

Health Department
Rules and Regulations

Version 2022



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ARTICLE 1. GENERAL APPLICABILITY AND ADMINISTRATION

- Regulation 1.1. The provisions of 105 CMR 400 and all other statutes and regulations of the Commonwealth shall apply within the Town of Acton and shall be enforced by the Board of Health as provided by law. In addition, the following rules and regulations shall apply within the Town to the extent they impose additional or stricter requirements than those contained in the 105 CMR 400, or other statutes or regulations of the state, or regulate matters not covered by such Code, statutes or regulations.
- Regulation 1.2. Whoever, himself or by his servant or agent of any other person or firm or corporation, violates any of these health or environmental regulations for which no penalty by way of fine or imprisonment, or both, is provided by the sanitary code or by other provisions of the law, shall be punished by a fine of not more than Fifty Dollars per offense and each day shall consist of another offense.
- Regulation 1.3 **Unconstitutionality Clause**
Should any section, paragraph, sentence, clause or phrase of these rules and regulations be declared unconstitutional or invalid for any reason, the remainder of said rules and regulations shall not be affected thereby.
- Regulation 1.4 **Repeal.**
All former rules and regulations or any part thereof in conflict with these rules and regulations are hereby repealed.
- Regulation 1.5 **Adoption**
These rules and regulations were adopted by unanimous vote of the Board of Health of the Town of Acton, on October 29, 2012.

ARTICLE 2. MINIMUM STANDARDS OF FITNESS FOR HUMAN HABITATION

- Regulation 2.1 105 CMR 410 of the State Sanitary Code shall apply.
- Regulation 2.2 Any persons owning any building or premises, or their agents, in the Town of Acton in or upon which is any offensive debris, stagnant water or other offensive animal or vegetable substance, rubbish, or filth of any kind, shall when ordered by the Board of Health dispose of the same within such time as may be stated in the order.
- Regulation 2.3 No owner of land abutting a private street or passageway, having the right to use such street or passageway, shall suffer any debris, stagnant water or other offensive animal or vegetable substances to remain on that part of the street or passageway adjoining such land, but shall remove same whenever ordered by the Board of Health.
- Regulation 2.4 All cellars must be kept at all times in a clean and wholesome condition, properly ventilated; no decayed animal or vegetable matter shall be allowed to accumulate. All cellars must be cleaned by the owner when ordered to do so by the Board of Health.
- Regulation 2.5 No old rags, old papers, or other refuse material shall be brought into or allowed to remain within any building used as a dwelling, if gathered from any place outside such building.
- Regulation 2.6 All garbage and rubbish as defined by 105 CMR 410 of the Sanitary Code shall be stored in such a way as not to become offensive in any manner. Garbage cans should be adequate in size and have tight lids. Access to any trash containers to be picked up, by personnel licensed to do so by the Town of Acton, must be free of ice and snow and paths sanded for safe footing.
- 2.6.1 All garbage and rubbish containers sized two (2) cubic yards or more and leased for a period of more than three (3) months, to a private party by a commercial trash hauler licensed by the Town of Acton, shall be registered with the Board of Health. Registration will be performed on an annual basis, running concurrently with renewal of Commercial Hauler's License, and will require a nominal fee, to be paid by said Commercial Hauler, and submission of the following information:

- (1) name of owner/lessor of container
- (2) name of lessee, and address, and telephone number
- (3) location of container
- (4) site of disposition of container contents

All containers shall be maintained in such a manner as to be in compliance with 105 CMR 410 of the State Sanitary Code and Acton Regulations 2-2 through 2-6, above.

2.6.2 All [Commercial] Solid Waste Haulers must provide all customers with recycling services. On an annual basis, no later than 60 days after the end of the calendar year, each [Commercial] Solid Waste Hauler shall provide the following information:

- (1) Current Service list
- (2) Service provided
- (3) Annual aggregate tonnage or yardage of Solid Waste and Recycling
- (4) Annual percentage of Solid Waste and Recycling
- (5) Pick-up Schedule

2.6.3 Medical Waste Haulers are exempt from this requirement.

2.6.4 This requirement shall be valid until June 30, 2021 with option of continuation by the Board of Health

Regulation 2.7

No person unless having the authority to do so shall dump or deposit any ashes, rubbish, refuse, offal or decayed animal or vegetable matter on any public or private land for other than agricultural purposes and use for composting. Composting shall be done in a manner which will not create a nuisance.

Regulation 2.8

The owner of any house or building, or part thereof which is rented, leased, let or hired out to be occupied, or is occupied or intended, arranged or designed to be occupied as the home or residence of more than two families living independently of each other and having the common right in the halls, stairways, yard, cellar, sinks, water closets or privies, or any of them, and every lessee of the whole or of two or more tenements in any such house or building shall annually during the month of April file, in the office of the Town Clerk, a notice containing his name and address and also description of the property, by street number or otherwise as the case may be, in such manner as will enable the Board of Health and Building Inspector easily to find the same; and also the number of apartments in each house, the number of rooms in each apartment,

and the number of families occupying the apartments. The notice shall contain the name and address of some agent for the house, for the purpose of receiving service of process, and notice to and service of process upon such agent shall bind the principal.

ARTICLE 3. HOUSING AND SANITATION STANDARDS FOR FARM LABOR CAMPS

Regulation 3-1. 105 CMR 420 of the State Sanitary Code shall apply.

ARTICLE 4. SANITATION STANDARDS FOR RECREATIONAL CAMPS FOR CHILDREN

Regulation 4-1. 105 CMR 430 of the State Sanitary Code shall apply.

ARTICLE 5. REGULATIONS RELATIVE TO SEPTAGE PUMPING, TRANSFERRING, STORING AND DISPOSAL.

Regulation 5-1. Authority.

The Acton Board of Health, acting under the authority of Chapter 111, Section 31, of the Massachusetts General Laws, amendments and additions thereto, and by any other power thereto, enabling and acting thereunder and in accordance therewith, in the interest of and for the preservation of the public health, duly rescinds all previous rules pertaining to the pumping, transferring, storing and disposal of septage, adopted by the Acton Board of Health, and now duly adopts the following rules and regulations pertaining to the pumping of septic tanks and systems, and all other related issues.

Regulation 5-2. Definitions.

- 5-2.1 Septage - That material physically removed from any part of, or originating from, a onsite wastewater treatment system, including but not limited to, the solids, scum, sludge and liquid contents of a septic tank, pump chamber, d box, leaching area, cesspool dry well or portable toilet.
- 5-2.2 Septage Hauler - Any Person(s), corporations or other legal entities licensed by the Acton Board of Health to remove, collect, transport, Transfer, Store or dispose Septage to a Septage Disposal Facility.
- 5-2.3 Septage Disposal Permit - A permit issued for Septage disposal by the Health Department to a Septage Hauler.
- 5-2.4 Storage - Any depot or location where Septage is stored in trucks or stationary tanks for a period of more than twenty-four (24) hours, excluding any septic tanks previously approved by the Board of Health.
- 5-2.5 Transfer - The pumping, removal or shifting of Septage from one container to another, with the exception of pumping individual septic tanks into an on site vehicle.
- 5-2.6 Trip Ticket - An official form of the Town of Acton which contains all pertinent information regarding the location where the Septage was generated.

