

**PROVINCETOWN BOARD OF HEALTH
LOCAL REGULATIONS**

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PART I – RULES OF PROCEDURE

Section 1 - Officers

- A.** The Board shall elect from its own membership a Chair, Vice Chair and a Clerk. Such election shall take place annually at the first regular meeting following the Annual Town Meeting.
- B.** The Chair or, in his or her absence, the Vice Chair, shall preside at meetings of the Board and shall, subject to these rules, decide all points of procedure, unless overruled by a majority of the Board in session at the time. The Chair shall act as liaison between the Board, the Health Agent and the Board's secretary.

Section 2 – Meetings

A. General

All meetings of the Board shall be conducted in accordance with Chapter 39, Section 23A, of the Massachusetts General Laws (Open Meeting Law).

B. Regular Meetings

The Board of Health and the Health Agent shall meet generally twice monthly and at such other times as the Board may decide. Unless it be in executive, every meeting of the Board of Health shall be open to the public and to the press (Town of Provincetown General ByLaws, Section 4-2-1).

C. Special Meetings

Special Meetings of the Board may be called by the Chair with the concurrence of a majority of the members of the Board; however, the required statutory forty-eight (48) hour public notice of such a meeting may not be waived.

D. Public Hearings

A workshop meeting will be held at least one (1) week prior to any Public Hearing.

E. Emergency Meetings

1. The Chair may call an emergency meeting of the Board when, in the judgment of the Chair, immediate and/or delayed action by the Board would be contrary to the best interest of the Town of Provincetown.
2. Matters acted upon by the Board at emergency meetings shall be made an agenda item at the next regular scheduled meetings of the Board for the purpose of ratifying decisions rendered at the emergency meeting.
3. Authority to act upon routine Board matters as necessary for timely dispatch may be delegated to the Chair. Actions taken under the provision of this subsection shall be ratified at the next regular scheduled meeting of the Board.

F. Work Sessions

The Board will reserve the right to schedule work sessions. These work sessions shall be used to act on agenda items that require extended time and consideration of the Board and will usually be limited to one (1) agenda item.

G. Time of Meetings

1. All Board meetings shall normally be scheduled to commence promptly at 6:30 p.m. and terminate not later than 11:00 p.m. However, in the event that official business remains to be transacted at the scheduled adjournment time, the Board may vote to suspend this requirement under the provisions of Section 6 of these procedures.
2. Unfinished business remaining at the scheduled or alternate adjournment time shall appear on the agenda of the next regular scheduled meeting.

H. Board Members' Absences/Tardiness

1. Any Board member who expects to be absent from a scheduled Board meeting or delayed more than one hour shall notify the Chair at least 24 hours in advance of the scheduled meeting.
2. The Chair must be notified in writing for absences from more than two consecutive scheduled meetings.

I. Meeting Notice

A written notice of all scheduled meetings of the Board, except as precluded by Section 1E above, shall be filed with the Town Clerk at least forty-eight (48) hours in advance of the meeting for posting on the Town Bulletin Board.

Section 3 – Agenda for Regular Meetings

A. Format

The format for regular scheduled meeting agendas shall be:

- 1.Public Comments
- 2.Discussion
- 3.Old Business
- 4.New Business
- 5.Any Other Business That Shall Properly Come Before the Board
- 6.Approval of Minutes
- 7.Health Agent's and Health Inspector's Reports
- 8.Board Members' Statements

Agendas for special and emergency meetings may be modified by the Chair to conform to the purpose(s) for which the meeting was called.

B. Agenda Action Request Forms

Any item placed on the agenda shall have an "Agenda Action Request" form, with the Health Agent's report and recommendation filled out by the Health Agent.

C. Notification of Parties on Agenda

1. All involved parties must be notified verbally that they are being put on the agenda three (3) working days prior to the meeting.
2. Any review of a property or business *requested by the Board of Health or the Health Agent* will necessitate a written notice by certified mail, to be postmarked three (3) days prior to the meeting.

D. Procedure for Placement on Board of Health Agenda

1. Items requested to be placed on the meeting agendas, other than from Board members, shall be in writing stating:
 - a.Subject matter

- b. Individuals expected to be in attendance
- c. Concise summary of the essence of the subject matter
- d. The applicant's proposed motion

- 2. Agenda item requests must be received by the Health Agent by noon on the Thursday prior to the next scheduled regular meeting. Agenda item requests received after this time may be included under an appropriate agenda item, at the discretion of the Chair.

Section 4 – Procedures During Meetings

A. General

- 1. Proceedings during meetings shall normally be governed by Robert's Rules of Order, except as modified by these procedures.
- 2. When deemed necessary and appropriate, the Chair may offer a motion and/or a second.
- 3. No person shall address a public meeting of the Board without permission of the Chair or other designated presiding officer.
- 4. Items which appear on the meeting agenda shall be considered as properly before the Board for action without benefit of a specific motion to that effect. However, any member may reserve the right to move that an agenda item be stricken from the agenda. Such a motion, if made, shall be subject to action by the other members of the Board as would be appropriate to action on routine motions.
- 5. No determination shall be made by the Board of Health on items not formally on the agenda.

B. Public Comments

- 1. It is the policy of the Board of Health not to respond to speakers under Public Comments. In order for any Board member to speak in response to Public Comments during a meeting, he or she must have the consent of the majority of the Board members present. Issues brought to the attention of the Board under Public Comments are taken under advisement.
- 2. All speakers under Public Comments must be acknowledged by the Chair before speaking.
- 3. Speakers may be limited to five (5) minutes each.

4. Speakers may be limited to one acknowledgment per topic.

C. Public Hearing Procedures

A work session will be held at least one week prior to any Public Hearing.

1. Preliminary Procedures

- a. Proponents and opponents must set up any displays or graphic presentations prior to the actual start of the hearing.
- b. Principal speakers must identify themselves to the Chair prior to the start of the hearing.
- c. Copies of the hearing procedures will be posted or distributed prior to the start of the hearing.

2. Hearing Procedures

- a. The Chair will open the hearing identifying the purpose of the hearing and the rules to be followed during the hearing.
- b. If testimony at the hearing must be given under oath, a five-minute recess will be taken to permit speakers to register with the meeting recorder. When the hearing is reconvened, the Chair will render the oath in front of all present.
- c. The basic format of the hearing will be:

Arguments: Proponents Questions: Board of Health
Questions: Public (addressed through the Chair)

Arguments: Opponents Questions: Board of Health
Questions: Public (addressed through the Chair)

Recess (five minutes)

Concluding Statement/Rebuttal: Proponents

Concluding Statement/Rebuttal: Opponents

- d. No questions will be permitted until after the speaker has finished his or her presentation. Questioners will identify themselves to the Chair, state their question and specify to whom it is addressed. Any disagreement with answers is restricted to rebuttal statements.
- e. At the completion of arguments, citizens may record themselves in agreement with the speaking side without making another presentation. (This provision is designed to reduce repetition).

Section 5 – Minutes of Meeting

- A.** The written minutes, at minimum, shall record the time and date of the meeting, names of Board members present, voting and absent; names of members of other official boards, commissions and committees present; the exact motion(s) made and vote(s) or other official action(s) taken. Written minutes shall not include verbatim or otherwise lengthy record of discussion on agenda items.
- B.** Minutes of the Board of Health meetings shall be submitted for Board of Health approval at least three (3) working days before the next meeting can proceed.
- C.** Minutes shall be recorded with the Town Clerk within five (5) working days of Board of Health approval.

Section 6 – Suspension of Procedures

These procedures may be suspended by an affirmative majority vote of the Board members present and voting.

Section 7 – Reconsideration of Votes

Any vote taken may be reconsidered without limitations as to the time, upon a proper motion before the Board and a favorable majority vote of the members present and voting, provided that the Board of Health member making the motion to reconsider voted in the majority on the original motion.

Section 8 – Review of Procedures

These procedures shall be reviewed annually following the normal annual reorganization of the Board of Health or more often if necessary and dictated by changes in the Board of Health's composition.

Section 9 – Amendments to Procedures

- A.** These procedures may be amended by a majority vote of the members present and voting at a regularly scheduled meeting provided, however, that the proposed amendment has been submitted in writing at least one week prior to the date that the amendment is to be voted upon.
- B.** An amendment shall be construed to mean any addition of a new

procedure or deletion or modification of an existing procedure.

Section 10 – Effective Date

These procedures are effective March 8, 2001.

Section 11 – Distribution

A copy of these procedures will be provided to each newly elected Board of Health member upon that individual's appointment to office.

PART II – POLICIES

Section 1 - Local Regulations

- A.** All regulations promulgated by the Board of Health shall be filed with the Town Clerk. Copies of the new regulation(s) with the Town Clerk’s stamp shall be distributed to each Board of Health member.
- B.** All regulations promulgated by the Board of Health shall have a Part number, Article number and Section number.
- C.** All revisions, additions or deletions to current regulations shall be proposed in such a way that the Board of Health vote to adopt contains the phrase: “To read as follows” and followed by the full text of the regulation including the revision, addition or deletion.
- D.** All regulations submitted to the Town Clerk must contain:
 - 1. Adoption date
 - 2. Names of Board members voting in favor of adoption
 - 3. Advertising dates in newspaper for Public Hearing and for adopted regulation
- E.** All proposed Solid Waste Regulations must be placed on the Board of Selectmen’s agenda for discussion and written comment prior to scheduling a Board of Health Public Hearing.

This policy excludes regulations proposed and requested in writing by the Town Manager and/or the Board of Selectmen.

Section 2 – Title 5 Reviews

- A.** All engineered plans will be submitted to the Health Agent two (2) weeks prior to the scheduled Board of Health meeting.
- B.** Plans are to be submitted with nine (9) copies:
 - 1. One (1) for Health Agent
 - 2. One (1) for Health Inspector
 - 3. Five (5) for Board of Health members
 - 4. One (1) for Building Department
 - 5. One (1) for Water Department
- C.** All plans must include water use and septic pumping volumes for the

previous three (3) years.

- D. All plans must be accompanied by an accurate sketch of the layout of the building(s) to be served, identifying all rooms and areas of the interior. The property description on the septic plan must reflect the appropriate legal and/or licensed use.

The Health Agent must make a site visit to verify the accuracy of the information on the sketch.

- E. All engineering plans should have six (6) lines provided for Board of Health member's signatures, a date line and the locus identified (including the Assessor's Map reference) *in the lower right of the plan*.
- F. All septic system installations, repairs and upgrades – whether residential or commercial – shall be placed on an agenda to be reviewed by the Board of Health for approval. The only plans not requiring Board of Health review are those plans not requiring variances from Title 5 or the local Board of Health regulations, unless the Health Agent feels the plan should be brought to the attention of the Board of Health.

Section 3 – Septic System Repairs

- A. Repair permits shall be granted by the Board of Health for existing Board of Health approved Title 5 septic systems, except non-varianced repairs which will be granted by the Health Agent, unless the Health Agent feels the plan should be brought to the attention of the Board of Health.
- B. Repair permits shall be granted for substandard, non-approved septic systems only if:
 1. The public health may be in jeopardy.
 2. Such repairs shall be considered as a temporary measure.
 3. A letter shall be sent by the Health Agent to the property owner, stating that the repaired system shall be upgraded to a Board of Health approved Title 5 septic system within one (1) year of the date of the issuance of the repair permit.

Section 4 – Septic System Installations

All septic system installations must be done in accordance with the approved plan.

Any alterations from the approved plan made in the installation must be presented to the Health Agent by the design engineer. The Health Agent will make a determination as to whether the proposed change is substantial

and requires Board of Health approval.

Any alterations from the approved plan made in the installation without the prior approval of the design engineer and the Health Agent, in particular those alterations that alter the visual character of the system, must be issued a Stop Work Order immediately.

Section 5 – Portable Toilets

Portable toilets that will be located within the Town of Provincetown for a period of time greater than two (2) weeks must receive prior permission from the Board of Health at a public meeting.

This policy does not apply to portable toilets provided at construction sites under the requirements of OSHA.

Section 6 – Solid Waste Regulations

All proposed Solid Waste Regulations must be placed on the Board of Selectmen's agenda for discussion and written comment prior to scheduling a Board of Health Public Hearing.

Section 7 – Septic Review: License and Building Permit Applications

A. Health Agent Review

1. The Health Agent must approve all License and Building Permit applications. There is a box on each Building Permit hard-card that must be checked and initialed by the Health Agent prior to issuance. License Inspection Worksheets must be signed by the Health Agent prior to being sent to the Licensing Board for approval.
2. If the proposed construction or activity entails any change in use (see definition), the subsurface sewage disposal system must be reviewed in terms of its adequacy for the proposed use of the property.
3. If there is a septic permit issued by the Provincetown Health Department on file that is not based upon an engineered plan, an engineered as-built drawing is required to determine compliance with Title 5. Systems determined to be inadequate must be

brought into compliance in order for the Health Agent to approve the application.

4. If the existing septic system is known or stated to be cesspools, or if verifiable information is unavailable, no further review is necessary. The system must be brought into compliance for the proposed use.
5. If the property file contains an engineered plan and letter of certification from the design engineer, the Health Agent will review the system's adequacy for the proposed use. Systems determined to be inadequate must be brought into compliance in order for the Health Agent to approve the application.
6. **The lack of an approval by the Health Agent of any building permit application constitutes a denial.**
7. Any applicant may appeal the Health Agent's ruling by requesting in writing to be placed on the Board of Health's agenda.

B. Board of Health Review

1. The Board of Health review of septic systems for License and Building Permit applications are considered to be appeals of the Health Agent determinations.
2. Owners of existing septic systems that are determined to be substandard or insufficient for the proposed use (by the Health Agent) who are appealing this determination to the Board of Health must provide the following for the Board's review:
 - a. Residential
 - i. If known or stated to be cesspools, or if verifiable information unavailable, no further review necessary. Upgrade required.
 - ii. If a permit indicates the system has a septic tank:
 - a) Past 3 years' water use b) Past 3 years' septic pumping records c) If proposal constitutes an increase in design flow, an engineering "as-built" of the current system
 - or
 - b) If the proposal constitutes no increase or a

decrease in design flow, whatever sketches are available must be provided.

b. Commercial

- i. If known or stated to be cesspools, or if verifiable information unavailable, no further review necessary. Upgrade required.
- ii. If a permit indicates the system has a septic tank:
 - a) Past 3 years' water use
 - b) Past 3 years' septic pumping records
 - c) If proposal constitutes an increase in design flow, an engineering "as-built" of the current system

or

If the proposal constitutes no increase or a decrease in design flow, whatever sketches are available must be provided.

Section 8 – Correspondence

- A. Copies of all letters sent by the Health Agent concerning the citizens of Provincetown shall be made to the Board of Health Chair.
- B. Copies of all letters sent to governmental agencies concerning all Health Department business shall be made to all Board of Health members.

Section 9 – Emergencies

- A. Emergency septic system repair permits must be reviewed by the Board of Health prior to signing. If such a situation arises where the permit cannot wait until the next scheduled Board of Health meeting, the Health Agent will notify the Chair or Vice Chair to call an emergency meeting of the Board.
- B. All other emergency situations will be reported to the Chair within twenty-four (24) hours.

Section 10 – News Media Statements

- A. All statements to the news media pertaining to the Board of Health shall be made by the Chair.
- B. If the Chair is not available, the Vice Chair may make statements to the media on behalf of the Board of Health.
- C. The Health Agent may make statements to the news media on behalf of the Health Department, but not on behalf of the Board of Health.

Section 11 – Communications Between Town Boards

- A. Any Board of Health vote that relates to a Town of Provincetown-issued license shall be followed within seven (7) days by a memo regarding that vote to the Licensing Board. A copy of the vote and the memo to the Licensing Board shall be placed in the licensee's file in the Health Department.
- B. Any Board of Health vote that relates to a property under the jurisdiction of the Conservation Commission shall be followed within seven (7) days by a memo regarding that vote to the Conservation Commission. A copy of the vote and the memo to the Conservation Commission shall be placed in the property file in the Health Department.

Section 12 – Health Agent

- A. Any party aggrieved by a determination by a Health Agent may appeal such determination to the Board of Health. (See Section I(b) How to Get On Board of Health Agenda).
- B. The Health Agent will present a summary of all Building Permits approved at each regularly scheduled meeting.
- C. Any incident or procedure requiring action from the Health Agent will be referred to the Chair or Vice Chair in the absence of the Health Agent.

Section 13 – Review of Policies

- A. These policies shall be reviewed annually following the normal annual reorganization of the Board of Health or more often if necessary and dictated by changes in the Board of Health's composition.

Section 14 – Amendment to Policies

- B.** These policies may be amended by a majority vote of the members present and voting at a regularly scheduled meeting provided, however, that the proposed amendment has been submitted in writing at least one week prior to the date that the amendment is to be voted upon.
- C.** An amendment shall be construed to mean any addition of a new policy or deletion or modification of an existing policy.

Section 15 – Effective Date

These policies are effective _____.

Section 16 – Distribution

A copy of these policies will be provided to each newly elected Board of Health member upon that individual's appointment to office.

PART III –FUEL STORAGE

ARTICLE 1 - Control of Underground Fuel and Chemical Storage Systems

Acting under the authority of Massachusetts General Laws Chapter 111, Section 31, the Provincetown Board of Health hereby adopts the following regulations, effective immediately, to protect the ground and surface waters from contamination with liquid fuel or toxic materials from leaking storage tanks and systems:

All underground fuel and chemical storage tanks, residential and commercial, must be installed and maintained in full compliance with the provisions of 527 CMR 9.00 of the Board of Fire Prevention Regulation.

All underground fuel and chemical storage tanks, residential and commercial, must be removed within twenty (20) years of installation.

All underground fuel and chemical storage tanks, residential and commercial, whose date of installation cannot be reasonably determined, must be removed.

Section 1 – The following regulations apply to all commercial underground fuel and chemical storage systems:

- A.** Any spill or loss of fuel or chemicals must be reported to the Board of Health and Fire Department within two hours of detection.
- B.** All leaking tanks must be emptied within 24 hours of leak detection and must be removed within 14 days.
- C.** All tank installations within four feet of high water or within 100 feet of a surface water body shall be of fiberglass construction.
- D.** All commercial underground tank installations made after the effective date of these regulations shall be located at least 1000 feet from the nearest potable water supply installation.
- E.** Fuel service companies shall report to tank owners, the Board of Health and the Fire Department any unaccounted for, significant increase in apparent fuel usage that may indicate a leak.

Section 2 – The following regulations, in addition to those set forth under Section 1 above, shall apply to all commercial underground storage systems with capacities of 500 gallons or greater:

- A.** Owners shall file with the Board of Health and the Fire Department the size, type, age and location of each tank and a scaled plot plan with locations of tanks and related piping and pumping systems and the type of fuel or other substance stored. Evidence of date of purchase and installation, including a Fire Department permit, shall be included.
- B.** All steel tanks shall be subject to the following tests, not less than 15 years after installation and annually thereafter: a Kant-Moore pressure test, or any other testing system providing equivalent safety and effectiveness. Certification of testing shall be submitted to the Board of Health and the Fire Department.
- C.** Owners shall submit to the Board of Health and the Fire Department a semi-annual statement, certifying that inventory records have been maintained and reconciled as required by Massachusetts Fire Prevention Regulations.
- D.** All tanks shall be properly installed as per Massachusetts Fire Prevention Regulations and manufacturers' specifications, under the direction of the head of the Fire Department. Tanks shall be of approved design and protected from internal and external corrosion. All fiberglass construction, steel with bonded fiberglass or enamel coating and internal lining, and the Steel Tank Institute 3-Way Protection System. Any other system must be shown to provide equivalent protection.
- E.** All commercial underground tanks installed after the effective date of these regulations shall include a tank shield system approved by the head of the Fire Department.

Section 3 – Variances

- A.** Variances from these regulations may be granted jointly by the Board of Health and the Fire Department, after a hearing at which the application establishes that the installation of a proposed underground storage tank will not adversely affect public or private water sources.
- B.** In granting variances, the Board will take into consideration factors such as, but not limited to, the direction of the groundwater flow, soil conditions, depth to groundwater, size, shape and slope of the lot, existing and known future water supplies.

PART III

ARTICLE 2 - Residential Underground Fuel Storage Tanks

Revised September 18,
2003 Public Hearing
September 18, 2003

WHEREAS leaking fuel storage tanks pose an immediate and serious threat to Cape Cod's sole source aquifer and,
WHEREAS the Town of Provincetown does not have records to locate all such tanks installed within the Town,
THEREFORE, the following regulations are adopted.

FUEL STORAGE TANK REGULATIONS

DEFINITIONS: "Toxic or hazardous materials" shall be defined as all liquid (at ambient pressure and temperature) hydrocarbon products, including but not limited to, gasoline, fuel and diesel fuel, and any other substance controlled as being toxic or hazardous by the Division of Hazardous Waste of Massachusetts General Law, Ch. 21C, §1, et seq.

"Above Ground Tank" AGT shall be defined as any tank located above ground to store fuel oil for the purpose of heating.

Section 1 – Tank Registration

The following regulations shall apply to all fuel storage tanks, both above ground and underground, containing toxic or hazardous materials as defined above which are not currently regulated under 527 CMR 9.26 - Tanks and Containers.

Owners shall file with the Board of Health and Fire Department on or before December 1, 1989, the size, composition, age and location of each tank, and its components, and the type of fuel or chemical stored in them. Evidence of dates of purchase shall be included along with a sketch showing the location of such tanks on the property. If the installation date is unknown, it shall be assumed that the installation date is prior to January 1, 1983. Upon registering the tank with the Board of Health and the Fire Department, the tank owner will receive a permanent metal or plastic tag, embossed with a registration number unique to that tank. This registration tag must be affixed to the fill pipe in such a location as to be visible to any distributor when filling the tank and to any inspector authorized by the Town. A fee of \$10.00 will be charged to cover the cost of the tag.

Effective February 1, 1990, all petroleum and other chemical distributors, when filling a fuel storage tank, shall note on the invoice or bill for the product delivered the registration number appearing on the tag affixed to the tank that was filled. Every

petroleum and other chemical distributor shall notify the Board of Health and the Fire Department of the existence and location of any untagged tank that they are requested to fill. Such notification must be completed within two (2) working days of the time the distributor discovers that the tank registration tag is not affixed to the fill pipe.

Effective December 1, 1989, prior to the sale of a property containing a fuel storage tank, the Board of Health and the Fire Department must receive from the current owner a change of ownership form for the registration of the fuel storage tank. Such form can be obtained from the Board of Health.

Section 2 – Installation /Maintenance of Heating Fuel System

Following the effective date of this regulation all underground fuel oil storage tanks shall be prohibited within the Town of Provincetown.

All copper fuel lines shall be enclosed in an approved double containment system by the Fire Department at such time as any new line or new tank is installed or whenever property ownership is transferred if lines are underground including basement foundations.

All new construction where above ground fuel oil storage tanks (inside and outside) are installed shall be required to provide 110% containment capacity to prevent contamination from leaks that may occur. Exterior fuel oil storage tanks must be covered with substantial impermeable construction material to prevent water accumulation within the containment area in such a way it satisfies the Board of Health and the Fire Department. The area beneath the exterior shall be 4-inch thick continuous concrete slab. Doubled walled fuel oil storage tanks could be substituted for containment devices. The fuel oil storage tank or containment device must be approved by the Fire Department before installation occurs.

At time of replacement of existing tanks all AGT's shall be required to be replaced with double walled fuel oil storage tanks or shall be required to provide 110% containment capacity to prevent contamination from leaks that may occur. Exterior fuel oil storage tanks must be covered with substantial impermeable construction material to prevent water accumulation within the containment area in such a way that it satisfies the Board of Health and the Fire Department. The area beneath the exterior tank shall be 4 inch thick continuous concrete slab.

Effective October 27, 2005, at the time of property transfer, all AGT's that are not double walled or do not provide 110% containment capacity shall be replaced with a tank that meets these requirements.

All aboveground elements of a fuel storage system shall be maintained free of leaks and visible rust.

Section 3 – Testing

The tank owner shall have each underground tank and its piping tested for tightness fifteen (15) years after installation and annually thereafter. A tank shall be tested by any final or precision test, not involving air pressure, that can accurately detect a leak of 0.05 gal./hr., after adjustment for relevant variables, or by any other testing method approved by the Board of Health and the Fire Department as providing equivalent safety and effectiveness. Piping shall be tested hydrostatically to 150 per cent of the maximum anticipated pressure of the system.

The owner, at the owner's expense, shall submit certification of the testing to the Board of Health and the Fire Department. Owners of those tanks subject to the testing requirements of this regulation shall submit the certification by December 31, 2003. Owners shall submit certification of testing of tanks which subsequently become subject to testing requirements by December 31 of the year the tanks require testing. Tanks that are currently tested under the provision of 527 CMR 9.13 are exempt from this section.

Tanks failing this test shall be removed within a reasonable time at the owner's expense.

Section 4 – Reporting Leaks or Spills

Any person who is aware of a spill, loss of product, or unaccounted for increase of consumption which may indicate a leak shall report such spill, loss or increase immediately to the Chief of the Fire Department, to the Health Agent, and to the owner of the tank.

Section 5 – Underground and Aboveground Tank Removal

(1) Underground fuel storage tanks must be removed and properly disposed of whenever one or more of the following criteria apply:

- a. prior to the issuance of any building permit for any construction cost exceeding \$5,000 on a lot where an underground storage tank exists.
- b. Prior to issuance of any septic system installation permit on a lot where and underground storage tank exists
- c. Prior to the transfer of title of land where an underground storage *tank exists*.
- d. All existing underground storage tanks which reach the age of twenty (20) years or where the age of the tank cannot be documented to be less than twenty (20) years, shall be considered an imminent danger to public health and safety, shall be deemed "FAILED", and shall be removed within (6) months after notification by the Board of Health that the tank is condemned.

No underground or aboveground storage tanks shall be removed without there first being

an application made to the Board of Health and the Fire Department. The application shall include the following information (see permit form from the Fire Department, cost: \$20.00):

- Location of property (Assessor's Atlas numbers)
- Owner of record of property
- Name of contractor removing the tank
- Date and time specific of proposed removal
- Disposition The Health Agent and the Fire Chief shall be notified to monitor the removal.

Section 6 – Enforcement

Any owner or operator who violates any provision of the regulation shall be subject to the penalties provided under MGL, Chapter 111, § 31, as amended. Each day during which such violation continues shall constitute a separate offense. Upon request of the Chief of the Fire Department or the Board of Health, the licensing authority and the town counsel shall take any legal action as may be necessary to enforce the provisions of this regulation.

Section 7 – Costs

In every case, the owner shall assume the responsibility for costs incurred necessary to comply with this regulation.

