would be generated by each lot, which could have constructed upon it, a septic system installed and operated in full compliance with Title 5, the State Environmental Code and the regulations of the Sherborn Board of Health.

In order to provide adequate wastewater treatment capacity in the event of a failure of said SWWTP, each residential lot connected to a SWWTP shall be shown to have reserve area adequate to construct a septic system in accordance with Title 5, the State Environmental Code and the regulations of the Sherborn Board of Health.

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2.0 SUBMITTALS

2.1 APPLICATIONS, REPORTS, PLANS, DATA, DOCUMENTS

A copy of all applications, reports, plans, specifications, data and supporting documents required by these regulations and by the regulations of any other agency in connection with the approval or operation and maintenance of the subject facility shall be submitted to the Board of Health. In the case of requests for a Board of Health action, such materials shall be submitted a minimum of 90 days prior to the date upon which an action by the Board of Health is desired. In the case of submittals to other agencies, all material shall be submitted to the Board of Health at the time of submittal to that agency. A Board of Health Disposal Works Construction Permit will not be issued prior to approval by the Massachusetts Department of Environmental Protection (DEP). Other submittals shall be made in accordance with schedules as specifically designated by the Board of Health.

3.0 OTHER REGULATIONS AND GUIDELINES

3.1 FEDERAL, STATE AND LOCAL REGULATIONS

The applicant for any SWWTP shall comply with all applicable FEDERAL, STATE, and TOWN or CITY regulations as existing and may be amended from time to time. All data, reports and plans designated by those regulations shall be submitted to the Board of Health. All data required by these regulations shall be promptly submitted to the Board of Health in a timely fashion.

3.2 STANDARDS FOR DESIGN, OPERATIONS AND MAINTENANCE

These regulations herein do not and are not intended to cover all aspects of engineering design, operation and maintenance of SWWTPs. Rather, they outline the specific Board of Health INTERESTS and POLICIES that may not be adequately reflected in other existing regulations, policies and manuals. Where local regulations or specifications herein are more strict, they shall prevail. Where regulations or specifications or guidelines of other political subdivisions or agencies of jurisdiction or as included herein are more strict, they shall prevail.

The applicant shall specifically follow the following regulations and guidelines that address the various aspects for the systems and facilities considered herein, and are incorporated as a part of these regulations by reference where applicable.

MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP)

Guidelines for the Design, Construction, Operation and Maintenance of Small
Sewage Treatment Facilities with Subsurface Effluent Disposal

Title 5 - State Environmental Code

Ground Water Quality Standards

Ground Water Discharge Permit Program

NEW ENGLAND INTERSTATE WATER POLLUTION CONTROL COMMISSION (NEIWPC)

Guidelines for the Design of Wastewater Treatment Works 1980 Edition TR-16

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WATER POLLUTION CONTROL FEDERATION (WPCF - MOP #9)
MANUAL OF PRACTICE NO. 8 - Wastewater Treatment Plant Design

RECOMMENDED STANDARDS FOR SEWAGE WORKS: GREAT LAKES - UPPER
MISSISSIPPI RIVER

BOARD OF STATE SANITARY ENGINEERS (the Ten State Standards)

WATER POLLUTION CONTROL FEDERATION (WPCF - MOP #9)
MANUAL OF PRACTICE NO. 9 - Sewer Design and Construction (Same as
AMERICAN SOCIETY OF CIVIL ENGINEERS Manual and Reports on
Engineering Practice No. 37)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, Municipal
Environmental Laboratory, "Design Information on Rotating Biological Contactors (EPA-
60012-84-106)

For situations not covered by these regulations and guidelines, good engineering practice, as determined by the Board of Health, shall govern.

While it is recognized that certain modifications or exceptions may be necessary where justified in unusual situations, any such modifications or exceptions shall only be provided by application for variance to the Board of Health. Any variances to these regulations issued by the Board of Health shall comply with the provisions outlined in the State Environmental Code, Title 5.

4.0 GENERAL PROJECT PLANNING REQUIREMENTS

Certain basic principles shall be considered early in the planning and design process in order to ensure that the SWWTP development process will meet all requirements.

4.1 ENVIRONMENTAL COMPATIBILITY

The plans for the proposed system or facility shall take into account all aspects of public health and environmental quality protection. Efforts shall be taken to preserve water supply, private property, wetlands, wildlife habitat, recreational sites, historic sites and natural beauty.

The design shall be prepared so as to have the least possible adverse impact on the public health and the environment.

The project proposal shall include evidence that the wastewater system or facility will result in the least adverse impact on the public health or the environment as compared with other possible wastewater management alternatives

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4.2 GENERAL DISCHARGE AND TREATMENT REQUIREMENTS

No discharge from a SWWTP shall result in degradation of ground or surface waters in a manner inconsistent with their proposed use. There shall be compliance with all applicable water quality standards. The existing characteristics of the receiving waters must be considered to ensure compliance. There shall be no discharge into any wetland, stagnant waters, lakes or streams.

4.3 HYDROGEOLOGICAL INVESTIGATION

The applicant shall submit a hydrogeological survey report, prepared by a qualified geotechnical engineer or hydrogeologist, to show the impact of the subsurface discharge of the SWWTP on ground water. The report shall include a determination of the flow direction, contaminant levels, extent of wastewater discharge plume, ground and surface waters affected, and any interaction with water supply, public or private. This analysis shall be performed for the SWWTP design plan and also for any other viable wastewater treatment or disposal strategy for the project to be served.

4.4 WETLANDS AND FLOOD PLAINS

No portion of the SWWTP shall be within 100 feet of wetlands or the "100-year" Flood Plain. No portion of the subsurface disposal works for a SWWTP shall be located less than 200 feet from a wetland or the 100-year "Flood Plain". No component of the treatment plant, except for underground piping, shall be constructed less than two (2) feet above the high water level in any area subject to flooding. Such distances are considered "minimum" and may be increased by the Board of Health if site-specific conditions warrant.

4.5 GENERAL SITING AND DESIGN REQUIREMENTS

The SWWTP design shall include attenuation of odor or noise problems, and shall satisfactorily address the general aesthetic appearance, to both protect the operator and to satisfy neighborhood environmental requirements.

4.5.1 DISTANCES

No portion of the SWWTP shall be located less than the following distances stated to the components listed as follows:

MINIMUM ACCEPTABLE SEPARATION DISTANCES IN FEET

<u>Component</u>	<u>Plant Buildings</u>	<u>Pumping Station</u>	<u>Subsurface Tank</u>	<u>Leaching area</u>	<u>Sewer or Force Main</u>
Well *	100	100	100	400	50
Water supply line	-	10	10	25	10
Dwelling unit	100	50	50	100	-
Subsurface Drain	-	25	25	50*	5
Property Boundary	150	50	50	100	10
Surface Water *	100	100	100	200	50
Wetland *	100	100	100	200	50

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* This distance may be required to be greater if the hydrogeological evaluation indicates that contamination will occur at the stated distance.

4.6 ULTIMATE DISPOSAL OF SLUDGE AND SOLIDS

Provision for final or ultimate disposal of sludge and solids shall be clearly indicated and established. The estimated quantity must be stated. If sludge and solids are to be disposed of off-site, the final destination must be established prior to the issuance of any permit. The applicant must demonstrate, to the satisfaction of the Board of Health, that the destination for the sludge and solids is in compliance with all applicable federal, state and local regulations and also that it will reliably be available for such purpose for the length of time that its use is required for the SWWTP.

If disposal is to be on-site, it must comply with the terms of the section above "General Discharge and Treatment Requirements".

4.7 TREATMENT PLANT RELIABILITY

The SWWTP shall be planned and designed so as to provide for maximum reliability at all times. The facility shall be capable of operating satisfactorily during power failures, flooding, peak loads, equipment failure and maintenance shutdowns. Such reliability shall be obtained through the use of various design techniques that will result in a facility that is virtually "Fail-Safe".

Multiple units or dual compartments with unit drains shall be provided for all processes, including disinfection facilities, so that draining, cleaning, repairing or replacing and other maintenance can be provided without omitting any treatment processes.

4.8 BY-PASSES AND OVERFLOWS

No bypasses, either upstream of or at the SWWTP shall be permitted.

4.9 DISINFECTION

Disinfection of the SWWTP effluent by ultraviolet irradiation or ozonation shall be required.

5.0 SUBSURFACE DISPOSAL FACILITIES

5.1 GROUND WATER

The bottom interface of any subsurface disposal or leaching facilities shall be located a minimum of five (5) feet above the **MAXIMUM ELEVATION OF THE GROUND WATER OR SATURATED SOIL ZONE**. This elevation shall include consideration of the mounding effect of the ground water caused by the discharge of the SWWTP effluent. Such analysis shall be calculated using generally acceptable analytical or numerical methods. When geologic conditions permit, the "Hantush" formula and procedure may be used. When the assumptions of that procedure cannot be met to derive a reliable result, it shall be required to utilize such method as finite difference equations for ground water flow and elevation.

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5.2 DISTANCE TO BEDROCK

The bottom interface of any subsurface disposal or leaching facilities shall be located a minimum of ten (10) feet above the elevation of bedrock or impervious soil layer. Impervious soil shall be defined as having a percolation rate of greater than twenty (20) minutes per inch.

5.3 THICKNESS OF PERMEABLE SOIL

A depth of at least five (5) feet of naturally occurring permeable soil shall be maintained below the bottom of the leaching area. To be considered permeable, the soil shall have a percolation rate of twenty (20) minutes per inch or less.

6.0 SEWERS - The lateral sewer system serving the SWWTP shall be of a design and construction in accordance with Water Pollution Control Federation Manual of Practice #9. Adequate capacity shall be provided for peak flow rates and shall provide for a cleansing velocity of at least two (2) feet per second at 75 percent of the estimated peak discharge. For low service connection areas, peak flow rate shall be calculated by the fixture unit method as described in MOP #9. The minimum pipe size allowed shall be eight (8) inches in diameter.

7.0 GROUND WATER MONITORING

7.1 INSTALLATION

The permittee shall install, at a minimum, ground water monitoring wells in accordance with the following:

- (1) One up-grade cluster of three monitoring wells
- (2) Two down-gradient clusters of three monitoring wells
- (3) One monitoring well for ground water level only near the center of the leaching works
- (4) Screen depths for the cluster wells shall be set at elevations such that at least two screen depths will yield samples at time of seasonal low ground water (e.g. September sampling period)

Such locations shall be as approved by the Board of Health and as indicated appropriate from the results of the hydrogeological investigation. Monitor wells shall be installed and in place prior to issuance of the Certificate of Compliance and Operations Permit.

7.2 GROUND WATER ELEVATION

The permittee shall determine and provide the Board of Health with elevations of the water table to the nearest one-hundredth of a foot in all monitor wells on a monthly basis.

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8.0 EFFLUENT LIMITS AND TESTING REQUIREMENTS

Effluent limitations shall be as required by DEP regulations for Class I and Class II ground by the waters. All ground waters are considered to be in this classification unless proved to be otherwise following procedures set forth DEP.

