

**PROVINCETOWN BOARD OF HEALTH
LOCAL REGULATIONS
Revised July 2011**

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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 Department Staff 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. Types of Meetings**

Regular Meetings

The Board of Health and the Health Department Staff shall meet generally twice monthly and at such other times as the Board may decide. Unless it be in executive session, 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).

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.

Public Hearing

A Public Hearing is a process of collecting information that pertains to the pros and cons of an idea, motion, or proposed action from individuals. It is a tradition that Public Hearings provide each individual who desires to speak an opportunity to voice his/her opinions.

4. Emergency Meetings

- a.** 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.
- b.** 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.

- c. 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.

5. 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.

C. Time of Meetings

1. All Board meetings shall normally be scheduled to commence promptly at 4:00 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.

D. 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.
3. Unexcused absences occur when proper notice of absence has not been given

E. Meeting Notice

A written notice of all scheduled meetings of the Board, except as precluded by Section 4A 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 and website.

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 Department Staff 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 appropriate Health Department staff person’s report and recommendation filled out by the Individual.

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 Department staff 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 Department staff 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, if necessary as determined by the Board, 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

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.

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.

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 were effective March 8, 2001 and revised on June 16, 2011.

Section 11 – Distribution

A copy of these procedures will be provided to each newly appointed 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

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

- E.** All Board of Health regulations must be posted on the Town website.

Section 2 – Title 5 Reviews

- A.** All engineered plans, requiring variances, will be submitted to the Health Department staff two (2) weeks prior to the scheduled Board of Health meeting.
- B.** Plans are to be submitted with eight (8) 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 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.
- E.** All septic system installations, repairs and upgrades requiring variances from 310 CMR Title 5 and/or local board of health regulations – whether residential or commercial – shall be placed on an agenda to be reviewed by the Board of

Health for approval. The Health Agent reserves the right to bring to the attention of the Board of Health, unvarianced septic system plans.

Section 3 – Septic System Repairs

- A.** Repair permits shall be granted by the Board of Health or their Agent for existing Board of Health approved Title 5 septic systems. Non-varianced repairs 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. Any repairs requiring a variance must be approved by 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.
 - 4. If the owner of the property has an administrative consent order recorded at the Barnstable County Registry of Deeds.

Section 4 – Septic System Installations

All septic system installations must be done in accordance with the approved plan by a septic system installer licensed by the Town of Provincetown.

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.

Upon discovery any alterations from the approved plan made in the installation without the prior approval of the design engineer and the Health Agent, may 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 – Septic Review: License and Building Permit Applications

A. Health Agent Review

- 1. If the proposed construction or activity entails any change in use (see definition in Title 5 supplements), the subsurface sewage disposal system

must be reviewed in terms of its adequacy for the proposed use of the property. This may include requiring that a septic system inspection be conducted in accordance with 310 CMR Title 5 inspection requirements. Systems determined to be inadequate must be brought into compliance in order for the Health Agent to approve the application.

2. If the existing septic system is known or stated to be cesspools, or if verifiable information is unavailable, then the system must be brought into compliance for the proposed use.
3. 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.
4. **The lack of an approval by the Health Agent of any building permit application constitutes a denial.**
5. 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 (If a permit indicates the system has a septic tank).
 - a) Past 3 years' water use
 - b) Past 3 years' septic pumping records
 - c) Septic system inspection report.
 - d) 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 available to the Board of Health.
- 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 approved by the Health Agent with notification made to the Board of Health Chair. The item must be placed on the next Board of Health meeting agenda.

- 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 Department staff may make statements to the news media on behalf of the Health Department, but not on behalf of the Board of Health unless otherwise instructed.

Section 11 – Communications Between Town Boards

- A. Any Board of Health vote that relates to a Town of Provincetown-issued license or permit shall be followed within seven (7) days by a memo regarding that vote to the staff liaison to that Board. A copy of the vote and the memo to the staff liaison 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 Department Staff

- A. Any party aggrieved by a determination made by Health Department staff may appeal such determination to the Board of Health. (See Section I(b) How to Get On Board of Health Agenda).
- B. Health Department staff will present a summary of activities at each Board of Health meeting.
- C. Any incident or procedure requiring action from the Health Department Staff will be referred to the Chair or Vice Chair in the absence of the Health Department Staff.

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

- A. 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.

- B.** 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 June 16, 2011

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

ARTICLE 1 - 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 2 - Stable Regulations

Section 1 – Registration of Horses & Ponies

All animals referred to as horses or ponies shall be listed with the Board of Health through the annual animal census required by the Massachusetts Department of Agriculture. The stable owner is responsible for obtaining an annual stable license and fee to be paid according to the fee schedule located in Part VIII; Article 1. 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. When requested 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 a licensed veterinarian and proof of qualification must be submitted to the Health Department. 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 owner must present proof of potable water by a certified laboratory to the Health Department.

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 as prescribed by the USDA protocols. 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.

Section 11 – Fines: See Provincetown General Bylaws Schedule A.**Section 12 - 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 3 - Swimming Pool Regulations

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 all Federal, State and local regulations.

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 and spas shall conduct daily water chemistry tests at the opening, mid-day 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 Department Staff.

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

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. Immediate closure shall occur when any of the following occurs:

- A. Fecal discharge
- B. Bacterial exceedance
- C. At the request of the Health Department

Section 8 – Bacterial Tests

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

Section 9 – Fees: See Fee Schedule

PART IV

ARTICLE 4 - 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 5 - 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.

FOOD ESTABLISHMENT:

(a) "**Food establishment**" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption: (i) Such as a restaurant; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and (ii) That relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

(b) "**Food establishment**" includes: (i) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location *unless the vending or feeding location is permitted by the regulatory authority*; and (ii) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.

(c) "**Food establishment**" *does not include*: (i) *An establishment that offers only prepackaged foods that are not potentially hazardous*; (ii) *A produce stand that only offers whole, uncut fresh fruits and vegetables*; (iii) *A food processing plant*; (iv) *A kitchen in a private home if only food that is not potentially hazardous is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by law and if the consumer is informed by a clearly visible placard at the sales or service location that the food is prepared in a kitchen that is not subject to regulation and inspection by the regulatory authority*; (v) *An area where food that is prepared as specified in Subparagraph (c)(iv) of this definition is sold or offered for human consumption*; (vi) *A kitchen in a private home, such as a small family day-care provider; or a bed-and-breakfast operation that prepares and offers food to guests if the home is owner occupied, the number of available guest bedrooms does not exceed 6, breakfast is the only meal offered, the number of guests served does not exceed 18, and the consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the regulatory authority*; or (vii) *A private home that receives catered or home-delivered food*.

FULL BREAKFAST: a 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.

(a) "**Potentially hazardous food**" means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting: (i) The rapid and progressive growth of infectious or toxigenic microorganisms; (ii) The growth and toxin production of *Clostridium botulinum*; or (iii) In raw shell eggs, the growth of *Salmonella Enteritidis*.

(b) "**Potentially hazardous food**" includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth as specified under Subparagraph (a) of this definition.

(c) "**Potentially hazardous food**" does not include: (i) An air-cooled hard-boiled egg with shell intact; (ii) A food with an a_w value of 0.85 or less; (iii) A food with a pH level of 4.6 or below when measured at 24°C (75°F); (iv) A food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; and (v) A food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or the growth of *S. Enteritidis* in eggs or *C. botulinum* can not occur, such as a food that has an a_w and a pH that are above the levels specified under Subparagraphs (c)(ii) and (iii) of this definition and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; (vi) A food that does not support the growth of microorganisms as specified under Subparagraph (a) of this definition even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness.

(d) " a_w " means water activity which is a measure of the free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol a_w .

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

READY-TO-EAT FOOD:

(a) "**Ready-to-eat food**" means food that is in a form that is edible without washing, cooking, or additional preparation by the food establishment or the consumer and that is reasonably expected to be consumed in that form.