Section 8 – Variances

Variances from this regulation may be granted by the Board of Health after a hearing at which time the applicant establishes the following:

1. Enforcement thereof would do manifest injustice;
2. Continued use of the storage tank will not adversely affect public or private water resources.
3. Existing above ground tank is less than 10 years of age, has been inspected and has been certified to be in full compliance with current regulations. At age 10 years of age the single walled tanks would be required to be replaced with a doubled walled tank or to provide 110% containment.

In granting a variance, the Board will take into consideration the direction of the ground water flow, soil conditions, and depth to ground water; size, shape and slope of the lot, and existing and known future water supplies.

Section 9 – Severability

Provisions of this regulation are severable and if any provision hereof shall be held invalid under any circumstances, such invalidity shall not affect any other provisions or

circumstances.

PART IV – COMMERCIAL REQUIREMENTS

ARTICLE 1 - Rules and Regulations Governing the Practice of Massage and the Conducting of Establishments for the Giving of Massage, Vapor, Pool Shower, or Other Baths

The following regulations are promulgated by the Town of Provincetown, Board of Health, under the authority of the Massachusetts General Laws, Chapter 140, section 51, to read as follows:

Section 1 – Applications

All applicants seeking to practice massage therapy must have a specific primary business location where he/she is proposing to conduct the business of massage. All primary locations must be licensed as well as each individual practitioner. Application for licenses shall be made to the Board of Health according to the "Applicant's Procedures for Obtaining Licenses to Practice Massage" as stated in the appendix of these regulations. Upon the approval of any application by the Board of Health, and fee payment (see Part VIII, Article 1, Fee Schedule) by the applicant for each business license, a license will be issued authorizing the licensee to continue in business until the thirty-first day of December next following the issue of the license, unless such license is sooner revoked. A license is not transferable. See Part VIII, Article 1, Fee Schedule for fees for individual massage therapist licenses.

Section 2 – Definitions

- A.** Massage shall mean manipulation or conditioning of part or parts of the body by manual, mechanical, or other means as a beauty treatment for purported health or medical treatment, or for the purposes of invigoration.
- B.** Establishment for giving Massage, Polarity, Vapor, Pool, Shower, or Other Baths shall mean the office, place of business, health center or premises where massage is practiced or where therapeutic or conditioning baths of water, vapor, or other substance are given.
- C.** Satellite location shall mean any location other than the licensed location.
- D.** Approved shall mean approved by the Board of Health of the Town of Provincetown or its agent in accordance with accepted standards.
- E.** Approved course of massage shall mean a course on the art and science of massage, which includes both theory and practice and is approved by the Board of Health.
- F.** CORI shall mean Criminal Offender Record Information as obtained by the Provincetown Health Department from the Massachusetts Criminal History Systems Board.

Section 3 – Exceptions

Those persons excepted by the Massachusetts General Laws.

Section 4 – Expirations

Licenses shall automatically expire on December 31 each year.

Section 5 – Requirements for Personal Licensure

No person shall be licensed to practice massage or conduct an establishment for giving massage, polarity, vapor, pool, shower, or other baths unless he/she meets the requirements stated under Article I, Appendix 1: Applicant's Procedures for Obtaining Licenses to Practice Massage.

Section 6 – Requirements

Every establishment for the giving of massage, polarity or vapor, pool shower, or other baths shall meet the following standards:

- A.** All rooms shall be well lighted, ventilated, and be maintained in a sanitary manner at all times.
- B.** All rooms used for the giving of vapor baths or body massage shall be provided with an ample supply of hot and cold water.
- C.** Adequate means shall be provided for the cleansing and sterilizing of all instruments and utensils and, if necessary, for the cleansing and sterilizing of the skin or flesh of the patrons.
- D.** All instruments and devices used by any person licensed to practice under this regulation, for direct application to any parts of the bodies of patrons, or for holding materials to be applied to any parts of the bodies, shall, so far as is practicable, be such as can readily be kept clean and as nearly sterile as circumstances permit.
- E.** Robes, sheets, blankets, and pillowcases, which come into direct contact with the bodies of the patrons, and all towels and napkins, shall, after having been used and before being used again, be laundered in such manner as to disinfect.
- F.** No un-sterilized part of a percussor, vibrator, or other mechanical appliance shall be applied directly to the skin of the patron, but the part of the body being treated shall be covered with a clean towel or else the instrument shall be covered in similar manner.
- G.** No sponge, nor stick alum, nor any other article liable to convey infection shall be used to make application direct to the skin or to any cut or wound.

- H.** No person licensed under this act shall treat any person afflicted with any skin eruption or skin disease unless client obtains written approval from a physician.
- I.** Every person licensed to practice body massage shall thoroughly cleanse his/her hands by washing immediately before serving any patron.
- J.** No establishments licensed under this act shall be kept open except between the hours of 8 a.m. and 10 p.m., unless specifically authorized by the Board of Health.
- K.** Every licensed person, when requested, shall show such license to a legally authorized public officer.
- L.** No license will be issued to conduct an establishment for the giving of vapor baths unless or until adequate arrangements have been made for the separation of the sexes, and then only in accordance with such conditions as may be prescribed in the license to accomplish this end.
- M.** A license is not transferable without the permission of the Board of Health.
- N.** Operating behind locked doors is held to be in violation hereunder. Any and all establishments licensed and operating under the authority of these regulations shall not during business hours have the doors to any rooms, exits or entrances of said establishments, locked or obstructed in any way so as to prevent free ingress or egress of persons.
- O.** Any establishment permitted to operate under authority of these regulations shall post in a conspicuous place within such establishment, a schedule of hours. Such establishment shall be open and accessible for inspection during business hours by any member of the Police Department, Health Department or any of the Town Licensing Authority. In addition, the establishment must plainly post the massage business license.
- P.** No licensed massage business location may allow more than 5 licensed practitioners of massage therapy per table to list said location as their primary place of business.
- Q.** Area where massage is to be performed must be a dedicated area or an area solely for the practice of massage.
- R.** Proof of liability insurance.

- S.** Proof of favorable CORI check with Provincetown Board of Health assessment for massage therapists and massage business owners as defined by Part IV Article 1 Section 2 and Appendix 1 of this regulation. Each person applying for a license to practice massage therapy or conduct an establishment for giving of massage therapy shall have a background free of conduct which, in the judgment of the Provincetown Board of Health, bears adversely upon his or her ability to safely and reputably provide massage therapy.

Section 7 – Satellite Locations

Performing massage therapy at a location other than that of a licensed establishment for massage shall meet the following standards:

- A.** Practitioner must be licensed.
- B.** Satellite locations must be licensed by the Town, and require annual inspection.
- C.** Permission of owner of satellite establishment must be obtained by individual seeking to perform massage therapy on premises.
- D.** Licensed satellite locations, with the exception of approved home visits, must meet the requirements stated in Section 6, "Requirements for Licensure of an Establishment."
- E.** Licensed satellite location where massage is to be performed must be a dedicated area or an area solely for the practice of massage.
- F.** Practitioner must utilize a standard or portable massage table/chair.
- G.** Home visits for the purpose of massage therapy practice will be allowed if there is emotional and physical disability rendering the client incapable of traveling to the primary business or satellite location. If requested, documentation of this disability will be furnished to the Board of Health.
- H.** No massage therapy by a licensed massage therapist shall take place in a natural outdoor setting i.e. beaches, forest, dunes etc.
- I.** All establishments to be licensed for the practice of massage must submit to the Board of Health a completed Massage Business application containing all the information requested on said form.

Section 8 – Penalties

Whoever violates any provision of these rules or regulations shall be punished by loss of license and by a fine of not more than one hundred (\$100) dollars or imprisonment for not more than six months or both in accordance with Section 53, Chapter 140, of the General Laws.

Section 9 – Invalidation

If any section, paragraph, sentence, clause or phrase of these rules and regulations should be decided invalid for any reason whatsoever, such decision shall not affect the remaining portions of these regulations, which shall remain in full force and effect; and to this end the provisions of these regulations are hereby declared severable.

Appendix 1: Applicant's Procedures for Obtaining Licenses

to Practice Massage

All applicants seeking to practice massage therapy must have a specific primary location where they are proposing to conduct business. All primary massage locations must be licensed, as must each individual practitioner. If the primary location is already licensed for massage, a letter from the applicant's prospective employer must accompany the application. If the primary massage location is not currently licensed for massage, the practitioner at the location of business must obtain a license for said location, using the "Application to Engage in the Business of Massage." Only when the primary business location is licensed for massage can the applicant be approved for licensing.

The addition of a Massage Business License to a property is a "Change of Use" according to the Board of Health Regulations. Proposed locations for massage therapy must be served by a septic system in compliance with Title 5, 310 CMR 15.000, of the Massachusetts Sanitary Code.

To qualify for a Home Occupation permit, the applicant should obtain a copy of the Zoning By-Law (Article III, sect. 3500) and a "Request for Zoning Opinion" form. This form is submitted to the Zoning Officer; if renting, the applicant must be sure to include a signed statement from his/her landlord, stating that the landlord will allow him/her to conduct a massage practice out of the house/apartment. A Home Occupation permit is only for the individual therapist, scheduling one customer at a time. The Zoning Officer must first approve any home occupation massage license request. The Zoning Officer has 14 days to respond in writing to the zoning opinion request.

License Requirements for Individuals

No person shall be licensed to practice massage or conduct an establishment for giving massage, polarity, vapor, pool, shower, or other baths unless he/she meets the following requirements stated:

1. Applicant must be eighteen years of age or older.
2. Applicant must submit to the Board of Health a completed application containing all information requested by said form.
3. Applicant must submit a letter from the prospective employer or, in the case of a Home Occupation permit, the landlord of the building. (See Home Occupation License procedures Article 1, Appendix 1).
4. Fee (see Part VIII, Article 1, Fee Schedule) for Massage Therapist License shall be paid after Board of Health approval.
5. School/Training Diploma(s)/Certificate(s) proving 500 hours of training or proof of eight (8) years' experience in the practice of massage.
6. Statement from a physician within the previous six months stating that the applicant is in good physical health and free from tuberculosis (TB) infection.
7. Three (3) letters of character reference, preferably acknowledging

- massage expertise.
- 8. Recent passport-style photograph.
- 9. Proof of current liability insurance.
- 10. Complete a Criminal Offender Record Information check (CORI) as described in Part IV Article 1 Section 2.

The Provincetown Health Department shall, upon receipt of an initial application, and every (1) years thereafter, seek Criminal Offender Record Information (CORI) about the applicant from the Massachusetts Criminal History Systems Board. The Provincetown Health Department, may also request CORI if deemed necessary to properly investigate any complaint received from the public concerning a person duly licensed by the Department as a massage therapist and/or massage establishment.

When the potential licensee has met the all the above requirements, the Health Agent will schedule a hearing before the BOH for a new license. Massage therapists who are renewing a Provincetown Massage Therapist License are not required to appear before the Board of Health prior to licensing.

License Requirements for Massage Business or Home Occupation

No establishment shall be licensed for the giving of massage, polarity or vapor, pool shower, or other baths unless the applicant for a Massage Business or Home Occupation License meets the following requirements:

1. Applicant must submit to the Board of Health a completed Application to Engage in the Business of Massage (needed for location) or Home Occupation. Fee (see Part VIII, Article 1, Fee Schedule) paid upon Board of Health approval.
2. Favorable zoning opinion from Zoning Officer.
3. Schedule an inspection of the Massage Business or Home Occupation location with the Licensing Agent. Inspection fee (see Part VIII, Article 1, Fee Schedule) to be paid prior to inspection.
4. The Health Agent will review the property's septic system for compliance.
5. The Health Inspector will also inspect the primary business location to ensure compliance with the regulations (PART IV, Article 1) pertaining to practice of massage therapy in the Town.
6. If applicable, a sign permit must be obtained from the Building Department prior to any signage at the business location.

When all the above requirements have been met, the Health Agent will schedule a hearing before the Board of Health for a new license.

All Massage Business or Home Occupation locations shall be inspected for license renewals.

PART IV

ARTICLE 2 - Sun-tanning Booth Regulations

Section 1 – Lamp Shields

Lamps shall be shielded to prevent users from coming in contact with them, and there shall be physical aids to keep the user at the proper exposure distance.

Section 2 – Timers

Accurate timers shall be used to turn off the lamps after no more than ten (10) minutes, unless FDA variance for longer time is required and presented.

Section 3 – Electrical Shocks and Fires

Tanning booths shall have protection against electrical shocks and fires.

Section 4 – Handrails and Floors

Physical aids, such as handrails, shall be in place to help prevent falls. Floors must be of impervious materials to assure proper cleaning for good hygiene, and to provide adequate traction for wet or bare feet.

Section 5 – Booth Temperature

Temperature in the booths shall be maintained below one hundred (100) degrees Fahrenheit.

Section 6 – Warning Sign

Tanning booths shall have a prominently displayed, easily readable, warning that states: "DANGER - Ultraviolet radiation, follow instructions. As with natural sunlight, overexposure can cause eye injury and sunburn. Repeated exposure may cause premature aging of the skin and skin cancer. Medications or cosmetics applied to the skin may increase your sensitivity to ultraviolet light. Consult a physician before using lamp if taking any medication or if you believe yourself sensitive to sunlight. Pregnant women should consult with their obstetrician."

Section 7 – Goggles

Each tanning booth shall have for the patrons' usage a sufficient quantity of goggles to protect the user's eyes from the direct exposure to the sunlamp. Protective eyewear must

protect from ultraviolet radiation and allow adequate vision.

Section 8 – Contingency Plans for Emergencies

The Board of Health may require the owner or operator of said establishment to set aside an area to be designated as an emergency aid station. There must be a trained attendant on duty during all hours that said activity is in actual operation. The Board of Health may require a non-pay telephone to be installed in the emergency aid station and first aid equipment that they deem necessary to insure the safety of the general public.

Section 9 – Severability

If any paragraph, sentence, clause, phrase or word of these proposed rules and regulations shall be declared invalid for any reason whatsoever, the decision shall not effect any other portion of these rules and regulations, which shall remain in full force and effect, and to this end the provision of these rules and regulations are hereby declared severable.

Section 10 – Effective Date

Notwithstanding the provisions that may be in conflict with the Massachusetts General Laws, the revised ordinances of the Town of Provincetown and the Charter of the Town of Provincetown, these rules and regulations shall be binding upon all parties concerned. The effective date of said rules and regulations shall be May 12, 1988.

PART IV

ARTICLE 3 - Stable Regulations

Section 1 – Registration of Horses & Ponies

All animals referred to as horses or ponies shall be listed with the Board of Health. The total number of horses or ponies on the property shall not exceed the total indicated on the permit. Proof shall be provided that all horses and ponies have been vaccinated annually against Tetanus and Eastern Equine Encephalitis. There shall also be proof submitted of a negative Coggin test showing the horse or pony to be free from Equine Infectious Anemia (Swamp Fever) dated within six (6) months prior to each horse or pony entering the Town. A negative Coggin test result is required each two (2) years thereafter for each horse or pony permanently stabled in the Town. All horses and ponies shall be maintained in a sound, healthy and clean condition. Horses and ponies of commercial stables must be qualified for use by the Health Agent and Animal Inspector. All commercial stables are subject to the rules and regulations of Chapter 128, section 2 B of the Massachusetts General Laws.

Section 2 – Housing

Each stable shall have adequate light and ventilation. Every horse or pony shall have adequate shelter:

- A. Stables: Each stall shall be of adequate size so that the horse or pony contained therein shall have room to comfortably stand up and lie down.
- B. Open Sheds: Each open shed shall be a three-sided, roofed structure. Horses or ponies that are housed in groups shall be maintained in compatible groups without overcrowding.

Section 3 – Water

Potable water shall be supplied at all times in trough or other supply, or at intervals of not less than three (3) times per day. If well water is used, the Board of Health must approve this water.

Section 4 – Stable, Feed Room and Outside Area

Owners/operators shall take effective control measures to prevent infestation of animals and premises from flies, parasites and vermin. All equipment used shall be maintained in a clean and sanitary condition.

Section 5 – Construction

The Building Inspector shall approve all buildings.

Section 6 – Floors

Stall flooring shall permit adequate drainage, shall be of a material that is safe and comfortable for the animals, and shall be maintained in a clean condition.

Section 7 – Fire Protection

Provisions shall be made for quick removal of horses and ponies in case of fire. Fire extinguishers approved by the Fire Chief as to type and location shall be readily available.

Section 8 – Manure

Provisions shall be made for the proper storage and regular removal of manure. The location and methods of removal of manure shall be with the approval of the Board of Health.

Section 9 – Living and Sleeping Quarters

Stables or barns shall not be used for human habitation except with written permission of the Board of Health. If permitted by the Board of Health, such living and sleeping quarters shall meet the requirements of Title II of the State Sanitary Housing Code and such special condition as may be required by the Board of Health.

Section 10 – Enforcement

Enforcement action under these regulations shall not preclude enforcement of any other violation under any other laws or regulations not listed. Stable inspections will be conducted, and shall be expected during reasonable hours, by the Board of Health, Health Agent, Health Inspector and/or Animal Inspector. Failure to correct cited deficiencies may lead to a determination by the Board of Health that a public health nuisance or hazard exists. The Board of Health, upon determining the existence of a public health nuisance, will act in accordance with provisions of Chapter III, Section 31, of the Massachusetts General Laws, which provides for fines.

Section 11 – Appeals

Any person aggrieved by the decision or order of the Board of Health in enforcement of these regulations may request a hearing before the Board of Health by filing within seven (7) days following receipt of a written order a petition in writing requesting a hearing in the matter. Upon receipt of such a petition the Board of Health shall set a time and place

for the hearing and shall inform the petitioner of such in writing. Any person aggrieved by the decision of the Board of Health may seek relief therefrom in any court of competent jurisdiction as provided by the laws of the Commonwealth.

PART IV

ARTICLE 4 - Swimming Pool Regulations (Amendment to 310 CMR 12.00)

Section 1 – Pools and Spas That Require A License

Any semi-public or residential pool or spa utilized and maintained exclusively, or in part, for members, guests only, or the general public shall be licensed by the Provincetown Health Department, in accordance with 105 CMR 435, and is subject to the regulations outlined in this article, in addition to 105 CMR 435.

Section 2 – Definitions:

- A. Semi-public pool: Swimming pool on the premises (same lot as) of any licensed establishment where the primary purpose of the establishment is not the operation of the swimming facility.
- B. Spa – Wading: Special purpose pool or hot tub on the premises (same lot as) of any licensed establishment where the primary purpose of the establishment is not the operation of the spa.

Section 3 – Fencing Requirements

The entire perimeter of all semi-public and residential pools shall be fenced in. The fence shall be of sturdy construction, at least 4 feet in height, and must have a lockable gate.

Section 4 – Flow Meters

All semi-public pools must have flow meters as part of the filtration system.

Section 5 – Testing

Owners/operators of semi-public pools shall conduct daily water chemistry tests at the opening and close of each day, and shall record the results of such daily testing in a book kept at the pool and accessible to the Health Agent.

Section 6 – First Aid Kit

First Aid Kits that are upgraded on a yearly basis must be maintained at semi-public pools. Two pairs of surgical gloves should be included in each 24-unit kit. The exterior should be clearly marked "Surgical gloves must be worn when in contact with blood."

Section 7 – Closing by Order of the Health Department

Semi-public pools shall close when so requested by the Health Department, and shall not re-open until water quality tests, or other factors relating to closure, indicate that there are no imminent risks to public health.

Section 8 – Bacterial Tests

Water bacterial tests must be conducted once a month within the operating season for semi-public pools, spas and/or hot tubs.

Section 9 – Fees

The following fees are to be paid to the Town of Provincetown:

Licensing: Pool -See Part VIII, Article 1, Fee
Schedule Spa -See Part VIII,
Article 1, Fee Schedule

PART IV

ARTICLE 5 - Fish Off-Loading Operations

Section 1 – Waste and Wash-down

All waste from off-loading operations shall be effectively washed and swept from the deck area. Wash-down shall occur at least three times each day of operation.

Section 2 – Overnight storage

Fish stored overnight on the pier shall be stored in an operating, properly functioning refrigeration truck, and shall not remain on the pier for a period exceeding twenty-four hours. No truck stored on the pier shall generate run-off of any type.

Section 3 – Drainage and Run-off from Trucks

The licensee and/or operator shall be responsible for ensuring that each truck driver stops all draining and run-off from trucks prior to leaving the pier.

Section 4 – Refuse Disposal

All fish off-loading operations shall provide proof showing they do business with a private refuse hauler for refuse disposal.

Section 5 – Violations

Failure to adhere to any of the criteria listed in Sections 1 thru 4 shall constitute a violation, subject to a non-criminal violation citation.

PART IV

ARTICLE 6 - Food Establishment Regulations

Revised May 27, 2004 Public
Hearing May 27, 2004

The following regulations were promulgated by the Town of Provincetown in accordance with the provisions of Chapter 111, section 31, as amended, of the Massachusetts General Laws and are being adopted to supplement, clarify and augment the provisions of Article X, Minimum Standards for Food Service Establishments of the State Sanitary Code. Applicants shall refer to the State Sanitary Code for basic requirements.

Section 1 – Types of Food Service Permits Issued by the Board of Health

- A.** Food Service Establishment: (Common Victualler/Innholder)
 - 1. For the public only
 - 2. Establishment that cooks, prepares and serves food on site
 - 3. Seating available
 - 4. Toilets available

- B.** Retail Food/Food Service Combination
 - 1. Establishment sells pre-packaged food
 - 2. Food is not prepared on site; items come from vendor(s) and are immediately placed on the shelves
 - 3. Food Service limited to the preparation of non-potentially hazardous foods, i.e., coffee, tea, hot dogs, popcorn, etc.

- C.** Retail Food Sales
 - 1. Establishment sells pre-packaged food
 - 2. Food is not prepared on site; items come from vendor(s) and are immediately placed on the shelves

- D.** Caterer
 - 1. Establishment that prepares food for transport

- E.** Manufacturer of Ice Cream
 - 1. Establishment that manufactures ice cream

- F.** Residential Kitchen
 - 1. Bed and Breakfast home or establishment, guesthouse or lodging place that prepares and serves a continental or full breakfast to its guests only.

- G. Manufacturer of Juice Drinks/Slush Beverages**
 - 1. Establishment that prepares juice drinks from produce
 - 2. Establishment that prepares and sells slush beverages from non carbonated juice syrup or soda syrup with ice

- H. PushCart/Mobile Food Cart**
 - 1. Limited to serving non-potentially hazardous foods or wrapped foods prepared at a licensed food processing or food service establishment, or retail food store.
 - 2. Limited to the preparation and service of hot dogs.

- I. Food Service (other than Common Victualler) Take-Out Service**
 - 1. No seating available
 - 2. No wait service provided
 - 3. Establishment that prepares and serves food on site

Section 2 – Definitions

BOARD: the Provincetown Board of Health

CONTINENTAL BREAKFAST: a breakfast meal restricted to the following Foods: coffee, tea, juices, pasteurized Grade A milk, fresh fruits, frozen and commercially prepared food, baked goods, cereals, commercially prepared jams, honey syrup, maple syrup, pasteurized creams, cream cheese, cheese, yogurt

FULL BREAKFAST: breakfast meal including foods other than those listed for Continental breakfast

HAZARD: a biological, chemical, or physical property that may cause an unacceptable consumer health risk

POTENTIALLY HAZARDOUS FOOD: Potentially hazardous foods often have a history of being involved with food borne illness outbreaks, have a potential for contamination due to the methods used to produce and process them, and have characteristics that generally allow microorganisms to thrive. They are often warm, high in protein, chemically neutral or slightly acidic and require temperature control.

PREPARE: to assemble, cook, reheat or otherwise alter the food in such a way that renders it palatable

RESIDENTIAL KITCHEN: a kitchen in a private home, as in a bed and breakfast establishment, guest or lodging house

Section 3 – Trash Receptacles

Any establishment licensed by the Board of Health for Food Service or Retail Food Sales, where there exists outside seating or where there is service of packaged or prepared foods meant for immediate consumption, shall provide and maintain adequate waste and recycling receptacles within five feet of all points of entrance or exit. If this is not feasible due to access issues, the location of all receptacles shall be approved by the Board of Health or its agent. The location of all waste and recycling receptacles shall be clearly visible from the service areas.

Section 4 - General Provisions

A. Food Manager Certification Required

1. Each food establishment where potentially hazardous foods are prepared and/or served shall employ at least one (1) full time on site person who is a certified food protection manager. This person must be at least 18 years of age and must be a full time equivalent manager or supervisor.
2. Certification shall be achieved by attending a food safety and sanitation course and attaining a passing grade on exams recognized by the Massachusetts Department of Public Health.
3. Food service establishments that prepare and serve potentially hazardous foods that are lower risk, such as ice cream, crème pastries, etc., may request a variance from the food manager certification in writing to the Board of Health. Variance requests that are granted will be issued with the condition that the applicant attends the “Low Risk Food Safety Training” course offered by the Health Department.
4. Certificates for managers/handlers certified in food safety shall be prominently posted in the establishment, next to the license(s) to operate.

B. Catering

1. All caterers licensed by the Provincetown Board of Health must maintain a record of catered functions to include the following: date, person contracting services (name, address, phone number), menu, food preparation staff, wait staff and approximate number of persons served. Caterers must retain records of catered functions for a minimum of 90 days.

C. Food Service Establishments

1. No food establishment shall add any form of food service without written approval of the Board of Health. Application for the approval of any such additional service must be done in writing to the Board of Health.
2. Each establishment having a seating capacity of 25 persons or more shall have on duty where food is being served one or more persons trained in Choke Saving technique as required by MGL Ch. 94 § 305D, and must file proof of training with the Board of Health with new and renewal applications. Individuals will be retrained annually.
3. Proposals for new food service establishments shall include in writing the following: number of seats, type of food prepared and served, and floor plans indicating all equipment, shelving and storage areas. The floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed and installed so they are smooth and easily cleanable. Examples of floor tiling commonly used are: rubber, quarry, ceramic, marble, etc. Anti-slip floor coverings or applications may be used for safety reasons.
4. Existing establishments previously grandfathered that are transferring to a new owner must be brought into compliance with local, state and federal codes.
5. Hand-wash sinks are required in all food preparation areas and shall be limited in size to a maximum width of 20 inches and depth of 8 inches. Food preparation, serving, or storage areas shall be protected from contamination from the hand-wash sink. All existing establishments without at least one hand-wash sink in the food preparation area shall have a hand-wash sink installed prior to December 2004. A separate hand-wash sink is required behind the bar if there is a bar in the food service establishment.
6. Every food service establishment where food or beverages are consumed on the premises shall have public restroom facilities accessible to the customer without passing through the kitchen. The number of toilets and lavatories shall be the number required by the State Plumbing Code.
7. Grease traps must be provided at all food service establishments, bakeries or similar establishments as

determined by the Board of Health. The capacity of the grease trap shall be calculated by the kitchen flow rate of 15 gallons per seat or chair per day, but in no case shall be less than 1000 gallons. This applies to establishments connecting to the Town sewer, and establishments with on-site sewage systems.