8.1 WASTEWATER

8.1.1 TREATMENT PLANT INFLUENT

The influent to the treatment plant shall be sampled and tested weekly for 5-Day Biochemical Oxygen Demand (B.O.D.) and Total Suspended Solids (T.S.S.) and the results sent to the Board of Health on a quarterly basis.

8.1.2 TREATMENT PLANT EFFLUENT

The effluent from the treatment plant shall be sampled and tested as follows:

DAILY: Flow
 Specific Conductance
 pH

WEEKLY: 5-day Biochemical Oxygen Demand (BOD)
 Total Suspended Solids (TSS)
 Coliform Bacteria
 Fecal Coliform bacteria

MONTHLY: Total Kjeldahl Nitrogen
 Ammonia Nitrogen

 Nitrate Nitrogen
 Total Dissolved Solids
 Sodium

SEMI-ANNUALLY:

 Oil and Grease
 Volatile Organic Compounds (USEPA Procedure #624)

ANNUALLY: Arsenic Copper
 Barium Zinc
 Cadmium Mercury
 Chromium Total Trihalomethanes
 Fluoride Selenium
 Lead Silver

5-YEARS: Pesticides
 Radioactivity

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All sampling and analyses, except for the daily and weekly frequency tests which will commence at the time of plant start-up, shall be performed initially at 60 days after plant start-up and at the stated frequency thereafter, and the results sent to the Board of Health on a quarterly basis.

8.2 GROUND WATER MONITOR WELLS

MONITOR WELL TESTING in the up-gradient and down-gradient wells shall be performed semi-annually in the months of April and September for all parameters designated above as semi-annually or more often. Testing for other parameters shall be at the stated frequency, either annually or every 5 years during the month of April.

On an annual basis, the Board of Health, either on its own motion or upon written request from the permittee, may review the sampling frequency and the tested parameters and may modify either or both if it deems it necessary.

9.0 OPERATION

9.1 OPERATOR

A Certified Waste Water Treatment Plant Operator having the Grade appropriate for the plant as determined by the regulations of the Board of Certification of Operators of Waste Water Treatment Facilities shall be retained by the permittee. Such operator shall spend a minimum of three (3) hours per day at the plant. When conditions warrant, as may be determined by the Board of Health, additional hours shall be required. Such operator shall be designated the Chief Operator and shall be responsible for the operation of the SWWTP.

9.2 BACK-UP OPERATOR

A second Certified Waste Water Treatment Plant Operator, having the same grade as the Chief Operator shall be available in the absence of the Chief Operator.

9.3 OPERATIONAL GUARANTEE

Prior to the issuance of the Certificate of Compliance and Operations Permit, the permittee shall provide security in an amount specified by the Board of Health to guarantee the operation of the SWWTP for a period of at least one (1) year. The security shall provide for salaries, operational costs and cost for immediate replacement, if necessary, of a major unit operation of the plant, or in the event of plant failure to operate, an amount sufficient to cover the costs of hauling 100% of the waste water to another facility for disposal for a one (1) year period.

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V

**WATER TESTING REQUIREMENTS
FOR FOOD ESTABLISHMENT PERMITS**

No Food Establishment Permit will be granted without prior submission to the Board of Health of the results of the analysis of the well water supply. The well water shall be tested for chemical, physical, and bacteriological characteristics that are required by the Board of Health.

Test samples shall be taken within the sixty (60) day period preceding the issuance off the permit that is issued on January 1 for the calendar year. Testing shall be by a Massachusetts Certified Laboratory. The quality of the water shall comply with the requirements of the Board of Health.

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**VI
REGULATION RESTRICTING THE SALE AND USE OF TOBACCO
AND NICOTINE DELIVERY PRODUCTS**

1.0 PURPOSE

Whereas there exists conclusive evidence that tobacco smoking causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat¹; and where the harmful effects of tobacco smoke are not confined to smokers but also cause severe discomfort and illness to nonsmokers; and whereas environmental tobacco smoke [hereinafter ETS], which includes both exhaled smoke and side stream smoke from burning tobacco products, causes the death of 53,000 Americans each year²; and whereas the U.S. Environmental Protection Agency classified secondhand smoke as a known human carcinogen³; now therefore, the Board of Health of Sherborn recognizes the right of those who wish to breathe smoke-free air and establishes this regulation to protect and improve the public health and welfare by prohibiting smoking in public places and workplaces.

Whereas among the 15.7% of students nationwide who currently smoke cigarettes and were less than 18 years old, 14.1% usually obtained them by buying them in a store (i.e. convenience store, supermarket, or discount store) or gas station⁴;

Whereas nationally in 2009, 72% of high school smokers and 66% of middle school smokers were not asked to show proof of age when purchasing cigarettes⁵;

Whereas the U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin⁶ and the Surgeon General found that nicotine exposure during adolescence, a critical window for brain development, may have lasting adverse consequences for brain development⁷;

¹ Center for Disease Control and Prevention, (CDC) (2012), *Health Effects of Cigarette Smoking Fact Sheet*. Retrieved from: http://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/effects_cig_smoking/index.htm.

² McGinnis JM, Goerge W, "Actual Causes of Death in the United States", JAMA 1993 270:2207-2212).

³ IARC-WHO, 2002.

⁴ CDC (2009), *Youth Risk Behavior, Surveillance Summaries* (Morbidity and Mortality Weekly Report (MMWR) 2010: 59, 11 (No. SS-55)) Retrieved from: <http://www.cdc.gov/HealthyYouth/yrbs/index.htm>.

⁵ CDC Office of Smoking and Health, National *Youth Tobacco Survey, 2009*. Analysis by the American Lung Association (ALA), Research and Program Services Division using SPSS software, as reported in "Trends in Tobacco Use", ALA Research and Program Services, Epidemiology and Statistics Unit, July 2011. Retrieved from: www.lung.org/finding-cures/our-research/trend-reports/Tobacco-Trend-Report.pdf.

⁶ CDC (2010), *How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease*. Retrieved from: http://www.cdc.gov/tobacco/data_statistics/sgf/2010/.

⁷ U.S. Department of Health and Human Services. 2014. *The Health Consequences of Smoking – 50 Years of Progress: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 122. Retrieved from: <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf>.

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Whereas despite state laws prohibiting the sale of tobacco products to minors, access by minors to tobacco products is a major public health problem;

Whereas many non-cigarette tobacco products, such as cigars and cigarillos, can be sold in a single “dose;” enjoy a relatively low tax as compared to cigarettes; are available in fruit, candy and alcohol flavors; and are popular among youth⁸;

Whereas sales of flavored little cigars increased by 23% between 2008 and 2010⁹; and the top three most popular cigar brands among African-American youth aged 12-17 are the flavored and low-cost Black & Mild, White Owl, and Swisher Sweets;¹⁰

Whereas the federal Family Smoking Prevention and Tobacco Control Act (FSPTCA), enacted in 2009, prohibited candy- and fruit-flavored cigarettes,¹¹ largely because these flavored products were marketed to youth and young adults,¹² and younger smokers were more likely to have tried these products than older smokers;¹³

Whereas although the manufacture and distribution of flavored cigarettes (excluding menthol) is banned by federal law,¹⁴ neither federal nor Massachusetts laws restrict sales of flavored non-cigarette tobacco products, such as cigars, cigarillos, smokeless tobacco, hookah tobacco, and electronic smoking devices and the nicotine solutions used in these devices;

Whereas the U.S. Food and Drug Administration and the U.S. Surgeon General have stated that flavored tobacco products are considered to be “starter” products that help establish smoking habits that can lead to long-term addiction;¹⁵

⁸ CDC (2009), *Youth Risk Behavior, Surveillance Summaries* (MMWR 2010: 59, 12, note 5). Retrieved from: <http://www.cdc.gov/mmwr/pdf/ss/ss5905.pdf>.

⁹ Delnevo, C., Flavored Little Cigars memo, September 21, 2011, from Neilson market scanner data.

¹⁰ SAMSHA, Analysis of data from the 2011 *National Survey on Drug Use and Health*.

¹¹ 21 U.S.C. § 387g.

¹² Carpenter CM, Wayne GF, Pauly JL, et al. 2005. “New Cigarette Brands with Flavors that Appeal to Youth: Tobacco Marketing Strategies.” *Health Affairs*. 24(6): 1601–1610; Lewis M and Wackowski O. 2006. “Dealing with an Innovative Industry: A Look at Flavored Cigarettes Promoted by Mainstream Brands.” *American Journal of Public Health*. 96(2): 244–251; Connolly GN. 2004. “Sweet and Spicy Flavours: New Brands for Minorities and Youth.” *Tobacco Control*. 13(3): 211–212; U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 537, www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf.

¹³ U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 539, www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf.

¹⁴ 21 U.S.C. § 387g

¹⁵ Food and Drug Administration. 2011. *Fact Sheet: Flavored Tobacco Products*, www.fda.gov/downloads/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/UCM183214.pdf; U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 539, www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf.

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Whereas data from the National Youth Tobacco Survey indicate that more than two-fifths of U.S. middle and high school smokers report using flavored little cigars or flavored cigarettes;¹⁶

Whereas tobacco companies have used flavorings such as mint and wintergreen in smokeless tobacco products as part of a “graduation strategy” to encourage new users to start with products with lower levels of nicotine and progress to products with higher levels of nicotine;¹⁷

Whereas the U.S. Centers for Disease Control and Prevention has reported that electronic cigarette use among middle and high school students doubled from 2011 to 2012;¹⁸

Whereas nicotine solutions, which are consumed via electronic smoking devices such as electronic cigarettes, are sold in dozens of flavors that appeal to youth, such as cotton candy and bubble gum;¹⁹

Whereas in a lab analysis conducted by the FDA, electronic cigarette cartridges that were labeled as containing no nicotine actually had low levels of nicotine present in all cartridges tested, except for one²⁰

Whereas according to the CDC’s youth risk behavior surveillance system, the percentage of high school students in Massachusetts who reported the use of cigars within the past 30 days went from 11.8% in 2003 to 14.3% in 2011²¹;

Whereas survey results show that more youth report that they have smoked a cigar product when it is mentioned by name, than report that they smoked a cigar in general, indicating that cigar use among youth is underreported²²;

¹⁶ King BA, Tynan MA, Dube SR, et al. 2013. “Flavored-Little-Cigar and Flavored-Cigarette Use Among U.S. Middle and High School Students.” *Journal of Adolescent Health*. [Article in press], www.jahonline.org/article/S1054-139X%2813%2900415-1/abstract.

¹⁷ U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 539, www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf.

¹⁸ Centers for Disease Control & Prevention. 2013. “Electronic Cigarette Use Among Middle and High School Students—United States, 2011–2012,” *Morbidity and Mortality Weekly Report (MMWR)* 62(35): 729–730.

¹⁹ Cameron JM, Howell DN, White JR, et al. 2013. “Variable and Potentially Fatal Amounts of Nicotine in E-cigarette Nicotine Solutions.” *Tobacco Control*. [Electronic publication ahead of print], <http://tobaccocontrol.bmj.com/content/early/2013/02/12/tobaccocontrol-2012-050604.full>; U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 549, www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf.