Regulation 5-3. Administration

5-3.1 Only Licensed Septage Haulers shall be authorized to Collect, Transport, Transfer, Store or Dispose of Septage.

5-3.1.1 Licensed Septage Haulers shall obtain or renew their license on an annual basis, by January 1 of each year. A fee recommended by the Board of Health and approved by the Board of Selectmen, shall be required for said license.

5-3.1.1.1 Each Septage truck shall be inspected and licensed by the Acton Health Department, in accordance with 310 CMR 15.19 (2) Equipment.

5-3.2 The Board of Selectmen shall establish the appropriate fees for the Septage Disposal Permits and revise as necessary. All other fees for any other licenses or permits associated with this regulation shall be generated by the Board of Health and recommended to the Board of Selectmen for their approval.

5-3.3 Permits for septage disposal at approved Wastewater Treatment or Septage Disposal Facilities shall be obtained in accordance with the applicable administrative procedures for each individual facility.

5-3.4 Trip Tickets shall be completed by each Licensed Septage Hauler for each pumping activity and submitted to the Board of Health within thirty (30) days after each pumping. All Trip Tickets shall be filed in accordance with appropriate procedures established by the Health Department.

5-3.5 The use of enzymes, degreasers, commercial bacteria or any other additives in any onsite wastewater treatment system shall be prohibited unless otherwise approved by the Board of Health or their designee.

5-3.6 It shall be a violation of this regulation for any person to use any physical, chemical or biological treatment process to restore or condition an onsite wastewater treatment system without prior approval from the Health Director.

Regulation 5-4 Septage Pumping

5-4.1 Septage waste may be taken only to Septage Disposal Facilities which are approved by the Board of Health.

5-4.2 Schedule and Requirements for Pumping of septic tanks.

- 5-4.2.1 All operating residential septic tanks, cesspools or other Septage storage structures, shall have their contents pumped out a minimum of once every twenty four months by a Licensed Septage Hauler.
- 5-4.2.2 All operating non-residential, regardless of size, and residential Septage storage structures, with a capacity greater than 1500 gallons, shall be pumped out every twelve months by a Licensed Septage Hauler.
- 5-4.2.3 The Health Director may vary the pumping schedule on any given property provided that a report is provided for that property, indicating that the prescribed pumping schedule for that property is a manifest injustice and equal environmental protection can be provided by an alternative pumping schedule. This variance will expire in 5 years or at such time as the property is sold or there is a substantial change of usage.
- 5-4.2.4 Effluent tee filters shall be serviced a minimum of once per year according to the manufacturer's directions.

Regulation 5-5 Septage Transport

- 5-5.1 No person shall remove or transport Septage, in accordance with 310 CMR 15.19 (1) Permits, through the Town of Acton without being a Licensed Septage Hauler.
- 5-5.2 The contents of privies, cesspools, septic tanks, tight tanks or any other type of Septage storage container shall be transported in a manner that will not create a nuisance, environmental hazard or a health hazard.

Regulation 5-6 Septage Transfer & Storage

- 5-6.1 Except for facilities operating prior to January 1, 1994, Transfer and/or Storage of Septage within any Zone 1, Well Protection Area, Zone 2, Recharge Protection Area or Zone 3, Aquifer Protection Area of the Aquifer District as defined in Article 16 of the Acton Board of Health Regulations, shall be prohibited.
- 5-6.2 The operator/ owner of any permanent Transfer and/or Storage Station within the Town of Acton must, on or before September 1, 1994, submit an application for a

permit, to the Board or its designee, to Transfer and/or Store Septage.

5-6.2.1 Each application must indicate the property where Septage will be transferred and/or stored and the aquifer district which underlies the property. The application shall be accompanied by a plan showing the location of the Transfer and/or Storage area, the types and capacities of all vehicles or storage vessels used in transferring and/or storing and the measures to be taken to prevent contamination to the air, ground or water on, underneath or adjacent to the site.

5-6.2.2 The Board of Health or its designee, shall make a determination regarding the issuance of a permit for Septage Transfer and/or Storage. Any permit issued must cite conditions necessary to protect the Health and Environment of the area. Any denial must specify in what manner the application was deficient in protecting the Health and Environment.

5-6.3 All temporary Transfer and/or Storage Stations shall receive a permit from the Health Director prior to any transfer and/or storage.

5-6.3.1 Temporary Transfer and/or Storage Stations shall be any location where for a period of less than four (4) hours and for no more than twice a year Septage is transferred and/or stored from a small collection truck to a larger hauling truck.

5-6.3.2 All Temporary Transfer and/or Storage Stations shall be on impervious material and all catch basins within 100' of the Transfer and/or Storage operation shall be sealed during the Transfer and/or Storage. Written permission from the owner of the property shall be submitted to the Health Director prior to any transfer/ storage.

Regulation 5-7 Inspection of Septage Equipment

5-7.1 All Licensed Septage Haulers shall have each of their trucks and trailers inspected, in accordance with 5-3.1.1.1 on an annual basis. A photo copy of their license must be kept in each truck.

- 5-7.1.1 No person shall use equipment to Remove, Transport, Transfer, Store or Dispose of the contents of privies, cesspools, septic tanks, tight tanks or any other type of Septage storage container unless such equipment has first been inspected and approved by the Health Department.
- 5-7.1.2 Mobile tanks (vacuum trucks) shall be securely mounted on trucks. They shall be watertight and provided with a leak proof cover and tight discharge valves.
- 5-7.1.3 Mobile tanks shall be provided with a vent constructed in a manner that will permit the escape of gas, but not the liquid contents of the tank.
- 5-7.1.4 The suction or pressure hose for each truck shall be in good condition.
- 5-7.1.5 Pumps shall be maintained in a manner that will prevent the leakage of Septage.

Regulation 5-8 Variance

- 5-8.1 Variances may be granted as follows: The Board of Health may vary the application of any provisions of this Article with respect to any particular case when, in its opinion (1) the enforcement thereof would do manifest injustice; and (2) the applicant has proved that the same degree of environmental protection required under this article can be achieved without strict application of the particular provision.

Regulation 5-9 Penalties

- 5-9.1 Any person(s) violating any of the provisions of this Article, for which a penalty is not otherwise provided in this Article, shall be fined not less than \$10.00 nor more than \$500.00, in accordance with 310 CMR 15.26.
- 5-9.2 The issuance of fines shall be preceded by the issuance of an order from the Health Director to the person or persons responsible to comply with the violated provision.
- 5-9.3 The person or persons to whom any order has been served may request a hearing before the Board of Health within seven days after receipt of the order.