8. Animals are prohibited on the premises of a food service establishment. In accordance with the Americans with Disabilities Act (ADA), persons with disabilities may be allowed to bring their service animals into all areas of the facility where customers are normally allowed to go if a health or safety hazard will not result from the presence or activities of the service animal.
9. All food preparers shall wear hair restraints such as hats, hair covering or nets, beard restraints, shoes and clean clothes to prevent contamination of food, equipment, utensils, linens, single services and single use articles.
10. Latex gloves are prohibited in food establishments. Acceptable substitutes for latex gloves are vinyl, nitrile, polyvinyl, chloroprene or polyethylene gloves, deli tongs and deli tissues.
11. No person having bare feet or no shirt shall be allowed in any establishment that prepares, serves and sells food, to include retail stores, restaurants and take out food service establishments.
12. All food service establishments shall be required to contract with a Massachusetts licensed pesticide applicator for pest control services. Said contract shall specify monthly inspection of the establishment by the contractor and elimination of any infestation, if encountered, at a minimum. Each establishment shall make available for review by the Board of Health or its agent a copy of said contract and all receipts of pesticide application undertaken by the licensed applicator.
13. Outdoor dining areas must be appurtenant and contiguous to the restaurant property. The dining area must be mentioned on the described premises as in the case of a Common Victualler's License.

14. Outdoor dining areas shall be kept free of waste paper, garbage and other trash. Covered trash receptacles shall be provided in close proximity to the dining area and must be emptied as needed to prevent overflowing.

D. Residential Kitchens

1. Owners or persons in charge of bed and breakfast establishments, bed and breakfast homes, guest or lodging houses serving potentially hazardous foods as part of the breakfast meal will be required to take the food manager certification.
2. Bed and Breakfast establishments, bed and breakfast homes, guest houses and lodging houses will be limited to serving full breakfast or continental breakfast only.
3. All residential kitchens shall meet the general requirements under 105 CMR 590.009 (D) 3 (a) through (l).

E. Frozen Dessert Machines and Slush Machines

1. All establishments that have frozen dessert machines and slush machines at the retail level are required to obtain a permit from the Board. Each establishment having a permit for a dairy based Frozen Dessert machine, such as ice cream, sherbet and frozen yogurt, shall submit to the Board the results of the laboratory test of a sample taken from each machine.
2. Laboratory tests must be conducted for a standard plate count (SPC) and a standard coliform count by a DPH approved laboratory during each month that the machine is in use. Frozen yogurt desserts containing live culture bacteria are exempt from the SPC test.
3. If laboratory results are above the acceptable limit, the machine will be taken out of operation until acceptable results are presented to the Board. Acceptable results can be found in the State Sanitary Code 105 CMR 561.009.

Section 5 – Violations

1. A written notice or order to correct of any violation of this regulation shall be given to the Owner and Operator by an Agent of the Board of Health, specifying the nature, time and date of the violation, preventive measures required to avoid future violations and a correction time frame.

2. The Food Establishment Inspection Report, when signed by an Agent of the Board of Health, constitutes an order of the Board of Health.

Section 6 – Hearing

1. Any person or persons upon whom an order to correct has been served pursuant to this Regulation or 105 CMR 590.00/Federal Food Code may request a hearing before the Board. Such request shall be in writing and submitted to the Board within 10 days of receipt of the order.

Section 7 – Penalties

1. Any person who violates any provision of this Regulation or 105 CMR 590.00/Federal Food Code may be issued a fine of no more than \$100.00.
2. This Regulation and 105 CMR 590.00/Federal Food Code may be enforced through the use of Non-Criminal Citations as provided by Chapter 40, Section 21D of the Massachusetts General Laws.
3. Any license or permit issued by the Board of Health may be revoked, suspended or modified for failure to comply with applicable local, state and federal regulations.

PART IV

Article 7 - Rental Mooring Field Permit Regulations

Acting under the authority of the Massachusetts General Laws, Chapter 111, Section 31, the Provincetown Board of Health, at its March 24, 1992 Public Hearing, voted unanimously to approve the following regulations governing the holders of Rental Mooring Permits for Mooring Fields:

Section 1 – Sewage Pump-out Facilities made available by holders of permits for Mooring Fields of twenty (20) moorings or more

1. At minimum, a portable pump-out system with a minimum capacity of 225 gallons
2. Pump-out facilities must be adequately secured and protected from the elements, vehicles, etc.
3. Gravity drains must be properly sealed
4. Pump-out facilities must be available upon issuance of the Mooring Field Permit
5. A copy of the contract with a properly licensed Septage Hauler must be provided to the Health Department prior to the issuance of the Mooring Field Permit.
6. Mooring Field Permit holders must provide written notification of the Provincetown Harbor Usage Rules and pump-out availability
7. A sign on the pump-out facility availability must be posted conspicuously on the premises
8. Pump-out facilities must be emptied by the licensed contractor when a major storm is approaching

Section 2 – Solid Waste Disposal provided by holders of permits for Mooring Fields

1. Adequate and proper containers must be provided
2. A copy of the contract with a properly licensed Refuse Hauler must be provided to the Health Department prior to the issuance of the Mooring Field Permit.

Furthermore, the Board of Health noted at its March 24, 1992 Public Hearing that it is interested in seeing that all users of Provincetown Harbor adhere to the Rules and Regulations governing chemical toilets and will discuss this and other issues with the Harbor Planning Committee and other appropriate parties in the future.

Section 3 – Public Notice

The Provincetown Board of Health voted on Tuesday, December 18, 1990 to adopt the following regulations:

PART IV

Article 12 - Camps, cabins & motels licenses

Acting under the authority of Massachusetts General Laws Chapter 111 Section 31, the Provincetown Board of Health adopts the following regulation pertaining to the Camps, Cabins and Motels license required under Massachusetts General Laws Chapter 140, Section 32A:

No person shall conduct, control, manage or operate, directly or indirectly, any recreational camp, overnight camp or cabin, motel or mobile home park unless he/she is the holder of a license granted under the following section.

The term "motel" shall be construed to mean any building or group of buildings which provides sleeping accommodations for transient motorists (individuals who occupy the lodgings for 90 consecutive days or less) and which is not licensed as an inn.

Whoever conducts, controls, manages or operates any camp, motel, mobile home park or cabin subject to this regulation, without such license shall be punished by a fine of fifty dollars. Each day of violation shall be considered a separate offense.

PART IV

ARTICLE 13

Revised April 18, 2002 Public Hearing April
18, 2002

Rules and Regulations Governing the Practice of Body Piercing

The following regulations are promulgated by the Town of Provincetown, Board of Health, under the authority of the Massachusetts General Laws, Chapter 140, section 51, to read as follows:

Rationale: The Town of Provincetown is promulgating rules and regulations that provide minimum requirements to be met by any person performing body piercing upon any individual and for any establishment where body piercing is performed. These requirements shall include, but not be limited to, general sanitation of premises wherein body piercing is to be performed, and the sterilization of instruments. These rules and regulations are necessary to protect the public's health by preventing diseases, specifically including, but not limited to, transmission of hepatitis B and/or human immuno-deficiency virus (HIV/AIDS).

In addition, these rules and regulations shall establish procedures for registration with the Provincetown Health Department of all persons performing body piercing, for the requirement of minimal training standards for the prevention of disease transmission and for knowledge of anatomy and physiology, for regular inspection of premises wherein body piercing is performed, and for revocation of the registration of any person or establishment deemed in violation of the rules and regulations promulgated under this section. An annual, nontransferable registration fee set by the Town of Provincetown shall be paid by any person or establishment registered under this section.

Notification Requirements for Changes to Information

Facility license holders shall notify the Department by mail or in person with five (5) calendar days of a change in the following information:

1. Business name
2. Area code and telephone number
3. General hours of operation
4. Address change resulting from city or Postal Service action
5. License status, whether from active to inactive practice or from inactive to active practice
6. Closure or sale of facility
7. Name and registration number of individual(s) working in the facility providing body piercing services; or

8. Change in employment status of body piercing technicians working in the facility

Section 1 – Definitions

1. "Acceptable" means satisfactory or adequate, fulfilling the needs or requirements of a specific rule, provision or policy.
2. "Antiseptic" means product used to stop or inhibit the growth of bacteria.
3. "Approved" means acceptable to the Provincetown Health Department.
4. "Body Piercing" shall mean any method of inserting a needle into the body to place presterilized jewelry or other adornment in the perforation produced by the needle. This regulation does not include those establishments and individuals involved in the piercing of earlobes (only).
5. "Body Piercer" shall mean any person who performs piercing of any part of the body other than the ear lobes.
6. "Clean" means the absence of soil and dirt.
7. "Communicable disease or condition" means diseases or conditions diagnosed by a licensed physician as being contagious or transmissible which include but are not limited to the following: a) Chicken pox b) Diphtheria c) Measles d) Meningococcal Disease e) Mumps f) Pertussis (whooping cough) g) Plague h) Poison oak i) Rubella j) Scabies k) Staphylococcal skin infection (boils, infected wounds) l) Streptococcal infections (strep throat) m) Tinea (ring worm) n) Tuberculosis
8. "Completed procedure" means a piercing that has been finished.
9. "Cosmetic" means a preparation designed to beautify the body.
10. "Department" shall refer to the Provincetown Health Department.
11. "Easily accessible" means unrestricted use or availability, easy to approach or enter.
12. "Enclosed storage area" means separate room, closet, cupboard or cabinet.
13. "Equivalent" means comparable but not identical, covering the same subject matter.
14. "Facility" means physical place of business and includes all areas used by a body piercing technician and clients, including but not limited to treatment area and waiting/reception area.
15. "High-level disinfectant" means a chemical agent that has

- demonstrated tuberculocidal activity.
16. "Instruments" means body-piercing equipment. Such equipment includes but is not limited to piercing needles, forceps, hemostats, tweezers, or other implements used to pierce, puncture, or be inserted into any part of the human body for the intended purpose of making a permanent hole. Such equipment also includes studs, hoops, rings or other decorative jewelry, materials or apparatuses inserted into any part of the human body for the intended purpose of placement in the hole resulting from piercing.
 17. "Linens" means cloths or towels used for such things as draping or protecting table.
 18. "Low-level disinfectant" means a chemical agent that has demonstrated bactericidal, germicidal, fungicidal and limited virucidal activity.
 19. "Needle" means implement used to pierce or puncture a hole in any part of the human body.
 20. "Operatory" means:
 - a) A screened or separated area away from public access and viewing, isolated from a reception or waiting area, when piercings are conducted upon the genital, nipple, or any other discretionary part of a person's body; or
 - b) A designated area that is segregated from other business activities or services. The designated area may consist solely of a table, workstation and/or chair independent of any other retail or merchandise activities.
 21. "Owner" means and includes every person having ownership, control or custody of any place of business employment.
 22. "Permanent Hole" means a hole produced by piercing or puncturing any part of the human body, with instruments, intended to leave an opening in body tissue(s) into which an appropriate device or apparatus may be inserted. Permanent hole would include any body part newly pierced or punctured which is undergoing a healing process; and, any piercing whether or not removal of a device or apparatus from the perforation would result in fusing or healing of the tissue or skin structures.
 23. "Person" means one or more individuals, legal representatives, partnerships, joint ventures, associations, corporations (whether or not organized for profit), business trusts, or any organized group of persons.
 24. "Place or places of business" means the name, mailing address, and location where the registrant or person provides piercing services.

25. "Premises" means the entire building or structure within which services are provided.
26. "Probation" means continuation of licensure or registration under conditions set by the Department.
27. "Program" means office and staff designated to carry out the daily functions of the Body Piercing Licensing Program.
28. "Protective Gloves" means gloves made of vinyl, latex, or "Nitrile."
29. "Public View" means open to view and easy for the public to see, located in the waiting or lobby area of place of business.
30. "Regular address of place or places of business" means a street or location address, not post office box.
31. "Renew" means to extend a current license or registration for a year beyond expiration or to bring an inactive license or registration to current, active status.
32. "Sharps" means any object that can penetrate the skin, including but not limited to needles, scalpel blades, lancets, glass tubes that could be broken during handling and syringes that have been removed from their original sterile containers.
33. "Sharps container" means a puncture resistant, leak-proof container that can be closed for handling, storage, transportation, and disposal. The container must be red and may be labeled with the "Biohazard" symbol.
34. "Single-use" means products, instruments or items that are disposed of after each use, including but not limited to cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, piercing needles and protective gloves.
35. "Sterilization" means destruction of all forms of microbotic life, including spores.
36. "Suspend" means disciplinary action taken by the Department.
37. "Universal Precautions" means a set of guidelines and controls, published by the Centers for Disease Control (CDC), which outline certain practices which health workers should employ in order to prevent parenteral, mucous-membrane, and no intact skin exposure to bloodborne pathogens. This method of infection control requires the employer and employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other bloodborne pathogens. Precautions include hand washing, gloving, personal protective equipment, injury prevention, proper handling

and disposal of needles and other sharp instruments and blood and body fluid contaminated products.

Section 1.1 – Fees

1. Payment of fees to the Department shall be made for the exact amount of transaction. No monetary change will be transacted for payments made at the Program office.
2. Payment of fees is deemed received by the Department during regular business hours.
3. See Part VIII, Article 1, Fee Schedule for the following:
 - a) Initial, one-year facility license
 - b) Annual renewal of facility license
 - c) Initial technician registration
 - d) Annual renewal of technician registration
 - e) Duplicate license or registration

Section 2 – Body Piercing Licensing Program Application for Licensure and Registration

Issuance of Facility Licenses

The Health Agent or Inspector of the Program may issue a facility license providing that the applicant:

1. Is at least 18 years of age
2. Submits application on a form prescribed by the Department, which indicates the name of owner, corporation or partnership, facility address, mailing address if different from physical location, and area code and telephone number.
3. Pays the required application and license fees
4. Certifies that application information is correct
5. Provides a map or directions to the facility if it is located in a rural or isolated area
6. Registers with the Corporations Division and receives an assumed business name prior to applying for a facility license (unless doing business under the full name of the owner)
7. Complies with all applicable rules and regulations of the with specifications for building, fire and plumbing codes, and with exit and fire standards established by the Building Codes Department, the office of the State Fire Marshal.

Criteria for Operating a Facility: Inspections

1. Each facility owner shall:

a) Require each individual working within the facility premises providing piercing services to be registered with the Department as a body-piercing technician

b) Be responsible for technicians complying with all applicable health, safety, sanitation and sterilization rules and regulations of the Town of Provincetown and other state agencies

c) Be responsible for notifying the Department prior to employment of new registrant(s) within the facility or immediately following termination of any registrant's employment

d) Be responsible for maintaining a list of registrants employed at the facility for review by the Department upon request

e) Post risk factor notice in public view on the facility premises when open for business.

f) Post name, address and telephone number of the Provincetown Health Department for clients to contact regarding services, licensing issues or complaints

g) Provide to all clients disclosure statement on risks involved in body piercing services, and aftercare instructions

h) Allow a Department inspector to inspect the facility when it is open for business

i) Be prohibited from exhibiting, or failing to prevent employees or technicians from exhibiting, behavior which impedes the normal progress of the inspection; and

j) Post all emergency phone numbers

2. Persons purchasing an existing body piercing facility shall: a) Meet the requirements of a new facility b) Submit a new facility application, pay the application and license fees, and be issued a new facility license prior to assuming operation of the business; and c) Comply with all the rules of the Department concerning health, safety, sanitation and sterilization requirements

3. Owners of body piercing facilities being moved to a new physical location shall: a) Meet the requirements of a new facility b) Submit an application, pay the application and license fees, and be issued a new facility license prior to opening for business at the new location; and c) Comply with all the rules of the Department

concerning health, safety, sanitation and sterilization requirements

Body Piercing Technician Registration: Criteria

Facility owners are responsible for ensuring that individuals working in the facility register with the Department and comply with all applicable health, safety, sanitation and sterilization rules and regulations of the Department and other state agencies.

Application for registration as a body-piercing technician shall:

1. Be made on a form prescribed by the Department and shall be accompanied by payment of the application and registration fees and by required documentation. Required documentation includes the completed application form and documentation which contains the following: a) Applicant's name (registrant's address, area code and telephone number are optional) b) Applicant's date of birth c) Facility name and license number, business address where services are provided, area code and telephone number; and d) Signed copy of the written statement affirming receipt of administrative rules, client notification brochure outlining risk factors and possible consequences of piercing
2. The department may also request that applicants provide their social security numbers.
3. Technicians are prohibited from providing body piercing services outside of a licensed body piercing facility. Registration is not transferable from person to person.
4. Notice shall be submitted to the Department prior to any change of employment at a new facility location.
5. All Technicians shall be required to hold a current CPR certificate within 30 days of applying for license with the Town of Provincetown.

Section 3 – Body Piercing Licensing Program Licensure and Registration Issuance: Renewal Criteria

Issuance and Renewal of Facility Licenses

1. Facility licenses shall be issued for one year and shall expire on 12/31 each year.
2. The Department may mail a renewal notice to license holder's last known address on file with the Department. The license holder is responsible for submitting application for renewal whether or not a

renewal form was mailed by the Department.

3. Application for renewal shall be made in advance of the license expiration date. An expired license may be reactivated by payment of a renewal fee.
4. Failure to renew or reactivate a license within one year from the expiration date will require reapplication and payment of the one-year license fee.
5. License holders of facilities where sterilization is conducted shall conduct routine test of the effectiveness of sterilization at least monthly of biological monitoring (commercial preparation of spores) and submit the results to the Department at the time of license renewal or reactivation. Facilities which contract for use of sterilization equipment shall make copies of the test results available to the Department upon request.
6. Application for renewal shall include the following information:
 - a) Facility license number and expiration date
 - b) Name and place of business, or business mailing address; and
 - c) Area code and telephone number

Issuance and Renewal of Technician Registrations

1. Issuance of a technician registration authorizes the registrant to provide body piercing services in a licensed facility.
2. Registrations shall be issued for one year and shall expire on 12/31 of each year.
3. The Department may mail initial registration and annual renewal notices to the last known address of the facility on file with the Department where the technician is employed to provide body piercing services.
4. Application for renewal shall include the following information: a) Name (current residential or mailing address is optional) b) Registration number and expiration date; and c) The facility name and license number, business address where services are being provided, and business area code and telephone number.

License and Registration Form

1. Applicants who satisfactorily complete the application requirements shall be issued a license or registration by the Department authorizing the holder to operate a facility or provide

- body-piercing services.
2. If for any reason a person is mistakenly issued a license or registration, or if the form contains a material error or is superseded, the Department has the authority to declare the license or registration null and void without further action.
 3. Upon the demand of return of any license or registration issued by the Department, the individual shall surrender the license or registration requested.

Posting of Licenses, Registration, Inspection Certificates, Disclosure Statement and Notice; Duplicate Licenses and Registrations

1. Facility license holders shall post the following in public view within the premises: a) All facility licenses and technician registrations b) A copy of the most recent inspection certificate with the full length and width of the page visible c) A disclosure statement prescribed by the Department, advising of the risks and possible consequences of body piercing services; and d) A notice containing the address of the Department and the procedure for filing a complaint.
2. The possession of more than one current valid license or registration is prohibited.
3. The posting of a pocket identification card in lieu of a license or registration is prohibited.
4. The posting of a reproduction of any license or registration is prohibited unless the Department issued and marked it "Duplicate."
5. Duplicate registrations are not issued for multiple work locations.
6. The Department shall issue a duplicate license or registration to the facility provided:
 - a) The license or registration is current and valid and the holder submits a written request for a reproduction and includes payment of a duplicate fee; and
 - b) The holder includes with the request a statement attesting that the original license or registration has been lost, stolen, disfigured or destroyed.

Piercing Services at Location Other Than Named Place(s) of Business

1. Body piercing services shall not be provided outside of licensed facility.
2. Body piercing technicians shall not provide services at any locations other than at the licensed body piercing facilities where

they are registered with the Department.

Section 4 – Body Piercing Licensing Program Safety and Sterilization Standards

Compliance With All Applicable Regulations: Facility Standards

1. Facility license holders shall observe and be subject to all Health Department and other State regulations pertaining to public health and safety. Compliance with building, state fire, plumbing, and electrical regulations is required.
2. The cleanliness and sanitation of any common area of separately licensed facilities in one premise is the responsibility of each license holder on that premise and any violation found in the common area will be cited against all facility licenses posted on the premises.
3. Facilities shall have an operator or designated service area.
4. Facilities shall use and maintain appropriate equipment for providing body piercing services at the place of business.

Equipment includes but is not limited to:

- a) Single-use stainless steel needles
 - b) Sterilization bags with color strip indicator
 - c) Protective disposable gloves
 - d) Single-use towels, tissues or paper products
 - e) Sharps container; and
 - f) Approved equipment for cleaning and sterilizing instruments
5. Facilities shall be kept clean and orderly, and equipment shall be maintained in good repair.
 6. All surfaces, including counters, tables, equipment, client chairs or recliners in service areas shall be made of smooth, nonconforming-absorbent and nonconforming-porous material.
 7. Surfaces of blood spills shall be cleaned using an EPA-registered high-level disinfectant, used according to the manufacturer's instructions.
 8. Disposable products that come in contact with the area(s) to be pierced shall be stored in closeable, clean containers.
 9. Clean, sterilized reusable instruments shall be stored in clean, sterilized containers.
 10. Chemicals shall be stored in labeled, closed containers.
 11. Single-use disposable paper products, and single-use piercing needles, piercing studs and protective gloves shall be used for each client.
 12. Facilities shall have easy access to a sink with hot and cold running water, as part of the surrounding premises or adjacent to the facility, but separate from a public restroom.

13. Lavatories located within the facilities shall be kept clean and in good working order at all times.
14. All waste material related to body piercing shall be deposited in a covered container following service for each client.
15. All public places in a facility shall be governed under the Massachusetts Indoor Clean Air Act.
16. Pets or other animals shall not be permitted in the business facility. This prohibition does not apply to registered therapy animals, trained guide animals for the disabled, sightless or hearing impaired, or fish or reptiles in aquariums.
17. The floor and other surfaces shall be at all times maintained in a clean condition. The walls and ceilings shall be kept clean and in good repair at all times. Light fixtures, decorative materials and similar equipment attached to the walls or ceilings shall be kept clean.
18. Adequate ventilation (such as air conditioning, etc.) to keep the area dry and air circulating should be used. ("Adequate Ventilation" shall mean a free and unrestricted circulation of fresh air throughout the body piercing studio and the expulsion of foul or stagnant air) The use of a HEPA ventilation system is highly recommended.
19. The names, addresses and phone numbers of the hazardous waste disposal/medical supply pick up service shall be presented to the Department when applying for license.
20. The work area should be well lighted. Work areas shall have at least fifty (50) foot candles of light measured at the height of the worktable.
21. A covered waste receptacle with disposable liner bags shall be located in the work area.
22. No person shall smoke or consume any food or drink in the work area.
23. No other activities (such as hair styling, etc.) shall be performed in any room designated for body piercing.

Approved Sterilization Modes; Procedures

1. Before body piercing, body piercers shall:
 - a) Complete all business transactions
 - b) Complete client consent forms and provide a copy to the client
2. Facilities shall sterilize all piercing instruments that have or may come into direct contact with a client's skin or be exposed to blood or bodily fluid.
3. Piercing needles shall not be reused even if cleaned and sterilized by use of an autoclave. All piercing needles shall be single-use.
4. Approved modes of sterilization include:
 - a) Use of autoclave (steam or chemical) sterilizer, registered and listed with the federal Food and Drug Administration, which is

used, cleaned and maintained according to the manufacturer's directions or

b) Single-use prepackaged sterilized instruments obtained from suppliers or manufacturers.

5. Facilities using an autoclave for instrument sterilization shall test the device on a monthly basis for functionality and thorough sterilization. Chemical and biological indicator test results shall be available at the facility at all times for inspection by the Department inspectors. Testing shall be conducted as follows:

a) Chemical indicators (color change) to assure sufficient temperature and proper functioning of equipment during sterilization cycle; and b) Biological monitoring system (commercial preparation or spores) to assure all microorganisms have been destroyed and sterilization achieved.

6. Instruments approved for reuse in providing piercing services shall be cleaned prior to sterilizing by brushing or swabbing to remove foreign material or debris, rinsing, then:

a) Immersing in detergent and water in a ultrasonic unit that operates at 40 to 60 kilohertz, followed by a thorough rinsing and wiping; or

b) Submerging and soaking in a protein-dissolving detergent/enzyme cleaner, followed by a thorough rinsing and wiping.

7. Instruments approved for reuse in providing piercing services shall be cleaned and placed in sterile bags, with color strip indicators, and sterilized by exposure to one cycle of an approved sterilize.

Handling Disposable Materials

1. Disposable materials coming into contact with blood and/or body fluids shall be disposed of in a sealable plastic bag (separate from sealable trash or garbage liners) or in a manner that not only protects the technician and the client, but also others who may come into contact with the material, such as sanitation workers.
2. Disposable sharp objects that come in contact with blood and/or body fluids shall be disposed of in a sealable rigid (puncture proof) sharps container that is strong enough to protect the technician and client and others from accidental cuts or puncture wounds that could happen during the disposal process.
3. Facilities shall have sealable plastic bags available. They shall also have sealable rigid containers available at the facility if disposable sharp objects

are used.

Communicable and Bloodborne Diseases

Facility owners shall be responsible for adhering to the following standards:

1. A technician or an employee is prohibited from providing body piercing services or working in a facility while having a disease or condition which has been diagnosed by a physician to be in a communicable or transmissible form.
2. A technician or employee shall not diagnose or treat any suspected communicable disease or condition or knowingly provide body-piercing services on clients with communicable diseases or conditions.
3. A technician or employee providing service or working in a facility while diagnosed with or suspected of having acquired an immunodeficiency virus and relate immunodeficiency conditions or the hepatitis B virus shall observe and follow all current Centers For Disease Control (CDC) standards for public service workers regarding personal protective equipment and disposal of blood or bodily fluid contaminated articles, tools and equipment. This includes technicians or employees providing services to clients who have been diagnosed with or are suspected of having an immunodeficiency virus, related conditions or the hepatitis B virus.

Note: It is the position of the Health Department that human immunodeficiency virus (HIV) is the cause of acquired immunodeficiency syndrome (AIDS) and related immunodeficiency conditions. This virus, as well as hepatitis B virus (HBV), may be transmitted by sharp instruments contaminated by blood or other body fluids, if proper precautions are not followed.