²⁰ Food and Drug Administration, *Summary of Results: Laboratory Analysis of Electronic Cigarettes Conducted by FDA*, available at: <http://www.fda.gov/newsevents/publichealthfocus/ucm173146.htm>.

²¹ CDC (2011) *Youth Risk Behavior, Surveillance Summaries* (MMWR 2012: 87 (No SS-61)). Retrieved from: www.cdc.gov; and CDC (2003), *Youth Risk Behavior, Surveillance Summaries* (MMWR 2004: 53, 54 (No. SS-02)).

²² 2010 Boston Youth Risk Behavior Study. 16.5% of Boston youth responded that they had ever smoked a fruit or candy flavored cigar, cigarillo or little cigar, while 24.1% reported ever smoking a “Black and Mild” Cigar.

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Whereas in Massachusetts, youth use of all other tobacco products, including cigars, rose from 13.3% in 2003 to 17.6% in 2009, and was higher than the rate of current cigarette use (16%) for the first time in history²³;

Whereas research shows that increased cigar prices significantly decreased the probability of male adolescent cigar use and a 10% increase in cigar prices would reduce use by 3.4%²⁴;

Whereas nicotine levels in cigars are generally much higher than nicotine levels in cigarettes²⁵;

Whereas Non-Residential Roll-Your-Own (RYO) machines located in retail stores enable retailers to sell cigarettes without paying the excise taxes that are imposed on conventionally manufactured cigarettes. High excise taxes encourage adult smokers to quit²⁶ and high prices deter youth from starting.²⁷ Inexpensive cigarettes, like those produced from RYO machines, promote the use of tobacco, resulting in a negative impact on public health and increased health care costs, and severely undercut the evidence-based public health benefit of imposing high excise taxes on tobacco;

Whereas it is estimated that 90% of what is being sold as pipe tobacco is actually being used in Non-Residential RYO machines. Pipe tobacco shipments went from 11.5 million pounds in 2009 to 22.4 million pounds in 2010. Traditional RYO tobacco shipments dropped from 11.2 million pounds to 5.8 million pounds; and cigarette shipments dropped from 308.6 billion sticks to 292.7 billion sticks according to the December 2010 statistical report released by the U.S. Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB)²⁸;

Whereas the sale of tobacco products is incompatible with the mission of health care institutions because these products are detrimental to the public health and their presence in health care institutions undermine efforts to educate patients on the safe and effective use of medication, including cessation medication;

Whereas educational institutions sell tobacco products to a younger population, who is particularly at

²³ Commonwealth of Massachusetts, Data Brief, Trends in Youth Tobacco Use in Massachusetts, 1993-2009. Retrieved from: http://www.mass.gov/Eeohhs2/docs/dph/tobacco_control/adolescent_tobacco_use_youth_trends_1993_2009.pdf.

²⁴ Ringel, J., Wasserman, J., & Andreyeva, T. (2005) *Effects of Public Policy on Adolescents' Cigar Use: Evidence from the National Youth Tobacco Survey*. American Journal of Public Health, 95(6), 995-998, doi: 10.2105/AJPH.2003.030411 and cited in *Cigar, Cigarillo and Little Cigar Use among Canadian Youth: Are We Underestimating the Magnitude of this Problem?*, J. Prim. P. 2011, Aug; 32(3-4):161-70. Retrieved from: www.nebi.nim.gov/pubmed/21809109.

²⁵ National Institute of Health (NIH), National Cancer Institute (NCI) (2010). *Cigar Smoking and Cancer*. Retrieved from: <http://www.cancer.gov/b/cancertopics/factsheet/Tobacco/cigars>.

²⁶ Eriksen, M., Mackay, J., Ross, H. (2012). *The Tobacco Atlas*, Fourth Edition, American Cancer Society, Chapter 29, p. 80. Retrieved from: www.TobaccoAtlas.org.

²⁷ Chaloupka, F. J. & Liccardo Pacula, R., NIH, NCI (2001). *The Impact of Price on Youth Tobacco Use, Smoking and Tobacco Control Monograph 14: Changing Adolescent Smoking Prevalence*) 193 – 200. Retrieved from: <http://dccps.nih.gov/TCRB/monographs/>.

²⁸ TTB (2011). *Statistical Report – Tobacco* (2011) (TTB S 5210-12-2010). Retrieved from: <http://www.ttb.gov/statistics/2010/201012tobacco.pdf>.

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risk for becoming smokers and such sale of tobacco products is incompatible with the mission of educational institutions that educate a younger population about social, environmental and health risks and harms;

Whereas the Massachusetts Supreme Judicial Court has held that “. . . [t]he right to engage in business must yield to the paramount right of government to protect the public health by any rational means.”²⁹

Now, therefore it is the intention of the Sherborn Board of Health to regulate the sale and use of tobacco and nicotine delivery products.

2.0 AUTHORITY

This regulation is promulgated pursuant to the authority granted to the Sherborn Board of Health by Massachusetts General Laws Chapter 111, Section 31 that "Boards of Health may make reasonable health regulations". It is also promulgated pursuant to M.G.L. Ch. 270, §22(j) which states in part that “[n]othing in this section shall permit smoking in an area in which smoking is or may hereafter be prohibited by law including, without limitation; any other law or . . . health . . . regulation. Nothing in this section shall preempt further limitation of smoking by the commonwealth . . . or political subdivision of the commonwealth.”

3.0 DEFINITIONS

For the purpose of this regulation, the following words shall have the following meanings:

3.1 BLUNT WRAP

Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers.

3.2 BOARD

Board of Health of the Town of Sherborn.

3.3 BUSINESS AGENT

An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

3.4 CHARACTERIZING FLAVOR

A distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or wintergreen, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided,

²⁹ Druzik et al v. Board of Health of Haverhill, 324 Mass.129 (1949).

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however, that no tobacco product shall be determined to have a characterizing flavor solely because of the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product or the provision of ingredient information.

3.5 CIGAR

Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1.

3.6 COMPONENT PART

Any element of a tobacco product, including, but not limited to, the tobacco, filter and paper, but not including any constituent.

3.7 CONSTITUENT

Any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacturing or packaging of the tobacco product. Such term shall include a smoke constituent.

3.8 DISTINGUISHABLE

Perceivable by either the sense of smell or taste.

3.9 E-CIGARETTE

Any electronic nicotine delivery product composed of a mouthpiece, heating element, battery and/or electronic circuits that provides a vapor of liquid nicotine to the user, or relies on vaporization of solid nicotine and or liquid nicotine or any liquid. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes, e-hookah, or under any other product name.

3.10 EDUCATIONAL INSTITUTION

Any public or private college, school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.

3.11 EMPLOYEE

Any individual who performs services for an employer.

3.12 EMPLOYER

Any individual, partnership, association, corporation, trust or other organized group of individuals that uses the services of one (1) or more employees.

3.13 ENCLOSED

A space bounded by walls, with or without windows or fenestrations, continuous from floor to ceiling and enclosed by one (1) or more doors, including but not limited to an office, function room or hallway.

3.14 ENTITY

Any single individual, group of individuals, corporation, partnership, institution, employer,

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association, firm, or any other legal entity whether public or private.

3.15 FLAVORED TOBACCO PRODUCT AND FLAVORED NICOTINE DELIVERY PRODUCT

Any tobacco product or nicotine delivery product including e-cigarettes defined herein, or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product or nicotine delivery product, including e-cigarettes as defined herein, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such product, that such product has or produces a characterizing flavor shall constitute presumptive evidence that the product is a flavored tobacco product or nicotine delivery product, including e-cigarettes as defined herein.

3.16 HEALTH CARE INSTITUTION

An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under M.G.L. c. 112 or a retail establishment that provides pharmaceutical goods and services and is subject to the provisions of 247 CMR 6.00. Health care institutions include, but are not limited to, hospitals, clinics, health centers, pharmacies, drug stores, doctor offices and dentist offices.

3.17 MINIMUM LEGAL SALES AGE (MLSA)

The age an individual must be before that individual can be sold a tobacco product in the municipality.

3.18 NICOTINE DELIVERY PRODUCT

Any manufactured article or product made wholly or in part of a tobacco substitute or containing nicotine that is expected or intended for human consumption, but not including a product approved by the United States Food and Drug Administration for sale as a tobacco use cessation product or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose. Nicotine delivery products include, but are not limited to e-cigarettes.

3.19 NON-RESIDENTIAL ROLL-YOUR-OWN (RYO) MACHINE

A mechanical device made available for use (including to an individual who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the individual's own personal consumption or use) that is capable of making cigarettes, cigars or other tobacco products. RYO machines located in private homes used for solely personal consumption are not Non-Residential RYO machines.

3.20 PERMIT HOLDER

Any person engaged in the sale or distribution of tobacco products who applies for and receives a tobacco product sales permit or any person who is required to apply for a Tobacco Product Sales Permit pursuant to these regulations, or his or her business agent.

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3.21 PERSON

Any individual, firm, partnership, association, corporation, company or organization of any kind, including but not limited to, an owner, operator, manager, proprietor or person in charge of any establishment, business or retail store.

3.22 OUTDOOR SPACE

An outdoor area, open to the air at all times that cannot be enclosed by a wall or side covering.

3.23 PRIVATE CLUB

Any not-for-profit entity created and organized pursuant to M.G.L. Chapter 180 as a charitable corporation with a defined membership. A private club is not a place of public accommodation but rather is distinctly private. Criteria used to determine whether a club is distinctly private include, but is not limited to, those factors identified in 204 CMR 10.02. If the private club holds an alcoholic beverage license, said license shall be a "club license" or a "war veterans club license" as defined in M.G.L. Ch. 138, §12 and by the Massachusetts Alcohol Beverage Control Commission. Said license is subject to the terms set forth by the local licensing authority.

3.24 PUBLIC PLACE

Any building or facility owned, leased, rented, operated and/or occupied by the Town of Sherborn, including school buildings and grounds; outdoor athletic and recreational facilities and their parking lots; any area open to the general public, including but not limited to restaurants, bar areas of restaurants, bars, auditoriums, licensed child care locations and other child care facilities, schools and school property, public and private educational facilities, clinics, hospitals, health care facilities, nursing homes, long-term care facilities, public libraries, municipal buildings, private clubs, museums, theaters, retail stores, laundromats, hair cutting establishments, salons, massage and body art establishments, retail food establishment, fast food or take-out food facilities, indoor sports arenas, public transit facilities, enclosed shopping malls, common areas in privately owned buildings, common areas in public access buildings, any clubs, rooms or halls when open to the public or when used for public meetings, all areas available to and customarily used by the public in all businesses and non-profit entities patronized by the public, including but not limited to, attorney's offices and other offices, banks, hotels and motels, stairwells, hallways, entranceways, waiting areas, lobbies, public rest rooms, and elevators accessible to the public.

3.25 RETAIL TOBACCO STORE

An establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale, but not for resale, tobacco products and tobacco paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the age of 18 is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the Sherborn Board of Health.

3.26 SELF-SERVICE DISPLAY

Any display from which customers may select a tobacco product or a nicotine delivery product without assistance from an employee or store personnel.