- (b) **"Ready-to-eat food"** includes: (i) Potentially hazardous food that is unpackaged and cooked to the temperature and time required for the specific food under Subpart 3-401; (ii) Raw, washed, cut fruits and vegetables; (iii) Whole, raw, fruits and vegetables that are presented for consumption without the need for further washing, such as at a buffet; and (iv) Other food presented for consumption for which further washing or cooking is not required and from which rinds, peels, husks, or shells are removed.

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

VARIANCE: a written document issued by the regulatory authority that authorizes a modification or waiver of one or more requirements of this Code if, in the opinion of the regulatory authority, a health hazard or nuisance will not result from the modification or waiver.

Section 3 – Trash and Recycling Receptacles

Any establishment licensed by the Board of Health for Food Service or Retail Food Sales, where there exists any 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. 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.

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.

2. All caterers must be licensed and provide equipment that will maintain required temperatures for hot and cold holding during transportation of food.

C. Food Service Establishments

1. No food establishment shall add any type of food service requiring a separate permit without written approval of the Board of Health. Application for the approval of any such additional food service permit 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. Board of Health approval is required for all new food service establishments.
4. Existing establishments that are transferring to a new owner must be brought into compliance with local, state and federal codes. New owners are required to come before the Board of Health for food service permit approval.
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 with indoor seating where food or beverages are consumed 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, ice cream vendors, or similar establishments as determined by Health Department staff.. 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. All food service establishment owners must attend the mandatory grease education class as required under local Licensing Board Regulations.

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. Establishments with outside dining facilities may request a variance from the Federal Food Code to allow dogs in the outdoor portion of their establishment. This request must be made in writing to the Board of Health.
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 or take out food service establishments.
12. All food service establishments (as described in Article 5, Section 1 A, B, C, and I or as required by the Health Department staff. shall 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 contiguous to the restaurant property. The outdoor dining area must be clearly stated on the described premises portion of the appropriate business License.

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 (I).

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 6 - 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 consisting of three or more units 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 per unit. Each day of violation shall be considered a separate offense.

PART IV

ARTICLE 7

Regulations for Body Art Establishments

1. Purpose and Scope
2. Definitions
3. Exemptions
4. Restrictions
5. Operation of Body Art Establishments
6. Standards of Practice
7. Injury Reports
8. Complaints
9. Application for Body Art Establishment Permit
10. Application for Body Art Practitioner Permit
11. Limited Body Art "Guest Artist" Permit Requirements
12. Body Art Demonstration Permit Requirements
13. Grounds for Denial of Permit, Revocation of Permit or Refusal to Renew Permit
14. Grounds for Suspension of Permit
15. Procedure for Hearings
16. Schedule of Penalties for Licensing Violations & Violations of Standards
17. Unauthorized Practice of Body Art
18. Severability

1. Purpose and Scope

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 and Chapter 111, section 31 to read as follows:

The Town of Provincetown is promulgating rules and regulations that provide minimum requirements to be met by any person performing the act of body art upon any individual and for any establishment where body art is performed. These requirements shall include, but not be limited to, general sanitation of premises wherein body art is to be performed, and the sterilization of instruments. These rules and regulations are necessary to protect the public's health by preventing diseases and infection.

In addition, these rules and regulations shall establish procedures for registration with the Provincetown Health Department of all persons performing body art, 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 art 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.

2. Definitions

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, including information about when to seek medical treatment, if necessary. Applicant means any person who applies to the Board of Health for either a body art establishment permit or practitioner permit.

Antiseptic mean an agent that destroys disease-causing micro-organisms on human skin or mucosa.

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

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

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

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

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

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

Body Art Practitioner or practitioner means a specifically identified individual who has been granted a permit by the Board to perform body art in an establishment that has been granted a permit by the Board.

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

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

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

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

Department means the Department of Public Health or its authorized representatives.

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

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

Ear piercing means the puncturing of the lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system following the manufacturer's instructions.

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

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

Hot water means water that attains and maintains a temperature 110°-130°F.

Instruments Used for Body Art means hand pieces, needles, needle bars, and other instruments that may come in contact with a client's body or may be exposed to bodily fluids during any body art procedure.

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

Liquid Chemical Germicide means a disinfectant or sanitizer registered with the US EPA or an approximately 1:100 dilution of household chlorine bleach made fresh daily and dispensed from a spray bottle (500 ppm, ¼ cup per gallon or 2 tablespoons per quart of tap water).

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

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

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

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

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

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

Procedure surface means any surface of an inanimate object that contacts the client's unclothed

body during a body art procedure, skin preparation of the area adjacent to and including the body art procedure, or any associated work area which may require sanitizing.

Sanitary means clean and free of agents of infection or disease.

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

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

Sanitization Procedure means a process of reducing the numbers of micro-organisms on cleaned surfaces and equipment to a safe level as judged by public health standards and which the Department has approved.

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

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

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

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

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

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

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

Universal Precautions means a set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus (HIV) and Hepatitis B Virus (HBV) to Health-Care and Public-Safety Workers" in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vo1.38 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, Vo1.40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for

HIV, HBV, and other blood pathogens. Precautions include hand washing; gloving; personal protective equipment; injury prevention; and proper handling and disposal of needles, other sharp instruments, and blood and body fluid-contaminated products.

3. Exemptions

- a. Physicians licensed in accordance with M.G.L. c. 112 § 2 who perform body art procedures as part of patient treatment are exempt from these regulations.
- b. Individuals who pierce only the lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system are exempt from these regulations.

4. Restrictions

- a. No tattooing, piercing of genitalia, branding or scarification shall be performed on a person under the age of 18.
- b. Body piercing, other than piercing the genitalia, may be performed on a person under the age of 18 provided that the person is accompanied by a properly identified parent, legal custodial parent or legal guardian who has signed a form consenting to such procedure.

5. Operation of Body Art Establishments

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

a. Physical Plant

- i. Walls, floors, ceilings, and procedure surfaces 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.
- ii. Solid partitions or walls extending from floor to ceiling shall separate the establishment's space from any other room used for human habitation, any food establishment or room where food is prepared, any hair salon, any retail sales, or any other such activity that may cause potential contamination of work surfaces.
- iii. The establishment shall take all measures necessary to ensure against the presence or breeding of insects, vermin, and rodents within the establishment.
- iv. Each body art station shall have a minimum of 45 square feet of floor space for each practitioner. Each establishment shall have an area that may be screened from public view for clients requesting privacy. Multiple body art stations shall be separated by a dividers or partition at a minimum.
- v. The establishment shall be well ventilated and provided with an artificial light source equivalent to at least 20 foot candles 3 feet off the floor, except that at least 100 foot candles shall be provided at the level where the body art procedure is being performed, and where instruments and sharps are assembled.
- vi. A separate, readily accessible hand sink with hot and cold running water under pressure, preferably equipped with wrist- or foot-operated controls and supplied with liquid soap, and disposable paper towels stored in fixed dispensers shall be readily accessible within the establishment. Each operator area shall have a hand sink.