Serving Clients

Facility owners shall be responsible for adhering to the following standards while serving clients in the facility:

1. Technicians shall observe and follow thorough hand washing with low fragrance, low dye, liquid antibacterial soap before and after serving each client and as needed to prevent cross contamination and/or transmission of body fluids, infections or exposure to service related wastes or chemicals.
2. Technicians shall cleanse the client's skin, excluding the areas surrounding the eyes, by washing with a FDA registered antiseptic solution applied with a clean single-use paper product before and after piercing the client's skin.
3. All substances shall be dispensed from containers in manner to prevent contamination of the unused portion. Single-use tubes or containers and applicators shall be discarded following the piercing service.
4. Use of any type of marking pen must be on cleansed skin or by use of a

- surgical marking pen sanitized by design, such as alcohol based ink pens.
5. Use of styptic pencils or alum solids to control blood flow is prohibited.
 6. Aftercare shall be administered to each client following service. Aftercare shall consist of both verbal and written instructions concerning proper care of the pierced area. Instructions shall specify:
 - a) Care following service
 - b) Possible side effects; and
 - c) Restrictions
 7. Technicians who have open sores or bleeding lesions on their hands shall not have client contact until the lesions have healed to the scab phase and shall then be covered with protective gloves and/or impervious bandages prior to contact with clients.
 8. As a universal precaution against the possibility of cross-contamination, technicians shall wear single-use disposable protective gloves when providing service. This may include several changes of gloves.
 9. Technicians shall wear eye goggles, shields and/or a mask if spattering is likely to occur while providing services.
 10. Disposable materials that come in contact with blood and/or body fluids, or are used in cleaning blood spills shall be discarded.
 11. No piercing of animals shall be allowed in piercing studios.
 12. Client and piercer should have appropriate size and quality jewelry chosen before the procedure begins.
 13. Only appropriate jewelry should be used in piercing. Appropriate jewelry is made of implant grade, high quality surgical stainless steel (316 E series), solid 14k or 18k gold, niobium, titanium, platinum. Appropriate jewelry has no nicks or scratches or irregular surfaces that might endanger the tissue.
 14. Ear studs or other jewelry designed for earlobe piercing is not appropriate jewelry for other body parts and must not be used by piercers.

Clients Records: Prohibitions

1. Facilities shall maintain client records. The record shall include the name and address of client, date of each service, type of service, name and registration number of the technician providing service and special instructions or notations relating to the client's medical or skin conditions.
2. Facility owners may obtain advice from physicians regarding medical information needed to safeguard client and technician.
3. Records shall be kept for a minimum of two years.
4. Pre-service information in written form shall be given to client to advise of possible reactions, side effects and potential complications of the body piercing process. Aftercare instructions shall be given to the client both verbally and in writing after every service.
5. Piercing is prohibited: a) On a person who is inebriated or appears to be incapacitated by the use of alcohol or drugs; b) On a person who show

- signs of recent intravenous drug use; c) On a person with sunburn or skin diseases or disorders such as open lesions, rashes, wounds or puncture marks; d) On a person under 18 years of age, unless parent or legal guardian is present.
6. Genital or nipple piercing is prohibited regardless of parental consent.
 7. Use of personal client jewelry or any apparatus and device presented by the client for use during the initial body (including ears) piercing must be appropriate size (gauge) and must be sterilized. Pre-sterilized jewelry, apparatus or device(s) shall be provided by the facility and be of a metallic content recognized as compatible with piercing services.

Section 5 – Body Piercing Licensing Program Compliance

Complaint Handling

1. Complaints against facilities and/or technicians regarding licensing, safety, sanitation or sterilization violations may be filed with the Department. The complaint shall be made on forms provided by the Department and shall include the following information:
 - a) The name of the person making the complaint;
 - b) The name of the person, facility owner or license holder, or technician against whom the complaint is being made;
 - c) A concise description of the charge against the person, facility or technician, giving dates, time, and circumstances of the alleged violation; and
 - d) The signature of the person making the complaint.
2. Upon receipt of a complaint regarding violations of the licensing law or safety and sterilization rules, the Department will determine if further action is to be taken and may initiate an inspection or investigation.
3. Upon receipt of a written complaint regarding services provided, the Department shall send a copy of the complaint to the facility license holder and request a reply to the charges within 20 days from the date of the inquiry by the Department. The Department will determine if further action is appropriate.

Note: The Department endeavors to maintain confidentiality of complainants involving violations of statute(s) or rule(s) whenever possible.

Civil Penalty Considerations

1. In addition to any other penalty provided by law, a person who violates any provision of this regulation or any rule adopted hereunder shall be subject to a civil penalty imposed by the Provincetown Health Department. The Department reserves the right to pursue other remedies

against alleged violators and may take any other disciplinary action at its discretion that it finds proper, including assessment of penalties not to exceed \$1,000.

2. In establishing the amount of the penalty for each violation, the Department will consider, but not be limited to the following factors: a) The gravity and magnitude of the violation; b) The person's previous record of complying with the provisions of this regulation; the person's history in taking all feasible steps or in following all procedures necessary or appropriate to correct the violation; and such other considerations as the Department may consider appropriate.
3. The Department may revoke, suspend or refuse to issue or renew the facility license of the holder who fails to pay on demand a civil penalty that has become due and payable, provided that it first gives the license holder an opportunity for a hearing.

Schedule of Penalties for Licensing Violations; Violation of Standards

The Department may assess penalties against a facility owner for the first and second licensure or practice violations according to the provisions of this regulation. For subsequent violations the Department shall, while reserving the right to impose other sanctions, assess monetary penalties according to the following schedule:

1. Advertising body piercing or making body piercing services available without first receiving a current, valid license, or with an expired or suspended facility license: \$500
2. Advertising or allowing an individual to provide body piercing services without obtaining the required technician registration or with an expired technician registration: \$50
3. Failing to post a current, valid facility license or technician registration in public view: \$50
4. Failing to submit changes or required licensing information within time frame set in rule: \$50
5. Providing piercing services at a location other than place or place(s) of businesses licensed by the Department without receiving prior approval from the Department: \$500
6. Using a reproduction of a license or registration in place of an original: \$50
7. Failing to allow inspection of the premises by the Department upon request: \$500 and/or suspension
8. Failing to meet the facility standards adopted by the Department: \$500 and/or suspension or revocation
9. Failing to provide a private or separate operator area for clients: \$100
10. Except as provided by rule, allowing animals in the facility: \$100
11. Failing to maintain the required equipment or have chemical indicators at facility: \$500 and/or suspension or revocation
12. Failing to use chemical and biological indicators as required to ensure

- proper sterilization: \$500 and/or suspension or revocation
13. Failing to sterilize instruments using an approved mode: \$1000 and/or suspension or revocation
 14. Failing to meet sterilization standards: \$1000 and/or suspension or revocation
 15. Failing to clean instruments prior to sterilization: \$1000 and possible suspension or revocation
 16. Failing to wash hands before and after service and/or wear protective gloves: \$500
 17. Failing to prepare area on client to be pierced in accordance with Department standards: \$500 and possible probation
 18. Failing to meet cleanliness and/or storage standards for linens: \$500 and possible probation
 19. Failing to meet storage requirements for instruments, products or chemicals: \$500 and possible probation
 20. Failing to dispose of materials with blood or body fluids in sealable, and if sharp, also rigid container, or having containers available: \$1000 and possible probation
 21. Failing to have required covered waste receptacles: \$100
 22. Providing restricted service(s): \$1000 and/or suspension or revocation
 23. Failing to have and maintain client history records: \$500

PART IV

ARTICLE 14 - Rules and Regulations Governing the Practice of Tattooing

The following regulations are promulgated by the Town of Provincetown, Board of Health, under the authority of the Massachusetts General Laws, Chapter 111, section 31, to read as follows:

Rationale: The Town of Provincetown is promulgating rules and regulations which provides minimum requirements to be met by any person performing tattooing upon any individual and for any establishment where tattooing is to be performed. These requirements shall include, but not be limited to, general sanitation of premises wherein tattooing is to be performed and the sterilization of instruments. These rules and regulations are necessary to protect the public's health by preventing diseases, specifically including, but not limited to transmission of hepatitis B and/or human immunodeficiency virus (HIV/AIDS).

In addition, these rules and regulations shall establish procedures for registration with the Provincetown Health Department of all persons performing tattooing, for the requirement of minimal training standards for the prevention of disease transmission, for regular inspection of the premises wherein tattooing is performed, and for revocation of the registration of any person or establishment deemed in violation of the rules and regulations promulgated under this section. An annual, non-transferable registration fee set by the Town of Provincetown shall be paid by any person or establishment registered under this article.

SECTION 1 – DEFINITIONS

The following terms used in these regulations shall be defined as follows:

1.1 "AFTERCARE" means written instructions given to the client, specific to the body art procedure(s) rendered, about caring for the body art and surrounding area. These instructions will include information about when to seek medical treatment, if necessary.

1.2 "ANTISEPTIC" means an agent that destroys disease-causing micro-organisms on human skin or mucosa.

1.3 "CONTAMINATED WASTE" means any liquid or semi liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling, sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 Code of Federal Regulations Part 1910.1030 (latest edition), known as "Occupational Exposure to Bloodborne Pathogens."

1.4 "COSMETIC TATTOOING," see **"TATTOOING."**

1.5 "BOARD OF HEALTH" means the agency, or its authorized representatives, having jurisdiction to promulgate, monitor, administer, and enforce these regulations.

1.6 "DISINFECTION" means the destruction of disease-causing micro-organisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.

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

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

1.9 "HOT WATER" means water that attains and maintains a temperature of at least 100 degrees F.

1.10 "INSTRUMENTS USED FOR TATTOOING" means 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 body art procedures.

1.11 "INVASIVE" means entry into the body either by incision or insertion of an instrument into or through the skin or mucosa, or by any other means intended to puncture, break, or compromise the skin or mucosa.

1.12 "LIQUID CHEMICAL GERMICIDE" means a disinfectant or sanitizer registered with the US Environmental Protection Agency or an approximately 1:100 dilution of household chlorine bleach made fresh daily and dispensed from a spray bottle (500 ppm, 1/4 cup per gallon or 2 tablespoons per quart of tap water).

1.13 "OPERATOR/TECHNICIAN" means any person who controls, operates, manages, conducts, or practices tattooing at a tattoo establishment and who is responsible for compliance with these regulations, whether actually performing body art activities or not. The term includes technicians who work under the operator and perform tattooing.

1.14 "PERMIT" means written approval by the Department to operate a tattoo establishment. Approval is given in accordance with these regulations and is separate from any other licensing requirement that may exist within communities or political subdivisions comprising the jurisdiction.

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

1.16 "PHYSICIAN" means a person licensed by the state to practice medicine in all its

branches and may include other areas such as dentistry, osteopathy, or acupuncture, depending on the rules and regulations particular to that state.

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

1.18 "SANITIZATION PROCEDURE" means a process of reducing the numbers of microorganisms on cleaned surfaces and equipment to a safe level as judged by public health standards and which the Department has approved.

1.19 "SHARPS" means any objects (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa, including, but not limited to, presterilized, single-use needles; scalpel blades; and razor blades.

1.20 "SHARPS CONTAINER" means 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.

1.21 "SINGLE-USE" means products or items that are intended for one-time, one-person use and are disposed of after use on each client, including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups, and protective gloves.

1.22 "STERILIZATION" means a very powerful process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

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

1.24 "UNIVERSAL PRECAUTIONS" means a set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers" in *Morbidity & 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-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.

SECTION 2—TATTOOARTIST/TECHNICIAN REQUIREMENTS AND PROFESSIONAL

STANDARDS

2.1 The following information shall be kept on file on the premises of a tattoo establishment and available for inspection by the Department:

- a. employee information
 1. full names and exact duties
 2. date of birth
 3. gender
 4. home address
 5. home/work phone numbers
 6. identification photos of all operator/ technicians
- b. establishment information
 1. establishment name
 2. hours of operation
 3. owner's name and address
- c. a complete description of all procedures performed
- d. an inventory of all instruments, all sharps, and all inks used for any and all tattoo procedures, including names of manufacturers and serial or lot numbers, if applicable. Invoices or orders shall satisfy this requirement.
- e. a copy of these regulations

2.2 It shall be unlawful for any person to perform tattoo procedures unless such procedures are performed in an establishment with a current permit.

2.3 The tattoo artist/technician must be a minimum of 18 years of age.

2.4 Smoking, eating, drinking or food preparation is prohibited in the area where body art is performed.

2.5 Tattoo artists/technicians shall refuse service to any person who, in the opinion of the operator/technician, is under the influence of alcohol or drugs.

2.6 The tattoo artist/technician shall maintain a high degree of personal cleanliness, conform to hygienic practices, and wear clean clothes when performing body art procedures. Before performing tattoo procedures, tattoo artists/technicians must thoroughly wash their hands in hot running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.

2.7 In performing tattoo procedures, the tattoo artist shall wear disposable medical exam gloves. Gloves must be changed if they become contaminated by contact with any unclean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed before the next set of gloves is donned. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable medical gloves does not preclude or substitute for hand washing procedures as part of a good personal hygiene program. Medical exam gloves must be kept in a covered, closed container.

2.8 If, while performing a tattoo procedure, the tattoo artis/technician's glove is pierced, torn, or otherwise contaminated, the procedure delineated in section **2.7** shall be repeated immediately. The contaminated gloves shall be immediately discarded, and the hands washed thoroughly (see **2.7** above) before a fresh pair of gloves is applied. Any item or instrument used for tattooing 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.

2.9 Contaminated waste, as defined in this code, that may release liquid blood or body fluids when compressed or may release dried blood or body fluids when handled must be placed in an approved "red" bag marked with the international biohazard symbol. It must then be disposed of by a waste hauler approved by the Department. The identity of the waste hauler must be posted. Sharps ready for disposal shall be disposed of in approved sharps containers. Contaminated waste that does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled shall be double-bagged and placed in a covered, water-tight receptacle and disposed of through normal, approved disposal methods. Storage of contaminated waste onsite shall not exceed the period specified by the department or more than a maximum of 30 days, as specified in 29 CFR Part 1910.1030, whichever is less.

2.10 No person shall perform any tattoo procedure upon a person under the age of 18 years. A state recognized photo ID is required before performing any procedures.

2.11 Any skin or mucosa surface to receive a tattoo procedure shall be free of rash or any visible infection.

2.12 The skin of the tattoo artist/technician shall be free of rash or infection. No person or tattoo artist affected with boils, infected wounds, open sores, abrasions, keloids, weeping dermatological lesions or acute respiratory infection shall work in any area of a tattoo establishment in any capacity in which there is a likelihood that that person could contaminate tattoo equipment, supplies, or working surfaces with body substances or pathogenic organisms.

2.13 Proof shall be provided upon request of the Department that all tattoo artists/technicians have either completed or were offered and declined, in writing, the hepatitis B vaccination series. This offering should be included as a pre-employment requirement.

SECTION 3 – EXEMPTIONS

There will be no exemptions.

SECTION 4 – PUBLIC NOTIFICATION REQUIREMENTS

4.1 Verbal and written public educational information, approved by the Department, shall be required to be given to all clients wanting to receive tattoos. Verbal and written instructions, approved by the Department, for the aftercare of the tattoo procedure site shall be provided to each client by the Operator upon completion of the procedure. The written instructions shall advise the client to consult a physician at the first sign of infection or swelling and shall contain the name, address, and phone number of the establishment. These documents shall be signed and dated by both parties, with a copy given to the client and the operator retaining the original with all other required records. In addition, all establishments shall prominently display a Disclosure Statement, provided by the Department, which advises the public of the risks and possible consequences of tattooing services. The facility permit holder shall also post in public view the name, address and phone number of the local/state Department that has jurisdiction over this program and the procedure for filing a complaint. The Disclosure Statement and the Notice for Filing a Complaint shall be included in the establishment Permit Application Packet.

4.2 All infections, complications, or diseases resulting from any tattoo procedure that become known to the operator shall be reported to the Department by the operator within 24 hours.

SECTION 5 – CLIENT RECORDS

5.1 So that the tattoo artist/technician can properly evaluate the client's medical condition for receiving a tattoo procedure and not violate the client's rights or confidential medical information, the tattoo artist or technician shall ask for the information as follows:

So your body art procedure heals properly, we ask that you disclose if you have or have had any of the following conditions:

- a. diabetes
- b. history of hemophilia (bleeding)
- c. history of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants, etc.
- d. history of allergies or adverse reactions to pigments, dyes, or other skin sensitivities
- e. history of epilepsy, seizures, fainting, or narcolepsy
- f. use of medications such as anticoagulants, which thin the blood and/or interfere with blood clotting
- g. pregnancy
- h. recent surgeries or heart attacks
- i. immuno compromise

5.2 The tattoo artist/technician should ask the client to sign a Release Form confirming that the above information was obtained or that the operator/technician attempted to obtain. The client should be asked to disclose any other information that would aid the operator/technician in evaluating the client's body art healing process.

5.3 Each operator shall keep records of all body art procedures administered, including date, time, identification and location of the body art procedure(s) performed, and operator's name. All client records shall be confidential and be retained for a minimum of three (3) years and be made available to the Department upon notification.

5.4 Nothing in this section shall be construed to require the operator to perform a body art procedure upon a client.

SECTION 6 – RECORDS RETENTION

6.1 The body art establishment shall keep a record of all persons who have had body art procedures performed. The record shall include the name, date of birth, and address of the client, the date of the procedure, the name of the operator who performed the procedure(s), type(s) and location(s) of procedure performed, and signature of client. Such records shall be retained for a minimum of three (3) years and shall be available to the Department upon request. The Department and the body art establishment shall keep such records confidential.

SECTION 7 – PREPARATION AND CARE OF THE BODY

ART AREA

7.1 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, depending on the type of body art to be performed. 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 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.

7.2 In the event of blood flow, all products used to check the flow of blood or to absorb blood shall be single-use and disposed of immediately after use in appropriate covered containers, unless the disposal products meet the definition of biomedical waste (see definition).

SECTION 8 – SANITATION & STERILIZATION PROCEDURES

8.1 All non-single use, non-disposable instruments used for tattooing shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water or by following the manufacturer's instructions to remove blood and tissue residue and shall be placed in an ultrasonic unit also operated in accordance with manufacturer's instructions.

8.2 After being cleaned, all non-disposable instruments used for tattooing shall be packed individually in peel-packs and subsequently sterilized (see **8.3**). All peel-packs shall contain either a sterilizer indicator or internal temperature indicator. Peel-packs must be dated with an expiration date not to exceed one (1) month.

8.3 All cleaned, non-disposable instruments used for tattooing shall be sterilized in a steam autoclave or dry-heat sterilizer (if approved by the Department). The sterilizer shall be used, cleaned, and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of the sterilization unit must be available for inspection by the Department. Sterile equipment may not be used if the package has been breached or after the expiration date without first repackaging and re-sterilizing. Sterilizers shall be located away from workstations or areas frequented by the public. If the body art establishment uses only single-use, disposable instruments and products, and uses sterile supplies, an autoclave shall not be required.

8.4 Each holder of a permit to operate a tattoo establishment shall demonstrate that the sterilizer 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 the Department receives documentation of the sterilizer's ability to destroy spores. These test records shall be retained by the operator for a period of three (3) years and made available to the Department upon request.

8.5 All reusable needles used in tattooing and cosmetic tattooing shall be cleaned and sterilized prior to use and stored in peel-packs. After sterilization, the instruments used for tattooing shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.

8.6 All instruments used for tattooing shall remain stored in sterile packages until just prior to the performance of a tattoo procedure. When assembling instruments used for tattoo procedures, the operator shall wear disposable medical gloves and use medically recognized techniques to ensure that the instruments and gloves are not contaminated.

8.7 All inks, dyes, pigments, needles, and equipment shall be specifically manufactured for performing tattoo procedures and shall be used according to manufacturer's instructions. The mixing of approved inks, dyes, or pigments or their dilution with potable water is acceptable 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 cups or caps and their contents shall be discarded.

SECTION 9 – REQUIREMENTS FOR SINGLE-USE ITEMS

9.1 Single-use items shall not be used on more than one client for any reason. After use, all single-use needles, razors, and other sharps shall be immediately disposed of in approved sharps containers.

9.2 All products applied to the skin, including tattoo stencils, shall be single-use and disposable. If the Department approves, acetate stencils shall be allowed for reuse if sanitization procedures (see definition in 1.18) are performed between uses. Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to be tattooed with sterile gauze or in a manner to prevent contamination of the original container and its contents. The gauze shall be used only once and then discarded.

SECTION 10 – REQUIREMENTS FOR PREMISES

10.1 Tattoo establishments applying after adoption of this code shall submit a scale drawing and floor plan of the proposed establishment for a plan review by the Department, as part of the Permit Application process. The Department may charge a reasonable fee for this review.

10.2 All walls, floors, ceilings, and procedure surfaces of a tattoo establishment shall be smooth, 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. All tattoo establishments shall be completely separated by solid partitions or by walls extending from floor to ceiling, from any 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.

10.3 Effective measures shall be taken by the tattoo artist to protect against entrance into the establishment and against the breeding or presence on the premises of insects, vermin, and rodents. Insects, vermin, and rodents shall not be present in any part of the establishment, its appurtenances, or appertaining premises.

10.4 There shall be a minimum of 45 square feet of floor space for each operator in the establishment. Each establishment shall have an area that may be screened from public view for clients requesting privacy. Dividers, curtains, or partitions, at a minimum, shall separate multiple body art stations.

10.5 The establishment shall be well-ventilated and provided with an artificial light source equivalent to at least 20 foot candles 3 feet off the floor, except that at least 100 foot candles shall be provided at the level where the tattoo procedure is being performed, and where instruments and sharps are assembled.

10.6 No animals of any kind shall be allowed in a tattoo 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.

10.7 A separate, readily accessible hand sink with hot and cold running water, under pressure, preferably equipped with wrist- or foot-operated controls and supplied with liquid soap and disposable paper towels shall be readily accessible within the tattoo establishment. One hand sink shall serve no more than three operators. In addition, there shall be a minimum of one lavatory excluding any service sinks and one toilet in a tattoo establishment.

10.8 At least one covered waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily, and solid waste shall be removed from the premises at least weekly. All refuse containers shall be lidded, cleanable, and kept clean.

10.9 All instruments and supplies shall be stored in clean, dry and covered containers.

10.10 Reusable cloth items shall be mechanically washed with detergent and dried after each use. The cloth items shall be stored in a dry, clean environment until used.

SECTION 11 – PERMIT REQUIREMENTS

A. Establishment Permit

11.1 No person, firm, partnership, joint venture, association, business trust, corporation or organized group of persons may operate a tattoo establishment except with a tattoo establishment permit from the Department.

11.2 Any person operating a tattoo establishment shall obtain an annual permit from the Department.

11.3 The applicant shall pay a reasonable fee as set by the Department for each tattoo establishment permit.

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

11.5 A current tattoo establishment permit shall be posted in a prominent and conspicuous area where clients may readily observe it.

11.6 The holder of a tattoo establishment permit must only hire tattoo artists who have complied with the tattoo artist permit requirements of this code.

B. Tattoo Artist Permit

11.7 No person shall practice tattoo procedures without first obtaining a permit from the Department. The Department shall set a reasonable fee for such permits.

11.8 The permit shall be valid from the date of issuance and shall automatically expire on December 31st each year unless revoked sooner by the Department in accordance with Section 13.

11.9 Application for a permits shall include:

- a. name
- b. date of birth
- c. sex
- d. residence address
- e. mailing address
- f. phone number
- g. place(s) of employment as an operator
- h. training and/or experience

11.10 Applicant shall demonstrate knowledge of the following subjects:

- a. Basic first aid/CPR - current certification required
- b. skin diseases, disorders and conditions (including diabetes)
- c. infectious disease control, including waste disposal, hand washing techniques, sterilization equipment operation and methods, and sanitization/disinfection/sterilization methods and techniques.

11.11 No permit shall be issued unless, following reasonable investigation by the Department, the tattoo artist has demonstrated compliance with the provisions of this section and all other provisions of this code.

11.12 All permits shall be conditioned upon continued compliance with the provisions of this section as well as all applicable provisions of this code.

11.13 All operator permits shall be posted in a prominent and conspicuous area where clients may readily observe them.

C. Grounds for Denial of a Permit

11.14 The Board may deny a permit on any of the following grounds:

- a. Failure to conform to the requirements of the Board's regulations;
- b. Any actions or omissions which would indicate that the health or safety of the public would be at risk should a permit be approved;
- c. Any previous violation of the Board's regulations;
- d. Any attempt to practice or obtain a permit through fraud, deceit or misrepresentation;
- e. Criminal conduct which the Board determines to be of such a nature as to render the establishment or practitioner unfit to practice body art as evidenced by criminal proceedings resulting in a conviction, guilty plea, or a plea of nolo contendere or an admission of sufficient facts;
- f. Other just and sufficient cause which the Board may determine would render the establishment or practitioner unfit to practice body art;
- g. Practicing tattooing while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;

- h. Being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens or other drugs having similar effects;
- i. Knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a permit; and
- j. 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.

D. Temporary Permit for Tattoo Artist

11.15 Temporary permits may be issued for tattooing services provided outside of the physical site of a certified facility for the purposes of product demonstration, industry trade shows or education.

- a. Temporary permits will not be issued unless:
 - 1. the applicant furnishes proof of compliance with subsection B above relating to tattoo artists' permits;
 - 2. the applicant is currently affiliated with a fixed location or permanent facility which, where applicable, is permitted by the appropriate state and/or local jurisdiction;
 - 3. the applicant registers with the Town and provides a copy of a current permit; and
 - 4. if a temporary demonstration site is to be used, the site complies with Section 12, "Temporary Demonstration Permit Requirements," of this code.
- b. In lieu of attendance at a bloodborne pathogens training program given by the Department within the past three (3) years as specified in subsection B above, the applicant may furnish proof of attendance at equivalent training which is acceptable to the Department.
- c. Temporary permits expire after 14 days or the conclusion of the special event, whichever occurs sooner.
- d. Temporary permit will not be issued unless the applicant has paid a reasonable fee as set by the Department.
- e. Temporary permit shall not be transferable from one place or person to another.
- f. Temporary permit shall be posted in a prominent and conspicuous area where clients may readily see them.

SECTION 12 – TEMPORARY DEMONSTRATION PERMIT REQUIREMENTS

12.1 A temporary permit may be issued by the Department for educational, trade show or product demonstration purposes only. The permit may be good for up to 14 calendar days.

12.2 A person who wishes to obtain a temporary demonstration permit must submit the request in writing for review by the Department, at least fourteen (14) days prior to the event. The request should specify:

- a. the purpose for which the permit is requested;

- b. the period of time during which the permit is needed (not to exceed 14 calendar days per event) without reapplication;
- c. the fulfillment of tattoo artist requirements as specified in Section 11, subsection B;
- d. the location where the temporary demonstration permit will be used.

12.3 The applicant's demonstration project must be contained in a completely enclosed, immobile facility (e.g., inside a permanent building).