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3.27 SMOKING

The inhaling, exhaling, burning, holding or carrying of any lighted cigar, cigarette, pipe, or other lighted tobacco product in any form or other tobacco products or non-tobacco products designed to be combusted and inhaled.

3.28 SCHOOLS

Public or private elementary or secondary schools.

3.29 SMOKE CONSTITUENT

Any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the tobacco product to the smoke or that is formed by the combustion or heating of tobacco, additives or other component of the tobacco product.

3.30 SMOKING BAR

An establishment that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises and is required by Mass. General Law Ch. 270, §22 to maintain a valid permit to operate a smoking bar issued by the Massachusetts Department of Revenue. "Smoking bar" shall include, but not be limited to, those establishments that are commonly known as "cigar bars" and "hookah bars".

3.31 TOWN

The Town of Sherborn, Massachusetts.

3.32 VENDING MACHINE

Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes cigarettes, any other tobacco products.

3.33 WORKPLACE

Any enclosed area of a structure or portion thereof at which (1) or more employees perform services for their employer (including the personal residence of the employer during those hours when used as a place of employment). It also includes motor vehicles, employee lounges, restrooms, conference rooms, hallways, stairways and entrances ways, as well as exterior, unenclosed spaces at stairs, ramps, landings, patios, porches, decks, and adjacent yards, loading docks and other areas within twenty (20) feet of the entrance doors or other areas where smoke would migrate into the enclosed area of a structure.

4.0 SMOKING PROHIBITED

4.1 It shall be the responsibility of the employer to provide a smoke-free environment for all employees working in an enclosed workplace.

4.2 Smoking is prohibited in Sherborn in accordance with M.G.L. Ch. 270, §22 (commonly known as the "Smoke-free Workplace Law").

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4.3 Pursuant to M.G.L. Ch. 270, §22(j), smoking is also hereby prohibited in:

- (a) Retail tobacco stores
- (b) Outdoor patios, porches, decks of establishments
- (c) Within twenty (20) feet of entrances ways to establishments
- (d) Private clubs

~~(?)~~

4.4 Smoking bars are prohibited in the Town of Sherborn.

4.5 The use of e-cigarettes is prohibited wherever smoking is prohibited pursuant to M.G.L. Ch. 270, §22 and Section 4.3 of this regulation.

4.6 Nothing in this regulation shall prohibit any establishment from becoming voluntarily completely smoke-free.

5.0 RETAIL SALE OF TOBACCO AND NICOTINE DELIVERY PRODUCTS

5.1 No person shall sell tobacco or nicotine delivery products or permit tobacco or nicotine delivery products, as defined herein, to be sold to a person under the minimum legal sales age; or not being the individual's parent or legal guardian, give tobacco or nicotine delivery products as defined herein to a person under the minimum legal sales age. The minimum legal sales age in Sherborn is 21.

5.2 REQUIRED SIGNAGE

- (a) In conformance with and in addition to Massachusetts General Law, Chapter 270, Section 7, a copy of Massachusetts General Laws, Chapter 270, Section 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be provided by the Massachusetts Department of Public Health and made available from the Sherborn Board of Health. The notice shall be at least 48 square inches and shall be posted conspicuously by the permit holder in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than 4 feet or greater than 9 feet from the floor. The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post any additional signs required by the Massachusetts Department of Public Health.
- (b) The owner or other person in charge of a shop or other place used to sell tobacco and/or nicotine delivery products at retail shall conspicuously post signage provided by the Sherborn Board of Health that discloses current referral information about smoking cessation.
- (c) The owner or other person in charge of a shop or other place used to sell tobacco and/or nicotine delivery products as defined herein at retail shall conspicuously post a sign stating that "The sale of tobacco and nicotine delivery products, including e-cigarettes, to someone under the minimum legal sales age of 21 years of age is prohibited." The notice shall be no

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smaller than 8.5 inches by 11 inches and shall be posted conspicuously in the retail establishment or other place in such a manner so that they may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor.

5.3 IDENTIFICATION

Each person selling or distributing tobacco and/or nicotine delivery products as defined herein shall verify the age of the purchaser by means of a valid government-issued photographic identification containing the bearer's date of birth that the purchaser is 21 years old or older. Verification is required for any person under the age of 27.

5.4 All retail sales of tobacco and/or nicotine delivery products as defined herein must be face-to-face between the seller and the buyer and occur at the permitted location.

6.0 TOBACCO AND NICOTINE DELIVERY SALES PERMIT

6.1 No person shall sell or otherwise distribute tobacco and/or nicotine delivery products as defined herein within the Town of Sherborn without first obtaining a Tobacco and Nicotine Delivery Sales Permit (Permit) issued annually by the Sherborn Board of Health. Only owners of establishments with a permanent, non-mobile location in Sherborn are eligible to apply for a Permit and sell tobacco and/or nicotine delivery products at a specified location in Sherborn.

6.2 As part of the Permit application process, the applicant will be provided with the Sherborn Board of Health regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco and/or nicotine delivery product sales regarding federal, state and local laws regarding the sale of tobacco and/or nicotine delivery products and this regulation.

6.3 Each applicant who sells tobacco and/or nicotine delivery products is required to provide proof of a current Tobacco Retailer License issued by the Massachusetts Department of Revenue before a Permit can be issued.

6.4 The fee for a Permit shall be determined by the Sherborn Board of Health annually

6.5 A separate Permit is required for each retail establishment selling tobacco and/or nicotine delivery products as defined herein.

6.6 Each Permit shall be displayed at the retail establishment in a conspicuous place.

6.7 No permit holder shall allow any employee to sell tobacco and/or nicotine delivery products until such employee reads this regulation and federal and state laws regarding the sale of tobacco and/or nicotine delivery products and signs a statement, a copy of which will be placed on file in the office of the employer, that he/she has read the regulation and applicable state and federal laws.

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6.8 A Permit is non-transferable. A new owner of an establishment that sells tobacco and/or nicotine delivery products must apply for a new permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.

6.9 Issuance of a Permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation.

6.10 A Permit will not be renewed if the permit holder has failed to pay all fines issued and the time period to appeal the fines has expired and/or has not satisfied any outstanding permit suspensions.

6.11 As a condition for obtaining and/or renewing a Permit, the Sherborn Board of Health may require tobacco and/or nicotine delivery product retailers and any employee involved in the act of selling tobacco and/or nicotine delivery products to participate in training programs provided or approved by the Board regarding compliance with the laws and regulations prohibiting the sale or tobacco and/or nicotine delivery products to minors and to individuals as stated in herein.

7.0 CIGAR PACKAGING AND SALES

7.1 No retailer, retail establishment, or other individual or entity shall sell or distribute or cause to be sold or distributed a cigar unless the cigar is contained in an original package of at least four (4) cigars. The four-pack must be priced at the retail market price or five (\$5.00) dollars, whichever price is higher.

7.2 This Section shall not apply to:

- (a) The sale or distribution of any single cigar having a retail price of two dollars and fifty cents (\$2.50) or more.
- (b) A person or entity engaged in the business of selling or distributing cigars for commercial purposes to another person or entity engaged in the business of selling or distributing cigars for commercial purposes with the intent to sell or distribute outside the boundaries of Sherborn.

7.3 The Sherborn Board of Health may adjust from time to time the amounts specified in this Section to reflect changes in the applicable Consumer Price Index by amendment of this regulation.

8.0 SALE OF FLAVORED TOBACCO AND NICOTINE DELIVERY PRODUCTS PROHIBITED

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco or nicotine delivery product.

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9.0 SALE OF BLUNT WRAPS PROHIBITED

No person or entity shall sell or distribute blunt wraps in Sherborn.

10.0 FREE DISTRIBUTION AND COUPON REDEMPTION

No person shall distribute, or cause to be distributed, any free samples of tobacco or nicotine delivery products as defined herein. No means, instruments or devices that allow for the redemption of tobacco or nicotine delivery products for free or cigarettes at a price below the minimum retail price as determined by the Massachusetts Department of Revenue shall be accepted by any permit holder.

11.0 OUT-OF-PACKAGE SALES

The sale or distribution of tobacco and nicotine delivery products as defined herein in any form other than an original factory-wrapped package is prohibited, including the repackaging or dispensing of any product as defined herein for retail sale. No person may sell or cause to be sold or distribute or cause to be distributed any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.

12.0 SELF-SERVICE DISPLAYS

All self-service displays of tobacco and nicotine delivery products as defined herein are prohibited. All humidors including, but not limited to, walk-in humidors must be locked.

13.0 VENDING MACHINES

All tobacco product as defined herein vending machines are prohibited.

14.0 NON-RESIDENTIAL ROLL-YOUR-OWN MACHINES

All Non-Residential Roll-Your-Own machines are prohibited.

15.0 PROHIBITION OF THE SALE OF TOBACCO AND NICOTINE DELIVERY PRODUCTS BY HEALTH CARE INSTITUTIONS

No health care institution located in Sherborn shall sell or cause to be sold tobacco or nicotine delivery products as defined herein. No retail establishment that operates or has a health care institution within it, such as a pharmacy or drug store, shall sell or cause to be sold tobacco or nicotine delivery products as defined herein.

16.0 PROHIBITION OF THE SALE OF TOBACCO AND NICOTINE DELIVERY PRODUCTS BY EDUCATIONAL INSTITUTIONS

No educational institution located in Sherborn shall sell or cause to be sold tobacco or nicotine

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delivery products as defined herein. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

17.0 VIOLATIONS

17.1 It shall be the responsibility of the establishment, permit holder and/or his or her business agent to ensure compliance with all sections of this regulation. The violator shall receive:

- (a) In the case of a first violation, a fine of one hundred dollars (\$100.00) and the Tobacco and Nicotine Delivery Product Sales Permit (where applicable) may be suspended for seven (7) consecutive business days.
- (b) In the case of a second violation within a 12 month of the date of the current violation, a fine of two hundred dollars (\$200.00) and the Tobacco and Nicotine Delivery Product Sales Permit (where applicable) may be suspended for fourteen (14) consecutive business days.
- (c) In the case of three or more violations within a 12 month period, a fine of five hundred dollars (\$500.00) and the Tobacco and Nicotine Delivery Product Sales Permit (where applicable) may be suspended for up to sixty (60) consecutive business days.
- (d) In the case of further violations or repeated, egregious violations of this regulation within a 12 month period, the Board of Health may revoke a Tobacco and Nicotine Delivery Product Sales Permit.

17.2 Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of a Permit for thirty (30) consecutive business days.

17.3 In addition to the monetary fines set above, any permit holder who engages in the sale or distribution of tobacco and/or nicotine delivery products while his or her Permit is suspended shall be subject to the suspension of all other Board of Health issued permits for thirty (30) consecutive business days.

17.4 The Sherborn Board of Health shall provide notice of the intent to suspend or revoke a Permit, which notice shall contain the reasons therefor 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 or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision and the reasons therefore in writing. After a hearing, the Sherborn Board of Health may suspend or revoke the Permit if the Board of Health finds that a violation of this regulation occurred. For purposes of such suspensions or revocations, the Board shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All tobacco and nicotine delivery products shall be removed from the retail establishment upon suspension or revocation of the Permit. Failure to remove all tobacco and nicotine delivery products shall constitute a separate violation of this regulation.