- vii. There shall be a minimum of one toilet room containing a toilet and sink. The toilet room shall be provided with toilet paper, liquid hand soap and paper towels stored in a fixed dispenser.
- viii. At least one covered, foot operated waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily. Solid waste shall be stored in covered, leak proof, rodent-resistant containers and shall be removed from the premises at least weekly.
- ix. At least one janitorial sink shall be provided in each body art establishment for use in cleaning the establishment and proper disposal of non-contaminated liquid wastes in accordance with all applicable Federal, state and local laws. Said sink shall be of adequate size equipped with hot and cold running water under pressure and permit the cleaning of the establishment and any equipment used for cleaning.
- x. All instruments and supplies shall be stored in clean, dry, and covered containers. Containers shall be kept in a secure area specifically dedicated to the storage of all instruments and supplies.
- xi. The establishment shall have a cleaning area. Every cleaning area shall have an area for the placement of an autoclave or other sterilization unit located or positioned a minimum of 36 inches from the required ultrasonic cleaning unit.
- xii. The establishment shall have a customer waiting area, exclusive and separate from any workstation, instrument storage area, cleaning area or any other area in the body art establishment used for body art activity.
- xiii. No animals of any kind shall be allowed in a body art establishment except service animals used by persons with disabilities (e.g., Seeing Eye dogs). Fish aquariums shall be allowed in waiting rooms and nonprocedural areas.
- xiv. Smoking, eating, or drinking is prohibited in the area where body art is performed, with the exception of fluids being offered to a client during or after a body art procedure.

b. Requirements for Single Use Items Including Inks, Dyes and Pigments

- i. Single-use items shall not be used on more than one client for any reason. After use, all single-use sharps shall be immediately disposed of in approved sharps containers pursuant to 105 CMR 480.000.
- ii. All products applied to the skin, such as but not limited to body art stencils, applicators, gauze and razors, shall be single use and disposable.
- iii. Hollow bore needles or needles with a cannula shall not be reused.
- iv. All inks, dyes, pigments, solid core needles, and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions.
- v. Inks, dyes or pigments may be mixed and may only be diluted with water from an approved potable source. Immediately before a body art 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 caps. Upon completion of the body art, these single-use cups or caps and their contents shall be discarded.

c. Sanitation and Sterilization Measures and Procedures

- i. All non-disposable instruments used for body art, including all reusable solid core needles, pins and stylets, shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water, (to remove blood and tissue residue), and shall be placed in an ultrasonic unit operated in accordance with manufacturer's instructions.
- ii. After being cleaned, all non-disposable instruments used for body art shall be packed individually in sterilizer packs and subsequently sterilized in a steam autoclave. All sterilizer packs shall contain either a sterilizer indicator or internal temperature indicator. Sterilizer packs must be dated with an expiration date not to exceed six (6) months.
- iii. The autoclave shall be used, cleaned, and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of the autoclave must be available for inspection by the Board. Autoclaves shall be located away from workstations or areas frequented by the public.
- iv. Each holder of a permit to operate a body art establishment shall demonstrate that the autoclave used is capable of attaining sterilization by monthly spore destruction tests. These tests shall be verified through an independent laboratory. The permit shall not be issued or renewed until documentation of the autoclave's ability to destroy spores is received by the Board. These test records shall be retained by the operator for a period of three (3) years and made available to the Board upon request.
- v. All instruments used for body art procedures shall remain stored in sterile packages until just prior to the performance of a body art procedure. After sterilization, the instruments used in body art procedures shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.
- vi. Sterile instruments may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing.
- vii. If the body art establishment uses only sterile single-use, disposable instruments and products, and uses sterile supplies, an autoclave shall not be required.
- viii. When assembling instruments used for body art procedures, the operator shall wear disposable medical gloves and use medically recognized techniques to ensure that the instruments and gloves are not contaminated.
- ix. 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.

d. Posting Requirements

The following shall be prominently displayed:

- i. A Disclosure Statement, a model of which shall be available from the Department. A Disclosure Statement shall also be given to each client, advising him/her of the risks and possible consequences of body art procedures.
- ii. The name, address and phone number of the local Board of Health that has jurisdiction and the procedure for filing a complaint.

- iii. An Emergency Plan, including:
 - 1. a plan for the purpose of contacting police, fire or emergency medical services in the event of an emergency;
 - 2. a telephone in good working order shall be easily available and accessible to all employees and clients during all hours of operation; and
 - 3. a sign at or adjacent to the telephone indicating the correct emergency telephone numbers.
- iv. An occupancy and use permit as issued by the local building official.
- v. A current establishment permit.
- vi. Each practitioner's permit.

e. **Establishment Recordkeeping**

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

- i. Establishment information, which shall include:
 - 1. establishment name;
 - 2. hours of operation;
 - 3. owner's name and address;
 - 4. a complete description of all body art procedures performed;
 - 5. an inventory of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers and serial or lot numbers, if applicable. Invoices or packing slips shall satisfy this requirement;
 - 6. A Material Safety Data Sheet, when available, for each ink and dye used by the establishment; and
 - 7. a copy of these regulations.
- ii. Employee information, which shall include:
 - 1. full names and exact duties;
 - 2. date of birth;
 - 3. home address;
 - 4. home /work phone numbers; and
- iii. Client Information, which shall include:
 - 1. name;
 - 2. date of birth;
 - 3. address of the client;
 - 4. date of the procedure;
 - 5. name of the practitioner who performed the procedure(s);
 - 6. description of procedure(s) performed and the location on the body;
 - 7. a signed consent form as specified by 6(D)(2); and,
 - 8. if the client is a person under the age of 18, proof of parental or guardian identification, presence and consent including a copy of the photographic identification of the parent or guardian.
- iv. Client information shall be kept confidential at all times.

f. **Hepatitis B**

The establishment shall require that all body art practitioners have either completed, or were offered and declined, in writing, the hepatitis B vaccination series. Records documenting compliance with this requirement shall be provided

to the Board upon request.

6. Standards of Practice

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

- a. A practitioner shall perform all body art procedures in accordance with Universal Precautions set forth by the U.S Centers for Disease Control and Prevention.
- b. A practitioner shall refuse service to any person who may be under the influence of alcohol or drugs.
- c. Practitioners who use ear-piercing systems must conform to the manufacturers directions for use, and to applicable U.S. Food and Drug Administration requirements. No practitioner shall use an ear piercing system on any part of the client's body other than the lobe of the ear.
- d. Health History and Client Informed Consent. Prior to performing a body art procedure on a client, the practitioner shall:
 - i. Inform the client, verbally and in writing that the following health conditions may increase health risks associated with receiving a body art procedure:
 1. history of diabetes;
 2. history of hemophilia (bleeding);
 3. history of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants etc.;
 4. history of allergies or adverse reactions to pigments, dyes, or other sensitivities;
 5. history of epilepsy, seizures, fainting, or narcolepsy;
 6. use of medications such as anticoagulants, which thin the blood and/or interfere with blood clotting; and
 7. any other conditions such as hepatitis or HIV.
 - ii. Require that the client sign a form confirming that the above information was provided, that the client does not have a condition that prevents them from receiving body art, that the client consents to the performance of the body art procedure and that the client has been given the aftercare instructions as required by section 6(K).
- e. A practitioner shall maintain the highest degree of personal cleanliness, conform to best standard hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, the practitioner must thoroughly wash their hands in hot running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.
- f. In performing body art procedures, a practitioner shall wear disposable single-use gloves. Gloves shall be changed if they become pierced, torn, or otherwise contaminated by contact with any unclean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed in accordance with section (E) before the next set of gloves is put on. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable single-use gloves does not preclude or substitute for handwashing procedures as part of a good personal hygiene program.
- g. The skin of the practitioner shall be free of rash or infection. No practitioner affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that that

- person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.
- h. Any item or instrument used for body art that is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.
 - i. Preparation and care of a client's skin area must comply with the following:
 - i. Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.
 - ii. Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding where body art procedure is to be placed shall be washed with soap and water or an approved surgical skin preparation. If shaving is necessary, single-use disposable razors or safety razors with single-service blades shall be used. Blades shall be discarded after each use, and reusable holders shall be cleaned and autoclaved after use. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.
 - iii. In the event of bleeding, all products used to stop the bleeding or to absorb blood shall be single use, and discarded immediately after use in appropriate covered containers, and disposed of in accordance with 105 CMR 480.000.
 - j. Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to receive a body art procedure with sterile gauze or other sterile applicator to prevent contamination of the original container and its contents. The applicator or gauze shall be used once and then discarded.
 - k. The practitioner shall provide each client with verbal and written instructions on the aftercare of the body art site. The written instructions shall advise the client:
 - i. on the proper cleansing of the area which received the body art;
 - ii. to consult a health care provider for:
 - 1. unexpected redness, tenderness or swelling at the site of the body art procedure;
 - 2. any rash;
 - 3. unexpected drainage at or from the site of the body art procedure; or
 - 4. a fever within 24 hours of the body art procedure; and
 - iii. of the address, and phone number of the establishment. A copy shall be provided to the client. A model set of aftercare instructions shall be made available by the Department.
 - l. Contaminated waste shall be stored, treated and disposed in accordance with 105 CMR 480.000: Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waster, State Sanitary Code, Chapter VIII.