12.4 Compliance with all of the requirements of this code includes but is not limited to the following:

- a. Conveniently located hand-washing facilities with liquid soap, paper towels and hot and cold water under adequate pressure shall be provided. Drainage in accordance with local plumbing codes is to be provided. Tuberculocidal single-use hand wipes, approved by the Department, to augment the hand washing requirements of this section must be available in each booth/cubicle.
- b. A minimum of 80 square feet of floor space shall be provided;
- c. There shall be at least 100 foot candles of light at the level where the body art procedure is being performed;
- d. Facilities to properly sterilize instruments and evidence of a spore test performed on sterilization equipment 30 days or less prior to the date of the event, must be provided; or only single-use, prepackaged, sterilized equipment obtained from reputable suppliers or manufacturers will be allowed
- e. Ability to properly clean and sanitize the area used for tattoo procedures is required.

12.5 The facility where the temporary demonstration permit is needed must be inspected by the Department and a permit issued prior to the performance of any tattoo procedures.

12.6 Temporary demonstration permits issued under the provisions of this code may be suspended by the Department for failure of the holder to comply with the requirements of this code.

12.7 All establishment and tattoo artist permits and the disclosure notice must be readily seen by clients.

SECTION 13 – PROHIBITIONS

The following acts are prohibited:

13.1 It is prohibited to perform tattooing on any body part of a person under the age of 18. State recognized photographic identification of the client is required.

13.2 It is prohibited to perform tattooing on a person who, in the opinion of the operator, is inebriated or appears to be under the influence of alcohol or drugs.

13.3 It is prohibited to own, operate, or solicit business as a tattoo establishment or tattoo artist without first obtaining all necessary permits and approvals from the Department, unless specifically exempted by this code.

13.4 It is prohibited to obtain or attempt to obtain any tattoo establishment or tattoo artist permit

by means of fraud, misrepresentation, or concealment.

SECTION 14 – ENFORCEMENT

14.1 Establishments operating at the time of the enactment of this code shall be given a prescribed amount of time to make application to the Department and comply with these regulations. Establishments that continue to operate without proper permits from the Department or operate in violation of these regulations will be subject to legal remedial actions and sanctions as provided by law.

14.2 A representative of the Department shall properly identify him- or herself before entering a body art establishment to make an inspection. Such an inspection must be conducted as often as necessary throughout the year to ensure compliance with this code.

14.3 It is unlawful for any person to interfere with the Department in the performance of its duties.

14.4 A copy of the inspection report must be furnished to the permit holder or operator of the tattoo establishment, with the Department retaining possession of the original.

14.5 If, after investigation, the Department should find that a permittee or operator is in violation of this code, the Department may advise the permittee or operator, in writing, of its findings and instruct the operator to take specific steps to correct such violations within a reasonable period of time, not to exceed 15 days.

14.6 If the Department has reasonable cause to suspect that a communicable disease is or may be transmitted by a tattoo artist, by use of unapproved or malfunctioning equipment, or by unsanitary or unsafe conditions that may adversely affect the health of the public, upon written notice to the owner or operator, the Department may do any or all of the following:

- a. Issue an order excluding any or all permitted tattoo artists from the permitted tattoo establishment who are responsible, or reasonably appear responsible, for the transmission of a communicable disease until the Department determines there is no further risk to public health.
- b. Issue an order to immediately suspend the permit of the licensed establishment until the Department determines there is no further risk to the public health. Such an order shall state the cause for the action.

SECTION 15 – SUSPENSION OR REVOCATION OF PERMITS

15.1 Permits issued under the provisions of the code may be suspended temporarily by the Department for failure of the holder to comply with the requirements of this code.

15.2 Whenever a permit holder or operator has failed to comply with any notice issued under the provisions of this code, the operator must be notified in writing that the permit is, upon service of this notice, immediately suspended. The Board shall hold a hearing within 21 calendar days after the date of suspension. The Board will provide written notice to the permit holder of the date and time of the hearing, the purpose of which shall be to consider whether to restore, continue the suspension, or revoke the permit.

15.3 Any person whose permit has been suspended may, at anytime, make application for reinstatement of the permit. Within 10 days of receipt of a written request, including a statement signed by the applicant that in his or her opinion the conditions causing the suspension have been

corrected and submission of the appropriate re-inspection fees, the Department shall re-inspect the tattoo establishment or evaluate documentation provided by an operator. If the applicant is in compliance with the provisions of this code, the permit will be reinstated.

15.4 For repeated or serious (any code infraction that threatens the health of the client or operator) violations of any of the requirements of this code or for interference with Department personnel in the performance of their duties, a permit may be permanently revoked after a hearing. Before taking such action, the Department shall notify the permit holder or operator in writing, stating the reasons for which the permit is subject to revocation and advising the permit holder or operator of the requirements for filing a request for a hearing. A permit may be suspended for cause, pending its revocation or hearing relative thereto.

15.5 The Department may permanently revoke a permit after five (5) days following service of the notice unless a request for a hearing is filed within the five (5) day period with the Department by the permit holder.

15.6 The hearings provided for in this section must be conducted by the Department at a time and place designated by the operator. On the basis of the record of the hearing, the Department shall make a finding and may sustain, modify, or rescind any official notice or order considered in the hearing. A written report of the hearing decision must be furnished to the permit holder or operator by the Department.

SECTION 16 – DEPARTMENT PERSONNEL COMPETENCY REQUIREMENT

Department personnel performing environmental health/sanitary evaluations or complaint investigations of tattoo establishments shall meet the same requirements as specified for tattoo artists in Section 11.10 of this code prior to assuming responsibilities for this program.

SECTION 17 – SCHEDULE OF PENALTIES FOR LICENSING VIOLATIONS; VIOLATIONS OF STANDARDS

17.1 The Department may assess penalties against a tattoo artist for the first and second licensure or practice violations according to the provisions of this regulation. For subsequent violations the Department shall, while reserving the right to impose other sanctions, assess monetary penalties according to the following schedule:

- a. Advertising tattooing or making tattoo services available without first receiving a current valid permit, or with an expired or suspended permit \$50.
- b. Advertising or allowing an individual to provide tattoo services without obtaining the required permit, or with an expired permit: \$50.
- c. Failing to post a current, valid facility permit or tattoo artist permit in public view: \$50.
- d. Failing to submit changes of required permit information within time frame set in regulations: \$50.
- e. Providing tattooing at a location other than place or place(s) permitted by the Department, without receiving prior approval from the Department: \$100.
- f. Using a reproduction of a permit in place of an original: \$50.

- g. Failing to allow inspection of the premises by the Department upon request \$100 and/or suspension
- h. Failing to meet facility standards adopted by the Department: \$500 and/or suspension or revocation
- i. Failing to provide a private or separate tattoo area for clients: \$50.
- j. Except as provided by rule, allowing animals in the facility: \$50.
- k. Failing to maintain the required equipment or have chemical indicators at facility: \$500 and/or suspension or revocation.
- l. Failing to use chemical and biological indicators as required to ensure proper sterilization: \$500. And/or suspension or revocation
- m. Failing to sterilize instruments using an approved mode: \$500. And/or suspension or revocation
- n. Failing to meet sterilization standards: \$500. And/or suspension or revocation.
- o. Failing to clean instruments prior to sterilization: \$500. And/or suspension or revocation
- p. Failing to wash hands before and after service and/or wear protective gloves: \$500.
- q. Failing to prepare area on client to be tattooed in accordance with Department standards \$500.
- r. Failing to meet cleanliness and/or storage standards for linens: \$500.
- s. Failing to dispose of materials with blood or body fluids in sealable, and if sharp, also rigid container, or having containers available: \$500 and/or suspension or revocation.
- t. Failing to have required covered waste receptacles: \$50.
- u. Failing to have and maintain client case history records: \$50.

SECTION 18 – INTERPRETATION AND SEVERABILITY

18.1 In the interpretation of this code, the singular may be read as the plural, the masculine gender as the feminine or neuter, and the present tense as the past or future, where the context so dictates.

18.2 In the event any particular clause or section of this code should be declared invalid or unconstitutional by any court of competent jurisdiction, the remaining portions shall remain in full force and effect. Toward that end, the provisions of these regulations are declared to be severable.

PART IV

ARTICLE 15 - Rules and Regulations Governing the Practice of Applying Temporary Tattoos

Public Hearing May 2, 2002

The following regulations are promulgated by the Town of Provincetown Board of Health, under the authority of the Massachusetts General Laws, Chapter 111, section 31, to read as follows:

Rationale: The Town of Provincetown is promulgating rules and regulations which provide minimum requirements to be met by any person performing the application of a temporary tattoo(s) upon any individual and for any establishment where the application of a temporary tattoo is to be performed. These requirements shall include, but not be limited to, general sanitation of premises wherein the temporary tattooing is to be performed, and the process and type of temporary tattoo being used. These rules and regulations are necessary to protect the public's health by preventing skin disorders and/or diseases.

In addition, these rules and regulations shall establish procedures for registration with the Provincetown Health Department of all persons performing temporary tattooing, for the requirement of minimal training standards for the prevention of infection, for regular inspection of the premises wherein temporary tattooing is performed, and for revocation of the registration of any person or establishment deemed in violation of the rules and regulations promulgated under this section. An annual, non-transferable registration fee set by the Town of Provincetown shall be paid by any person or establishment registered under this article.

1. DEFINITIONS

The following terms used in these regulations shall be defined as follows:

- 1.1 **"AFTERCARE"** means written instructions given to the client, specific to the body art procedure(s) rendered, about caring for the body art and surrounding area. These instructions will include information about when to seek medical treatment, if necessary.
- 1.2 **"ANTISEPTIC"** means an agent that destroys disease-causing micro-organisms on human skin or mucosa.
- 1.3 **"COSMETIC TATTOOING,"** see **"TATTOOING."**
- 1.4 **"BOARD OF HEALTH"** means the agency, or its authorized representatives, having jurisdiction to promulgate, monitor, administer, and enforce these regulations.
- 1.5 **"DISINFECTION"** means the destruction of disease-causing micro-organisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.
- 1.6 **"EQUIPMENT"** means all machinery, including fixtures, containers, vessels, tools, devices,

implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the operation of a temporary tattoo establishment.

- 1.7 **“HAND SINK”** means a lavatory equipped with hot and cold running water under pressure, used solely for washing hands, arms, or other portions of the body.
- 1.8 **“HENNA”** means coloring made from a plant that typically produces a brown, orange-brown, or reddish-brown tint.
- 1.9 **“HOT WATER”** means water that attains and maintains a temperature of at least 100 degrees F.
- 1.10 **“INSTRUMENTS USED FOR TEMPORARY TATTOOING”** means hand pieces and other instruments that may come in contact with a client's body or may be exposed to bodily fluids during body art procedures.
- 1.11 **“OPERATOR/TECHNICIAN”** means any person who controls, operates, manages, conducts, or practices temporary tattooing at a temporary tattoo establishment and who is responsible for compliance with these regulations, whether actually performing body art activities or not. The term includes technicians who work under the operator and perform temporary tattooing.
- 1.12 **“PERMIT”** means the written approval by the Department to operate a temporary tattoo establishment. Approval is given in accordance with these regulations and is separate from any other licensing requirement that may exist within communities or political subdivisions comprising the jurisdiction.
- 1.13 **“PERSON”** means an individual, any form of business or social organization or any other non-governmental legal entity, including but not limited to corporations, partnerships, limited-liability companies, associations, trusts or unincorporated organizations.
- 1.14 **“PHYSICIAN”** means a person licensed by the state to practice medicine in all its branches and may include other areas such as dentistry, osteopathy, or acupuncture, depending on the rules and regulations particular to that state.
- 1.15 **“PROCEDURE SURFACE”** means any surface of an inanimate object that contacts the client's unclothed body during a body art procedure, skin preparation of the area adjacent to and including the body art procedure, or any associated work area that may require sanitizing.
- 1.16 **“SANITIZATION PROCEDURE”** means a process of reducing the numbers of microorganisms on cleaned surfaces and equipment to a safe level as judged by public health standards; this process must be approved by the Health Department.
- 1.17 **“SINGLE USE”** means products or items that are intended for one-time, one-person use and are disposed of after use on each client, including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, scalpel blades, stencils, ink cups, and protective gloves.
- 1.18 **“TATTOOING”** means any method of placing ink or other pigment onto, into or under the skin or mucosa by the aid of applications, needles or any other instrument used to touch or puncture the skin, resulting in temporary or permanent coloration of the skin or mucosa. This term includes all forms of cosmetic and/or temporary tattooing.
- 1.19 **“UNIVERSAL PRECAUTIONS”** means a set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers" in *Morbidity & 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.

SECTION 2 – TEMPORARY TATTOO ARTIST/TECHNICIAN REQUIREMENTS AND PROFESSIONAL STANDARDS

- 2.1 The following information shall be kept on file on the premises of a temporary tattoo establishment and available for inspection by the Health Department:
- a. Employee information
 1. full names and exact duties
 2. date of birth
 3. social security number
 4. home address
 5. home/work phone numbers
 6. identification photos of all operator/ technicians
 - b. Establishment information
 1. establishment name
 2. hours of operation
 3. owner's name and address
 - c. A complete description of all procedures performed.
 - d. An inventory of all instruments, all sharps, and all products used for any and all temporary tattoo procedures, including names of manufacturers and serial or lot numbers, if applicable. Invoices or orders shall satisfy this requirement.
 - e. A copy of these regulations.
- 2.2 It shall be unlawful for any person to perform temporary tattoo procedures unless such procedures are performed in an establishment with a current permit.
- 2.3 The temporary tattoo artist/technician must be a minimum of 18 years of age.
- 2.4 Smoking, eating, drinking or food preparation is prohibited in the area where body art is performed.

Temporary tattoo artists/technicians shall refuse service to any person who, in the opinion of the operator/technician, is under the influence of alcohol or drugs.

- 2.6 The temporary tattoo artist/technician shall maintain a high degree of personal cleanliness, conform to hygienic practices, and wear clean clothes (shirt, pants/skirt, and shoes required) when performing body art procedures. Before performing temporary tattoo procedures, temporary tattoo artists/ technicians must thoroughly wash their hands in hot running water with liquid soap, then rinse hands and dry with disposable paper towels, or use a hand-sanitizer approved by the Department. This shall be done as often as necessary to remove contaminants.
- 2.7 In performing temporary tattoo procedures, the temporary tattoo artist/technician may wear disposable medical exam gloves. Gloves must be changed if they become contaminated by contact with any non-clean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed before the next set of gloves is donned. Under no circumstances shall a

single pair of gloves be used on more than one person. The use of disposable medical gloves does not preclude or substitute for hand-washing procedures as part of a good personal hygiene program. Medical exam gloves must be kept in a covered, closed container.

- 2.8 If, while performing a temporary tattoo procedure, the temporary tattoo artist's/ technician's glove is pierced, torn, or otherwise contaminated, the procedure delineated in section 2.7 shall be repeated immediately. The contaminated gloves shall be immediately discarded, and the hands washed thoroughly (see 2.6/2.7 above) before a fresh pair of gloves is applied. Any item or instrument used for temporary tattooing that is contaminated during the procedure shall be discarded and replaced immediately with a new item before the procedure resumes. The practitioner can use an electric razor to shave the area to be worked on. The screen of the electric razor is to be disinfected with Barbicide – a standard disinfectant – prior to each use.
- 2.9 Any skin or mucosa surface to receive a temporary tattoo procedure shall be free of rash or any visible infection. The area must be wiped down with an alcohol pad prior to application.
- 2.10 The skin of the temporary tattoo artist/technician shall be free of rash or infection. No person or temporary tattoo artist/technician affected with boils, infected wounds, open sores, abrasions, keloids, weeping dermatological lesions or acute respiratory infection shall work in any area of a temporary tattoo establishment in any capacity in which there is a likelihood that that person could contaminate temporary tattoo equipment, supplies, or working surfaces with body substances or pathogenic organisms.
- 2.11 Proof shall be provided upon request of the Department that all temporary tattoo artists/technicians have current negative (TB) tuberculosis results.

3. EXEMPTIONS

There will be no exemptions.

4. PUBLIC NOTIFICATION REQUIREMENTS

- 4.1 Verbal and written public educational information, approved by the Department, shall be required to be given to all clients wanting to receive temporary tattoos (written information shall be on a consent form). Verbal and written instructions, approved by the Department, for the aftercare of the temporary tattoo procedure site shall be provided to each client by the Operator upon completion of the procedure. The written instructions shall advise the client to consult a physician at the first sign of infection, swelling or irritation and shall contain the name, address, and phone number of the establishment. These documents shall be signed and dated by both parties, with a copy given to the client and the operator retaining the original with all other required records. In addition, all establishments **shall prominently** display a Disclosure Statement, provided by the Department, which advises the public of the risks and possible consequences of temporary tattooing services. The facility permit holder shall also post in public view the name, address and phone number of the local/state Department that has jurisdiction over this program and the procedure for filing a complaint. The Disclosure Statement and the Notice for Filing a Complaint shall be included in the establishment Permit Application Packet.
- 4.2 All infections, complications, or diseases resulting from any temporary tattoo procedure that become known to the operator shall be reported to the Department by the operator within 24 hours.

5. CLIENT RECORDS

- 5.1 So that the temporary tattoo artist/technician can properly evaluate the client's medical condition for receiving a temporary tattoo procedure and not violate the client's rights or confidential medical information, the temporary tattoo artist or technician shall ask for the information as follows:

“We ask that you disclose if you have or have had any of the following conditions:

- j. history of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants, etc.;
- k. history of allergies or adverse reactions to pigments, dyes, or other skin sensitivities.”

- 5.2 The temporary tattoo artist/technician should ask the client to sign a Release Form confirming that the above information was obtained or that the operator technician attempted to be obtained. The client should be asked to disclose any other information that would aid the operator/technician in evaluating the client's body art healing process.
- 5.3 Each operator shall keep records on the consent forms of all body art procedures administered, including date, time, identification and location of the body art procedure(s) performed, and operator's name. All client records shall be confidential and be retained for a minimum of three (3) years and made available to the Department upon notification.
- 5.4 Nothing in this section shall be construed to require the operator to perform a body art procedure upon a client.

6. RECORDS RETENTION

- 6.1 The body art establishment shall keep a record of all persons who have had body art procedures performed. The record shall include the name, date of birth, and address of the client, the date of the procedure, the name of the operator who performed the procedure(s), type and location of procedure performed, and signature of client. Such records shall be retained for a minimum of three (3) years and shall be available to the Department upon request. The Department and the body art establishment shall keep such records confidential.

7. PREPARATION AND CARE OF THE BODY ART AREA

- 7.1 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 a single-use alcohol prep pad, depending on the type of body art to be performed. If shaving is necessary, the use of an electric razor is permitted with the use of Barbicide disinfectant between each use to disinfect the razor.

8. SANITATION AND STERILIZATION PROCEDURES

- 8.1 All non-single-use, non-disposable instruments used for temporary tattooing shall be cleaned thoroughly with soap and warm water or a 10% bleach solution or by following the manufacturer's instructions.
- 8.2 All cleaned, non-disposable instruments shall be disinfected with Barbicide or other disinfectants approved by OSHA, meeting their bloodborne pathogens standards. The practitioner shall follow manufacturer's instructions regarding contact time for disinfection.
- 8.3 All reusable instruments shall be placed in a clean, dry cabinet or tightly covered container reserved for storage of such instruments.

- 8.4 All equipment and dyes/pigments shall be specifically manufactured for performing temporary tattoo procedures of a “traditional henna” nature, shall be used according to manufacturer's instructions, and shall be approved for use by the Department or the Board of Health. There are to be no additives to the “traditional henna” dyes/pigments that are not specifically approved for use by the Department or the Board of Health. The mixing of “traditional henna” dyes/pigments or their dilution

PART V -PESTICIDES

ARTICLE 1 - Pesticide Regulations

Due to the fact that Cape Cod has been declared a sole source aquifer by the United States Environmental Protection Agency, in 1982, and considering the risk of ground and human contamination by the extensive use of pesticides, the Board of Health this date has adopted the following regulations in accordance with Chapter III, Section 31, of the Massachusetts General Laws:

Definition: The term "pesticides" includes herbicides, insecticides and fungicides.

Regulation: The use of pesticides is prohibited along easements, rights of ways, railroads, power lines and/or any uses other than those agricultural or domestic, within the town borders.

This regulation will take effect on this date, April 10, 1984.

PART VI - SANITATION COLLECTION AND SEPTAGE HAULERS

ARTICLE 1 - Septic System Installer's Regulations

Acting under the authority of Massachusetts General Laws, Chapter 111, Section 31, the Provincetown Board of Health adopts the following regulation to replace in full the Septic System Installer regulation adopted on December 11, 1984:

I fully understand that the annual Disposal Works Installer's Permit is contingent upon my observance of Title 5, 310 CMR 15.000, of the Massachusetts Sanitary Code and all other laws and regulations of the State of Massachusetts and the Town of Provincetown.

I further understand that prior to the repair or installation of any sewage disposal system, a Disposal Works Construction Permit must be secured from the Health Department for each system. The permit will not be delivered at the time of inspection.

I also understand that prior to the backfilling of any septic system, the Health Agent and the design engineer must be contacted and must perform an inspection and approve. A certificate of compliance shall not be issued without Health Agent approval and written certification from the design engineer.

I am aware that any additional inspections due to faulty installation or due to not being ready for the requested inspection will result in an additional \$20.00 re-inspection fee. This applies to all Disposal Works Construction permits - repairs and new construction.

All septic system repairs and installations must be done in accordance with the plans submitted and approved with the application for a Disposal Works Construction Permit. Any alterations must be approved by the Health Agent and the design engineer. Any alterations must be specified in an as-built plan submitted to the Health Agent.

I understand that I am responsible for all systems where the permit is issued in my name, as well as for all systems in which my equipment is sublet to parties not currently licensed in the Town of Provincetown. I understand that subletting is defined for this purpose as any instance in which my equipment is utilized to perform any work on a sewage disposal system under any circumstances.

I agree not to use acids or other chemicals for cleaning cesspools and septic systems that I service.

I understand that violations of any of the above may result in the suspension or revocation of my annual installer's license and any other legal action deemed appropriate by the Provincetown Board of Health.

Signature Date

Installer's

PART VI

ARTICLE 2 - Septage Hauler's Permit Regulations

As of January 1, 1988 the haulers' and installers' permits will be considered separate permits.

Equipment must be clearly marked and identified as to size of tank volume capacity and notarized as such. This information is to be filed with the Department of Public Works and the Health Department. Each truck land tank must be certified once annually as to condition, size and volume capacity by the Landfill Foreman and the Health Agent, or their designees, and will receive stickers of compliance.

Trucks must be cleaned out properly, inspected and made free from sand and/or sludge once within thirty (30) days prior to May 1 annually and the Health Agent must be given a minimum of twenty-four (24) hours notice prior to request for inspection.

Gauges showing exact volume must operate correctly be calibrated, clean and in good condition so that observation of volume can be had visually with no problem.

Grease brought to the municipal facility from grease traps must be disposed of separately from sewage and unloaded at the tank designated for such purpose.

Septage coupons must be completely filled out properly or unloading will not be allowed. Coupons must show date, name, location, name of owner of business, transfer of coupon information as necessary, and signature of serviceman of record, and is to include telephone number of client if signature of client is not recorded.

Failure to comply with these regulations will constitute a violation and will justify a show cause hearing to be held with the Board of Health. Violators will be subject to a loss of license and/or fine in accordance with the courts and Massachusetts General Laws as allowed.

INVALIDATION:

If any section, paragraph, sentence, clause or phrase of these rules and regulations should be decided invalid for any reason whatsoever, such decision shall not affect the remaining portions of these regulations which shall remain in full force and effect, and to this end the provisions of these regulations are hereby declared severable.

The above rules and regulations are hereby adopted by the Provincetown Board of Health on July 14, 1987 to be effective immediately upon publication of one week's advertised notice in accordance with M.G.L.C. 111, Section 31, and only after an advertised public hearing held on July 14, 1987.

PART VI

ARTICLE 3 - Sanitation Collection & Disposal

Revised April 17, 2003
Public Hearing April 17,
2003

Section 1: Notice of days for collection is established as set forth in subsection A below.

Section 2: Refuse must be put out on the evening prior to a resident's pick-up day, but not before 6:00 PM.

Section 3: No loose refuse is permitted. All refuse must be contained in a tightly covered barrel no larger than a standard 32-gallon capacity.

Section 4: No empty cartons, cardboard, newspaper, etc., will be picked up unless all items are separated, flattened and tied or cardboard flattened into one box or newspaper put in brown paper bags and will only be picked up on the proper day, which is Sunday night town-wide, weather permitting. These items will not be picked up on Monday Holidays.

Section 5: There is no curbside pick-up for brush. Brush must be taken to the Transfer Station and will be charged as full loads.

Section 6: COLLECTIONS:

A. Once a week pick-up per fire district; all residential households are allowed two 32-gallon containers and 1 recycling bin.

1. Fire District #5 – From Town Line West to Howland Street, to include Commercial and Bradford Streets.
2. Fire District #4 – From Howland Street to Conwell Street, to include Commercial and Bradford Streets.
3. Fire District #3 – From Conwell Street to Court Street, to include Commercial and Bradford Streets.
4. Fire District #2 – From Court Street to Franklin Street, to include Commercial and Bradford Streets.
5. Fire District #1 – From Franklin Street to the West End of Town, to include Commercial and Bradford Streets.

B. Residential:

1. To be defined as a person or persons who are not a business or in any sense of the meaning a commercial establishment.
2. If a resident or residents live on a private way the Town will only pick-up trash if:
 - a. All residents have signed an agreement to hold the Town harmless of any damage that may occur due to the Town

- vehicles on their private way.
 - b. The private way road conditions meet the state standards of a public way. In other words, the Town will not enter a private way that is too narrow or in a condition that could damage the Town vehicles.
 - 3. Refuse at condominiums will not be picked up unless:
 - a. The condominium has 8 units or less.
 - b. It is privately owned and not a time-share unit.
 - 4. Guest Houses and Lodging Houses are considered commercial establishments with the exception of owner/manager occupied, where the owner/manager is considered a resident and will be allowed two 32-gallon containers and 1 recycling container per week.
 - 5. All residents who live in a predominately commercial area need to mark the trash receptacles as residential with their name and address.
 - 6. All residential trash is to be put out at the curb of the nearest public or private way that receives trash pickup service. Sanitation employees cannot and will not enter private property to pick up trash.
 - 7. Housing developments in which 100% of the units are affordable, recycling and solid waste pick up shall be provided by the Town.

C. Commercial:

- 1. Any establishment licensed by the Town is considered a commercial establishment; the Town does not pick up commercial trash or recycling
- 2. All licenses will require all commercial establishments to identify their private haulers for the removal of trash and recycling from the business property.
- 3. All Guest Houses, Motels, Hotels, Camps, Cabins, Inns and Time Share units are Commercial and will be charged as such.
- 4. All vehicles entering the Transfer Station driven or owned by known Business owners will be subject to spot checks to determine if they are dumping commercial trash or residential trash and will be charged as determined.