Regulation 5-10 Severability

5-10.1 Each regulation of this Article shall be construed as separate to the end that if any regulation or sentence, clause, or phrase thereof shall be held invalid for any reason, the remainder of that regulation and all other regulations shall continue in full force.

ARTICLE 6. MINIMUM STANDARDS FOR SWIMMING POOLS

Regulation 6-1. 105 CMR 435 of the State Sanitary Code and the following shall apply.

Regulation 6-2. Terms Defined

6-2.1 Swimming Pool means and includes every public or semi-public pool of water, located indoors or outdoors, having a depth of two (2) feet or more at any point and used for swimming or bathing, together with the bathhouses, equipment, and appurtenances used in connection with the pool.

6-2.2 Public Pool means every swimming or wading pool, admission to which may be gained by the general public, with or without the payment of a fee.

6-2.3 Semi-Public Pool means a swimming or wading pool on the premises of, or used in connection with a hotel, motel, trailer court, apartment house, country club, youth club, school, condominium, camp, or similar establishment where admission to the use of the pool is included in the fee or consideration paid or given for the primary use of the premises. Semi-Public pool shall also mean a pool constructed and maintained by groups for the purposes of providing bathing facilities for members and guests only.

6-2.4 Wading Pool means a pool of water in a basin having a maximum depth of less than two (2) feet intended chiefly as a wading place for children.

6-2.5 Operator means any person who alone or jointly or severally with others owns a public or semi-public swimming pool or

wading pool regulated by this article, or has care, charge or control of such a pool as agent or lessee of the owner or as an independent contractor.

Regulation 6.3. Annual Permit Requirements for Swimming or Wading Pools

- 6.3.1 No person shall operate or maintain any swimming or wading pool without a permit from the Board of Health. The permit shall state the method of water treatment, the number of trained lifeguards required, and the maximum number of people allowed in the water at any time. The permit shall be subject to the requirements of these regulations.
- 6.3.2 The operator shall post the permit in a conspicuous location near the swimming or wading pool.
- 6.3.3 All permits shall expire December 31, following the date of issue, and may be revoked for cause at any time by the Board of Health.
- 6.3.4 Applications for a permit shall be made to the Board of Health at least fifteen (15) days before the expiration of a permit, or otherwise at least fifteen (15) days before the opening of the swimming or wading pool.

Regulation 6-4. Health Regulations

- 6-4.1 No person having a communicable disease shall be employed or work at a swimming pool.
- 6-4.2 The following regulations should be enforced by the operator:
 - (A) No bather shall enter the pool unless he first takes a cleansing shower.
 - (B) No person suffering from a fever, cough, cold, inflammation of the eyes, nasal or ear discharges, or any communicable disease shall be allowed the use of the pool.
 - (C) No person with sores or other evidence of skin disease, or who is wearing a bandage of any kind, shall be allowed the use of the pool.
- 6-4.3 The operator shall cause a sign to be placed at the entrance of the pool enclosure, which reads substantially as follows:

"All persons are required to take a cleansing shower bath before entering the pool."

"No person with a communicable disease is allowed to use the pool."

Regulation 6-5. Lifeguards

6.5.1 Purpose

- A. The purpose of this regulation is to protect the public health and safety by setting forth the conditions by which pools (Public & Semi-Public) can operate with and without lifeguards.

6-5.2 Requirements for Lifeguards

- A. Unless otherwise noted in this regulation, the Board of Health requires that lifeguards be present at all times when pools are in operation, to ensure that swimmer safety and water quality are maintained.
- B. Unless otherwise noted in this regulation, it is expected that the lifeguard at every pool shall be responsible for testing the quality of water and the adherence with all Board of Health requirements and conditions, as well as swimmer safety.

6-5.3 Exception to Lifeguard Requirement

- A. Any pool that meets the following conditions shall be entitled to operate without a lifeguard being present.
 - 1. Prior to opening a pool the operator or owner shall post a sign at the pool stating the potential liability of operating without a lifeguard and the understanding that the Board recommends that a lifeguard be present at all times of operation.
 - 2. Any pool operating without a lifeguard must designate a contact and alternative person who is given the power to close the pool or to hire a lifeguard and to be responsible for maintaining water quality and adherence to the Board of Health's rules and regulations. The name of the contact person and the alternative person shall be posted on a sign at the pool prior to the opening of a pool.

3. All children under sixteen (16) years of age must be accompanied by an adult swimmer over sixteen (16) years of age.
4. No individuals are permitted to swim alone. At a minimum, two swimmers must be in the pool enclosure at the same time, with at least one being an adult.
5. Every pool operating without a lifeguard will present to the Board of Health a list of on-call lifeguards that are contracted to provide on-call service during weekends and special events.
6. Any pool operator who is planning to hold a special event within a pool enclosure, at which there is a reasonable expectation of ten (10) or more people being present, must notify the Health Department during regular business hours at least twenty-four (24) hours in advance with specifications as to start and end times of the event and name of the lifeguard who will be present.

6-5.4 Penalties

- A. Any violation of this regulation shall subject the operator to a fine of \$50.00.
- B. Any subsequent violation shall cause the suspension of a pool license for a period of one week, a fine of \$100.00 to be paid prior to the reopening of the pool. The operator shall also be required to appear at a meeting before the Board of Health.
- C. Any two (2) separate violations will require that the pool maintain a lifeguard at all times.

Regulation 6-6. Safety Equipment

- 6-6.1 The operator shall provide, in a readily accessible location, at least one shepherd's crook pole with minimum handle length of twelve (12) feet and one ring buoy with a minimum inside diameter of fifteen (15) inches weighing two and one half (2 1/2) pounds and with a quarter (1/4) inch rope attached, not less in length than one and one half (1 1/2) times the width of the pool.

Regulation 6-7. First Aid Equipment

- 6-7.1 The operator shall provide a standard Red Cross 24-Unit first-aid kit or its equivalent. The telephone numbers of the local police and fire departments shall be posted in a conspicuous place. A telephone, other than a pay station, shall be available within 100 yards of the pool.

Regulation 6-8. Bathhouse and Sanitary Facilities

- 6-8.1 The operator shall provide hose bibs for flushing down the dressing rooms, bathhouse interior, and outside pool decks.
- 6-8.2 The operator of every public and semi-public swimming pool shall provide and maintain a fence enclosure with self closing and lockable gates which will prevent animals, unauthorized persons and children from entering the pool area at all times.