7. Injury Reports

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

- a. the name of the affected client;
- b. the name and location of the body art establishment involved;

- c. the nature of the injury, infection complication or disease;
- d. the name and address of the affected client's health care provider, if any;
- e. any other information considered relevant to the situation.

8. Complaints

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

9. Application for Body Art Establishment Permit

- a. No person may operate a body art establishment except with a valid permit from the Board.
- b. Applications for a permit shall be made on forms prescribed by and available from the Board. An applicant shall submit all information required by the form and accompanying instructions. The term "application" as used herein shall include the original and renewal applications.
- c. An establishment permit shall be valid from the date of issuance and shall automatically expire at the end of the calendar year (DEC 31) unless revoked sooner by the Board.
- d. The Board shall require that the applicant provide, at a minimum, the following information in order to be issued an establishment permit:
 - i. Name, address, and telephone number of:
 - 1. the body art establishment;
 - 2. the operator of the establishment; and
 - 3. the body art practitioner(s) working at the establishment;
 - ii. The manufacturer, model number, model year, and serial number, where applicable, of the autoclave used in the establishment;
 - iii. A signed and dated acknowledgement that the applicant has received, read and understood the requirements of the Board's body art regulations;
 - iv. A drawing of the floor plan of the proposed establishment to scale for a plan review by the Board, as part of the permit application process; and,
 - v. Such additional information as the Board may reasonably require.
- e. The Board shall set a reasonable fee for such permit.
- f. A permit for a body art establishment shall not be transferable from one place or person to another.

10. Application for Body Art Practitioner Permit

- a. No person shall practice body art or perform any body art procedure without first obtaining a practitioner permit from the Board. The Board shall set a reasonable fee for such permits.
- b. A practitioner shall be a minimum of 18 years of age.

- c. A practitioner permit shall be valid from the date of issuance and shall automatically expire at the end of the calendar year (DEC 31) from the date of issuance unless revoked sooner by the Board.
- d. Application for a practitioner permit shall include:
 - i. name;
 - ii. date of birth;
 - iii. residence address;
 - iv. mailing address;
 - v. phone number;
 - vi. place(s) of employment as a practitioner; and
 - vii. training and/or experience as set out in (E) below.
- e. Practitioner Training and Experience
 - i. In reviewing and application for a practitioner permit, the Board may consider experience, training and/or certification acquired in other states that regulate body art.
 - ii. Training for all practitioners shall be approved by the Board and, at a minimum, shall include the following:
 - 1. blood borne pathogen training program (or equivalent) which includes infectious disease control; waste disposal; hand washing techniques; sterilization equipment operation and methods; and sanitization, disinfection and sterilization methods and techniques; and
 - 2. First Aid and cardiopulmonary resuscitation (CPR). Examples of courses approved by the Board include "Preventing Disease Transmission" (American Red Cross) and "Blood borne Pathogen Training" (U.S. OSHA). Training/courses provided by professional body art organizations or associations or by equipment manufacturers may also be submitted to the Board for approval.
 - iii. The applicant for a body piercing practitioner permit shall provide documentation, acceptable to the Board, that s/he completed a course on anatomy, completed an examination on anatomy, or possesses an equivalent combination of training and experience deemed acceptable to the Board.
 - iv. The applicant for a body art practitioner permit shall provide documentation, acceptable to the Board, that s/he completed a course on skin diseases, disorders and conditions, including diabetes, or completed an examination on skin diseases, disorders and conditions, including diabetes, or possesses a combination of training and experience deemed acceptable to the Board.
- f. A practitioner's permit shall be conditioned upon continued compliance with all applicable provisions of these model regulations.

11. Limited Body Art "Guest Artist" Permit Requirements

- (A) Limited body art permits may be issued for body art services performed on a limited basis and for body art services provided outside of the physical site of a certified body art facility for the purposes of product demonstration, industry trade shows or education.
 - 1. Temporary permits will not be issued unless:
 - (a) 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 and shall be a minimum of 18 years of age.

- (b). the applicant registers with the Town using a Board approved application and provides a copy of a current permit; and
- (c). if a temporary demonstration site is to be used, the site complies with Section 12, "Body Art Demonstration Permit Requirements," of this code.
- (b). In lieu of attendance at a blood borne pathogens training program the applicant may furnish proof of attendance at equivalent training or other proof which is acceptable to the Department.
- (c). Limited body art permits expire after 14 days or the conclusion of the special event, whichever occurs sooner.
- (d). Limited body art permits will not be issued unless the applicant has paid a reasonable fee as set by the Department.
- (e). Limited body art permits shall not be transferable from one place or person to another.
- (f). Limited body art permits shall be posted in a prominent and conspicuous area where clients may readily see them.

12. Body Art Demonstration Permit Requirements

- (A) 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.
- (B) 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:
 - 1. the purpose for which the permit is requested;
 - 2. the period of time during which the permit is needed (not to exceed 14 calendar days per event) without reapplication;
 - 3. the fulfillment of body art artist requirements
 - 4. the location where the temporary demonstration permit will be used.
- (C) The applicant's demonstration project must be contained in a completely enclosed, immobile facility (e.g., inside a permanent building or body art facility).
- (D) Compliance with all of the requirements of this code includes but is not limited to the following:
 - 1. 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.
 - 2. A minimum of 80 square feet of floor space shall be provided;
 - 3. There shall be at least 100 foot candles of light at the level where the body art procedure is being performed;
 - 4. 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

5. Ability to properly clean and sanitize the area used for body art procedures is required.
- (E) If the facility is not already licensed for body art where the temporary demonstration permit is used the location must be inspected by the Department and a permit issued prior to the performance of any body art procedures.
- (F) 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.
- (G) All establishment and body art artist permits and the disclosure notice must be readily seen by clients.

13. Grounds for Denial of Permit, Revocation of Permit, or Refusal to Renew Permit

- (A) The Board may deny a permit, revoke a permit or refuse to renew a permit on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for revocation or refusal to renew:
1. any actions which would indicate that the health or safety of the public would be at risk;
 2. fraud, deceit or misrepresentation in obtaining a permit, or its renewal;
 3. criminal conduct which the Board determines to be of such a nature as to render the establishment, practitioner or applicant unfit to practice body art as evidenced by criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts;
 4. any present or past violation of the Board's regulations governing the practice of body art;
 5. practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;
 6. being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
 7. knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a permit;
 8. continuing to practice while his/her permit is lapsed, suspended, or revoked; and
 9. 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.
 10. other just and sufficient cause which the Board may determine would render the establishment, practitioner or applicant unfit to practice body art;
- (B) The Board shall notify an applicant, establishment or practitioner in writing of any violation of the Board's regulations, for which the Board intends to deny, revoke, or refuse to renew a permit. The applicant, establishment or practitioner shall have seven (7) days after receipt of such written notice in which to comply with the Board's regulations. The Board may deny, revoke or refuse to renew a permit, if the applicant, establishment or practitioner fails to comply after said seven (7) days.

(C) Applicants denied a permit may reapply at any time after denial.