Section 7: It is hereby illegal for any resident, citizen, visitor or business to place household or business trash into a town-owned receptacle or barrel. All Town receptacles will be subject to spot checks by Sanitation and/or Seasonal Barrels & Grounds personnel for the purpose of identifying violations. Evidence of illegal dumping will be reported to the police and a fine will be given to the person and/or business whose trash was found. Schedule of fines will be as follows:

- 1st Offense -\$50.00
- 2nd Offense - \$100.00
- 3rd Offense - \$500.00

PART VI

ARTICLE 4 - Rules & Regulations for the Use & Operation of the Transfer Station

Acting under the authority of Massachusetts General Laws, Chapter 111, Sections 31 and 31B, the Provincetown Board of Health adopts the following rules and regulations, which shall apply to all users of the Provincetown Transfer Station & Recycling Center.

A. OPERATING DAYS & HOURS – NOTE: ONE MONTH (TWO WEEKS IN THE BEGINNING AND TWO WEEKS AT THE END OF THE SEASON) HAS BEEN ADDED TO THE 7-DAYS-A-WEEK OPERATION, WHICH GIVES THE TOWN A FULL 6 MONTHS OF 7-DAY OPERATION

1. From 1st of May through end of October: 7 days per week 7:00 am to 2:00 pm From 1st of November through end of April: Tuesday through Saturday 7:00 am to 2:00 pm

NOTE: Because the dates vary from year to year the date will be published in a local newspaper giving the new seasonal operating hours. However, the seasonal operating hours and days change occurs approximately 1st of May and end of October.

B. Residential/Commercial Requirements for use of Transfer Station/Recycling Center

1. All trash, recyclables and brush must be generated from within the Town of Provincetown.
2. All loads must be properly covered and secured.
3. All users must be:
 - a. Provincetown property owner or resident;
 - b. Provincetown business with a valid permit from the Provincetown Health Department;
 - c. Commercial Refuse Hauler properly permitted by the Provincetown Health Department;
 - d. Provincetown vehicles and/or vehicles under contract by the Town (vehicles not from Provincetown must show proof of residency, i.e., operator's name and address on driver's license and registration, the same requirement used by the Parking Department to establish residency); or
 - e. Permitted Federal Government vehicles.

C. Acceptable Materials: See Article 5 for Fee Structure

1. Household and commercial trash
2. Household and commercial recyclable items
 - a. Cardboard flattened (unwaxed)
 - b. Newspaper
 - c. Metal and steel cans - cleaned
 - d. Glass bottles and jars - cleaned, no aluminum or Styrofoam labels
 - e. Plastic #1 & #2
 - f. Grass and leaves from a homeowner
 - g. Large metal pieces
 - h. Appliances (see D.12 for limitations)
 - i. Wood
 - j. Brush (4" maximum caliper)
 - k. Mixed paper including glossy inserts and junk mail
 - l. CRT containing items (TVs, Computers)
 - m. Styrofoam peanuts - to shed behind Grace Gouveia Building

D. Prohibited Materials:

1. Demolition/construction materials, including sheet rock
2. Mattresses/box springs/carpeting
3. Furniture
4. Tires
5. Fill material, including soil, stumps, bricks, concrete, rock and sand
6. Automobile parts and bodies
7. Gasoline cans
8. Asbestos
9. Liquid and semi-solid wastes
10. Hazardous wastes, including paint, solvents, oil, gasoline, pesticides and insecticides, explosives, chemicals, hot ashes or other volatile materials
11. Radioactive, nuclear, and infectious wastes, including needles and syringes
12. No CFC (freon) -containing appliances, unless certified by an appliance dealer that all freon has been removed.

ALL OF THESE RULES AND REGULATIONS ARE MADE BY THE BOARD OF HEALTH AND ARE ENFORCED BY THE TRANSFER STATION EMPLOYEES. IF THERE IS A COMPLAINT CONCERNING THESE RULES AND REGULATIONS, INCLUDING FEES, IT MUST BE BROUGHT BEFORE THE BOARD OF HEALTH. THE TRANSFER STATION EMPLOYEES ALSO HAVE THE RIGHT TO BRING TO THE ATTENTION OF THE BOARD OF HEALTH ANY INCIDENT OF VERBAL OR PHYSICAL ABUSE BY ANY USER OF THE TRANSFER STATION. ANY ACTION WILL BE THE RESPONSIBILITY OF THE BOARD OF HEALTH.

PART VI

ARTICLE 5 - Solid Waste Fees

Revised May 29, 2003

Public Hearing May 29, 2003

Effective July 1, 2003

Revised May 13, 2004

Public Hearing May 13, 2004

Effective July 1, 2004

Public Hearing September 26, 2005

Effective December 01, 2005

Solid Waste Fees

Acting under the authority of Massachusetts General Laws, Chapter 111, Sections 31 and 31A, the Provincetown Board of Health adopts the following solid waste fees for the use of the Provincetown Transfer Station/Recycling Center:

A. SOLID WASTE FEES (See Fee Sheet) (Separate Attachment)

1. Residents:

a. Annual sticker No Fee

b. Household trash in car All resident property owners/tax payers will be allowed two barrels (4 standard bags) with no charge. Anything beyond the two barrels (or 4 standard bags) will be charged \$4.00 per bag.

This will be strictly enforced.

2. Residential Senior Citizens: (Must be at least 59 years of age at time of purchase of sticker, must have driver's license and registration showing a Provincetown address)

a. Annual Sticker No Fee

3. Business - Self Hauling – including Guest Houses, Motels, Hotels, Camps, Cabins, Lodging, Inns, Time Share Units and Camp Grounds.

4. Commercial Haulers

5. Non-Profit Organizations:

a. Annual sticker (with proof of non-profit eligibility) No Fee

b. Charge on all Refuse No Charge

c. Weighed loads No Charge

B. A half load is delineated from the midpoint of the rear well to either the rear end of the pick up truck or to the front end of the bed. For non-pickup vehicles four 32 gallon barrels or less is considered a half load. Anything over four 32 gallon barrels is considered a half load.

*** fees effective 1 July 04**

C. THE DECISION OF THE TRANSFER STATION ATTENDANT IS FINAL

1. Any complaints will have to be put in writing to the Health Agent and will be brought before the Board of Health for determination.
2. All complaints must be in writing with all information filled in, including: name, address, phone number, explanation of incident, and parties involved. Complaint forms may be picked up at any Town office.

PART VI

ARTICLE 6 - Infectious Waste Regulations

I. NOT ACCEPTED

- a. The Town of Provincetown will not accept any infectious waste at the Transfer Station.

PART VI

ARTICLE 7 - Solid Waste Recycling Regulations

Revised: February 7, 2002 Advertised: January 23, 2002 January 30, 2002 Effective:
February 21, 2002

Pursuant to statutory authority under Mass. General Laws, Chapter 40, Sections 8H, 4 and 4A, approved by Provincetown Special Town Meeting, Article 10, March 14, 1990; and Mass. General Laws, Chapter 111, Sections 31, 31A and 31B, the following regulations are adopted by the Board of Health.

I. Definitions

- A. Recyclable Waste shall be defined as discarded products, packaging or other material, which may be reclaimed for secondary use. The Board of Health shall consider the economics, markets and environmental impacts of recycling such materials, in comparison with other means of disposal, in making this designation.
- B. Special Waste shall be defined as discarded products, packaging or other material requiring special handling or procedures for disposal; including any which is known to be hazardous to health; and which is neither recyclable nor acceptable at SEMASS.
- C. Yard Waste shall be defined in two (2) parts:
 1. Grass clippings, leaves.
 2. Brush, twigs and branches with a maximum diameter of four (4) inches.

II. Waste Schedules

- A. The Board of Health will, from time to time, hold public hearings for the purpose of designating specific categories of materials as recyclables and/or special waste. Materials so designated will be incorporated, by amendment, to schedules under this subsection. Particular conditions for identification, containment, separation or protection of such waste, if required, shall be included, including any applicable environmental laws, rules and regulations of the commonwealth. The effective

date of inclusion shall be specified.

B. Recyclable Waste -

1. Schedule R1 – Household Recyclables:

- a. Glass Bottles and Jars (non-deposit) – shall be rinsed to remove food residue, have plastic or metal caps and rings removed, and shall be contained in reusable metal or plastic owner supplied container.
- b. Bimetallic Steel, Tin and Aluminum Cans – shall be rinsed to remove food residue. Shall be contained in reusable metal or plastic owner-supplied container.
- c. High Density Polyethylene (HDPE) #2 Plastic Containers (e.g. bottles from milk, water, juice, laundry and personal care products) – Shall be rinsed to remove product residue and shall have caps removed. Shall be contained in reusable metal or plastic owner-supplied container.
- d. Paper – to include; newspaper, glossy inserts, junk mail phone books and magazines, shall be clean and dry; securely tied in flat bundles (not taped) or bagged in a brown paper bag, none of which shall weigh more than fifty (50) pounds. Do not put out if inclement weather is forecasted or a Holiday is on Monday.
- e. Corrugated Board (“cardboard”) boxes – Shall be clean, dry and flattened; securely tied in flat bundles or all flattened and placed in one box, none of which shall weigh more than fifty (50) pounds. Do not put out if inclement weather is forecasted.
- f. CRT containing items, such as; TV’s and Computer Monitors

2. Schedule R2 – Other Recyclables:

- a. Deposit Beverage Cans & Bottles – Shall be rinsed to remove any beverage residue.
- b. Motor Oil – Shall not be mixed with any other waste fluid this is a drop off only at the Highway Garage – Mon-Fri from 7:00am to 4:00 pm.
- c. Anti-Freeze – is acceptable at Fay’s Automotive Center.

C. Special Waste-

1. Schedule S1 – Bulky Waste;

- a. Mattresses, Box Springs and Carpeting – not accepted
- b. Furniture – not accepted

D. Construction Debris – not accepted

1. The Town of Provincetown prohibits these items and suggest to

residents to hire a Private Hauler to dispose of non-acceptable items properly.

2. White Goods: including, with limitation, refrigerators, ranges, water heaters, freezers, washing machines, dryers, microwave ovens and similar domestic and commercial large appliances
 - a. CFC (Freon) containing appliances must have a certified sticker from an appliance dealer stating all Freon has been removed, if not we will not accept it at the Transfer Station. e.g.
 - b. PCB's-(capacitors, ballast's, oil, mercury, lead) containing white goods must have a certified sticker from an appliance dealer stating all PCB's has been removed, if not we will not accept it at the Transfer Station e.g. fluorescent bulbs, thermostats, etc.
3. Schedule S2 – Hazardous Waste: NOT ACCEPTED
 - a. Paints, finishes, stains and solvents which are based on petroleum by-products or urethane, and the containers in which they are offered.
 - b. Pesticides (including chlorinated hydrocarbons, organophosphorus compounds, carbamates and lead, arsenic or mercury based materials) and the containers in which they are offered for retail sale and containers to which they have been transferred.
 - c. Herbicides (organic or inorganic; whether active by contact, systematically or as a soil sterilant) and the containers in which they are offered for retail sale.
 - d. CFC's, and PCB's -containing appliances unless certified by an appliance dealer as removed.

III. RECYCLABLE WASTE

- A. Schedule R1 Waste : The owner or occupant of any residential or commercial property who shall place for disposal, removal or collection, any Schedule R1 recyclable waste, by either the Town or a Private Hauler, shall do so in conformity with the following regulations:
 1. The waste shall be securely contained and separated from all other solid waste (not in the same container). Paper and cardboard are to be kept separate from other recyclables. All recyclables and non-recyclables set out for collection shall be placed and maintained in an orderly sanitary condition so as not to constitute a hazard or nuisance or otherwise objectionable.
 2. Containers or markings, which serve to identify recyclable materials, and /or facilitate their collection and recycling, may be required, as established under Section II for each material.

Provision of any such containers will be the responsibility of the property owner or occupant who places said material out for collection, either by the town or a private hauler.

3. The Town will establish a collection schedule for residents only. Certain materials may be collected on a day or days separate from regular trash pick-up. Recycling pick-up, with the exception of paper and cardboard, is picked up per Fire Districts as per Part VI, Article #3, Section 6, of the Board of Health Rules and Regulations. Paper and cardboard will be picked up every Monday, with the exception of Holidays (put out the night before) weather permitting. Collection of Schedule R1 recyclables will be made from any residential property, who has Town Pick-up, which properly places said recyclables at the usual or designated collection point, on the designated day.
4. No person, other than authorized Town employees or a licensed waste hauler with a contract for the property, shall remove designated recyclable waste from the curbside.
5. Refuse that is set out for collection, which contains more than negligible quantities of recyclable waste may be left uncollected. The person responsible for the property, shall have the refuse removed at his or her own expense within twelve hours.
6. Any person who transports recyclable waste to the Transfer Station/Recycling Center will be required to deposit it in the designated appropriate area or container, and not to mix it with other refuse or recycling material.

B. Schedule R2 Waste: Each commercial establishment that sells, uses or disposes of a significant quantity of any material that at the conclusion of its use will be Schedule R recyclable waste, shall be required to comply with the following conditions:

1. Make available appropriate space and containers for collection of such quantity of the material as is customarily sold, used and/or disposed of by the establishment.
 - a. Such space and/or containers shall have prominent labeling, and notice conspicuously posted, to encourage appropriate collection of designated wastes and to indicate the compliance with the provisions of Sections III – 2.
 - b. Accept from any individual, without requirement of proof of purchase, any recyclable waste which could reasonably be expected to be usual residue of goods, materials or their packaging, sold by the establishment on or after the effective date of these regulations. There shall be no charge made for accepting such waste. Acceptance may be made

contingent upon reasonable requirements for cleanliness, separation of wastes and proper containment; however, such requirements may not be applied in such a manner as to routinely discourage the waste collection intended under this section.

- c. Assure that the quantity of wastes retained is not allowed to become a nuisance or hazard to health or safety.
- d. Present evidence that said waste is regularly removed, in a manner consistent with these regulations and with all environmental laws, rules and regulations of the commonwealth, to a final destination that is the Recycling Center. The sufficiency of all such evidence will be the judgment of the Board of Health or its agent. This requirement would be presumed to be met by any of the following options, which are not intended to be exclusive:
 - 1. present evidence of a contractual agreement with the supplier or shipper to remove the designated waste from town for recycling;
 - 2. or present evidence of contractual agreements with both a licensed recycling facility to receive and process, and with a hauler to convey the waste to said facility;
 - 3. or any recyclable waste for which a collection center at the Provincetown Transfer Station/Recycling Center has been duly established, present evidence to conform that all said waste has been properly disposed of at the Recycling Center.

IV. SPECIAL WASTE

- A. It shall be a violation (MGL Chapter 111, § 122 Nuisances) for any person to knowingly dispose of designated special waste by any means that are not part of an approved disposal process of said waste.
- B. The legal disposal of any special wastes not specifically designated in Article 7, II-C, including without limitation, tree stumps, demolition debris, furniture, shall be the responsibility of the property owner or occupant.

V. YARD WASTE

- A. Yard waste shall not be mixed with any household waste, or any hazardous or toxic material.
- B. Yard waste shall not be set out with regular refuse or recyclables for collection. It may be disposed of by composting on the property on which it was generated. Said waste shall otherwise be transported to the Town Transfer Station/Recycling Center at the owner or occupant's expense.

- C. Yard waste delivered to the Transfer Station/Recycling Center shall have any bag or container removed; only the yard waste shall remain.

VI. INSPECTION/VIOLATIONS:

- A. Every commercial establishment in the Town of Provincetown shall be subject to inspection by the Board of Health or its agent for determination of compliance with the provisions of these regulations. Violators will be subject to fines. Each day of violation will be considered a separate offense.
- B. For a period of sixty (60) days following the effective date of these regulations, intensive public education will be necessary. Any violation during this time will be met with a verbal and/or written notice of non-compliance. Repeated violations will require meeting with the Board of Health or its designated agent to determine the nature of the problem.
- C. Any waste hauler licensed by the Town shall be subject to suspension, modification or revocation of licensure for knowingly violate any of these regulations, or for willful misrepresentation with respect to any recyclable or special wastes transported by said hauler. (see Article 9, Section I, Part F)

VII. TOWN TRANSFER STATION/RECYCLING CENTER

- A. In order to facilitate the collection and appropriate disposal of certain designated recyclable or special wastes, the Town shall establish central collection points, containers and necessary processing equipment at the Transfer Station/Recycling Center or other site(s).
- B. For any Schedule R1 Recyclable Waste, such collection facilities shall be available no later than the effective date for that waste category.
- C. For Schedule R2 Recyclable Waste and Schedule S1 Special Wastes, such facilities will be established if and when the Town determines that it is able to operate them in an environmentally safe and financially responsible manner.
- D. The Town will establish a composting facility, subject to applicable environmental laws of the commonwealth. The requirements of Section V will take effect at such time as said facility is operational and financially viable.
- E. The existence and operation of such collection site(s) will in no way relieve compliance with Sections III and IV (above) unless specific exemption is granted by the Board of Health.

VIII. DISPOSAL FEE

- A. Schedule R1 Recyclable Waste will be collected at the curbside, and accepted at the Transfer Station/Recycling Center, without any direct fee charged. These recycling items will be disposed of by the Town. (see Article 7, Section II, Part B-1-f)
- B. The Board of Health will establish fees for the disposal of Schedule R2 Recyclables, Schedule S1-D special wastes and Section V Yard wastes. The fees will reflect the handling and disposal costs of each specific category of regulated

waste material. It will be the policy of the Board of Health to structure the fees, wherever possible, to create financial incentives for appropriate disposal of recyclables and/or special wastes, by means within the letter or spirit of these regulations.

- C. Deleted

IX. SEVERABILITY

- A. These regulations are declared to be severable. If any part, sentence, section or clause is adjudged invalid, it is hereby provided that the remainder shall not be affected thereby.

X. SWAP SHOP REGULATIONS

- A. **Residential Users** – Residential users will be identified as stated under Article 4-B of the Board of Health Rules and Regulations for the Use & Operation of the Transfer Station.
- B. **Schedule of Operation** – The Swap Shop will be open year-round, Tuesday through Saturday, closed Sunday and Monday. The hours of operation will be 9:00 a.m. to 1:00 p.m.
- C. **Staffing for Operation** – We will attempt to operate the Swap Shop by using either volunteers or senior citizens on the Tax Credit Program. If those options are not available we will attempt to keep the Swap Shop open with existing personnel.
- D. **Drop Off** – Acceptable items for the Swap Shop will be dropped off at the designated area. *There will be no curbside pick-up for Swap Shop acceptable items.*
- E. **Sign In** - All residents dropping off material for Swap Shop will sign in and list the items they are dropping off.
- F. **Overloaded** – If Transfer Station Personnel see that the Swap Shop is collecting more than it can handle they have the discretion of refusing items.
- G. **Acceptable Items:**
 - 1. Working Appliances – *i.e., toaster ovens, blenders, crock pots, vacuum cleaners, coffeepots, can openers, lamps, toasters, microwaves, etc.*
 - 2. Working TVs, VCRs and computers
 - 3. Books – *i.e., hardcover or paperback*
 - 4. Working audiotapes, CDs, videotapes
 - 5. Dishes, glasses, silverware, pots and pans
 - 6. Tools – *i.e., garden, mechanical etc.*
 - 7. Metal or wooden folding chairs
 - 8. Small tables – *i.e., end tables, folding tables, etc.*
 - 9. Toys, games, puzzles etc. (not broken or missing pieces)
 - 10. Fishing poles and tackle gear (no nets)
- H. **Non-Acceptable Items:**
 - 1. No clothing or shoes
 - 2. No bedding, linens or pillows

3. No mattresses or box springs
4. No carpeting
5. No household hazardous waste, i.e., paint, varnishes, etc.
6. No furniture (other than those items listed under Acceptable Items)
7. No CFC (freon) -containing appliances (i.e., refrigerators, air conditioners, etc.)
8. No demolition/construction materials
9. No motors or automobile parts

I. **Items Not Listed** – The acceptability of any item that is not specifically identified under Acceptable or Non-Acceptable Items will be determined by a Transfer Station employee.

J. **The Decision of the Transfer Station Attendant is Final**

1. Any complaints must be submitted in writing to the Health Agent and will be brought before the Board of Health for determination.
2. All complaints must include the following written information: name, address, phone number, explanation of incident and parties involved. Complaint forms are available at the Town Manager's Office.

Mark Baker, Chair

Posted in the Banner 1/23/02 & 1/30/02 Posted by the
Town Clerk, SJN, Date of posting:

PART VI

ARTICLE 8 – Nuisance Regulations

Public Hearing May 27, 2004

SECTION I. AUTHORITY

This regulation is adopted under M.G.L. Chapter 111, Section 31, which gives the Provincetown Board of Health (hereinafter designated as "the Board") authority to make reasonable health regulations, violations for which shall be punished by a fine of not more than 1000 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. This regulation is also adopted under M.G.L. Chapter 111, Section 143.

SECTION II. GENERAL DEFINITIONS

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

BOARD OF HEALTH: the Provincetown Board of Health

SECTION III. NUISANCES

3.00 Purpose: This section of this regulation is intended to prevent all nuisances, sources of filth and causes of sickness which may be injurious to the public health, safety, or welfare of the inhabitants of the Town of Provincetown.

3.05 DEFINITIONS:

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

ABATE: shall mean to repair, replace, remove, destroy or otherwise remedy a condition

DUMPSTER or DISPOSAL CONTAINER: shall mean any container, receptacle, compactor unit, trailer, roll-off, or other similar unit with or without wheels that is used for the temporary storage, containment, or transport of refuse, garbage, demolition debris, or other discarded materials. It shall not apply to the ordinary household trash can of a volume less than 50 gallons, to plastic bags storing these materials in compliance with the regulations of the Town of Provincetown, or to trash compactor trucks operated by a company duly licensed by the local Board of Health.

NUISANCE: an act or failure to perform legal duty which causes or permits a condition to exist which

injures or endangers the public health, safety or welfare of the inhabitants of the Town of Provincetown.

RUBBISH – means combustible and noncombustible waste materials, except garbage and approved compost containers, and includes but not limited to such material as paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, grass clippings, tin cans, metals, glass, crockery, plastics, mineral matter, dust and the residue from the burning of wood, coal, coke or other combustibles.

VERMIN – means any invertebrate or vertebrae animals which may act as carriers or agents of infection and disease transmission.

SECTION IV. EXAMINATION INTO NUISANCES

The Board of Health of the Town of Provincetown shall examine into all nuisances, sources of filth and causes of sickness within Provincetown which may, in its opinion, be injurious to the public health and shall destroy, remove or prevent the same as the case may require.

4.00 SPECIFIC NUISANCES:

1. any dumpster or disposal container to be left open or to overflow.
2. a hole over 4 feet in depth to be left open overnight, or left unattended for any amount of time, unless such holes need to be left open in order to comply with the requirements of these regulations or with Title 5, and in such cases, each hole must be adequately protected from entry by children, persons, or animals and must be made not to pose any risk of accident.
3. the discharge of liquids, household waste water or the wastewater from the cleaning of animal or bird cages, fish or reptile tanks onto public ways or streets.
4. the accumulation of material on a property including, but not limited to, animal feces, offal, brine, bones, decayed fruit and vegetables or other rubbish that are liable to produce offensive odors or attract vermin, excluding properly contained compost piles.
5. a swamp ,swimming pool, pond (man-made or natural) ditch, gutter, watercourse, sanitary convenience, or other accumulation of water on land or a street or a receptacle holding water, in such a state as to be a breeding-ground for mosquitoes, not being a reservoir or other storage of water used in connection with manufacturing purposes; irrigation purposes.

6. the accumulation of rubbish, disused furniture, mattresses, appliances, machinery on a lot, yard or other property which may become a harborage to mice, rats, snakes, vermin or which may become conductive to fire.

7. dogs, cats, fowl, hogs, goats, cows, chickens, horses or other animals that are kept in a manner which creates a nuisance.

SECTION V. ABATEMENT OF NUISANCE

5.10 The Board of Health of the Town of Provincetown shall order the owner or occupant of any private premises, at his own expense, to remove any nuisance, sources of filth or cause of sickness found thereon within twenty-four hours or such other time it considers reasonable.

5.20 If the owner or occupant fails to comply with such order the Board of Health of the Town of Provincetown may cause the nuisances, sources of filth and cause of sickness to be removed, and all expenses incurred thereby shall constitute a debt due to the Town of Provincetown.

SECTION VI. ENFORCEMENT

6.10 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 samples the Board of Health or its agents deem necessary.

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

6.30 Unless stated otherwise, any person who violates any provision of this regulation or permits issued hereunder, shall be subject to a fine of not more than one thousand dollars. 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.

6.40 As an alternative to criminal prosecution in a special case, the Board may elect to utilize the non-criminal disposition procedure set forth in M.G.L. chapter 40 Section 21D. For the purpose of this provision, the penalty to apply in the event of a violation shall be as follows:

\$100.00 for the first offense

\$ 200 for the second offense

\$ 300 for the third offense \$ 400 for the fourth offense and each subsequent offense.

Each day on which a violation exists shall be deemed a separate offense.

SECTION VII. APPEAL

7.10 Unless otherwise provided, any person aggrieved by the decision of the Board of Health or its agents may seek relief there from in any court of competent jurisdiction, as provided by the laws of the Commonwealth of Massachusetts.

SECTION VIII. SEVERABILITY

8.10 If any portion, or sentence, clause or phrase of this regulation shall be invalid for any reason, the remainder of this regulation shall continue in full force and effect.

PART VI

ARTICLE 9 - Provincetown Refuse Haulers Permit

In accordance with MGL Chapter 111, 31 and 31A, the Provincetown Board of Health hereby adopts the following regulations pertaining to the permitting for the removal or the transportation of refuse through the streets of Provincetown, which shall be referred to as “Provincetown Refuse Haulers Permit”.