Regulation 6-9. Structural

- 6-9.1 Structural elements and all accessories including diving boards, ladders, walkways, etc. shall be maintained in good, clean condition and in good repair at all times. The pool shall be finished in a light color.
- 6-9.2 The operator shall, at all times, when the pool is in use, provide a minimum of twenty (20) foot candles of light above the deck and water surface. Underwater lights shall have a minimum 1.0 watts per square foot of pool surface area.
- 6-9.3 The water depth of every swimming pool shall be plainly marked on the pool deck at the edge of the pool and on the vertical pool walls, at or above the water surface.
- 6-9.4 Private and commercial pools having a depth of two (2) feet or more must be enclosed by a protective fence at least four (4) feet in height with a lockable gate. Gates shall lock on closing. Gate locks must be placed on the inside of the fence. Both fence and gate lock must meet with the approval of the inspector. Vertical stays in the fence must not be more than two inches apart. The Acton Board of Health may designate the Acton Building Department inspection personnel as their technical agents to enforce the above regulation. Permit application plans must include adequate fence and gate details.

Regulation 6-10. Water Recirculation and Filtration Systems

- 6-10.1 All swimming pools shall be equipped and operated with an automated system for recirculation, purification and disinfection of the pool water.
- 6-10.2 Disinfection by the hand addition of chemicals is prohibited.
- 6-10.3 Chlorinators or hypochlorinators shall be dependable in operation and equipped with a calibrated controlling device capable of being finely adjusted to the required rates.

Regulation 6.11. Testing Equipment and Records

- 6-11.1 A test kit which is capable of measuring free chlorine (DPD method), total chlorine, pH, and total alkalinity is required at all semi-public pools. Each test kit shall be maintained in good repair at the pool with a fresh supply of the necessary reagents.
- 6-11.2 Tests for residual disinfectant (chlorine) and hydrogen-ion concentration (pH) shall be made at least three (3) times daily. Total alkalinity must be tested at least once daily (50-100 ppm recommended).
- 6-11.3 The operator shall maintain a current written daily record of all data pertaining to the operation and condition of the pool and he shall keep it available for inspection by the Board of Health at all reasonable times.
- 6-11.4 The records shall include data regarding types and amounts of chemicals used daily and results of chemical testing (including the date, time of test, free chlorine reading, pH, total alkalinity, bather load, weather conditions and the name of the tester.)

Regulation 6-12. Chemical Standards.

- 6-12.1 Swimming Pool water shall be treated with chlorine as a disinfectant in accordance with the following:

FREE RESIDUAL CHLORINE (ppm) 1.0 - 3.0
pH 7.2 - 7.8

Regulation 6-13. Water Clarity.

- 6-13.1 At all times any swimming or wading pool is in use, the water

shall be sufficiently clear to permit a black disk four (4) inches in diameter on white field, when placed on the bottom of the pool at the deepest point, to be clearly visible from the sidewalks of the pool at all distances up to ten (10) yards measured from a line drawn across the pool through said disk.

Regulation 6-14. Closure of Pools.

6-14.1 If at any time the swimming pool or wading pool does not conform with the requirements for residual chlorine, pH and water clarity set out in these regulations, the operator shall immediately close the pool until the pool water conforms with these standards. Failure to meet with the requirements of these regulations at any time shall cause the swimming or wading pool to be closed until the requirement(s) have been met.

Regulation 6.15. General Enforcement.

6-15.1 If an examination reveals that a swimming pool or wading pool does not comply with the provisions of these regulations, the Board of Health may, as it considers necessary, issue an order which revokes or suspends a permit.

ARTICLE 7. MINIMUM STANDARDS FOR BATHING BEACHES

Regulation 7-1. 105 CMR 445 of the State Sanitary Code shall apply.

ARTICLE 8. MINIMUM STANDARDS FOR DEVELOPED FAMILY TYPE CAMPGROUNDS

Regulation 8-1. 105 CMR 440 of the State Sanitary Code shall apply.

ARTICLE 9. MINIMUM SANITATION STANDARD FOR PRIVATE AND SEMI-PUBLIC WATER SUPPLY

Regulation 9-1. Terms

9-1.1 Well - The word "well" so used in these regulations shall include any pit, pipe, excavation, spring, casing, drill hole or other source of water to be used for any purpose of supplying potable water in the Town of Acton, and shall include dug wells, driven or tubular wells, drilled well (artesian or otherwise) and springs, gravel packed, gravel walled wells, gravel developed and wash boring. For further explanation, see Massachusetts Department of Public Health bulletin, Rural Water Supplies 1956.

- 9.1.2 Water Systems - The words "water systems," as used in these regulations shall include pipes, valves, fittings, tanks, pumps, motors, switches, controls and appurtenances installed or used for the purpose of storage, distribution, filtration, treatment or purification of water for any use whether or not inside a building.
- 9-1.3 Private Water Supply - The term "private water supply" means any water system serving or intended to serve water for human consumption or for domestic uses on one lot. The system shall include all of the sources, treatment works and transmission lines to the point where distribution takes place within the building.
- 9.1.4 Semi-Public Water Supply - The term "semi-public water supply" means any well water system serving or intended to serve water for human consumption or for other uses or purposes, to multiple dwelling of two or more units or to more than one multiple dwelling under a single ownership and located on the same lot, and shall include; roadside restaurants, dairies, schools, institutions, motels, mobile home parks, bottling plants, campgrounds, recreational camps for children, state forests, parks and beaches.
- 9.1.5 Public Water Supply - the term "public water supply" as used in these regulations shall mean water provided by the Acton Water District or the Town of Concord Water Department or other municipal supplier to the Town of Acton or any other public water supplier as defined by the D.E.P.

Regulation 9-2. Wells.

- 9-2.1 No well shall be installed until a permit has been obtained by the Board of Health or its agent. The fee for this permit shall be set by the Board of Health from time to time.
- 9-2.2 The well contractor shall observe reasonable sanitary measures and precautions in the performance of his work in order to prevent pollution or contamination of the well.
- 9-2.3 A plot plan shall be submitted to the Board of Health indicating the location of the well.
- 9-2.4 Wells shall be located at least 25 feet from the street and 100 feet from any leaching system in the vicinity, and any other

distance as per Title 5 of the State Environmental Code.

9-2.5 Wells must be properly curbed and covered to prevent entrance of contamination and to divert surface drainage away from the well.

9-2.6 Evidence of the yield of the well shall include a demonstration test, in the presence of Board of Health agent, of the rate of flow, in a satisfactory manner by the well contractor before his equipment is removed from the site.

9-2.7 A minimum of 200 gallons per bedroom per day at 40 psi at the highest fixture serviced (a bedroom shall include undeveloped area that could be made into a bedroom).

9-2.8 Pressure tanks for individual home installation shall have a capacity of 30 gallons per bedroom served with a minimum size of 42 gallons. The water system shall be able to deliver 5 gallons per minute for four hour continuous running.

9-2.9 Water flow rate requirements may be adjusted accordingly when large storage, and or storage pressure tanks are provided (see page 101 Individual Water Supply Systems of the U.S. Department of M.E.W.).

9-2.10 Auxiliary power must be available to maintain a water supply for multiple dwellings.