14. Grounds for Suspension of Permit

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

15. Procedure for Hearings

(A) Suspension of a Permit

1. After a Board suspension of a permit, a hearing shall be initiated pursuant to 801 CMR 1.00 et seq. (Standard Adjudicatory Rules of Practice and Procedure), no later than twenty-one (21) calendar days after the effective date of the suspension.
2. Upon written request to the Board of Health, the establishment or practitioner shall be afforded an opportunity to be heard concerning the suspension of the permit by the Board.
3. In cases of suspension of a permit, the hearing officer shall determine whether the Board has proved by a preponderance of the evidence that there existed immediately prior to or at the time of the suspension an immediate and serious threat to the public health, safety or welfare. The hearing officer shall issue a written decision, which contains a summary of the testimony and evidence considered and the reasons for the decision.

(B) Denial, Revocation, or Refusal to Renew a Permit

1. If the Board determines that a permit shall be denied, revoked, or not renewed pursuant to the Board's regulations, the Board shall initiate a hearing in accordance with 801 CMR 1.00 et seq.
2. Following the hearing, the hearing officer shall issue a written
3. decision that contains a summary of the testimony and evidence considered and the reasons for the decision.

16. Schedule of Penalties for Licensing Violations & Violations of Standards

(A) Penalties: The Department may assess penalties against a body art 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:

1. Advertising body art or making body art services available without first receiving a current valid permit, or with an expired or suspended permit \$50.
2. Advertising or allowing an individual to provide body art services without obtaining the required permit, or with an expired permit: \$50.
3. Failing to post a current, valid facility permit or body art permit in public view: \$50.
4. Failing to submit changes of required permit information within time frame set in regulations: \$50.
5. Providing body art at a location other than place or place(s) permitted by

the Department, without receiving prior approval from the Department: \$100.

6. Using a reproduction of a permit in place of an original: \$50.
7. Failing to allow inspection of the premises by the Department upon request \$100 and/or suspension
8. Failing to meet facility standards adopted by the Department: \$500 and/or suspension or revocation.
9. Failing to provide a private or separate body art area for clients: \$50.
10. Except as provided by rule, allowing animals in the facility: \$50.
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: \$500. And/or suspension or revocation
14. Failing to meet sterilization standards: \$500.00 and/or suspension or revocation.
15. Failing to clean instruments prior to sterilization: \$500. And/or 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 have body art in accordance with Department standards \$500.
18. Failing to meet cleanliness and/or storage standards for linens: \$500.
19. 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.
20. Failing to have required covered waste receptacles: \$50.
21. Failing to have and maintain client case history records: \$50.

17. Unauthorized Practice of Body Art

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

18. Severability

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

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.

Installer's Signature

Date

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

Revised September 10, 2009

Section 1: Residential Collection

- A. Schedule of days for collection is established by the Department of Public Works and approved by the Board of Health and shall be widely posted.
- B. All residential households are allowed 2-32 gallon containers and up to 4-recycling bins.
- C. Refuse must be put out on the evening prior to a resident's pick-up day, but not before 6:00 PM.
- D. No loose refuse is permitted. All refuse must be contained in a tightly covered barrel no larger than a standard 32-gallon capacity.
- E. 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.
- F. There is no curbside pick-up for brush. Brush must be taken to the Transfer Station and will be charged as full loads.
- G. To be defined as a person or persons who are not a business or in any sense of the meaning a commercial establishment.
- H. 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.
- I. 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.
- J. 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.
- K. All residents who live in a predominately commercial area need to mark the trash receptacles as residential with their name and address.
- L. 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.

M. Housing developments in which 100% of the units are affordable, recycling and solid waste pick up shall be provided by the Town.

N. The Department shall pick-up once a week pick-up pursuant to the following schedule:

Please Note Cardboard and Newspaper will be picked up on the same day as Trash and Recycling is picked up.

Monday's Route:

From 192 Bradford St - to and including 351 Bradford St
From 942 Commercial St - to and including 463 Commercial St

Mayflower Heights	Allerton St
Snow St	Conway St
Kendall Lane	Duncan Lane
Atkins Mayo Rd	Hancock St
Atkins Lane	Anthony St
Daggett Lane	Howland St
Cook St	Bangs St
Maple Ct	Willow Dr
Oak Dr	Harry Kemp Way

Tuesday's Route:

From 190 Bradford St - to and including 139 Bradford St
From 461 Commercial St - to and including 315 Commercial St

Kiley Ct	Lovett's Ct
Miller Hill Rd	Pricilla Alden Rd
Young's Ct	Brewster St
Aunt Sukey's Way	Old Colony Way
Dyer St	Washington Ave
Law St	Pearl St
Conwell St	Arch St
Railroad Ave	Johnson St
Center St	Freeman's Way
Cemetery Rd	Standish Ave
Standish St	Alden St
Nelson Ave	Stearns Ave
Race Point Rd	Tiny's Way
Wareham Rd	Heather's Way

Wednesday's Route:

From 138 Bradford St - to and including 51 Bradford St
From 314 Commercial St - to and including 157 Commercial St

Smalls Ct	Ryder St
Gosnold St	Willow St
Winslow St	Jerome Smith Rd
Webster St	Masonic
Carver St	Carver Ct
Mozart Ave	Prince St
Holway Ave	Cudworth St
Watson's Ct	Court St
Winthrop St	Shank Painter Rd
Central St	Atlantic Ave
Capt Birdie's Way	George's Path

Thursday's Route:

From 49 Bradford St to and including 2 Bradford St
From 155 Commercial St to and including 1 Commercial St.

Conant St	Montello St
Pleasant St	Fritz's Way
Carnes Ave	Carnes Lane
Brown St	Race Rd
Franklin St	Atwood Ave
School St	Mechanic St
Cottage St	Nickerson St
Tremont St	Soper St
Creek Rd	West Vine St
Kimberly Lane	Point St
Creek Hill Rd	Bayberry Ave
Blueberry Ave	Pilgrim Heights Rd

Section 2: 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 3: FINES.

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 will be established by the Department of Public Works and approved by the Board of Health and shall be widely posted.

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
 - e. 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
 - f. 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 through #7
 - f. Grass and leaves from a homeowner
 - g. Large metal pieces
 - h. Appliances (see D.11 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
 - n. Tires (additional fee)

D. Prohibited Materials:

1. Demolition/construction materials, including sheet rock
2. Mattresses/box springs/carpeting
3. Furniture

4. Fill material, including soil, stumps, bricks, concrete, rock and sand
5. Automobile parts and bodies
6. Gasoline cans
7. Asbestos
8. Liquid and semi-solid wastes
9. Hazardous wastes, including paint, solvents, oil, gasoline, pesticides and insecticides, explosives, chemicals, hot ashes or other volatile materials
10. Radioactive, nuclear, and infectious wastes, including needles and syringes
11. 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