I. PROVINCETOWN REFUSE HAULERS PERMIT

- A. Private Refuse Haulers licensed by the Provincetown Board of Health who desire to use the Provincetown Transfer Station/Recycling Center shall only dispose Provincetown generated, SEMASS acceptable waste at said Transfer Station/Recycling Center. The definition of SEMASS acceptable waste is set forth in SEMASS Delivery Procedures Manual (revised January 1, 1991) section 6.2. (see appendix A).
- B. Unacceptable waste will be defined in accordance with section 6.3 of the SEMASS Delivery Procedures Manual (revised January 1, 1991). (see appendix A).
- C. Refuse Haulers Permit applicants shall obtain an application from the Board of Health at the Provincetown Health Department, Town Hall. The completed application shall be submitted to the Health Department.
- D. A completed application shall include the following:
 - 1. Name (corporation and individual) address and phone number (s).
 - 2. Listing of owner (s) and vehicle operators.
 - 3. Date of application, with owner/operator’s signature.
 - 4. Vehicle permit numbers with a description of each vehicle.
 - 5. Drivers license number.
- E. Sticker sales are available (upon proof of permit) at the Provincetown Transfer Station/Recycling Center each day they are open (depending on season).
- F. Any violations of Refuse Haulers Permit regulations within a consecutive 12-month period shall be subject to the following penalties:
 - 1. First Offense – written warning
 - 2. Second Offense – two-day suspension, to commence with the next hauling day
 - 3. Third Offense – 90-day suspension of permit

PART VI

ARTICLE 10 - Rules And Regulations Governing Municipal Refuse And Recycling Pick-Ups On Private Ways Open To The Public

Acting under the authority of Massachusetts General Laws, Chapter 111, Section 31 the Provincetown Board of Health accepts and approves the following regulation:

I. AUTHORIZATION

- A. These rules and regulations are adopted by the Board of Selectmen pursuant to vote of April 6, 1992 Annual Town Meeting, under Article 29. Thereof, which vote authorizes the Board of Selectmen to adopt rules and regulations governing municipal refuse and recycling pickups on private ways open to the public.

II. DEFINITIONS

- A. Private ways open to the public shall mean a private way on which the general public has a right of access for travel and purposes in the same manner as on a public way. Such a way may include a private statutory way laid out and accepted by the Town for use by one or more inhabitants of the Town, pursuant to MGL Chapter 82, sections 21 and 23; a way opened to the public use by a board of survey pursuant to MGL Chapter 41, section 77; and a private way opened to the public use through prescription, i.e., open uninterrupted use by the general public over a period of time without the permission of the owner.

III. PROCEDURES

- A. The owner or owners of a private way open to the public, or the abutters to 100% of the lineal footage thereof, or a homeowners association established to maintain a private way, may petition the Board of Selectmen to have municipal refuse and recycling pick-ups on said private way. Such petition shall be in the form prescribed by the Board of Selectmen and shall, unless from such a homeowners association, include a fully executed release and indemnification agreement as prescribed by Town Counsel.
- B. Said petition shall be submitted to the Town Manager, who shall promptly refer it to the Director of Public Works for his finding as to whether or not said private way meets the minimum subdivision control regulations and standards for street right-of-way and travel width, as set forth in the subdivision rules and regulations adopted by the Planning Board.
 - 1. If the Director of Public Works certifies that said private way does meet said minimum standards, and then the petition shall be forwarded to the Board of Selectmen for its approval.
 - 2. If the Director of Public Works cannot so certify, then the applicant (s) shall be so informed in writing. Said applicant (s) may then appeal such determination to the Board of Selectmen.

- C. Any vote of the Board of Selectmen to provide municipal refuse and recycling pick-ups on private ways open to the public shall specify the date on which such service shall take effect.
- D. Notwithstanding such approval, the Director of Public Works is authorized to make determinations of when a private way opens to the public is impassable to Town equipment, and to suspend pick-ups on such a way. He shall, without delay, report such conditions to the Town Manager and the Board of Selectmen.

IV. EFFECTIVE DATE

- A. These rules and regulations shall take effect upon approval of the Board of Health, pursuant to MGL Chapter 111, section 31.

PART VII

LOCAL TITLE 5 SUPPLEMENTS

ARTICLE 1 - Upgrade Requirements - Grease Traps and Septic Systems

Revised December 16, 2004 Public Hearing
December 16, 2004

Section 1 – Grease Traps

Upon upgrade, subsurface external Grease Traps must be provided as a component of the subsurface sewage disposal system at all restaurants, nursing homes, schools, hospitals and other installations from which quantities of grease can be expected to be discharged.

By January 1, 2005, all grease traps must be equipped with a monitoring device using ultrasonic transducers and an embedded microprocessor to continuously sense the positions of the floating solids, bottom solids and the liquid level and temperature within the grease trap. This information is transmitted to a control unit within the building. The monitor's control unit shall be programmed to alert the owner/operator when the grease level is at 22% capacity so that pumping can be arranged prior to reaching 25% capacity. The monitor shall also alert emergency conditions prior to tank failure. When possible the monitoring device will be connected to the internet so that the health department has access to the history of maintenance.

Grease Traps with functioning monitors will be required to pump prior to 25% capacity or at a minimum of twice every year or season.

All establishments with frozen dessert machines (yogurt, ice cream, etc) and all establishments serving ice cream shall fall into this category.

Grease traps are sized by assigning a flow of 15 gpd per seat. In the absence of seating, the minimum size grease trap shall be 1,000 gallons or 100% of peak daily water use, whichever is greater, to ensure a 24-hour detention time.

Section 2 – Septic Upgrade Requirements

No building within the Town of Provincetown shall be converted or altered or repaired so as to enable its use year round and/or increase the floor space by 50 sf or more and/or spend 25% or more of the assessed value of the dwelling in renovations nor shall its use be changed unless the present existing septic system complies with requirements of Title 5 310 CMR 15.000 as established by a comprehensive inspection of the septic system, or the system can be upgraded to comply with Title 5.

For the purposes of this regulation, "converted or altered or repaired so as to enable its use year round" shall include any improvements made, to include but not limited to the installation of

additional heating facilities, insulating and/or providing kitchen facilities where they previously were lacking.

In addition, no building shall be remodeled, replaced, or altered or built upon in any manner which increases usage of said septic system unless said septic system complies with Title 5, 310 CMR 15.000, or written approval is obtained from the Board of Health or its Agent. Any increase in flow will invoke the Growth Management By-Law.

PART VII

ARTICLE 2 - Upgrade Requirement: Dollar Value of Construction

The Provincetown Board of Health, in order to protect the public health from present and potential sources of pollution to groundwater and fresh and salt-water resources from substandard on-site sewage disposal systems, and acting under the authority of Massachusetts General Laws, Chapter 111, Section 31, hereby adopts the following regulation:

Septic system review by the Board of Health shall be required for all Building Permit Applications where the proposed construction dollar estimate amounts to twenty-five percent (25%) or more of the one hundred percent (100%) assessed value of the building subject to the proposed construction and/or if the cost of construction is estimated at \$50,000 or more. When the work performed on a building is divided into separate phases or projects under separate Building Permits, the total cost of construction in any twenty-four (24) month period shall be added together in applying the formula in this regulation.

In the event that the septic system review determines that the subsurface sewage disposal system must be made to comply with Title 5 of the Massachusetts Sanitary Code (310 CMR 15.000), all structures on the lot must be made to comply.

PART VII

ARTICLE 3

Deleted March 9, 1995

PART VII

ARTICLE 4 - Upgrade Requirement - Distance to Wetland

Revised December 16, 2004
Public Hearing December 16,
2004

1. Deleted March 9, 1995
2. No component of a subsurface sewage disposal system may be located within one hundred (100) feet of any wetland, inland and coastal area unless an approved enhanced nitrogen removal septic system with an approved form of disinfection has been approved by the Provincetown Board of Health. The Board of Health will review requests for a variance to this regulation on a case by case basis.
3. Deleted March 9, 1995
4. Deleted March 9, 1995
5. Deleted March 9, 1995
6. Deleted March 9, 1995

PART VII

ARTICLE 5 - Inspection By Designer And Health Agent Prior To Backfilling And Certifying

Revised December 16, 2004 Public Hearing
December 16, 2004

In accordance with the Massachusetts General Laws, Chapter 111, Section 31, the Provincetown Board of Health, on October 14, 1986, voted the following regulation in accordance with 310 and 15.02 (8) Title 5 Code requirements for subsurface disposal of sanitary systems:

The Board of Health shall require an inspection of all construction by the designer and the Health Agent prior to backfilling, and require the designer to certify in writing that all work has been completed in accordance with the terms of the permit and approved designed plans before the Health Agent, on behalf of the Board of Health issues a certificate of compliance. Such written certification by the designer is mandatory for all septic installations in the Town of Provincetown.

The septic system installer shall submit an accurate "as-built" of the septic system drawn on an 8 1/2" x 11" sheet of clean paper. The information on this "as-built" shall contain, but not necessarily be limited to, the following:

1. Swing-ties taken from two locations on a permanent structure to the septic tank inlet cover and outlet cover, pump chamber inlet cover and outlet cover (if applicable), grease trap inlet cover and outlet cover (if applicable), distribution box cover, the four corners of the leaching area and at least one viewing port to the leaching area.
2. Owners name, project location, septic permit number, date of installation, septic system designer and septic system installer.

In the case of varianced septic systems it will be the responsibility of the design engineer or registered sanitarian to provide an engineered "as-built" complete with elevations of the septic system components as pertains to groundwater or other issues. The septic system designer must also provide written certification that the septic system has been installed in compliance with the approved septic system design plan on file with the Board of Health.

The certificate of compliance shall not be issued until this information has been received by the Health Department and verified as complete.

PART VII

ARTICLE 6 - Upgrade Requirement – No Variances for New Buildings on Undeveloped Lots

In accordance with the Massachusetts General Laws, Chapter 111, Section 31, the Provincetown Board of Health, on September 23, 1987 voted the following regulations in accordance with 310 CMR 15.02 to 15.15, to be added to the existing regulations of the Provincetown Board of Health which are now in effect and shall be listed as regulations #7 and #8.

PREAMBLE: Due to the uncertainties about the future quality of existing sources of water and uncertainties about the ease and cost of obtaining new sources of water, and taking account of the difficulties that the Town has had in managing and disposing of sewage, we hereby adopt the following regulations for all properties.

SECTION 1: Deleted March 9, 1995

SECTION 2: The Provincetown Board of Health will not grant any variances from provisions of 310 CMR 15.000, nor for any local Board of Health Regulations, for new buildings on undeveloped lots.

SECTIONS 3 through 14: Deleted March 9, 1995

PARTVII

ARTICLE 7 - Sanitary Sewage Tight Tank Regulations

-Deleted: March 9, 1995

PART VII

ARTICLE 8 - Failed System *-Deleted: March 9, 1995*

PART VII

ARTICLE 9 - Definitions

Revised December 16, 2004 Public Hearing
December 16, 2004

Bedroom: Portion of a dwelling as so defined to furnish minimum isolation necessary for use as a sleeping area, which includes but is not necessarily limited to a bedroom, den, study, sewing room, sleeping loft, dining room or enclosed porch, but does not include kitchen, bath, dining room, hall or unfinished cellar or attic. A bedroom must provide a minimum of 70 square feet of floor space with a head room of 7' or more, at least one window with minimum dimensions of 20" x 24", a minimum area of 3.3 square feet and a minimum opening height of 44" from floor to sill. There must be a minimum of one electrical outlet. All bedrooms shall have finished walls and ceilings. A room that must be walked through in order to reach another room (other than a bathroom) will not be considered to have the minimum isolation necessary to be considered a bedroom. Dwellings built prior to the 1978 Building Code will have their bedrooms determined on a case by case basis.

Sleeping Loft: In order for a loft to be considered as a bedroom the following minimum standards must be met:

1. The above referenced criteria defining a bedroom.
2. A privacy wall of at least 3' in height.
3. Access other than a ladder and which complies with current building codes.
4. Any loft that does not meet the above criteria shall not be used for sleeping purposes.

Change of Use: Shall include but not be limited to an increase, decrease, alteration or extension within the existing use group; also defined as a transfer to another use group. The term increase is defined as: expansion of any structure that would increase its interior floor space by more than fifty square feet.

The following are defined as use groups [in accordance with 780 CMR 209.1-7]:

- A: Assembly - bars, theatres A1a: Theatres - theatre use with fixed seats
- A2: Buildings or other places of assembly without theatrical stage
- A3: Buildings with or without auditoriums, principal use is typically without permanent seating, which includes restaurants other than night clubs, art galleries, libraries, etc.
- B: Business - Banks, offices
- M: Mercantile - Retail stores
- R: Residential
- R1: Shall include all hotel and motel buildings arranged for shelter and sleep

- accommodations of more than 20 individuals.
- R2 Includes multiple family units having more than two dwelling units; and shall include boarding and lodging houses arranged for shelter and sleeping accommodations by more than 3 and not more than 20 individuals.
- R3 Includes buildings arranged for use of one or two family dwelling units including three lodgers or boarders per family. R4 Includes all detached one or two family dwellings less than 3 stories in height.
- S Storage

PART VII

ARTICLE 10 - Water Use Regulation - Deleted: March 9, 1995

PART VII

ARTICLE 11 - Abutter Notification of Varianced Plan -Deleted: March 9, 1995

PART VII

ARTICLE 12 - Plan Submittal Requirements

Revised December 16, 2004 Public Hearing
December 16, 2004

Plans submitted to the Board of Health for approval that require any sideline setback variance shall be stamped by a Registered Land Surveyor. Varianced plans must be submitted and presented by a qualified professional in accordance with 310 CMR 15.02(5).

All plans submitted for a disposal works construction permit must be accompanied by existing and, if applicable, proposed floor plans, the permit application fee and the variance filing fee if applicable.

All variance requests must be accompanied by seven (7) packets each containing the following:
Septic system design plan Letter requesting variance(s) Existing floor plans and, if applicable, proposed floor plans List of abutters Notification letter to abutters Any other pertinent information PART VII

ARTICLE 13 - Upgrade Requirement - Entire Lot

In order to further protect the public health against potential sources of contamination of groundwater in the Town of Provincetown, the Board of Health adopts the following regulation, under the authority of Massachusetts General Laws, Chapter 111, Section 31:

In the event of a failure of a septic system, as defined in the Provincetown Board of Health regulations, on any lot in which there is more than one septic system which does not meet the requirements of Title 5 of the Massachusetts Sanitary Code (310 CMR 15.000), ALL substandard septic systems on the lot must be made to comply with Title 5 of the Massachusetts Sanitary Code (310 CMR 15.000), and any applicable Massachusetts and Town of Provincetown rules and regulations.

Variances to this regulation may be considered by the Board of Health on a case-by-case basis.

PART VII

ARTICLE 14 - Determining Sewage Flow Estimates

The design flow for all subsurface sewage disposal systems shall be designed as follows:

1. According to the "Sewage Flow Estimates Table" contained in Title 5 of the Massachusetts Sanitary Code (310 CMR 15.000).
2. If the sewage flow for the property in question is not contained in the above referenced table, or if actual water use exceeds the estimated flows in the above referenced table, the sewage disposal system design capacity shall be based upon 200% of average daily actual water use volume.

Retail establishments that include food preparation of any kind are not included in the above referenced table. Such establishments must design by the above-mentioned estimating procedure.

How to determine average daily water use volumes:

For all year round properties: Average annual water usage for design purposes shall assume that 75% of the water use occurs in 100 days. To calculate design flow:

$$\begin{aligned} &(\text{Annual water use} \times 75\%) / 100 \text{ days} = \text{average daily water use} \\ &\text{Average daily water use} \times 200\% = \text{Gallons per day design flow} \end{aligned}$$

For all seasonal properties: Average daily water use for design purposes shall be the annual water meter reading, and assuming that all water use occurred in 100 days. To calculate design flow: $(\text{Annual water use}) / 100 \text{ days} = \text{average daily water use}$ $\text{Average daily water use} \times 200\% = \text{Gallons per day design flow}$

PART VII

ARTICLE 15 - Annual Local Septic System Inspector Permit

Revised December 16, 2004
Public Hearing December 16,
2004

Acting under the authority of the Massachusetts General Laws, Chapter 111, Section 31, and in accordance with 310 CMR 11.02 of Title I of the Massachusetts Sanitary Code, the Provincetown Board of Health adopts the following:

All persons inspecting septic systems within the Town of Provincetown must obtain an Annual

Local Septic System Inspector Permit and pay the annual fee. Without a valid local permit, the individual shall not be considered to satisfy the requirements of the Approval of System Inspectors provisions within Title 5 of the Massachusetts Sanitary Code, 310 CMR 15.340.

All inspection results must be submitted to the Provincetown Board of Health within thirty (30) days of completion in order to be valid for the purposes of inspections pursuant to Title 5 of the Massachusetts Sanitary Code, 310 CMR 15.301. All failed septic systems including those with excessive pumping (four (4) times within a twelve month period) must be reported to the Health Agent within 24 hours of discovery. Failure to provide this information will require the inspector to appear before the Board of Health and may result in the suspension or loss of their Inspector Permit.

The following may be granted an Annual Local Septic System Inspector Permit to perform inspections pursuant to 310 CMR 15.340:

Without passing the DEP examination:

Massachusetts Registered Professional Engineers
Massachusetts Registered Sanitarians
Certified Health Officers

Required to pass the DEP Examination:

Provincetown Health Agents
Provincetown Board of Health Members
Engineers in Training (EIT)
Professional Home Inspectors
Provincetown-Licensed Septage Haulers
Provincetown-Licensed Septic Installers
Others allowed through the DEP examination process

None of the above will be granted a local permit to inspect unless he/she is on the list of Approved System Inspectors maintained by DEP.

The Provincetown Board of Health, at a properly posted and advertised Public Hearing, may revoke or suspend the Local Annual Septic Inspector's Permit, and any other legal action deemed appropriate, for any violation of the duties of an Approved System Inspector.

It shall be considered a violation of the Annual Local Septic Inspector's Permit to submit the inspection report greater than thirty (30) days after the date the inspection was performed, to submit an incomplete inspection report to the Board of Health, or to misrepresent or fraudulently alter a system inspection report or the results of an inspection.

The Annual Local Septic System Inspector Permit is contingent upon the observance of all provisions of Title I (310 CMR 11.00) and Title 5 (310 CMR 15.000) of the Massachusetts Sanitary Code and all other laws, and regulations and by-laws of the Commonwealth of Massachusetts and the Town of Provincetown.

All Annual Local Septic System Inspector Permits shall expire on December 31st of each year.

ARTICLE 16 - Real Estate Transfer Inspection Reports

Public Hearing December 16, 2004

Effective February 1, 2005

All cesspools, whether single or multiple, will be considered failed for purposes of the Septic System Inspection Report, required at the time of transfer of property, thereby negating the need for a septic system inspection; and must be upgraded to conform to the maximum feasible compliance with 310 CMR Title 5 and Provincetown Board of Health Regulations.

All leaching facilities that do not maintain a four foot separation between the bottom of the leach area and estimated high groundwater (elevation 3.8) will be considered failed unless documentation can be provided verifying that a variance was granted by the Provincetown Board of Health or the Department of Environmental Protection for the bottom of the leaching area to be located less than four feet to estimated high groundwater.

PART VII

ARTICLE 17 - Municipal Sewer System

Revised December 16, 2004 Public Hearing
December 16, 2004

Purpose

The Board of Health promulgates these regulations for the disposal of sanitary wastes within the Town of Provincetown in association with the construction and operation of a municipal sewer. The purpose of these regulations is to provide for the scheduling of the upgrading of septic systems and connection of selected properties to the centralized municipal sewer system in a manner that provides for the protection of the public health and the environment. In addition, these regulations endeavor to provide for the maintenance and longevity of onsite septic systems in the Town of Provincetown in general, thereby promoting the overall protection of the public health and the environment.

Authority

These regulations shall be effective on or after November 2, 2000, and so remain until modified or amended by the Board of Health. They are enacted by the Provincetown Board of Health under authority which includes but is not limited to one or more of the following: Massachusetts General Laws, Chapter 111, Sections 31, 122, 122A, 127, 143, 155, 187, 188 and 310 CMR 15.000; Board of Health Regulations are an exercise of police power under which the various levels of government are responsible for protection of the public health, safety and welfare.

Definitions:

Best Management Practices (BMPs) are schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the pollution of waters. Best management practices include procedures and practices that reduce the discharge of Fats, Oil and Grease (FOG) to the building drain and to the Wastewater System (Sewer).

Certified Title 5 Septic System – A Certified Title 5 Septic System is a subsurface wastewater disposal system that meets all of the following criteria:

1. The septic system was installed by a licensed installer under conditions identified by a valid Disposal System Construction Permit.
2. A Certificate of Compliance, as defined by 310 CMR 15.002 was obtained.
3. A septic system design, showing compliance with 310 CMR 15.000 et seq., as these regulations were in force at the time of construction, is presented or available in the records of the Provincetown Board of Health.
4. A letter from the system designer stating that the system was installed in substantial compliance with 310 CMR 15.000 (Title 5) is part of the record of the Provincetown Board of Health.

Fats, Oils and Greases (FOG) shall mean organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are

detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as “grease” or “greases”.

Grease Interceptor is an inside retention tank that has a capacity of less than 1,000 gallons. Any food service establishment with a three bay sink is required to have a grease interceptor as well as a grease trap.

Grease Trap is an external, underground single or multi-compartment tank with a minimum capacity of 1,000 gallons. It is sized per the requirements of 310 CMR Title 5. It is a device for separating and retaining waterborne fats, oil, greases and grease complexes prior to the wastewater exiting the grease trap and entering the building sewer. Grease Traps shall be located external to the user’s buildings and be readily accessible for required maintenance. Nonconforming systems must be replaced with conforming grease traps within sixty (60) days of notification. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the grease trap and entering the building sewer. All grease traps must, by January 1, 2005, contain a monitoring system approved by the Water and Sewer Board. (See Sewer Rules and Regulations)

Licensed Septage Hauler shall mean a hauler holding a current license approved by the Provincetown Board of Health for pumping and hauling septage or grease as well as approved by the authority where the septage and grease is being disposed.

Sanitary Sewer shall mean a sewer which carries sewage and to which storm, surface and groundwater are not intentionally admitted.

Sewage shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present; also referred to as Wastewater.

Sewage Treatment Plant shall mean any arrangement of devices and structures used for treating sewage; also referred to as Wastewater Treatment Plant.

Sewer shall mean a pipe or conduit for carrying sewage.

Sewer Collection System shall mean public sanitary sewers and appurtenances, including pump stations, buffer tanks, grinder pumps and valve pits.

Shall and **Must** are mandatory; **May** is permissive.

Service Area – The Service Area shall mean all properties represented on the map available at the Provincetown Board of Health and entitled “Wastewater Service Area.” All properties in the Service Area are also identified on a list available from the Board of Health and adopted by the Selectmen and the Water and Sewer Board of the Town of Provincetown.

Title 5 – Refers to 310 CMR (Commonwealth of Massachusetts Regulations) 15.000 et seq.

Water and Sewer Board shall mean the regulatory body having all the statutory powers of sewer commissioners established by Town Charter and appointed by the Board of Selectmen to

oversee various aspects of the wastewater treatment plant, its collection system or various appurtenances thereto.

Requirement to Connect to Municipal Sewer Upon its Availability

A property within the Service Area shall connect to the municipal sewer upon its availability if the owner of said property cannot demonstrate the existence of a Certified Title 5 Septic System and the owner cannot demonstrate that a septic system in compliance with 310 CMR 15.000 et seq. can be constructed, except that:

1. Variances to the requirements of setbacks from property lines, cellar walls and slab foundations, and swimming pools may be allowed for construction of a replacement system under the conditions stated in 310 CMR 15.410: Variances – Standard of Review, after a public hearing.
2. If the property is landward of the Velocity Zone as defined in 310 CMR 15.002 and in excess of 100 feet landward of the historic high water line, the property owner may avail themselves of the provisions for leaching-area reductions afforded any Alternative Septic System having Remedial Use Approval granted by the Massachusetts Department of Environmental Protection. In these situations, no reductions in the vertical separation to the high groundwater elevation shall be allowed.

Requirement to Upgrade Septic Systems within Five Years

The owners of all properties located within the Service Area and who fail to demonstrate that the property is served by a Certified Title 5 Septic System, and who have opted not to connect to the municipal sewer upon its availability shall cause the septic system serving the property to be upgraded to comply with 310 CMR 15.000 et seq. – Title 5 within five years from the date when the sewer becomes available. Owners of systems in this category shall not be allowed to connect to the municipal sewer unless there is sufficient capacity as approved by the Massachusetts Department of Environmental Protection.

Requirement for Owners of Properties Located within the Service Area and That Are Served by Systems Complying with Title 5 (Revisions as of 1995, and Pre-1995 Provisions) and Who Have Opted Not to Connect to the Municipal Sewer Upon its Availability

Owners of properties shown to be in compliance with Title 5 at the time of their respective installations and who have opted not to connect to the municipal sewer shall allow an inspection of the septic system at any reasonable hour. Owners of these systems shall be required to pump septage and/or grease from said septic systems at a frequency determined by the Board of Health or its agent. The cost of all septage and/or grease removal shall be the responsibility of the property owner. Owners of these systems may also be required to cause additional monitoring equipment to be installed in order to ensure proper operation of the system and/or reporting of system performance to the Board of Health and its agents.

Owners of properties located within the Service Area and that are presently served by a Certified Title 5 Septic System, but who could not replace the septic system in substantial compliance with Title 5 (as revised in 1995) may not connect to the municipal sewer until such time as the septic system is determined to be failed by the Board of Health or its agents.

Owners of properties located within the Service area and that are served by a Certified Title 5 Septic System in compliance with the 1995 revisions to Title 5 and who have opted not to connect to the municipal sewer as of August 30, 2000, shall not be allowed connection to municipal sewer unless sufficient capacity for the municipality exists as determined by the Department of Environmental Protection.

Maximum Allowable Use of Structures within the Service Area

No person shall modify an existing structure located within the Service Area or change its use so as to increase its sewage flow. Design criteria contained in 310 CMR 15.203, and any local Board of Health Regulation modifying such shall be used to determine whether a proposed modification or change in use shall constitute an increase in sewage flow. Except that, should it be demonstrated that the aggregate of the existing and proposed modification or change in use could be accommodated by an onsite septic system in full compliance with 310 CMR 15.000 et seq. Title 5, then the allowable modification or change in use may be allowed.

Determination of Present Sewage Flows

Present sewage flows to the municipal sewer or an onsite septic system shall be determined using provisions set forth in 310 CMR 15.203: System Sewage Flow Design Criteria or other applicable Provincetown Board of Health Regulations. The owner of any property shall, upon reasonable notice and request, allow an inspection of a property for a determination of flow by an agent of the Board of Health, except that in lieu of this inspection, the owner of the property may submit a floor plan with sufficient detail to account for all outside structure dimensions. This floor plan must bear the signature of approval of a Certified Septic System Inspector.

Requirements for Properties Served by Alternative Septic Systems

Properties served by Alternative Septic Systems, as defined by 310 CMR 15.002, shall be required to cause a quarterly inspection of the septic system by a person or persons holding a Grade 2 or higher Wastewater Treatment Plant Operator License and who are qualified to inspect the technology. All reports on these systems shall be submitted quarterly to the Board of Health. This requirement does not supercede any requirement for the monitoring of any Alternative Septic System as outlined in Title 5 or the DEP Approval Letter for the technology. Owners of properties served by alternative septic system technologies shall allow an inspection of these systems at any reasonable hour by an agent of the Board of Health.