9-2.11 If a public water supply is not available due to a municipal or water district adopted moratorium or other condition of water shortage, a variance from regulation 9-6.4 may be granted by the Board of Health. The variance will only be granted subject to the following conditions:

(a) all other requirements for wells contained herein shall be met.

(b) public water supply water shall be used as soon as the moratorium or other condition of water shortage is lifted upon an order to the Board of Health and within a time limit specified by the Board and when permission to tie into such a public water supply line can be obtained from the authority having jurisdiction over it.

(c) where a public water supply line is accessible in an abutting way, all lines for the connection to a public water supply must be installed and a stub must be brought into the building on the lot where water for human consumption is required see **Illustration A, page 13 Acton Board of Health rules and regulations 9-6.4.**

Regulation 9-3. Sanitation, Production and Quality.

- 9-3.1 Sanitary protection must be incorporated into the construction of the well and final finishing at grade shall include a cement platform of 6 feet square or large enough to extend at least 2 feet in all directions from the well casing itself (see page 3 U.S.P.H. book).
- 9-3.2 All newly completed wells shall be disinfected in accordance with instructions from M.D.P.H. "Rural Water Supplies."
 - 9-3.2.1 Before approval every well shall be pump tested. The pump test shall include a draw down test at a minimum pumping rate of five (5) gallons/minute for four (4) hours. The results of the pump test shall be submitted to the Board of Health for approval.
 - 9-3.2.2 A bacteriological test to indicate a 0/100 ml. coliform density once a year will be the minimum requirement. The results shall be forwarded to the Acton Board of Health.
 - 9-3.2.3 A chemical analysis will be required once every three years (for all installations) and shall include as a minimum the following: Chloride, Color, Hardness, Iron, Manganese, Nitrate, Odor, pH, Turbidity. The quality of the water must meet U.S. Public Health recommended standards. Further testing may also be required if the Board of Health agent notes any extenuating circumstances.
- 9-3.3 Owners of a private water supply shall be required to register with the Board of Health.
- 9-3.4 The owner of a semi-public water supply shall furnish at the request of the Board of Health or their agent a complete report or other particular information concerning the condition and operation of the water system or any part of it.
- 9-3.5 Pump houses or pump rooms shall be kept in a sanitary condition at all times. Also the size of the room should be no larger than necessary to house the pumping and the electrical equipment involved in the water system. Lawnmowers, snowblowers, or other gas powdered engines shall not be stored in the pump room. Insecticides and/or fertilizers shall not be stored in the pump room.

9-3.5.1 Pump house, pump or pipe pits and wells shall be designed and constructed to allow easy access for maintenance and to prevent the entrance of pollution or contamination.

9-3.5.2 Pump house and pump rooms or pitless adapters shall be in accordance with U.S. Public Health Service booklet "Manual of Individual Water Systems" as currently published.

9-3.6 No person shall install or enter into a contract for installing or making additions, modifications, or alterations to any "semi-public" water supply before submitting complete plans, specifications and descriptions to the Board of Health and receive from them written approval. Private and semi-public water supply systems shall be approved by the Board of Health before occupancy is permitted.

Regulation 9-4. Water Conditioning.

9-4-1 Permanent disinfection of a polluted supply is prohibited. Treatment plans for water conditioning such as iron, manganese, hardness, etcetera, shall be submitted for Board of Health approval.

Regulations 9-5. Pipes and Equipment.

9-5-1 All service pipes and connections shall be of non-toxic material and specifications approved by New England Water Works Association.

9-5.2 The installation of pipes shall be such that they are protected from crushing and/or attack by rodents and freezing.

9-5.3 Dissimilar metals should be discouraged in the water system. The use of non-conductive plastic inserts between pipes and fittings or the installation of a sacrificial anode is helpful in minimizing corrosion problems.

9-5.4 Electrical service grounds shall not be attached to the water piping.

Regulation 9-6. Prohibitions

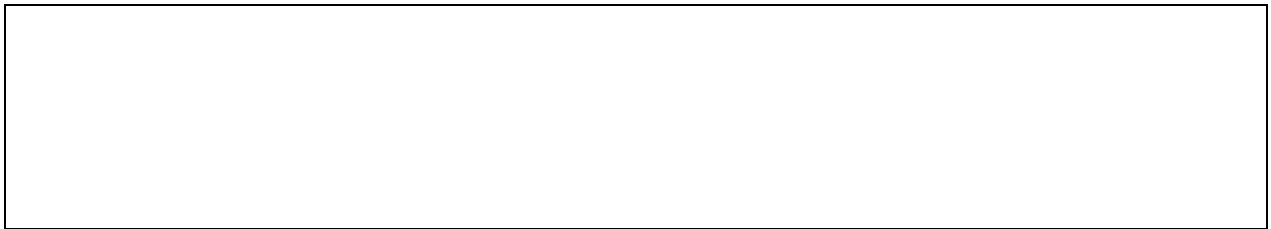
9-6.1 Surface water supplies for private or semi-public water supplies shall be prohibited.

9-6.2 Cisterns for potable drinking water shall be prohibited.

9-6.3 Cross connections shall be prohibited. No cross connection between a private source of water supply and a public water supply shall be allowed. See illustration A.

ILLUSTRATION A

Swing joint permitting use of secondary water or municipal water supply without cross connection.



9-6.3.1 Other cross connections for whatever purpose shall not be allowed without a written permit from Massachusetts Department of Public Health.

9-6.4 Private or semi-public well water systems or other sources of potable water shall not be approved where a public water line is accessible in an abutting way and where permission to tie in such water line can be obtained from the authority having jurisdiction over it. The Board of Health may require the owner or occupant of an existing building or buildings, wherever a public water line is accessible in an abutting way to cause such building or buildings to be connected with the public water line in a manner and within a period of time satisfactory to the Board of Health.

9-6.4.1 Notwithstanding the requirements of 9-6.4, the Health Department may grant approval for the installation of irrigation wells in public water supply areas when the following conditions have been met:

- a. The irrigation well shall be an artesian or bedrock well and shall be used for irrigation purposes and only for the lot where the well is installed.
- b. All underground sprinkler heads of the irrigation system shall be a minimum of 25' from the septic system and all underground sprinkler lines shall be a minimum of 10' from the septic system.

- c. The irrigation well shall be tested in accordance with all drinking water supply standards, as stated in Board of Health regulation 9-3.2.
- d. The irrigation well shall be registered with DEM. An as-built plan of the well location shall be provided along with coordinates.
- e. The irrigation well shall also comply with applicable local and state regulations.
- f. Should the irrigation well not be used for a period of two years, it shall be abandoned by filling the well head with a concrete slurry and by taking any other action necessary to make the area safe from potential accidents.