Public Hearing August 23, 2007

Effective September 6, 2007

A. 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:

1. Residents:	
a. Annual sticker	No Fee
b. Household Trash in car	All resident property owners/tax payers with no curbside pickup will be allowed two barrels (4 standard bags) with no charge. Anything beyond the two barrels (or 4 standard bags) will be charged \$2.00 per small bag and \$4.00 per large bags.
c. Pick-up Truck Residential Plates	Same as a & b
d. Grass and leaves only (household)	\$ 0
e. Pick-up Truck with Commercial Plates	See New Rates Below
f. Brush-auto or pick-up trucks	\$10.00 per load
g. Large Appliances (no freon appliances)	\$20.00 each
h. Clean Wood Waste (no nails, paint, treatment, stained)	\$20.00 per load
i. Miscellaneous Metals	\$40. Per ton (\$5.00 minimum charge)
j. Tires	\$4.00 for each car tire with or without rim \$8.00 for each truck tire with or without rim \$30.00 for each heavy equipment tire with/without rim
k. Recycling bins	<i>Fee set by the Department of Public Works based on the cost to the Town to obtain the bins.</i>
2. Residential Senior Citizens	
a. Annual Sticker Must be at least 59 years of age at time of purchasing sticker, must have drivers License and Registration with a Provincetown address	No Fee
3. Business	Self Hauling – to include Guest Houses, Motels, Hotels, Camps, cabins, Lodging, Inns, Time Share Units and Camp Grounds.
a. Annual sticker	\$50. Per Year Each Vehicle
b. Business trash in car	\$4.00 per bag

c. Business trash in pick-up	\$4.00 per bag
i. Grass, Leaves, brush in car or Pick-up	\$14.00 per load
j. Grass, leaves, brush high-side Pick-up	\$22.00 per load
k. Grass, leaves, brush in 1-ton Dump truck	\$44.00 per load
f. Large Appliances	\$20.00 each
g. Miscellaneous Metals	\$40. Per ton (\$5.00 minimum charge)
4. Commercial Haulers	
a. Annual permits w/ Sticker	\$250.00 per year
b. Pick-up Truck	\$ 143.60 per ton or \$.07180 per lb
c. Pick-up Truck High Sides	\$ 143.60 per ton or \$.07180 per lb
d. Packer 4 yard	\$ 143.60 per ton or \$.07180 per lb
e. Packer 6 yard	\$ 143.60 per ton or \$.07180 per lb
f. Packer 7 yard	\$ 143.60 per ton or \$.07180 per lb
g. Packer 8 yard	\$ 143.60 per ton or \$.07180 per lb
g. Packer 16 yard	\$ 143.60 per ton or \$.07180 per lb
h. Packer 18 yard	\$ 143.60 per ton or \$.07180 per lb
i. Packer 20 yard	\$ 143.60 per ton or \$.07180 per lb
j. Grass, leaves brush in pick-up	\$ 28.00 per load \$ 14.00 per half load
n. Grass, leaves, brush in high-side Pick-up	\$ 36.00 per load \$ 18.00 per half load
l. Grass, leaves, brush in Dump Truck	\$ 58.00 per load
m. Commercial Appliances	\$ 30.00 each
n. Metals \$ 40.00 per ton	(\$5.00 minimum)
o. Fuel Tanks (maximum capacity 300 gallons)	\$20.00 each
4. Non Profit Organizations: a. Annual Sticker (after Licensing has Proof of Non- Profit Eligibility). b. Charge on all Refuse c. Will be weighed	No Fee No Charge No Charge

B. A half load is delineated from the midpoint of the rear well to either the rear end of the pickup 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.

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

Section 1. NOT ACCEPTED

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

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.

Section 1: 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.

Section 2: 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) #1 through #7_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.

- 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. Motor Oil – Shall not be mixed with any other waste fluid this is a drop off only at the Highway Garage during business hours.
- b. Anti-Freeze – is accepted 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.

Section 3: 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. Recycling pick-up including paper and cardboard, is picked up as per Part VI, Article #3, Section 1N, of the Board of Health Rules and Regulations. Paper and cardboard will be picked up 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 3.A.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.

Section 4: 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.

Section 5: 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.

Section 6: 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)

Section 7: 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.

Section 8: 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.

Section 9: SEVERABILITY

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.

Section 10: 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 hours of operation shall be determined by the Department of Public Works and posted widely.
- 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.

PART VI

ARTICLE 8 – Nuisance Regulations

Public Hearing May 27, 2004

Section 1. 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 2. PURPOSE

These rules and regulations are intended to protect the public health, safety, and the environment in the Town of Provincetown by regulating the disposal of solid waste, as defined in 310 CMR 18.00 – 21.00 of the State Environmental Code, and to ensure compliance with the provisions of C 111, sec 150A of the Commonwealth of Massachusetts; the Rules and Regulations stated in 310 CMR 18.0 – 21.00 of the State Environmental Code; 527 CMR 34.0 of the Board of Fire Prevention Regulations; and the zoning bylaws of the Town of Provincetown.

Section 3. 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

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.

PROHIBITED DISPOSAL: Placing, dumping, burying, burning, or disposing of any trash, bottles or cans, refuse, rubbish, garbage, debris, scraps, demolition or construction materials of any kind, hazardous waste, all wastes of any other material of any kind from any residential, commercial, industrial or municipal use is prohibited on any land or in any waters within 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 4. NUISANCES

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.

Section 5. 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.

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 conducive 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 6. ABATEMENT OF NUISANCE

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.

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 7. ENFORCEMENT

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

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.

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.

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 8: PUBLIC HEARING

A. Procedure for Requesting and Holding Hearing

1. The person or persons to whom any Order has been served pursuant to these regulations may request a hearing before the Board of Health by filing with the Board of Health within seven (7) days after the Order was served a written petition requesting a hearing on the matter.
2. Upon receipt of such a written petition, the Board of Health shall set a time and place for the hearing and inform the petitioner in writing. The hearing shall be commenced no later than 45 days after the day on which the Order was served. The Board of Health, upon application of the petitioner, may postpone the date of the hearing for a reasonable period of time if in the judgment of the Board of Health the petitioner has submitted a good and sufficient reason for the postponement.

B. Hearing of the Petitioner

1. At the hearing, the petitioner shall be given the opportunity to be heard and to show cause why the Order should be modified or withdrawn.

C. Procedure After Hearing

1. After the hearing, the Board of Health shall sustain, modify or withdraw the Order and shall inform the petitioner in writing of its decision.
2. If the Board of Health sustains or modifies the Order, it shall be carried out within the time period allotted in the original Order or in the modification.

D. Public Record

1. Every notice, Order, or other record prepared by the Board of Health in connection with the hearing shall be entered as a matter of public record in the office of the Board of Health.

E. Hearing Petition Not Submitter, Sustaining Order

1. If a written petition for a hearing has not been filed with the Board of Health within seven (7) days after the day the Order has been served, or if after a hearing the Order has been sustained in any part, each day's failure to comply with the Order as issued or modified shall constitute an additional offense.

Section 9. APPEAL

Unless otherwise provided, any person aggrieved by the decision of the Board of Health or its agents may seek relief there from within thirty (30) days in any court of competent jurisdiction, as provided by the laws of the Commonwealth of Massachusetts.

Section 10. SEVERABILITY

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".

Section 1. 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.
 6. **Provide documentation from the recycling facility used by the hauler that verifies the proper disposal of the recyclables in accordance with Part VI; Article 7; Section 3 of the Board of Health regulations.**
- 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:

Section 1. 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.

Section 2. 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.

Section 3. 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 pickups 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.

Section 4. 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

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, which ever 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 and/or increase the flow as determined in 310 CMR 15.000 Title 5 nor shall its use be changed unless the present existing septic system complies with requirements of 310 CMR 15.000 Title 5 and Provincetown Board of Health Regulations as established by a comprehensive inspection of the septic system, and/or the septic system can be upgraded to fully comply with Title 5 and Provincetown Board of Health Regulations.

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 310 CMR

15.000 Title 5 and Provincetown Board of Health Regulations, or written approval is obtained from the Board of Health or its Agent. Any increase in flow will invoke the Growth Management By-Law.

When applying for an increase in flow through a Growth Management application, the owner of a property, whether that property is connected to the municipal sewer system or is served by an onsite septic system must be able to demonstrate by an engineered septic system design plan, that an unvarianced septic system can be located on the property for the combined existing and proposed increase in flow.

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 inspection determines that the subsurface sewage disposal system must be made to comply with Title 5 of the Massachusetts Sanitary Code (310 CMR 15.000) and Provincetown Board of Health Regulations, all septic systems on the lot must be made to comply.

PART VII

ARTICLE 3 - Upgrade Requirement - Distance to Wetland

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.

PART VII

ARTICLE 4 - Inspection By Designer And Health Agent Prior To Backfilling And Certifying

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 CMR 15.021 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" card of the septic system. The information on this "as-built" card 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 system installation permit number, date of installation, septic system designer and septic system installer must be included on the "as-built" card.