Regulations Pertaining to Cooking Establishments and Other Facilities from which Grease Can be Expected to be Discharged

Grease Traps shall be required at all restaurants, nursing homes, hospitals or other facilities as required by the Board of Health or its Agent. No User shall allow wastewater discharge to the

sewer line leaving the property to exceed 100 milligrams per liter of grease as determined following standard laboratory procedures. All Grease Traps shall be of a type, design and capacity specified in 310 CMR 15.230 or as otherwise approved by the Board of Health. All Grease Traps shall be readily and easily accessible for User cleaning and Town inspection. All such Grease Traps shall be inspected and the condition documented weekly by the User (until such time as an approved monitor has been installed. (See below) and pumped by a licensed septage hauler whenever the level of grease reaches 25% capacity or at a minimum of once every three months, whichever is sooner. The user shall maintain written records, using the forms available in Appendix B and C of the Sewer Rules and Regulations, for inspections, pumping and proper disposal of brown and yellow grease. These records must be maintained for a minimum of three (3) years.

By January 1, 2005 all Grease Traps shall be equipped with a monitoring device using ultrasonic transducers and an embedded microprocessor to continuously sense the positions of the floating solids, bottom solids and the liquid level within the grease trap. This information is transmitted to a control unit in an accessible location within the building. The monitors control unit shall be programmed to alert the owner/operator when the grease level is at 22% capacity so that pumping can be arranged prior to reaching 25% capacity. The monitored grease trap must be pumped at a minimum of at least twice per year or season. The monitor shall also alert emergency conditions prior to tank failure.

The Grease Trap shall be installed on the building drain/sewer that extends from the food preparation and clean up areas. No sanitary facilities shall be connected to the Grease Trap.

Access manhole covers shall be provided over each grease trap and sanitary tee. The access manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable manhole type access covers to facilitate inspection, grease removal and wastewater sampling activities.

Users required to install Grease Traps are expected to employ best management practices (BMPs) in food preparation and clean up. These best management practices shall assure that fats, oils and greases are not directly discharged to the building drain. For example; waste food or trimmings including fats, oils and greases shall not be discharged to the building drain through a garbage grinder; oil from deep fat frying shall not be discharged to the building sewer, etc.

Should there be an indication, through either physical inspection or monitoring results, that grease is entering the sewer system in excess of 100 mg/l, then sampling and testing will be required of the grease trap effluent at the owner expense. Violations relating to grease trap maintenance shall be imposed as related in the Provincetown Sewer Rules and Regulations.

Abandonment of Septic Systems at Properties Served by Municipal Sewer

No septic system shall be abandoned without first obtaining a permit from the Board of Health or its agent who shall establish the measures that must be taken prior to abandonment.

Severability

If any provisions of this regulation or the application thereof are held to be invalid by a court of competent jurisdiction, the invalidity shall be limited to said provision and the remainder of the regulation shall remain valid and effective. Any part of this regulation subsequently invalidated by state law shall automatically be brought into conformity with the new or amended law and shall be deemed effective immediately, without recourse to a public hearing.

PART VII

ARTICLE 18 - Regulations Regarding Studios and Workshops

Revised December 16, 2004

Public Hearing December 16, 2004

Preamble

The Town of Provincetown is challenged by both a limited water supply and difficult conditions for the disposal of wastewater. Bearing directly on these challenges is the intensity of use of structures in the Town. While there are local allowances for the construction of accessory use working studios and workshops for principle use by property owners, 310 CMR 15.000 (Title 5) fails to provide septic system flow design criteria to address potential increases in overall wastewater flow due to their presence. Accordingly, the Provincetown Board of Health recognizes the potential for structures having accessory studios, workshops or other similar accessory-use rooms and buildings to increase the overall flow of wastewater from a property and promulgates this regulation.

System Sewage Flow Design Criteria For Accessory Use Structures Only

Effective March 7, 2002, all studios, workshops and other similar accessory-use structures or rooms proposed for existing residential or mixed-use buildings shall have a septic system sewage flow design criteria of 50 gallons per 1000 square feet of area. This criterion shall be used in septic system flow calculations for all new and proposed accessory use additions involving studios, workshops or other accessory-use structures or rooms where a bathtub or shower is being proposed.

Accessory-Use Structures or Rooms Must Be Referenced in a Deed Restriction

No approval for the construction of a new onsite septic system to accommodate a structure having an accessory-use building or room shall be approved until evidence is presented that a deed restriction has been filed with the Barnstable County Registry of Deeds clearly indicating that the accessory-use room or building shall not be used for sleeping purposes nor may sleeping paraphernalia be stored or otherwise evident in the structure or room.

Revised March 23, 2007

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PART VIII

ARTICLE 1 – Enforcement, Revenues and Fee Schedule

Revised: March 6, 2003

Effective: July 17, 2003

Revised: December 16, 2004

Public Hearing: December 16, 2004

Public Hearing: September 26, 2005

Revised: January 19, 2006

New incremental License/Permit fees adopted by the Provincetown Board of Health at their regularly scheduled meeting held on September 26, 2005 with a vote of 4-0-0.

LICENSE / PERMIT:

NEW FEE SCHEDULE:

	As of 12-01-05	As of 1-1-07
Septic Related Permits		
Test Hole Witness Fee	\$75.00	\$100.00
Septic System Permit (new construction)	\$250.00	\$300.00
Septic System Permit (upgrade/repair)	\$200.00	\$250.00
Board of Health Variance Filing Fee	\$150.00	\$200.00
Septic System Insp. Report Review Fee	\$25.00	\$50.00
Septic System Installation Re-Inspection Fee	\$25.00	\$25.00
Annual Permits:		
Application Fee DCD	\$25.00	\$25.00
Septic System Installer License	\$150.00	\$200.00
Septage Haulers License	\$200.00	\$250.00
Septic System Inspectors License	\$200.00	\$200.00
Food Service Permits		
Residential Kitchen	\$75.00	\$100.00
Caterer	\$75.00	\$100.00
Manufacture of Ice Cream	\$75.00	\$100.00
Manufacture of Candies	\$75.00	\$100.00
Manufacturer of Juice/Slush Beverages	\$75.00	\$100.00
Push Cart / Mobile Food Cart	\$75.00	\$100.00
Residential Kitch. Continental Breakfast	\$50.00	\$50.00
Retail Food Service	\$75.00	\$100.00
Retail Sales / Food Service Combo	\$150.00	\$200.00
Food Service Establishments:		
0 Seats (take out)	\$75.00	\$100.00
25 or less seats	\$150.00	\$200.00
26 - 50 Seats	\$225.00	\$300.00
51 Seats or more	\$300.00	\$400.00
Camps, Cabins & Motel License	\$100.00	\$150.00
Renters Certificate	\$65.00	
Solid Waste		

Revised March 23, 2007

Annual Permit (Commercial Hauler's)	\$215.00	\$250.00
Massage License		
Business	\$100.00	\$150.00
Therapist	\$70.00	\$100.00
Application Fee (DCD)	\$30.00	\$30.00
Inspection Fee (DCD)	\$25.00	\$25.00
Body Piercing License		
Facility	\$150.00	\$200.00
Technician	\$115.00	\$150.00
Application Fee (DCD)	\$30.00	\$30.00
Inspection Fee (DCD)	\$25.00	\$25.00
Tattoo License		
Facility	\$150.00	\$200.00
Technician	\$115.00	\$150.00
Application Fee (DCD)	\$30.00	\$30.00
Inspection Fee (DCD)	\$25.00	\$25.00
Temporary Tattoo Artist License	\$110.00	\$150.00
Swimming Pool / Spa Permit		
Swimming Pool	\$115.00	\$150.00
Spa / Hot Tub	\$115.00	\$150.00
Application Fee (DCD)	\$30.00	\$30.00
Inspection Fee (DCD)	\$25.00	\$25.00
Underground Fuel Storage Tank Reg	\$20.00	\$20.00
Funeral Director's License	\$150.00	\$200.00
Stable License		
Facility	\$35.00	\$50.00
Application Fee	\$30.00	\$30.00
Inspection Fee	\$30.00	\$30.00
Tobacco Sales Permit	\$150.00	\$200.00

Provincetown Banner Week of 11/24/2005 and 12/01/2005

PART VIII

ARTICLE 2 - Non-Criminal Violation Statute

Enacted by Vote of Annual Town Meeting March 30, 1988; Majority
Vote Attorney General, Commonwealth of Massachusetts, May, 1988;
Approved

Adopted: *****

Non-criminal disposition to be an alternative method of enforcement of Town by-laws:

Any duly adopted by-law of the Town of Provincetown, or Rule or Regulations of its boards, commissions, and committees and officers, the violation of which is subject to a specific penalty, may at the discretion of the Town Official who is the appropriate enforcing person, be enforced by the method provided in Section 210 of Chapter 40 of the General Laws, "Enforcing Person", as used in this chapter, shall mean any Selectman or any police official of the Town of Provincetown with respect to any offense; and the Town official in charge of the Airport and his designees, Shellfish Constable and his designees, the Health Agent and his designees, the Licensing Agent and his designees and Sealer of Weights and Measurers and his designees, and such other officials as the Board of Selectmen may from time to time designate, each with respect to violation of by-laws and Rules.

PART IX - TOBACCO REGULATIONS

ARTICLE 1 - Tobacco Control Regulations

Advocate: February 5, 1998 February 12, 1998 Public Hearing: February 17, 1998 Revised: February 17, 1998 Effective: May 15, 1998 Revised: May 28, 1998 Effective: May 28, 1998 Revised: April 25, 2002 Public Hearing: May 16, 2002 Effective: October 1, 2002, Public Hearing: May 18, 2006, Effective Date: May 25, 2006: Public Hearing/Effective Date, September 21, 2006

Section 1 – STATEMENT OF PURPOSE

Exposure to environmental tobacco smoke presents a serious and substantial public health risk. There exists conclusive evidence that tobacco products cause cancer, respiratory diseases, various cardiac problems, allergies and irritations to the eyes, oral and nasal cavities are hazardous to persons with compromised immune systems, children and pregnant women. This has been proven for users, non-users and employees who are exposed to tobacco by products. The Provincetown Board of Health has adopted regulations, which will regulate smoking indoors within public places, work places, retail sales premises, restaurants, and prohibit tobacco vending machines.

Section 2 – AUTHORITY

The Town of Provincetown pursuant to Massachusetts General Laws Chapter III, Section 31, adopts these regulations as reasonable health regulations designed to protect and improve the health of residents and visitors to Provincetown to read as follows:

Section 3 – DEFINITIONS

- A. Bar:** An establishment whose business is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages.
- B. Bar area of a restaurant:** An area of a restaurant that is devoted to the serving of alcoholic beverages for the consumption by guests or restaurant patrons.
- C. Business Agent:** An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise be in charge of said establishment.
- D. Employee:** A person who performs services for wages or other consideration.
- E. Employer:** A person, partnership, association, corporation, trust or other organized group, including the County of Barnstable and any department or agency thereof, or any municipal entity, which utilizes the services of two (2) or more employees.

- F. Minor:** A person under eighteen years of age.
- G. 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 building, establishment, business, or restaurant or retail store, or the business agents or designees of the foregoing.
- H. Physical barrier:** A structure, while constructed of a variety of materials, such as, wood, glass or Plexiglas, will provide three-quarter enclosure of the designated smoking area, and will extend from the floor to 24 inches or less from the ceiling.
- I. Public Place:** An enclosed indoor area that is open to and used by the general public, including but not limited to the following facilities: licensed child care facilities; educational facilities; clinics; nursing homes; all elevators, stairwells, halls, lobbies and entranceways accessible to the public; common areas (not including actual sleeping quarters) of guest houses, bed and breakfasts, inns, hotels, motels, public restrooms; laundromats; hair salons; barbershops; libraries; municipal buildings; museums; retail food establishments; indoor sports arenas; enclosed shopping malls; theaters; auditoriums; public transit facilities; and any function rooms/halls for public meetings or public social functions. A function room/hall used for private social functions shall not be construed as a public place as long as the sponsor of the private function, and not the owner or proprietor of the facility has control over the seating arrangements.
- J. Private club:** A non-for profit establishment created and organized pursuant to M.G.L. Ch. 180 as a charitable corporation with a defined membership. A private club is not a place of public accommodation but rather distinctly private. Criteria used to determine whether a club is distinctly private, include, but are 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.
- K. Restaurant:** Any establishment serving food for consumption on the premises, which maintains tables for the use of its customers. This includes public and employee cafeterias.
- L. Retail Food Establishment:** Any establishment commonly known as a supermarket or grocery store in which the primary activity is the sale of food items for off-premise consumption.
- M. Retail Store:** Any establishment selling goods or articles or personal services to the public.

- N. Self Service Display:** Any display from which customers may select a tobacco product without assistance from an employee or store personnel, excluding vending machines.
- O. Smoking:** The lighting of, or having in one's possession any lighted cigarette, cigar, pipe, or other tobacco product.
- P. Tobacco Vending Machine:** A mechanical or electrical devise, which dispenses tobacco products by self-service, with or without the assistance of a clerk or operator.
- Q. Workplace:** Any area within a structure or portion thereof in which two (2) or more employees perform services for their employer. It also includes employee lounges, restrooms, dining areas, conference rooms, hallways, stairways and entranceways.

Section 4 – PROHIBITION OF SMOKING IN PUBLIC PLACES

- A. As of October 1, 2002, smoking shall be prohibited in all restaurants, bars and bar areas of restaurants (100%). See definitions, section 3 A, B, I and K.
- B. Areas where smoking is NOT regulated are listed below:
1. Private clubs
 2. Hotel and motel conference rooms/meeting rooms and public and private assembly rooms, including restaurants, while these facilities are being used for private functions.
 3. Outdoor eating areas and outdoor bar areas provided the outdoor area is not enclosed except for the one side which adjoins the establishment, and is neither artificially heated nor artificially cooled (portable heaters not included).
- C. Exceptions to this section: Hotel and motel rooms rented to guests that are designated as smoking rooms. The rooms so designated shall be posted with signage indicating that smoking is allowed therein. The number of rooms that are designated as smoking and the number designated as non-smoking must be submitted in writing to the Board of Health. No changes in room designation can take place without prior written approval of the Board of Health.

Section 5 – PROHIBITION OF VENDING MACHINES

No vending machines for dispensing cigarettes or other tobacco products are allowed in the Town of Provincetown (see Provincetown General By-Laws, Chapter 11, Article 6).

Section 6 – WORKPLACE

- A. It shall be unlawful for any person to smoke in any workplace except in specifically designated smoking areas.
- B. Each employer may specifically designate enclosed areas in which employees may smoke, provided, however, that comparable nonsmoking areas of adequate size and capacity are available and provided, further, that physical barriers and separate ventilation systems, vented directly to the outside, are used to segregate smoking areas from nonsmoking areas. Common areas, including hallways, elevators, entranceways, stairwells, restrooms, and waiting areas listed in III.d. may not be designated as smoking areas. Areas designated as smoking and nonsmoking areas must be conspicuously marked.
- C. Each person having control of premises upon which smoking is prohibited by this regulation, shall not knowingly permit a violation of this regulation.

Section 7 – POSTING

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

Section 8 – SALE & DISTRIBUTION OF TOBACCO PRODUCTS

- A. Permit:** To monitor compliance of the sale of tobacco products, permits will be issued. No person, firm, corporation, establishment, or agency, shall sell tobacco products within the Town of Provincetown without a valid Tobacco Sales Permit issued by the Town and/or State. Permits must be posted in a manner conspicuous to the public. Tobacco Sales Permits must be renewed annually at a time and fee set forth by the Town and/or State.
 - i.** As part of the application process, the applicant will be provided with the Provincetown Board of Health Regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and the applicant is responsible for instructing any and all employees who will be responsible for tobacco sales regarding both state laws regarding the sale of tobacco and this regulation.
 - ii.** Each applicant is required to provide proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a tobacco sales permit can be issued.
 - iii.** A separate permit is needed for each retail establishment selling tobacco.
 - iv.** No tobacco sales permit holder shall allow any employee to sell cigarettes or other tobacco products until such employee reads this regulation and state laws regarding the sale of tobacco and signs a statement, a copy of which will be placed on file in the office of the employer, that he/she has read the regulation and applicable state laws.
 - v.** A tobacco sales permit is non-transferable, except a new permit will be

issued to a retailer who changes location.

- vi. Issuance of a tobacco sales permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation.
- vii. The fee for a tobacco sales permit shall be determined by the Provincetown Board of Health. All such permits shall be renewed annually by December 31.

B. Sales to Minors: In conformance with Massachusetts General Laws Chapter 270, Section 6, no person, firm, corporation, establishment, or agency, shall sell tobacco products to a minor. Each person shall verify by means of government-issued photographic identification containing the bearer's date of birth that the purchaser is 18 years old or older. Verification is suggested for any person who appears to be under the age of 27. Each employee working in an establishment licensed to sell tobacco products shall be required to read the Board of Health regulations and State Laws regarding the sale of tobacco and to sign a form indicating that such regulations/laws have been read and understood, a copy of which must be placed on file in the office of the employer and retained. Such signed forms must be made available for inspection, during the license holder's normal business hours upon request of an agent of the Board of Health.

C. Distribution of Tobacco Products: No person shall distribute, or cause to be distributed, any free samples of tobacco products. Such endeavors include, but are not limited to, product "giveaways," or distribution of a tobacco product as an incentive, prize, award, or bonus in a game, contest, or tournament involving skill or chance. Such restrictions shall not apply to use of coupons from magazines, newspapers, periodicals, or attached to packaging.

D. Self-Service (Freestanding) Displays: It has been shown that self-service (freestanding) tobacco displays encourage illegal activity by youth and provide youth with easier access to tobacco products. All self service displays of tobacco products are prohibited. All humidors including, but not limited to, walk-in humidors must be locked.

Section 9 – VIOLATIONS AND PENALTIES

- A. Violations of this smoking regulation will be subjected to the provisions of the Regulation of the Town of Provincetown regarding non-criminal disposition, according to the Town of Provincetown, Board of Health Regulations, Part VIII, Article 2.
- B. Any person who knowingly violates any provision of this regulation, or who smokes in a municipal area subject to regulation, in which a "Smoking Prohibited by Law" sign or its equivalent, is conspicuously displayed, shall be punished by a fine of up to \$50 for each offense.
- C. Any proprietor(s) or other person(s) in charge of a public place or workplace, including municipal entities, who fail(s) to comply with these regulations shall be subject to the

following actions for each offense:

1. a. In the case of a first violation, a fine of one hundred dollars (\$100.00).
 1. b. In the case of a second violation within 18 months of the date of the current violation, a fine of two hundred dollars (\$200.00) and the tobacco sales permit shall be suspended for seven (7) consecutive business days.
 1. c. In the case of three or more violations occurring within 18 months of the current violation, a fine of three hundred dollars (\$300.00) and the tobacco sales permit shall be suspended for thirty (30) consecutive business days or to a time set by the Board of Health.
 1. d. A violation shall be considered a first violation in cases where no violation has occurred during the previous 18 months, even though there may be previous violations on record.
 - 2.a. Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the tobacco sales permit for thirty (30) consecutive business days.
 - 2.b. In addition to the monetary fines set above, any permit holder who engages in the sale or distribution of tobacco products directly to a consumer while his or her permit is suspended shall be subject to the suspension of all board of health issued permits for thirty (30) consecutive business days.
 - 2.c. The Provincetown Board of Health shall provide notice of the intent to suspend a tobacco sales 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. The Provincetown Board of Health after a hearing, may suspend the tobacco sales permit. All tobacco products shall be removed from the retail establishment upon suspension of the tobacco sales permit. Failure to remove all tobacco products shall constitute a separate violation of this regulation.
 - 2.d. Any permit holder who does not pay the assessed fine within twenty-one days from fine issuance may be subject to criminal proceedings.
- D.** Persons, firms, corporations, or agencies selling tobacco products without a Tobacco Sales Permit shall be punished by a fine of \$300 per day for each day of such violation and/or suspension of the tobacco sales permit.
- E.** In addition to the remedies provided by 9.B., 9.C. and 9.D. above, the Board of Health or any person aggrieved by the failure of the proprietor or other person in charge of a public place or workplace to comply with any provision of this subsection may apply for

injunctive relief to enforce the provisions of this subsection in any court of competent jurisdiction.

Section 10 – 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.

Section 11 – OTHER APPLICABLE LAWS

The Board of Health or its enforcement officer(s) shall enforce this regulation. Any violation of these regulations may be enforced and punished by the provisions of the Town of Provincetown, General By-Law 13-3-1-a, Enforcement, Non-Criminal Disposition; Massachusetts General Laws, Chapter 270, Sections 6, 7, 21.

PART X - HARBOR WATER TESTING

ARTICLE 1 - Harbor Water Quality Testing

Advocate and Banner: September 9 and September 16, 1999 Public Hearing: September 23, 1999 Advocate and Banner: October 1 and October 8, 1999 Effective: October 8, 1999

Acting under the authority of the Massachusetts General Laws, Chapter 111, § 31, the Provincetown Board of Health adopts the following regulation to ensure the public health and sanitary conditions for bathers in Provincetown Harbor.

1. The Provincetown Health Inspector and the County Health Agent will be individually and jointly responsible for conducting and monitoring a harbor water quality program.
 - 1.1. Samples are to be taken bi-weekly from 1 May to 30 September of each year, and cultured in the Provincetown laboratory and, optionally, at the County Health Department. Samples are to be taken monthly from 1 October to 30 April of each year, and cultured in the Provincetown laboratory and, optionally, at the County Health Department.
 - 1.2. Samples are to be taken from the harbor opposite or near the following sites: Sandcastle; Best Inn; Surfside Inn; Johnson Street Parking Lot; Ryder Street Extension; the Boat Slip; the West End Parking Lot and the Provincetown Inn.
 - 1.3. Samples are to be taken under a constant and consistent testing protocol established by the County Health Department, with all variables noted in a sampling log to be maintained by the Health Inspector and the County Health Agent.
 - 1.4. Reports of the results of the samplings are to be kept in a central log for the Board of Health and presented to the Board of Health at each public meeting.
 - 1.5. If the Fecal Coliform colony count is <200 CFU/100ml then the site meets state and federal standards.
 - 1.6. If the Fecal Coliform colony count is >200 CFU/100ml then the site does not meet state and federal standards. In the case of unacceptable Coliform readings a second sample shall be taken immediately. In the event that the second sample is also unacceptable, then a third sample shall be taken.
 - 1.7. In the event that that second or third samplings are required, then a split sample shall be done and cultured at both the Provincetown laboratory and the County Health Department.
 - 1.8. If samplings were to reveal three (3) successive readings with unacceptable results, the Board of Health, after consultation with the County Health Agent, would immediately determine if an "Advisory Notice" or a "Notice of Beach Closure" will be posted, and said notice shall be published in newspapers of general circulation and provided to all local electronic media.
 - 1.9. An "Advisory Notice" shall warn the general public of the level and nature of the public health concern, but shall not seek to prohibit the public from bathing in Provincetown Harbor.

- 1.10. A “Notice of Beach Closure” shall seek to close the beaches and prevent the public from accessing the Harbor in any manner that involves direct contact and said notice shall be published in newspapers of general circulation and provided to all local electronic media. This closure shall be enforceable by the Health Inspector, the County Health Agent, the Provincetown Police, the Environmental Police, and the Marine Superintendent, and shall provide for non-criminal disposition.
- 1.11. If either of these two actions were implemented, testing will be repeated daily until acceptable levels are achieved.

PART XI - BIRD CONTROL

ARTICLE 1 - Bird Feeding

On March 23, 2000, the Provincetown Board of Health voted, pursuant to its authority under Chapter 111, section 31 of the Massachusetts General Laws to adopt the following regulation, which shall become effective upon its date of publication:

"Whoever feeds birds in the area of Lopes Square, on the seaward side of Commercial Street from Lopes Square to Ryder Street, including MacMillan Pier and the Municipal Parking Lot, shall be subject to a fine of fifty dollars (\$50), in accordance with Schedule A of the Provincetown General By-laws."

PART XII – SEWER REGULATIONS

ARTICLE 1 - Sewer Connection Criteria and Prioritization

Public Hearing May 29, 2003

The following criteria are a means of prioritizing future hook-ups to Phase I of the Town Sewer:

1. Properties must be within or abutting the existing Phase I sewer system and must be within the capacity of the sewer system.
2. The septic system in question is failed or failing based upon Title 5 definitions of failure or any system that the Board of Health deems failed.
3. Single or multiple cesspools
4. Varianced septic systems with priority given to the following:
 - a) Varianced to groundwater
 - b) Varianced to wetland and/or coastal areas
5. Harbor side septic systems
6. Mounded or raised septic systems

The Board of Health will make a recommendation to the Water & Sewer Board for connecting to the Town Sewer. If the Board of Health endorses the connection, then the urgency of the hook-up will be designated as follows:

1. Critical
2. Strongly advise
3. Non-critical

Mark Baker, Chair

Posted in the Banner: 5/15 & 5/22/03 Posted by the Town Clerk, SJN, Date of posting:

PART XII – SEWER REGULATIONS

PROVINCETOWN BOARD OF HEALTH CRITERIA FOR RECOMMENDING ADMINISTRATIVE CONSENT ORDERS

Provincetown Board of Health Policy Statement Regarding:

The following criteria will be taken into consideration when recommending Administrative Consent Orders to the Board of Selectmen.

1. Property is within a geographic area that could be served by an extension to the existing sewer system. This area to be determined in consultation between the Board of Health, Board of Selectmen and the Water and Sewer Board.
2. The septic system in question is failed or failing based upon Title 5 definitions of failure or any system that the Board of Health deems failed
3. Property is currently served by single or multiple cesspools.
4. Varianced septic systems with priority given to the following:
 - a) Varianced to groundwater
 - b) Varianced to wetland and/or coastal areas
5. Harbor side septic systems
6. Mounded or raised septic systems

PART XIII- DOG RESTRAINT

Board of Health Regular Meeting
Adopted March 30, 2006

ARTICLE 1 - Section 1: Dog restraint in the Town of Provincetown

Any dog within the town boundaries must be restrained and may not be at large.

A restrained dog: a dog kept on a leash, cord, chain or other restraint or a dog kept within the dog owner's property, or leased premises, or another owner's property with consent of that owner or occupant of same.

Any owner whose dog is at large or not restrained is in violation of this regulation.

A non-criminal disposition penalty will be assessed in the amount of \$10 (ten dollars) to the owner for the first offense; \$15 (fifteen dollars) for the second offense; \$25 (twenty-five dollars) for the third offense; \$50 (fifty dollars) for the fourth offense; and \$75 (seventy-five dollars) for the fifth and subsequent offenses. Each violation of this regulation shall be deemed to be a separate offense.