9-6.4.2 Notwithstanding the requirements of 9-6.4, the Health Department may grant approval for the installation of Geothermal Wells in public water supply areas when the following conditions have been met:

- a. All wells for geothermal use shall be artesian or bedrock wells with a closed loop system in the well and can only be used for the lot where the well is installed. A plan showing the location of the geothermal wells and detailing the system, including piping, heat transfer media and construction, shall be submitted to the Health Division for approval.
- b. All geothermal wells shall be registered with the State Regulatory Authority. An as-built plan of the well location shall be provided along with coordinates.
- c. All geothermal wells shall also comply with applicable local and state regulations.
- d. If the geothermal wells not be used for a period of two years, it shall be abandoned and permanently secured by filling the well head with a concrete slurry and by taking all other actions necessary to make the well and area safe from potential accidents and hazards.

9-6.5 A well must be located on the lot it serves. Service of more than one lot is prohibited.

Regulation 9-7. Enforcement

- 9-7.1 The Board of Health may vary the application of any provision of this article with respect to any particular case when, in its opinion, the enforcement thereof would do manifest injustices; provided that the decision of the Board of Health shall not conflict with the spirit of these minimum standards. Any variance granted by the Board of Health shall be in writing. A copy of any such variance shall, while it is in effect, be available to the public at all reasonable hours in the office of the Clerk of the Town, or in the office of the Board of Health, and notice of the grant of variance shall be filed with the Commissioner of Public Health of the Commonwealth.
- 9-7.2 Any variance or other modification authorized to be made by this article may be subject to such qualification, revocation, suspension, or expiration as the Board of Health expresses in its grant. A variance or modification authorized to be made by this article may otherwise be revoked, modified or suspended, in whole or in part, only after the holder thereof has been notified in writing and has been given an opportunity to be heard in conformity with the requirements for an order and hearing of Regulations 9-7.3 and 9-7.4 of this article.
- 9-7.3 The provisions of Article 1 of this Sanitary Code shall govern the enforcement of this article.
- 9-7.4 Every order authorized by this article shall be in writing. All orders shall be served on the designated person:
- (a) personally, by any person authorized to serve civil process, or
 - (b) by leaving a copy of the order at his last and usual place of abode, or
 - (c) by sending him a copy of the order by registered or certified mail, return receipt requested, if he is within the Commonwealth, or
 - (d) if his last and usual place of abode is unknown or outside the Commonwealth, by posting a copy of the order in a conspicuous place on or about the affected premises.
- 9-7.5 Subject to the emergency provisions of these Regulations, any order issued under the provisions of this article shall:

- a. include a statement of the violation, or defect, and may suggest action which if taken will effect compliance with this code, and
- b. allot a reasonable time for any action it requires and
- c. inform the person to whom it is directed of their right to a hearing and of their responsibility to request the hearing and to whom the request shall be made.

9-7.6 The person or persons to whom any order served pursuant to Regulation 9-7.4 of this article has been directed may request a hearing before the board by filing within seven (7) days after the day the order was served in the office of the Board of Health a written petition requesting a hearing on the matter. Upon receipt of such petition the Board of Health shall set a time and a place for such hearing and shall inform the petitioner thereof in writing. The hearing shall be commenced not later than ten (10) days after the day on which the petition was filed: provided, that upon application of the petitioner the Board of Health may postpone the date of the hearing for a reasonable time beyond such ten (10) day period if in the judgement of the Board of Health, the petitioner has submitted a good and sufficient reason for such postponement.

9-7.6.1. At the hearing the petitioner shall be given an opportunity to be heard and so show why the order should be modified or withdrawn.

9-7.6.2. After the hearing the Board of Health shall sustain, modify, or withdraw the order and shall inform the petitioner in writing of its decision. If the Board of Health sustains or modifies the order, it shall be carried out within the period allotted in the original order or in the modification.

9-7.6.3. 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.

9-7.6.4. If a written petition for a hearing is not filed in the office of the Board of Health within seven (7) days after an order as provided in Regulation 7.6 has been issued, 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. (See Regulation 9-7.8)

- 9-7.7 Any person aggrieved by the decision of the Board of Health may seek relief therefrom in any court of competent jurisdictions, as provided by the laws of the Commonwealth.
- 9-7.8 Any person who shall violate any provision of this article for which penalty is not otherwise provided in any of the General Laws or in any other provision of this article or article of the sanitary code shall upon conviction be fined not less than \$25.00 or more than \$100.00 dollars.
- 9-7.9 Any person who shall fail to comply with any order issued pursuant to the provisions of this article shall upon conviction be fined not less than \$25.00 or more than \$100.00 dollars. Each day's failure to comply with an order shall constitute a separate violation in whole or in part, only after the holder thereof has been notified in writing and has been given an opportunity to conform with the requirements for an order and hearing of Regulation 9-7.4 and 9-7.6 of this article.

ARTICLE 10. MINIMUM SANITATION STANDARD FOR FOOD SERVICE ESTABLISHMENTS AND RETAIL FOOD STORES

- Regulation 10-1. 105 CMR 590 of the Commonwealth of Massachusetts Sanitary Code shall apply and Rules and Regulations relative to Retail Food Establishments, Division of Food and Drugs.
- Regulation 10-2. The Board of Health or its agents shall have the right to require specific design criteria for dishwashing apparatus to protect the health and safety of the public.
- Regulation 10-3. No person having bare feet shall be allowed in any public building or in any establishments dealing with the distribution, preparation or otherwise handling of foods. This shall include restaurants and retail stores.
- Regulation 10-4. The sale of non-pasteurized milk and milk products is prohibited.
- Regulation 10-5. A late charge of \$20.00 will be charged to all establishments who fail to renew Food Service Permits by December 31 for the ensuing calendar year.
- Regulation 10-6. Sundries permits shall be issued to those establishments selling limited amounts of prepackaged materials as a

secondary function. The fee for said permits shall be set by the Board.

ARTICLE 11. MINIMUM REQUIREMENTS FOR THE DISPOSAL OF SANITARY SEWAGE IN UNSEWERED AREAS.

- Regulation 11-1. Authority
The Board of Health of the Town of Acton, Commonwealth of Massachusetts, acting under the authority of Chapter 111, Section 31, of the General Laws and amendments and additions thereto, and by any other power thereto, enabling and acting thereunder and in accordance therewith, has, in the interest of and for the preservation of the public health, duly rescinded all previous Rules and Regulations pertaining to the construction or installation of cesspools or septic tank systems adopted by the Board of Health, Town of Acton, and has duly made and adopted the following rules and regulations pertaining to the design, construction, or installation of onsite wastewater treatment works.
- Regulation 11-2. The provisions of the Department of Environmental Protection, Commonwealth of Massachusetts, 310 CMR 15.000, The State Environmental Code, Title 5: Standard Requirements for the siting, construction, inspection, upgrade and expansion of on site sewage treatment & disposal systems & for the transport & disposal of septage plus any and all amendments and additions thereto, apply to all permits issued by the Board of Health, Town of Acton. Where the following rules and regulations of the Town are more stringent, they shall prevail. All work done by permit shall conform to the specifications, workmanship and requirements of the State and town rules and regulations. Any variance, additional clarification or unusual conditions not covered herein shall be noted in writing on the original Disposal Works Installation Permit Application, any variance approved, shall become a part of the permit.
- Regulations 11-3 Permits
- 11-3.1 All Disposal Works Construction permits issued by the Board of Health shall expire two (2) years from date of issue. The Health Director may grant one permit renewal with a term expiring not later than one year from the original expiration date of the permit, with such additional conditions or restrictions as may be reasonably required.