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18.0 NON-CRIMINAL DISPOSITION

18.1 Whoever violates any provision of this regulation may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D or by filing a criminal complaint at the appropriate venue.

18.2 Each day any violation exists shall be deemed to be a separate offense.

19.0 ENFORCEMENT

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

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

20.0 SEVERABILITY

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

21.0 EFFECTIVE DATE

This regulation shall take effect on June 1, 2014.

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**VII-A
BODY ART ESTABLISHMENTS AND PRACTITIONERS**

1.0 PURPOSE

Whereas body art is becoming prevalent and popular throughout the Commonwealth; 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; now, therefore the Board of Health of the Town of Sherborn adopts these rules and regulations for the practice of body art in the Town of Sherborn as part of our mission to protect the health, safety, and welfare of the public.

2.0 AUTHORITY

These regulations are promulgated under the authority granted to the Board of Health under Massachusetts General Law (M.G.L.), Chapter 111, Section 31.

3.0 DEFINITIONS

3.1 AFTERCARE

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

3.2 APPLICANT

Any person who applies to the Board of Health for either a body art establishment permit or practitioner permit.

3.3 AUTOCLAVE

An apparatus for sterilization utilizing steam pressure at a specific temperature over a period of time.

3.4 AUTOCLAVING

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

3.5 BLOODBORNE PATHOGENS STANDARD

OSHA Guidelines contained in 29 CFR 1910.1030, entitled "Occupational Exposure to Blood-borne Pathogens".

3.6 BOARD OF HEALTH or BOARD

The Board of Health that has jurisdiction in the community in which a body art establishment is located, including the Board or officer having like powers and duties in towns where there is no Board of Health.

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3.7 BODY ART

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

3.8 BODY ART ESTABLISHMENT or ESTABLISHMENT

A location, place, or business that has been granted a permit by the Board, whether public or private, where the practices of body art are performed, whether or not for profit.

3.9 BODY ART PRACTITIONER or PRACTITIONER

A specifically identified individual who has been granted a permit by the Board to perform body art in an establishment that has been granted a permit by the Board.

3.10 BODY PIERCING

Puncturing or penetrating the skin of a client with pre-sterilized single-use needles and the insertion of pre-sterilized jewelry or other adornment into the opening. This definition excludes piercing of the earlobe with a pre-sterilized single-use stud-and-clasp system manufactured exclusively for ear piercing.

3.11 BRAIDING

The cutting of strips of skin of a person, which strips are then to be intertwined with one another and placed onto such person as to cause or allow the incised and interwoven strips of skin to heal in such intertwined condition.

3.12 BRANDING

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

3.13 CLEANING AREA

The area in a Body Art Establishment used in the sterilization, sanitation, or other cleaning of instruments or other equipment used for the practice of body art.

3.14 CLIENT

A member of the public who requests a body art procedure at a body art establishment.

3.15 CONTAMINATED WASTE

Waste as defined in 105 CMR 480.000: Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VII and/or 29 Code of Federal Regulation part 1910.1030. This includes any liquid or semi-liquid blood or other potentially infectious material; contaminated items that would release blood or other potentially infectious material in a liquid or semi-liquid state if compressed; items on which there is dried blood or other

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potentially infectious material and which are capable of releasing these materials during handling; sharps and any wastes containing blood or other potentially infectious materials.

3.16 COSMETIC TATTOOING

Also known as permanent cosmetics, micro pigment implantation or dermal pigmentation. The implantation of permanent pigment around the eyes, lips, and cheeks of the face, and hair imitation.

3.17 DISINFECTANT

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

3.18 DISINFECTION

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

3.19 EAR PIERCING

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

3.20 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.

3.21 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.

3.22 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.

3.23 HOT WATER

Water that attains and maintains a temperature 110 - 130 degrees Fahrenheit.

3.24 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.

3.25 INVASIVE

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

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3.26 JEWELRY

Any ornament inserted into a newly pierced area, which must be made of surgical implant-grade stainless steel; solid 14K or 18K white or yellow gold, niobium, titanium, or platinum; or a dense, low-porosity plastic, which is free of nicks, scratches, or irregular surfaces and has been properly sterilized prior to use.

3.27 LIGHT COLORED

A light reflectance value of 70 percent or greater.

3.28 MINOR

Any person under the age of eighteen (18) years.

3.29 MOBILE BODY ART ESTABLISHMENT

Any trailer, truck, car, van, camper, or other motorized or non-motorized vehicle, a shed, tent, movable structure, bar, home, or other facility wherein, or concert, fair, party, or other event whereat one desires to or actually does conduct body art procedures.

3.30 OPERATOR

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

3.31 PERMIT

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

3.32 PERSON

An individual, any form or 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.

3.33 PHYSICIAN

An individual licensed as a qualified physician by the Board of Registration in Medicine pursuant to M.G.L. Chapter 112, Section 2.

3.34 PROCEDURE SURFACE

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

3.35 SANITARY

Clean and free of agents of infection or disease.

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3.36 SANITIZE

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

3.37 SCARIFICATION

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

3.38 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.

3.39 SHARPS CONTAINER

A puncture-resistant, leak-proof container that can be closed for handling, storage, transportation, and disposal and that is labeled with the International Biohazard Symbol.

3.40 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.

3.41 STERILIZE

The use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

3.42 TATTOO

The indelible mark, figure, or decorative design introduced by insertion of dyes or pigments into or under the subcutaneous portion of the skin.

3.43 TATTOOING

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

3.44 TEMPORARY BODY ART ESTABLISHMENT

The same as Mobile Body Art Establishment

3.45 THREE DIMENSIONAL "3D" BODY ART or BEADING or IMPLANTATION

The form of body art consisting of or requiring the placement, injection, or insertion of an object, device, or other thing made of matters such as steel, titanium, rubber, latex, plastic, glass, or other inert materials, beneath the surface of the skin of a person. This term does not include Body Piercing.

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3.46 ULTRASONIC CLEANING UNIT

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

3.47 UNIVERSAL PRECAUTIONS

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

4.0 EXEMPTIONS

- 4.1 Physicians licensed in accordance with M.G.L. Chapter 112, Section 2 who perform body art procedures as part of patient treatment are exempt from these regulations.
- 4.2 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.

5.0 RESTRICTIONS

- 5.1 No tattooing, piercing of genitalia, branding, or scarification shall be performed on a person under the age of 18 years.
- 5.2 Body piercing, other than piercing of the genitalia, may be performed on a person under the age of 18 years provided that person is accompanied by a properly identified parent, legal custodial parent, or legal guardian who has signed a form consenting to such procedure. Properly identified shall mean a valid photo identification of the adult and a birth certificate of the minor.
- 5.3 No body art shall be performed upon an animal.
- 5.4 The following body piercings are hereby prohibited: piercing of the uvula; piercing of the tracheal area; piercing of the neck; piercing of the ankle; piercing between the ribs or vertebrae; piercing of the web area of the hand or foot; piercing of the lingual frenulum

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(tongue web); piercing of the clitoris; any form of chest or deep muscle piercings; excluding the nipple; piercing of the anus; piercing of an eyelid, whether top or bottom; piercing of the gums; piercing or skewering of a testicle; so called “deep” piercing of the penis—meaning piercing through the shaft of the penis, or “trans-penis” piercing in any area from the corona glandis to the pubic bone; so called “deep” piercing of the scrotum—meaning piercing through the scrotum, or “transcrotal” piercing; so called “deep” piercing of the vagina.

- 5.5 The following practices are hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts: tongue splitting; braiding; three-dimensional/beading/implementation tooth filling/fracturing/removal/tattooing; cartilage modification; amputation; genital modification; introduction of saline or other liquids.

6.0 OPERATION OF BODY ART ESTABLISHMENTS

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

6.1 PHYSICAL PLANT

- (A) Walls, floors, ceilings, and procedure surfaces shall be smooth, durable, free of open holes or cracks, light-colored, washable, and in good repair. Walls, floors, and ceilings shall be maintained in a clean condition. All procedure surfaces, including client chairs/benches, shall be of such construction as to be easily cleaned and sanitized after each client.
- (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) Each operator area shall have a minimum of 45 square feet of floor space for each practitioner. Each establishment shall have an area that may be screened from public view for clients requesting privacy. Multiple body art stations shall be separated by dividers or partitions, at a minimum.
- (E) The establishment shall be well ventilated and provided with an artificial light source equivalent to at least 20 foot candles 3 feet off the floor, except that at least 10 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.

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(F) All electrical outlets in operator areas and cleaning areas shall be equipped with approved ground fault (GFCI) protected receptacles.

(G) A separate, readily accessible hand sink with hot and cold running water under pressure, preferably equipped with wrist- or foot-operated controls, and supplied with liquid soap, and disposable paper towels stored in fixed dispensers shall be readily accessible within the establishment. Each operator area shall have a hand sink.

(H) There shall be a sharps container in each operator area and each cleaning area.

(I) There shall be a minimum of one toilet room containing a toilet and sink. The toilet room shall be provided with toilet paper, liquid hand soap, and paper towels stored in a fixed dispenser. A body art establishment permanently located within a retail shopping center, or similar setting housing multiple operations within one enclosed structure having shared entrance and exit points, shall not be required to provide a separate toilet room within such body art establishment if Board-approved toilet facilities are located in the retail shopping center within 300 feet of the body art establishments so as to be readily accessible to any client or practitioner.

(J) The public water supply entering a body art establishment shall be protected by a testable, reduced pressure back flow preventor installed in accordance with 142 Code of Massachusetts Regulation 248, as amended from time to time.

(K) 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.

(L) At least one janitorial sink shall be provided in each body art establishment for use in cleaning the establishment and proper disposal of non-contaminated liquid wastes in accordance with all applicable Federal, State, and Local laws. Said sink shall be of adequate size equipped with hot and cold running water under pressure and permit the cleaning of the establishment and any equipment used for cleaning.

(M) All instruments and supplies shall be stored in clean, dry, and covered containers. Containers shall be kept in a secure area specifically dedicated to the storage of all instruments and supplies.

(N) The establishment shall have a cleaning area. Every cleaning area shall have an area for the placement of an autoclave or other sterilization unit located or positioned a minimum of 36 inches from the required ultrasonic cleaning unit.

(O) The establishment shall have a customer wait 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.

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(P) No animals of any kinds 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.

(Q) Smoking, eating, or drinking is prohibited in the area where body art is performed, with the exception of non-alcoholic fluids being offered to a client during or after a body art procedure.

6.2 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 105CMR480.000.

(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 may be mixed and may only be diluted with water from an approved potable source. Immediately before a tattoo is applied, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single-use paper cups or plastic cups. Upon completion of the tattoo, these single-use cups or caps and their contents shall be discarded.

6.3 SANITATION AND STERILIZATION MEASURES AND PROCEDURES

(A) All non-disposable instruments used for body art, including all reusable solid core needles, pins and stylets, shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water (to remove blood and tissue residue), and shall be placed in an ultrasonic unit sold for cleaning purposes under approval of the U.S. Food and Drug Administration and operated in accordance with manufacturer's instructions.