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 5 - 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 15.000, to be added to the existing regulations of the Provincetown Board of Health.

PREAMBLE: Due to the uncertainties about the future quality and quantity 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.

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.

PART VII

ARTICLE 6 - Definitions For Bedroom, Sleeping Loft & Change of Use

Bedroom: Portion of a dwelling as so defined to furnish minimum isolation necessary for use as a sleeping area, which includes but is not limited to a bedroom, den, study, sewing room, sleeping loft, dining room or enclosed porch, but does not include kitchen, bath, 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. For new construction or remodeling, in order for a room not to be considered a bedroom there must be a minimum 6' opening into any other room other than a bathroom. 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 7 - Plan Submittal Requirements

Section 1. Unvarianced Septic System Design Plans

Unvarianced septic system design plans submitted to the Health Agent for approval must be accompanied by the following:

1. Completed Application for Disposal System Construction Permit.
2. Application fee.
3. Three copies of the septic system design plan with a civil or professional engineers or registered sanitarians stamp.
4. Existing floor plans of all structures to be served with all rooms labeled and, if applicable, proposed floor plans with all rooms labeled.

Section 2. Varianced Septic System Design Plans

Septic system design plans requiring a variance(s) must be submitted two weeks prior to the scheduled Board of Health variance hearing date. All variance requests must be accompanied by the Variance Filing Fee and seven (7) packets each containing the following:

1. Septic system design plan.
2. Letter to the Board of Health requesting the variance(s).
3. Notification letter to the abutters informing them of the variance request, the time, date and location of the variance hearing and where and when the plans can be viewed.
4. List of abutters.
5. Existing floor plans of all structures to be served with all rooms labeled and, if applicable, proposed floor plans with all rooms labeled.

Plans submitted to the Board of Health for approval that require any sideline setback variance(s) must be stamped by a Registered Land Surveyor. Varianced plans must be submitted and presented to the Board of Health by a qualified professional in accordance with 310 CMR 15.000.

PART VII

ARTICLE 8 - 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 310 CMR 15.000 Title 5 and the Provincetown Board of Health Regulations, on any lot in which there is more than one septic system which does not meet the current requirements of Title 5 of the Massachusetts Sanitary Code (310 CMR 15.000), and Provincetown Board of Health Regulations, 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 Town of Provincetown Regulations.

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

PART VII

ARTICLE 9 - Annual Local Septic System Inspector License

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 License and pay the annual fee. Without a valid local license, 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 License.

The following may be granted an Annual Local Septic System Inspector License 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:

Health Agents
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 license 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 License, 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 License to submit any 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 License 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 License shall expire on December 31st of each year.

PART VII

ARTICLE 10 - Real Estate Transfer Inspection Report

Revised 3-20-08

Section 1. Cesspools

(A) 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 or, if required and/or qualify, enter into an Administrative Consent Order (ACO) with the Town.

(B) 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.

Section 2. Depth to Estimated High Groundwater

A cesspool shall be defined as follows: A pit with open-jointed linings or holes in the bottom and/or sidewalls into which sewage is discharged, the liquid portion of the sewage being disposed of by seeping or leaching into the surrounding soils or the effluent being retained in the pit. This includes any pit of block or brick construction or any pre-cast leach pit with no stone surrounding it. Any leaching facility that meets this definition, regardless of whether a septic tank is present is considered a cesspool and hence considered failed.

PART VII

ARTICLE 11 - Municipal Sewer System

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 plan, 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, oils, 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 settled 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, businesses, 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 Department of Public Works and entitled "Wastewater Service Area." All properties in the Service Area are also identified on a list available from the Health Department.

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

Any property with a failed septic system, excluding those requiring only minor repairs, as approved by the Board of Health and/or Health Agent, shall connect to the municipal sewer upon its availability provided there is sufficient capacity within the sewer system. A minor repair shall be considered as those which do not require an engineered plan such as, but not limited to, broken covers, clogged or collapsed lines and repairs to the distribution box.

Administrative Consent Orders

The Board of Health reserves the right to require any property owner with a failed septic system, in an area where future phases are being considered, where connection to the municipal sewer system is not available due to the fact that no municipal sewer exists in that area or that the existing sewer system has no available capacity in that area to accommodate a connection, to enter into an Administrative Consent Order (ACO). Once the ACO is recorded with the deed at the Barnstable County Registry of Deeds and the first payment made to the Finance Department, the property owner will be allowed to make repairs to the failed septic system that would normally not be allowed such as, but not limited to, installing an overflow leach area. All repairs must be approved and permitted by the Health Agent prior to installation.

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 property to be connected to the sewer within five years from the date when the sewer becomes available provided capacity within the sewer is available. Owners of failed systems in this category shall be required to connect to the municipal sewer unless there is insufficient capacity as approved by the Massachusetts Department of Environmental Protection in which case the owners may be required to enter into an Administrative Consent Order.

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 these properties will be required to connect to the sewer at the time of their septic systems failure if capacity is available or enter into an Administrative Consent Order if capacity is not available or if the municipal sewer system does not service the area where they are located.

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) must connect to the municipal sewer at 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. However, should this septic system fail, the owner of the property will be required to connect to the municipal sewer system if capacity is available or enter into an Administrative Consent Order if capacity is not available.

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 unless it can 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 provided the property owner has obtained any additional gallons through either the Growth Management Zoning Bylaw and/or a Board of Selectmen approved Economic Development Permit. 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

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 stamp and signature of a licensed designer or architect.

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 Health Department. 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

External 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 contacting the Board of Health or its agent who shall establish the measures that must be taken prior to abandonment. In most cases the proper abandonment of a septic system consists of filling all components with clean sand. It is the responsibility of the homeowner or the homeowners agent to contact the Health Agent for an inspection of the properly abandoned septic system.

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 12 - Regulations Regarding Studios and Workshops

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 deed restricted and recorded accessory-use structures or rooms with a toilet and/or sink proposed for existing residential or mixed-use buildings shall not be considered to have any increase in flow associated with it. 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 the flow will be calculated at 110 gallons per day.

Accessory-Use Structures or Rooms Must Be Referenced in a Deed Restriction and recorded at the Barnstable County Registry of Deeds. Proof of recording, in the form of a copy of the Deed Restriction with the Registry stamp in the upper right hand corner of the document, must be provided to the Health Department staff.

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 and proof of recording provided to Health Department staff.

PART VIII

ARTICLE 1 – 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

LICENSE / PERMIT

FEE SCHEDULE

Septic Related Permits	
Test Hole Witness Fee	\$100.00
Septic System Permit (new construction)	\$300.00
Septic System Permit (upgrade/repair)	\$250.00
Board of Health Variance Filing Fee	\$200.00
Septic System Insp. Report Review Fee	\$50.00
Septic System Installation Re-Inspection Fee	\$25.00
Annual Licenses:	
Application Fee DCD	\$25.00
Septic System Installer License	\$200.00
Septage Haulers License	\$250.00
Septic System Inspectors License	\$200.00
Sewer Connectors License	\$200.00
Sewer Connections Inspectors License	\$200.00
Commercial Rubbish Haulers License	\$250.00
Food Service Permits	
Residential Kitchen	\$100.00
Caterer	\$100.00
Manufacture of Ice Cream	\$100.00
Manufacture of Candies	\$100.00
Manufacturer of Juice/Slush Beverages	\$100.00
Food Cart	\$100.00
Residential Kitchen Continental Breakfast	\$50.00
Retail Food Service	\$100.00
Retail Sales / Food Service Combo	\$200.00
Food Service Establishments:	
0 Seats (take out)	\$100.00
25 or less seats	\$200.00
26 - 50 Seats	\$300.00
51 Seats or more	\$400.00
Camps, Cabins & Motel License	\$150.00
Renters Certificate	\$120.00/per three years
Each additional unit on property	\$50.00

Body Art Licenses	
Facility	\$200.00
Technician	\$150.00
Limited "Guest Artist" License	\$25.00
Inspection Fee	\$25.00
Application Fee	\$30.00
Swimming Pool / Spa Permit	
Swimming Pool	\$150.00
Spa / Hot Tub	\$150.00
Application Fee	\$30.00
Inspection Fee	\$25.00
Underground Fuel Storage Tank Reg	\$20.00
Funeral Director's License	\$200.00
Stable License	
Facility	\$50.00
Application Fee	\$30.00
Inspection Fee	\$30.00
Tobacco Sales Permit	\$200.00
Tanning Facility	\$50.00

Provincetown Banner Week of 11/24/2005 and 12/01/2005 and _____2011

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

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

Contact Provincetown Health Department for most recent regulation.