11-3.2 All Disposal Works Installers shall obtain a Disposal Works Installer's permit from the Board of Health. Such permit shall expire at the end of each calendar year. Applicants for such permits shall submit in writing a list of three (3) references (preferably State and local health inspectors) who can attest to the experience of the applicant in construction or repair of onsite wastewater systems. For good and sufficient reason, the Board of Health may waive this requirement.

Regulation 11-4 Fees

11-4.1 Fees for permits, licenses, applications, and other activities governed by this regulation shall be recommended by the Board of Health and approved by the Board of Selectmen.

Regulation 11-5 Soil Classification

11-5.1 Deep test holes, for determining the Estimated Seasonal High Groundwater Elevation, within Aquifer Zones 1, 2 and 3 (as defined in Article 16) for new construction, may not be excavated in June, July, August, September, and October.

11-5.2 At the discretion of the witnessing Agent of the Acton Board of Health, additional deep test holes may be required to adequately determine soil characteristics.

11-5.3 The Acton Board of Health shall schedule the time and place that such tests are to be made in conjunction with the owner, developer, or agent of the land.

Regulation 11-6 Siting of Onsite Wastewater Systems

11-6.1 Onsite wastewater systems shall be constructed not less than the minimum distances away from items listed in (15.211) of Title 5, 105 CMR 400 with the following additions.

11-6.1.1 No leaching area, septic tank, pump chamber or other component making up a system with a capacity of less than 2,000 gallons per day shall be constructed within seventy-five (75) feet of any wetland (Any land area or surface area so defined by the Massachusetts Wetland Protection Act, MGL, Ch. 131, s. 40 and/or the Town of Acton Wetlands Protection Bylaw.)

11-6.1.2 No leaching area, septic tank, pump chamber or other component making up a system with a capacity of 2,000 gallons per day or greater shall be constructed

within one hundred (100) feet of any wetland (Any land area or surface area so defined by the Massachusetts Wetland Protection Act, MGL Ch. 131, s. 40 and/or the Town of Acton Wetlands Protection Bylaw)

11-6.1.3 Pier or sonotube-type foundations shall be located a minimum of ten (10) feet from both septic tanks and soil absorption systems

11-6.1.3.1 Pier or sonotube-type foundations may be located a minimum of five (5) feet from a septic tank and ten (10) feet from the soil absorption system when the bottom elevation of the foundation is equal to or deeper than the bottom elevation of the septic tank

11-6.1.4 Above-ground pools with a depth greater than three (3) feet shall be located a minimum of ten (10) feet from the septic tank and from the soil absorption system.

11-6.1.5 Where water and sewer lines intersect, at least one of the lines shall be sleeved to the extent that no portion of either line is closer than 10 feet to each other without a sleeve in between them.

11-6.2 In the area designated as the Flood Plain District by 'Flood Insurance Rate Map of the Town of Acton, Massachusetts, Map No. 2, plus the map index and street index' and the associated data provided in the 'Flood Insurance Study, Town of Acton, January 6, 1988, published by the U.S. Department of Housing and Urban Development, Federal Insurance Administration ('HUD Flood Insurance Study'), onsite wastewater systems shall be located or designed so as to avoid impairment or contamination during flooding, and must comply with the Town of Acton Zoning Bylaw 4.1.

Regulation 11-7 Septic Tanks - Minimum Requirements

11-7.1 A Schedule 40 PVC building sewer requires an approved sleeve where the pipe transits through the building foundation.

11-7.2 All residential septic tanks, cesspools, or other structures shall have their contents pumped out a minimum of once every two years by a septage hauler licensed by the Town of Acton.

11-7.3 Non-single family residential septic tanks and/or grease traps shall have their contents pumped out by a septage hauler licensed by the Town of Acton as follows:

Septic tank 1,500 gal & under - once/ 2yrs. Minimum
Septic tank over 1,500 gal - once/ yr. minimum

11-7.3.1 Grease traps shall be inspected monthly. They shall be cleaned, by a septage hauler licensed in the Town of Acton, whenever the level of grease is 25% of the effective depth of the trap, or at least every three months, whichever is sooner. This cleaning shall be reported to the Health Department office within thirty (30) days of its occurrence.

11-7.4 Septic tanks and grease traps may be required to be pumped at more frequent intervals if directed by the Board of Health.

11-7.5 No electrical connections or wire splices are to be made inside a pump/dosing chamber, septic tank, tight tank, or riser to any of the aforementioned vessels, unless sealed in an appropriate code-approved watertight and airtight enclosure. It is preferred that all electrical connections and wire splices shall be made on the outside of any of the aforementioned vessels and in the appropriate enclosures.

11-7.6 Existing 1,500 gallon tanks may be utilized in a septic system design with certification by a Title 5 Inspector that it passes Title 5 inspection. Tanks with less than a 1,500 gallon capacity must be upgraded ~~replaced~~ to at least 1,500 gallons or 2nd tank in series to obtain a minimum of 1,500 unless and alternative is approved by the Acton Board of Health or its Agent.

11-7.7 Dual compartment tanks are required for all septic system designs, unless an alternative is approved by the Acton Board of Health or its Agent.

11-7.8 Monolithic tanks and pump chambers for all new tank installs are required unless an alternative is approved by the Acton Board of Health or its Agent.

Regulation 11-8 Disposal facilities - Siting requirements

11-8.1 Disposal facilities for any use shall be designed utilizing the Long-Term Acceptance Rates prescribed in 310 CMR 15.242 and to meet the requirements given in Table 1. No disposal facility shall be constructed with an area less than 600 square feet.

11-8.1.1 Disposal facilities with less than minimum required disposal area, in Table 1, but greater than 600 square feet shall be required to add an additional settling tank of equal or greater size than the primary septic tank.

Table 1: Minimum Required Disposal Areas	
Design Flow (gallons per day)	Minimum Required Area (square feet)
0 – 330	600 ft ²
331 – 440	800 ft ²
441 – 550	900 ft ²
551 and up	1000 ft ²

11-8.2 The Board of Health may require that certain trees or foliage be removed if in their estimation they feel said trees may develop root growth that may interfere with proper operation of the system.

11-8.3 Soil absorption systems constructed in areas where the underlying natural soil material has a percolation rate of greater than 10 minutes per inch, shall have a minimum of 6" of Title 5 Fill Material (as defined in 310 CMR 15.355(3)) placed beneath the stone.