(B) After being cleaned, all non-disposable instruments used for body art shall be packed individually in sterilizer packs and subsequently sterilized in a steam autoclave sold for medical sterilization purposes under approval of the U.S. Food and Drug Administration. All sterilizer packs shall contain either a sterilizer indicator or internal temperature indicator. Sterilizer packs must be dated with an expiration date not to exceed six (6) months.

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(C) The autoclave shall be used, cleaned, and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of the autoclave must be available for inspection by the Board. Autoclaves shall be located away from workstations or areas frequented by the public.

(D) Each holder of a permit to operate a body art establishment shall demonstrate that the autoclave used is capable of attaining sterilization by monthly spore destruction tests. These tests shall be verified through an independent laboratory. The permit shall not be issued or renewed until documentation of the autoclave's ability to destroy spores is received by the Board. These test records shall be retained by the operator for a period of three (3) years and made available to the Board upon request.

(E) All instruments used for body art procedures shall remain stored in sterile packages until just prior to the performance of a body art procedure. After sterilization, the instruments used in body art procedures shall be stored in a dry, clean cabinet or tightly covered container reserved for the storage of such instruments.

(F) Sterile instruments may not be used if the package has been breached or after the expiration date without first repackaging and re-sterilizing.

(G) If the body art establishment uses only single-use, disposable instruments and products, and uses sterile supplies, an autoclave shall not be required.

(H) When assembling instruments used for body art procedures, the operator shall wear disposable medical gloves and use medically recognized sterile techniques to ensure that the instruments and gloves are not contaminated.

(I) Reusable cloth items shall be mechanically washed with detergent and mechanically dried after each use. The cloth items shall be stored in a dry, clean environment until used. Should such items become contaminated directly or indirectly with bodily fluids, the items shall be washed in accordance with standards applicable to hospitals and medical care facilities, at a temperature of 160 degrees Fahrenheit or a temperature of 120 degrees Fahrenheit with the use of chlorine disinfectant.

6.4 POSTING REQUIREMENTS

The following shall be prominently displayed:

(A) A Disclosure Statement, a model of which shall be available from the Board. A Disclosure Statement shall also be given to each client, advising him/her of the risks and possible consequences of body art procedures. The name, address, and telephone number of the Sherborn Board of Health.

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(B) An Emergency Plan, including

- (1) A plan for the purpose of contacting police, fire, or emergency medical services in the event of an emergency;
- (2) A telephone in good working order shall be easily available and accessible to all employees and clients during all hours of operation; and
- (3) A sign at or adjacent to the telephone indicating the correct emergency telephone numbers.

(C) An occupancy and use permit as issued by the local building official.

(D) A current establishment permit.

(E) Each practitioner's permit.

6.5 ESTABLISHMENT RECORD-KEEPING

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 upon request:

(A) Establishment information, which shall include:

- (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 and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers and serial or lot numbers, if applicable. Invoices or packing slips shall satisfy this requirement. A Material Safety Data Sheet, when available, for each ink and dye used by the establishment.
- (6) Copies of waste hauler manifests;
- (7) Copies of commercial biological monitoring tests;
- (8) Exposure Incident Report (kept permanently);
- (9) A copy of these regulations.

(B) Employee information, which shall include:

- (1) Full legal names and exact duties;
- (2) Date of birth;
- (3) Home address;
- (4) Home/work telephone numbers;
- (5) Identification photograph;
- (6) Dates of employment;
- (7) Hepatitis B vaccination status or declination notification; and
- (8) Training records.

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(C) Client information, which shall include:

- (1) Name;
- (2) Age and valid photo identification;
- (3) Address of the client;
- (4) Date of the procedure;
- (5) Name of the practitioner who performed the procedure(s);
- (6) Description of the procedure(s) performed and the location on the body;
- (7) A signed consent form as specified by 7(4)(B); and
- (8) If the client is a person under the age of 18 years, proof of parental or guardian identification, presence and consent, including a copy of the photographic identification of the parent or guardian.

Client information shall be kept confidential at all times.

(D) Exposure Control Plan -

Each establishment shall create, update, and comply with an Exposure Control Plan. The Plan shall be submitted to the Board for review so as to meet all of the requirements of OSHA regulations, to include but not 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 made available to the Board upon request.

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

7.0 STANDARDS OF PRACTICE

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

- 7.1 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.
- 7.2 A practitioner shall refuse service to any person who may be under the influence of alcohol or drugs.
- 7.3 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.
- 7.4 Health History and Client Informed Consent.
Prior to performing a body art procedure on a client, the practitioner shall:
 - (A) Inform the client, verbally and in writing, that the following health conditions may increase health risks associated with receiving a body art procedure:

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- (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 thin the blood and/or interfere with blood clotting; and
 - (7) Any other conditions such as hepatitis or HIV.
- (B) Require that the client sign a form confirming that the above information was provided, that the client does not have a condition that prevents them from receiving body art, that the client consents to the performance of the body art procedure and that the client has been given the aftercare instructions as required by Section 7.11.
- 7.5 A practitioner shall maintain the highest degree of personal cleanliness, conform to best standard hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, the practitioner must thoroughly wash their hands in hot running water with liquid soap, then rinse hands dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.
- 7.6 In performing body art procedures, a practitioner shall wear disposable single-use gloves. Gloves shall be changed if they become pierced, torn, or otherwise contaminated by contact with any unclean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed in accordance with Section 7.5 before the next set of gloves is put on. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable single-use gloves does not preclude or substitute for hand-washing procedures as part of a good personal hygiene program.
- 7.7 The skin of the practitioner shall be free of rash or infection. No practitioner affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions, or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that that person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms
- 7.8 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.

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- 7.9 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 or an approved surgical skin preparation. If shaving is necessary, single-use disposable razors or safety razors with single-service blades shall be used. Blades shall be discarded after each use, and reusable holders shall be cleaned and autoclaved after use. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.
 - (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 appropriate covered containers, and disposed of in accordance with 105CMR480.000.
- 7.10 Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to receive a body art procedure with sterile gauze or other sterile applicator to prevent contamination of the original container and its contents. The applicator or gauze shall be used once and then discarded.
- 7.11 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:
- (A) On the proper cleansing of the area that received the body art;
 - (B) To consult a health care provider for:
 - (1) Unexpected redness, tenderness or swelling at the site of the body art procedure;
 - (2) Any rash;
 - (3) Unexpected drainage at or from the site of the body art procedure; or
 - (4) A fever within 24 hours of the body art procedure; and
 - (C) Of the address and telephone number of the establishment.
- A copy shall be provided to the client. A model set of aftercare instructions shall be made available to the Board.
- 7.12 Contaminated waste shall be stored, treated, and disposed in accordance with 105CMR480.000; Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Wastes, State Sanitary Code, Chapter VIII.

8.0 EXPOSURE INCIDENT REPORT

An Exposure Incident Report shall be completed by the close of the business day during which an

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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 a client or minor client involved in the exposure incident.
- (B) A full description of the exposure incident, including the portion of the body involved therein;
- (C) Instrument(s) or other equipment implicated.
- (D) A copy of the body art practitioner license of the involved body art practitioner;
- (E) Date and time of exposure;
- (F) A copy of any medical history released to the body art establishment or body art practitioner; and
- (G) Information regarding any recommendation to refer to a physician or waiver to consult a physician by persons involved.

9.0 INJURY AND/OR COMPLICATION REPORTS

A written report of any injury, infection complication, or disease as a result of a body art procedure, or complaint of injury, infection complication, or disease, shall be forwarded by the operator to the Board of Health that issued the permit, with a copy to the injured client within five (5) working days of its occurrence or knowledge thereof. The report shall include:

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

10.0 COMPLAINTS

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

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11.0 APPLICATION FOR A BODY ART ESTABLISHMENT PERMIT

- 11.1 No person may operate a body art establishment except with a valid permit from the Board.
- 11.2 Applications for a permit shall be made on forms prescribed by and available from the Board. An applicant shall submit all information required by the form and accompanying instructions. The term “application” as used herein shall include the original and renewal applications.
- 11.3 An establishment permit shall be valid from the date of issuance and for no longer than one year unless revoked sooner by the Board.
- 11.4 The Board shall require that the applicant provide, at a minimum, the following information in order to be issued an establishment permit:
- (A) Name, address, and telephone number of:
 - (1) The body art establishment;
 - (2) The operator of the establishment; and
 - (3) The body art practitioner(s) working at the establishment;
 - (B) The manufacturer, model number, model year, and serial number (where applicable), of the autoclave used in the establishment;
 - (C) A signed and dated acknowledgment that the applicant has received, read and understood the requirements of the Board’s body art regulations;
 - (D) A drawing of the floor plan of the proposed establishment to scale for a plan review by the Board, as part of the permit application process; and,
 - (E) Exposure Report Plan
 - (F) Such additional information as the Board may reasonably require.
- 11.5 An annual fee for the Body Art Establishment Permit as may be set by the Board of Health from time to time.
- 11.6 A permit for a body art establishment shall not be transferable from one place or person to another.

Town of Sherborn - Board of Health Regulations

12.0 APPLICATION FOR A BODY ART PRACTITIONER PERMIT

- 12.1 No person shall practice body art or perform any body art procedure without first obtaining a practitioner permit from the Board of Health. The Board shall set a reasonable fee for such permits.
- 12.2 A practitioner shall be a minimum of 18 years of age.
- 12.3 A practitioner permit shall expire on December 31 of the calendar year granted.
- 12.4 Application for a practitioner permit shall include:
- (A) Name
 - (B) Date of birth
 - (C) Residence address
 - (D) Mailing address
 - (E) Telephone number
 - (F) Place(s) of employment as a practitioner
 - (G) Training and/or experience as set out in Section 12.5 below.

12.5 Practitioner Training and Experience

- (A) 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.
- (B) Training for all practitioners shall be approved by the Board and, at a minimum, shall include the following:
 - (1) Blood-borne pathogen training program (or equivalent) which includes infectious disease control; waste disposal; hand-washing techniques; sterilization equipment operation and methods; and sanitation, disinfection and sterilization methods and techniques; and
 - (2) 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). Training/courses provided by professional body art organizations or associations or by equipment manufacturers may also be submitted to the Board for approval.

- (C) The applicant for a body piercing practitioner permit shall provide documentation, acceptable to the Board, that s/he completed a course on anatomy and physiology with a grade of C or better at a college accredited by the New England Association of Schools and Colleges, or comparable accrediting entity. This course must include instruction on the integumentary system (skin).

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- (D) The applicant for a tattoo, branding, or scarification practitioner permit shall provide documentation, acceptable to the Board, that s/he completed a course on anatomy and physiology with a grade of C or better at a college accredited by the New England Association of Schools and Colleges, or comparable accrediting entity. This course must include instruction on the integumentary system (skin). Such other course or program as the Board shall deem appropriate and acceptable may be substituted for the anatomy course.
- (E) The applicant for all practitioners shall submit evidence satisfactory to the Board of at least two (2) years actual experience in the practice of performing body art activities of the kind for which the applicant seeks a body art practitioner permit to perform, whether such experience was obtained within or outside the Commonwealth of Massachusetts.
- (F) A practitioner's permit shall be conditioned upon continued compliance with all applicable provisions of these rules and regulations.