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 XIII – HABITATIONS FOR RENT

Public Hearing: February 26, 2009
BoH Approved April 2, 2009

The Provincetown Board of Health promulgates the following regulation under 105 CMR 410.000 Minimum Standards of Fitness for Human Habitation, adopted under authority of M.G.L. c. 111, Sections 3 and 127A.

Purpose

The purpose of the regulation is to protect the public health, safety and welfare of both the general public and the occupants of all rental housing units, including but not limited to, year round, seasonal and weekly rentals.

ARTICLE I – RENTAL CERTIFICATE OF REGISTRATION

No property owner of record shall rent or lease, or offer to rent or lease, or cause to rent or lease any building or any portion of a building to be used for human habitation without first obtaining a Rental Certification of Registration from the Board of Health. The health agent/inspector shall determine the number of persons each rental unit may lawfully accommodate under provisions of 105 CMR 410.000.

Section 1. Inspection of Rental Units

Upon registration and every third year thereafter, the health agent/inspector or other town official so designated by the Board of Health, shall inspect all rental units.

The owner or owner's representative or property manager must be present during the inspection.

In addition to determining occupancy, the health agent/inspector will require:

1. Smoke and carbon monoxide detectors and emergency lighting (if applicable) must be in compliance with Massachusetts Fire Safety laws. Functional fire extinguishers shall be provided in the kitchen.
2. General cleanliness.
3. Clear egresses.
4. Electrical panels properly labeled.
5. Proper trash receptacles and recycling bins must be provided and the rubbish hauler pick-up schedule posted as well as the hours of operation and location of the Provincetown transfer station.
6. Street number and unit number must be posted on the outside of the building.
7. The premise conforms to the requirements of 105 CMR 410.000 Minimum Standards of Fitness for Human Habitation.

Section 2. Maintenance Requirements

The registered premises shall be maintained in a clean and sanitary condition and free from garbage, rubbish or other refuse. The owner of the premises shall immediately correct any condition caused by or on such premises or its appurtenance which affects the health or safety and well being of the occupants of any or of the general public.

The owner of the premises shall maintain the foundation, floors, walls, doors, windows, ceilings, roof, staircases, porches, chimneys and other structural elements of the premises so that it excludes wind, rain and snow and is rodent-proof, watertight and free from chronic dampness, weather-tight, in good repair and in every way fit for the use intended. Further, he shall maintain

every structural element free from holes, cracks, loose plaster or defect where such holes, cracks, loose plaster or defect renders the area difficult to keep clean or constitutes an accident hazard or an insect or rodent harborage.

The registered premises shall be maintained in accordance with the provisions of the State Sanitary Code, and every other applicable General Law, regulation or by-law intended to protect public health, safety and/or the environment

No owner or manager shall permit the registered premises to be occupied by more than the number of persons specified on the Rental Certification at any one time.

Section 3. Maximum Occupancy

Maximum occupancy of the dwelling unit and for each bedroom shall be determined by the health agent/inspector at the time of the original inspection. Maximum occupancy shall be based on State Sanitary Code 105 CMR 410.400 Minimum Square Footage which states the following:

1. Every dwelling unit shall contain at least 150 square feet of floor space for its first occupant, and at least 100 square feet of floor space for each additional occupant, the floor space to be calculated on the basis of total habitable room area.
2. In a dwelling unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space; every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each additional occupant.

Section 4. Representative to Act in Owners Absence

Every property owner who offers living accommodations for rent or lease, shall make available to the tenant, in the event of the owners absence, the name and contact information of a representative authorized to act on the owners behalf in the case of an emergency which endangers the property or threatens the welfare of any person living in or on the premises.

Section 5. Definition of an Emergency

An emergency is defined as a violation of any health and/or safety code or law enforceable by a town authority including, but not limited to, the health agent/inspector, building inspector, fire inspector, wiring inspector, plumbing inspector or any police official. Failure to provide the services of a competent person to act in an emergency shall be deemed sufficient cause, upon written notification from a town authority, for a fine and/or revocation and/or suspension of the Rental Certificate for the property in which the violation occurs and for all other properties for which the same owner holds a Rental Certificate.

Section 6. Posting of Rental Certificate of Registration

The Rental Certification of Registration ("certificate") required by this regulation shall be conspicuously posted within the registered premises.

Such posting shall indicate the number of bedrooms and the number of persons said dwelling unit, or portion thereof, may lawfully accommodate.

All contact information for the Owner or the owner's representative/property manager including, but not limited to, telephone numbers, mailing address and e-mail address shall be provided to the tenant. Where the owner is a realty trust or partnership, the contact information for the managing trustee or partner shall be posted. In the event that the owner is a corporation, the contact information for the president of the corporation shall be posted.

Section 7. Complaints

All rental units are subject to inspection upon complaint or request in accordance with 105 CMR 410.820. Issuance of the Rental Certificate does not preclude the tenants right to file a complaint with the health agent/inspector; to which he or she must respond with an inspection in compliance with 105 CMR 410.000. This may result in additional requirements of compliance to be issued.

Section 8. Rental Certificate Registration fees

All Rental Certificates must be renewed every three (3) years and an inspection conducted in accordance with the following fee schedule (No fee for deed restricted affordable housing):

Initial Registration & Renewal Certificate with Inspection is \$120.00.

(For owners with more than one rental unit per property location the fee will be \$120.00 for the first unit and \$50.00 for each unit thereafter provided all units can be inspected during one visit to the property.)

Section 9. Revocation or Suspension of Rental Certificate

The Board of Health may suspend or revoke any Rental Certification, after a hearing and in accordance with the procedures set forth in 105 CMR 410.830-410.860, for any violation of any provision of this regulation, the State Sanitary Code, or any other applicable General Law, regulation or by-law intended to protect public health, safety and/or the environment.

If any rental certificate is suspended or revoked, the owner and manager of the premises shall be responsible for finding alternative and comparable housing for the tenant until such time as the tenancy ends or the rental certificate is reinstated.

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

Section 10. Fines and Penalties

Any agent of the Board of Health may enforce this regulation.

Whoever violates any provision of this regulation may be penalized by a non criminal disposition process as provided in G.L. c.40, §21D and the Town’s non-criminal disposition by-law. If non criminal disposition is elected, then any person who violates any provision of this regulation shall be subject to the penalties set forth below, commencing ten days following day of receipt of written notice from the Board of Health. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

The following fines will be levied for non-compliance with this regulation and any notice to correct. This schedule of fines is in accordance with the Provincetown General By-Laws Schedule A:

1 st offense.....	\$100.00
2 nd offense.....	\$200.00
3 rd offense, and all there after.....	\$300.00

Each day a violation exists constitutes a separate offense.

Section 11. Liability

The issuance of a Rental Certificate shall in no way imply liability or responsibility on the part of the Town of Provincetown for any claim, injury, damages, costs or expenses that may arise in connection with the use or occupancy of the subject premises.

Section 12. 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 13. Operation and Effect

This Regulation shall become effective upon publication pursuant to G.L c. 111, §31lication pursuant to G.L c. 111, § 31.