13.0 GROUNDS FOR SUSPENSION, DENIAL, REVOCATION, OR REFUSAL TO RENEW PERMIT

- 13.1 The Board may suspend a permit, deny a permit, revoke a permit, or refuse to renew a permit on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for suspension, denial, revocation, or refusal to renew:
 - (A) Any actions which would indicate that the health or safety of the public would be at risk;
 - (B) Fraud, deceit, or misrepresentation in obtaining a permit, or its renewal;
 - (C) Criminal conduct which the Board determines to be of such a nature as to render the establishment, practitioner, or applicant unfit to practice body art as evidenced by criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts;
 - (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 permit;

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- (H) Continuing to practice while his/her permit is lapsed, suspended, or revoked;
- (I) Having been disciplined in another jurisdiction in any way by the proper permitting authority for reasons substantially the same as those set forth in the Board's regulations; and
- (J) Other just and sufficient cause which the Board may determine would render the establishment, practitioner, or applicant unfit to practice body art.

13.2 The Board shall notify an applicant, establishment, or practitioner in writing of any violation of the Board's regulations, for which the Board intends to deny, revoke, or refuse to renew a permit. The applicant, establishment, or practitioner shall have seven (7) days after receipt of such written notice in which to comply with the Board's regulations. The Board may deny, revoke, or refuse to renew a permit if the applicant, establishment, or practitioner fails to comply after said seven (7) days, subject to the procedure outlined in Section 15.0.

13.3 Applicants denied a permit may reapply at any time after denial.

14.0 GROUNDS FOR SUSPENSION OF PERMIT

The Board may summarily suspend a permit pending a final hearing on the merits on the question of revocation, if, based on the evidence before it, the Board determines that an establishment and/or practitioner is an immediate and serious threat to the public health, safety, or welfare. The suspension of a permit shall take effect immediately upon written notice of such suspension by the Board.

15.0 PROCEDURE FOR HEARINGS

The owner of the establishment or practitioner shall be given written notice of the Board's intent to hold a hearing for the purpose of suspension, revocation, denial, or refusal to renew a permit. This written notice shall be served through a certified letter sent return receipt requested or by constable. The notice shall include the date, time, and place of the hearing and the owner of the establishment or practitioner's right to be heard. The Board shall hold the hearing no later than 21 days from the date the written notice is received.

In the case of a suspension of a permit as noted in Section 13.0, a hearing shall be scheduled no later than 21 days from the date of the suspension.

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16.0 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.

17.0 FINE FOR VIOLATION

The fine for a violation of any provision of these Rules and Regulations shall be on a per offense basis as set by the Board from time to time. Each day that a violation continues shall be deemed to be a separate offense.

18.0 NON-CRIMINAL DISPOSITION

In accordance with MGL Chapter 40, Section 21D and the Sherborn bylaws, whoever violates any provision of these rules and regulations may be penalized by non-criminal disposition.

19.0 EFFECTIVE DATE

These rules and regulations shall be effective as of March 7, 2001.

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**VII-B
BODYWORK REGULATIONS**

*Rules and Regulations Governing the Practice of Bodywork And
The Conduct of Establishments for the Giving Of Bodywork*

The following rules and regulations were adopted by the Sherborn Board of Health on September 18, 2003, and amended on April 1, 2009, under authority of Section 31 of Chapter 111, and Sections 51 and 53 of Chapter 140 of the General Laws of the Commonwealth of Massachusetts, and effective upon publication.

1.0 LICENSE REQUIRED ACTIVITIES AND FEES

- 1.1 No person shall practice bodywork or conduct an establishment for the giving of bodywork therapy in the Town of Sherborn without first obtaining a license from the Board of Health. A license issued to an establishment or bodywork therapist is not transferable. All licenses shall expire December 31st following the date of issue.
- 1.2 A fee for issuance of establishment and individual therapist licenses shall be charged and the rates shall be established by the Board of Health from time to time. License fees are non-refundable.
- 1.3 It shall be the responsibility of the Licensee to obtain renewal prior to the expiration of an existing license. Applications for renewal must be submitted at least twenty (20) days prior to the expiration date.

2.0 DEFINITIONS

- 2.1 **AGENT:** An Agent of the Board of Health is any person authorized by the Board to act under these regulations. No action required by these regulations shall be taken by the Agent without the approval of the Board of Health. The Agent may not vary these regulations without specific approval. Wherever reference is made to the Board of Health, it shall mean the Board of Health or its Agent.
- 2.2 **APPROVED:** Approved by the Sherborn Board of Health.
- 2.3 **APPROVED COURSE OF BODYWORK THERAPY:** The applicant shall meet all professional standards of Bodywork Therapy.
- 2.4 **BOARD OF HEALTH:** The Board of Health of Sherborn, Massachusetts.

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- 2.5 Reserved
- 2.6 ESTABLISHMENT: The room or group of rooms, office, building, or other fixed place of business where bodywork is performed by a licensed therapist(s).
- 2.7 BODYWORK: The practice of a person who uses touch, words, or directed movement to deepen awareness of patterns of movement in the body, or the affectation of the human energy system or acupoints or Qi meridians of the human body. Such practices shall include, but not be limited to: Feldenkrais Method, Reflexology, Trager Approach, Ayuvedic Therapies, Rolf Structural Integration, Polarity; Polarity Therapy, or Polarity Therapy Bodywork, Asian Bodywork Therapy that does not constitute massage, Acupressure, Jin Shin Do, Qi Gong, Tui Na, Shiatsu, Body-Mind Centering, and Reiki.
- 2.8 BODYWORK THERAPIST: A person who provides bodywork therapy for compensation.
- 3.0 EXCEPTIONS AND EXCLUSIONS
- 3.1 INDIVIDUAL: These regulations shall not apply to the following individuals while engaged in the regular performance of the duties of their respective professions:
- (A) Physicians, chiropractors, osteopaths, podiatrists, or physical/occupational therapists who are duly licensed to practice their respective professions in the Commonwealth of Massachusetts.
 - (B) School athletic trainers or coaches acting within the scope of their employment.
 - (C) Nurses who are registered or licensed under the laws of the Commonwealth of Massachusetts.
 - (D) Barbers, hairdressers, and beauticians who are duly registered under the laws of the Commonwealth of Massachusetts.
 - (E) Any person licensed by the state to practice massage.
- 3.2 ESTABLISHMENTS: These regulations shall not apply to hospitals, nursing homes, convalescent homes, home health agencies or other similarly licensed institutions.
- 3.3 Student or apprentice practitioners are not approved for licensing.
- 3.4 Vapor, pool, shower, or other baths are not approved for licensing.
- 4.0 REQUIREMENTS FOR INDIVIDUAL LICENSING
- 4.1 A completed application form, in a form adopted by the Board of Health, containing all information therein requested, must be submitted. False statements in said application shall

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be grounds for denial, suspension or revocation of a license request.

- 4.2 Payment of a license fee must be made.
- 4.3 Written proof (e.g., diploma, certificate, transcript of graduation) of having satisfactorily completed an approved course of study/training must be provided.
- 4.4 Evidence that the applicant is at least eighteen (18) years of age must be provided.
- 4.5 A copy of a photo ID must be provided.
- 4.6 Proof of a negative Tuberculin test (tested within 30 days prior to the application submittal or renewal) must be provided.
- 4.7 A written statement from a licensed physician in the Commonwealth of Massachusetts that he or she has examined the applicant within the past thirty day period preceding the application and believes the applicant to be of adequate health to safely perform bodywork therapy (e.g., is free of any communicable diseases transmissible by the practice of bodywork or the close physical contact ordinarily associated with bodywork) must be provided.
- 4.8 Two letters of reference (character and/or professional) must be provided.

5.0 REQUIREMENTS FOR LICENSING OF AN ESTABLISHMENT

- 5.1 A completed application form, in a form adopted by the Board of Health, containing all information therein requested must be submitted. False statements in said application shall be grounds for denial, suspension or revocation of a license request.
- 5.2 Payment of the license fee must be made.
- 5.3 Every licensee shall notify the Board of Health prior to any change of name, address or ownership.
- 5.4 The establishment shall not operate under any name or designation not specified on the license.
- 5.5 The establishment shall not be kept open or operate between the hours of 10:00 p.m. and 7:00 a.m., unless specifically authorized in writing by the Board of Health.
- 5.6 Every licensee shall permit the Board of Health and/or Police Department to inspect the establishment at any time to the maximum extent permitted by law.
- 5.7 All bodywork therapists employed at the establishment shall hold current, valid licenses from

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the Board of Health and shall conduct themselves according to this and any other applicable regulation or standard.

- 5.8 The establishment shall not employ or shall not cause to be employed as a bodywork therapist any person unlicensed for the practice of bodywork in the Town of Sherborn, or whose bodywork license has been revoked or suspended by Sherborn or any other municipality within the past three years.
- 5.9 Reserved
- 5.10 No person shall treat or be treated at the establishment if afflicted with a communicable/contagious disease. However, the person may treat or be treated when a written statement is received from a physician to the effect that the condition is no longer contagious.
- 5.11 Smoking is prohibited in the establishment.
- 5.12 Bodywork therapists shall wash their hands thoroughly immediately before and after treating a patron.
- 5.13 There shall be a toilet and hand washing facilities (connected to an approved sanitary facility, with a safe, adequate supply of hot and cold running water) for employees and patrons.
- 5.14 All areas of the establishment (including but not limited to the structure, furnishings and equipment) shall be kept in a clean condition at all times.
- 5.15 All robes, sheets, towels, instruments/devices, and other items which may come in direct contact with the body shall be cleaned and stored in a sanitary manner. Single-service disposable items are acceptable but may not be used more than once.
- 5.16 No room or section of a building licensed for the purpose of giving bodywork shall be used as a bedroom. However, this shall not be construed to prevent the performance of bodywork on any person in his/her home, in a hospital, or in any other place for treatment of the sick.
- 5.17 The license of the establishment and all bodywork therapists must be displayed in a conspicuous place.
- 5.18 The establishment must comply with all requirements of any other town board or commission.
- 5.19 Establishment licenses shall only be granted to individuals who hold individual licenses issued by the Board of Health, or to companies with licensed individual practitioners.

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6.0 DENIAL OF APPLICATION FOR LICENSE OR RENEWAL THEREOF

6.1 A license may be denied if:

- (A) The information required for an application is incomplete;
- (B) The applicant has not satisfied the requirements of the regulation;
- (C) The applicant has made a false, misleading, or fraudulent statement of fact to the town in the application process;
- (D) The applicant has committed an act, which if done by a licensee under this regulation, would be grounds for suspension or revocation of a license.

6.2 Any person or establishment whose application for a license or license renewal is denied may request, within ten (10) days of said denial and in writing, a hearing upon the cause or causes of said denial. The Board of Health shall set a time and place for said hearing within a reasonable time, not to exceed thirty (30) days.

7.0 SUSPENSION OR REVOCATION OF LICENSE

7.1 No license granted under these regulations, whether for individual practitioners or for an establishment, may be suspended or revoked without a hearing, except that any Agent for the Board of Health may suspend an establishment and an individual license for flagrant violation of the regulations or under emergency circumstances.

7.2 In the event that any license as herein provided is suspended, the licensee shall be entitled to have such suspension reviewed by the Board of Health at its next regularly scheduled meeting or within twenty-one (21) days of receipt of a hearing request, whichever is sooner.

7.3 Such licenses may be suspended or revoked if, after a hearing, the Board of Health finds that the licensee has:

- (A) Made a material false statement on the application form; or
- (B) Violated or permitted a violation of any of these regulations or of any conditions of the license; or
- (C) Violated or permitted a violation of any law of the Commonwealth.

8.0 PENALTIES

8.1 Whoever is found to have violated any provision of these rules and regulations shall be punished by a fine of not more than one hundred (\$100.00) dollars per violation or imprisonment for not more than six (6) months or both in accordance with General Laws, Chapter 140, Section 53, as amended. Each day that a violation exists shall constitute a separate violation.

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9.0 VARIANCE PROCEDURES

- 9.1 A variance to a particular section of the Bodywork Regulations may be granted by a vote of the Board of Health at a regularly scheduled meeting upon receipt and review of a written request for such variance and payment of the required fee.

10.0 SEVERABILITY

- 10.1 If any section, subsection, sentence, clause, phrase or portion of these regulations is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such provisions and such holding shall not affect the validity of the remaining portion thereof.

Adopted 9/18/03 by the Sherborn Board of Health, and effective upon publication (9/26/03).
Amended 4/1/09.

VIII
MERCURY THERMOSTAT DISPOSAL REGULATIONS

1.0 PURPOSE AND AUTHORITY

Whereas mercury is an element that can be toxic to humans and wildlife and could become a known hazard to the public health, the Board of Health of the Town of Sherborn, Massachusetts adopted the following regulations under the authority of Massachusetts General Laws Chapter 111, Section 31 for the safe disposal of mercury thermostats at their meeting held on 8/18/04, and are effective upon publication (9/2/04).

2.0 DEFINITIONS

2.1 INDIVIDUAL

Any person(s) who removes or replaces any mercury-containing thermostat from a property. The individual may be the property owner or hired contractor, including but not limited to a carpenter, plumber, or electrician.

2.2 BOARD OF HEALTH

The Sherborn Board of Health or its Agent.

3.0 REQUIREMENTS

3.1 Used thermostats containing mercury must be disposed of through a recycling program approved by the Board of Health. Any such program shall document how, when and where all used mercury thermostats will be accepted, stored, recycled, and/or transferred. Required annual renewal of any such program will be contingent on properly documented manifests providing evidence that all such thermostats had their mercury successfully recycled.

3.2 Mercury thermostats shall not be disposed of through any waste stream that results in their incineration, landfilling, discharge into the general environment, or any other method of disposal not approved by the Massachusetts Department of Environmental Protection and the Sherborn Board of Health.

3.3 It shall be the responsibility of the individual(s) removing or replacing such mercury thermostat to properly dispose of the device in accordance with these regulations and any state regulation regarding proper mercury disposal.

4.0 PENALTIES

4.1 Any violation of this regulation shall be punishable by a fine of \$100.00. Each improper disposal of a mercury-containing thermostat shall constitute a separate violation. A fine may be assessed to more than one individual for each violation.

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**IX
SEVERABILITY**

If any portion, sentence, clause, or phrase of these regulations be held invalid for any reason, the remainder of these regulations shall continue in full force and effect.

**X
ENFORCEMENT**

The Board of Health, its agents, officers, and employees, shall have the authority to enter upon privately owned land for the purpose of performing their duties for the administration and review of this regulation, and may make or cause to be made such examinations, surveys, or samplings as the Board of Health deems necessary.

The Board shall have the authority to enforce these regulations and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions.

Any person who violates any provision of this regulation or permits issued hereunder, shall be subject to a fine of not more than five hundred dollars (\$500.00). Each day or portion thereof during which a violation occurs or continues shall constitute a separate offense, and each provision of the regulation or permit that is violated shall constitute a separate offense.

**XI
APPEAL PROCEDURES**

Any person affected by a decision of the Board of Health shall be entitled to a hearing before the Board of Health. Such person shall file with the Board of Health within fourteen (14) days a written petition requesting such a hearing.

An appeal will be considered only under the following conditions:

1. That there is new data to present; or
2. That there are at least three (3) additional professional consultant opinions submitted; or
3. That different situations or conditions exist since the Board of Health's former ruling.

Any person aggrieved by the decision of the Board of Health may seek relief there-from in any court of competent jurisdiction, as provided by the laws of the Commonwealth of Massachusetts.

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APPENDIX A

**BOARD OF HEALTH GUIDELINES
TO OBTAIN A BUILDING PERMIT**

**Revised April 1996, November 1997, March 1998, June 2000, December 2001, April 2003, April 2004,
August 2004, March 2005, April 2006, April 2009, April 2012**

I. For:

1. Additions to existing buildings
2. Accessory buildings
3. Alterations to existing buildings
4. Change of use or additional use

II. REASON AND AUTHORITY

Title 5 - The State Environmental Code

310 CMR 15.02(7) - "No Building permit, foundation permit, special building permit, ... shall be issued until ... a Disposal Works Construction Permit has first been obtained, unless the Board of Health determines that the sewage disposal system is adequate for the proposed alteration or addition to an existing dwelling.

While all applications are considered on a case-by-case basis, the following guidelines will normally prevail.

III. MINOR CHANGES AND/OR ADDITIONS TO SINGLE FAMILY DWELLINGS:

The following will normally receive Board of Health approval as long as the required setbacks of the Board of Health are observed. No septic system modifications will be required unless there is an on-going sewage overflow. Submission of the "Owner's Certification of Negative Impact of Minor Construction on Wells and Septic Systems" will be required:

- (1) Unheated porch, unheated breezeway, windows, or chimney
- (2) Enclose existing porch or breezeway without adding heat
- (3) Detached accessory structures such as tool sheds, storage buildings, garages, or gazebos
- (4) Bathrooms (as long as no waste is mechanically pumped to the septic tank, i.e. ejector pump)
- (5) An increase in gross floor area of less than 50% of the original building, where existing rooms will be enlarged and no rooms added
- (6) Interior room revisions with no change in building area and no increase in room count. (This does NOT include the creation or construction of bedrooms, additional kitchens, or additional rooms on the second floor or higher).

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IV. MAJOR CHANGES AND/OR ADDITIONS TO SINGLE FAMILY HOMES:

Approval of Major Additions, consisting of an increase of gross floor area of 50% or more, will require:

- (1) That the septic system has been in constant use for at least twelve (12) consecutive months, has been inspected using the State Title 5 inspection procedure performed by a Massachusetts certified septic system inspector, and found not to be in a state of failure, *and*
- (2) That the septic system has a documented capacity sufficient to support the building it serves.
- (3) Simultaneous septic installation shall be allowed on renovation and addition construction projects to existing dwellings. The simultaneous septic installation must be completed prior to the insulation inspection.

V. ADDITIONS TO SINGLE FAMILY HOMES WITH ADDED BEDROOMS:

A. Approval of an addition or renovation to a single family home that results in the addition of any bedroom* will normally require the septic system to be in compliance with the existing codes and regulations and not be in a state of failure.

*This determination is complex and based on both local and state regulations. It is recommended that applicants seek the advice of a qualified professional or request an appointment for consultation with the Board of Health Agent by filing for a Preliminary Building Permit Review. There is a fee for this consultation.

B. WHAT IS A BEDROOM?

A bedroom is any room other than a kitchen, dining room, living room, bathroom, den, playroom, family room, and/or library on the first floor. **ALL ROOMS ABOVE THE FIRST FLOOR ARE BEDROOMS.**

Any space, not otherwise exempted by the above paragraph, having an area greater than 120 square feet, shall be considered a bedroom.

Any room (not equipped as a kitchen) on any level that has a door leading directly into a bathroom with a tub or shower is considered a bedroom.

In all cases, for a single family dwelling unit, the number of bedrooms shall not be less than one-half ($\frac{1}{2}$) the total number of rooms in the unit rounded down (if necessary) to the closest whole number. For systems installed after March 31, 1995 (Implementation date of State Title 5 revisions), the calculations of one-half ($\frac{1}{2}$) the total number of rooms rounded down (if necessary) shall only apply to dwellings of more than eight (8) rooms.

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VI. FLOOD, FIRE, OR NATURAL DISASTER:

No septic system modification will be required, provided that there is a direct replacement of the damage, with no increase in floor area, and with no change in foundation, and provided that there is not an on-going sewage overflow.

VII. DEMOLITION AND RECONSTRUCTION OF EXISTING STRUCTURES:

Demolition and reconstruction of existing structures may be allowed provided:

- (1) If there is no increase in design flow, the removal of a dwelling and reconstruction elsewhere on the lot is not considered new construction provided it meets requirements of all other Town boards and departments.
- (2) If there is an increase in design flow, the new dwelling shall overlap with any portion of the footprint of the existing dwelling.
- (3) For the purpose of designing a replacement system, all single family dwellings shall be considered to have a minimum of three (3) bedrooms, provided no Title 5 variances are required.
- (4) The septic system received its Certificate of Compliance within the past 2 years, or 3 years if written records are submitted proving the system has been pumped annually.
- (5) State requirements shall be met when using Innovative/Alternative Technologies.

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***Board of Health
Building Permit Review Guidelines
Flowchart***

See Separate PDF document

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APPENDIX B

**FEES FOR THE EMPLOYMENT
OF OUTSIDE CONSULTANTS**

The Sherborn Board of Health may impose reasonable fees for the employment of outside consultants, engaged by the Board of Health, for review of any application submitted to the Board of Health pursuant to its regulations adopted under Chapter 111, Section 31 of the Massachusetts General Laws, the requirement of the Subdivision Control Law, the State Environmental Code, any of its regulations, or any other State or Town statute, by-law, or regulation, as they may be amended or enacted from time to time.

Funds received by the Board pursuant to this regulation shall be deposited with the Town Treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board of Health without further appropriation as provided in Massachusetts General Laws Chapter 44, Section 53G. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been or will be collected from the applicant. Failure of an applicant to pay a review fee shall be grounds for denial of the permit application.

The Board of Health shall give written notice to the applicant of the selection of an outside consultant, which notice shall state the identity of the consultant and the amount of the fee to be charged to the applicant. Such notice shall be deemed to have been given on the date it is mailed or delivered.

The applicant may appeal the selection of the outside consultant to the Sherborn Board of Selectmen, who may disqualify the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of an educational degree in or related to the field at issue, or three (3) or more years of practice in the field at issue or a related field. Such an appeal must be in writing and received by the Selectmen, and a copy received by the Board of Health, so as to be received within ten (10) days of the date of the notice of the selection of the consultant. The required time limits for action upon the application shall be extended by the duration of the administrative appeal.

FEE: The fee to be paid shall be based on a reasonable amount that shall be established by the Board of Health with the individual consultant on a case-by-case basis depending upon the complexity and scope of the project.

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