11-8.3.1 The Board of Health or its agents may require this minimum 6" of gravel at its discretion, regardless of the type of underlying soil material.

11-8.3.2 The four (4) foot minimum requirement of naturally occurring pervious soil material may not be lessened in order to provide room for this requirement.

11-8.4 The minimum depth of clean washed stone 3/4" - 1 1/2" in size shall be 12 inches measured below the invert of the distribution pipes.

11-8.4.1 A variance may be granted to 11-8.4 by the Health Director if the following conditions are met:

- 1) A Department of Environmental Protection approved effluent filter is installed in the last outlet tee of the septic tank.
- 2) A two-compartment septic tank is installed in lieu of a single compartment tank
- 3) No other variances to Acton Board of Health Regulations or 310 CMR 15.000 are requested.

11-8.5 Leaching facilities for new construction, when built in areas where the percolation rate is greater than 30 minutes per inch, shall be preceded by a wastewater treatment system that meets the following treatment standards:

Parameter	Effluent Limit
BOD ₅	30 mg/L
TSS	30 mg/L

11-8.6 Open bottom chambers with an invert height of less than 4 inches shall be set on manufacturer approved geogrid or equivalent unless an alternative is approved by the Acton Board of Health or its Agent.

Regulation 11-9 Subdivision Requirements

11-9.1 Extreme care shall be practiced on the layout of a subdivision in unsewered areas. The number of lots to be tested in a subdivision shall be determined by the Board of Health based on the site examination. Such tests shall include deep observation holes and percolation tests for each area selected. A permit shall be required for each individual house lot per Regulation 11-3. Information from prior testing, when conducted after January 1, 1996, used for subdivision approval can be used providing the leaching area falls within the area previously tested.

Regulation 11-10 Backfill

11-10.1 All lines in soil absorption systems shall be left uncovered until after inspection. Contractors shall leave the cover off the distribution box and have ten (10) gallons of water on site for use of the inspector to test the level of the distribution box and outlet water flow.

11-10.2 The owner shall take the necessary precautions to see that soil absorption systems are not damaged by surface waters, animals or other agents while awaiting inspection.

11-10.3 All soil absorption systems, except for those under pavement, shall have a final cover of sufficient topsoil to support a dense vegetative cover, preferably grass. System components under paved areas shall be insulated when necessary to prevent freezing.

Regulation 11-11 Occupancy Permits

11-11.1 A Certificate of Occupancy shall not be issued until a certificate of compliance shall have been issued first indicating that the onsite wastewater system has been sited and constructed in compliance with the terms of the permits and the requirements of this code and Title 5 of the State Environmental Code. All applications for occupancy of houses without town water must be accompanied by a report from a DEP certified laboratory, certifying that the quality of the potable water meets the requirements of the U.S. Environmental Protection Agency recommendations for drinking water. The quantity of water shall be a minimum of 5 gallons per minute for 4 hours continuous pumping.

11-11.2 An application for an occupancy permit shall constitute a permit when signed by the Building Inspector, Gas and Plumbing Inspector and the Board of Health.

Regulation 11-12 Nuisance

11-12.1 Every owner or occupant of a premises in which there is an onsite wastewater system shall keep the same in a sanitary condition and shall have the same emptied and cleaned when necessary. The Board of Health can determine the necessity for emptying and cleaning an onsite wastewater system. No septic tank, cesspool or leaching pit shall be emptied except by persons licensed by the Board of Health. If the owner or occupant fails to comply with such order, the Board may cause the nuisance, source of filth, or cause of sickness to be removed, and all expenses incurred thereby shall be paid by the person who caused or permitted same, if he has had actual notice from the Board of Health of the existence thereof.

Regulation 11-13 Inspections of Onsite Wastewater Systems

11-13.1 No person shall conduct an inspection of an onsite wastewater system pursuant to 310 CMR 15.301 within the limits of Acton unless:

- (a) He/she is approved as a System Inspector as defined in 310 CMR 15.340 and
- (b) He/she is registered as an Onsite Wastewater System Inspector with the Acton Board of Health.

11-13.2 The Inspector shall complete every applicable section of the most recent version of the "Title 5 Official Inspection Form – Not for Voluntary Assessments, Subsurface Sewage Disposal System Form," supplied by the Massachusetts Department of Environmental Protection, or such subsequent form published by the same.

11-13.2.1 Attached with the official inspection form, the Inspector shall provide a sketch diagram showing the vertical separation distance between the bottom of the soil absorption system and the groundwater table and the horizontal ties to each system component from permanent features adjacent to the system.

11-13.3 The Acton Board of Health may revoke or suspend the registration and/or listing of an Onsite Wastewater System Inspector after opportunity for a hearing is conducted pursuant to MGL c. 30A and after the Board of Health determines that the Inspector has:

- (a) falsified an inspection report and/or
- (b) fraudulently altered an inspection report and/or
- (c) failed to properly inspect a system as required in 310 CMR 15.302 and/or
- (d) failed to meet the provisions contained within this regulation

11-13.4 The Board of Health shall recommend fees for the annual registration of Inspectors and for the administrative processing of all Inspection Report Forms to the Board of Selectmen.

11-13.5 An Official Inspection pursuant to 310 CMR 15.300 – 15.305 shall be required prior to the approval of any increase in design flow to an existing onsite wastewater system

11-13.6 Garbage grinders shall not be allowed prior to septic systems that are not designed to accommodate them, and must be removed prior to Title 5 inspection report submission.

11-13.7 Water softeners or reverse osmosis systems that reject concentrated water shall not be allowed to be tied into septic systems, and must be rerouted out of the septic system prior to Title 5 inspection report submission.

11-13.8 If the estimated depth to high ground water is determined solely by system design plans on record with the Board of Health, the record shall not predate 1995. Records predating 1995 may be used in conjunction with other methods of determining the estimated depth to high ground water, including when the data is used for Title 5 inspections.

Regulation 11-14 Variances

11-14.1 Variances may be granted as follows:

The Board of Health may vary the application of any provisions of this Article with respect to any particular case when, in its opinion (1) the enforcement therefore would do manifest injustice; and (2) the applicant has demonstrated that the same degree of environmental protection required under this article can be achieved without strict application of the particular provision.

11-14.2 The Board of Health may issue order of conditions consistent with Regulation 11-1 to any permit that is granted with Variances to this Article.

Regulation 11-15 Severability

11-15.1 If any part or portions of these regulations were adjudicated as invalid, the adjudication shall apply only to the material so adjudged, and the remaining Rules and Regulations shall be deemed valid of full force and effect.

ARTICLE 12. MINIMUM STANDARDS FOR THE KEEPING OF ANIMALS (FARM) AND DOMESTIC PETS IN OTHER THAN STOCK YARDS.

Regulation 12-1. No person may maintain a horse (or horses) anywhere in the Town of Acton without first providing an approved stable.

Regulation 12-2. Permit to Erect

12-2.1 No person shall erect any stable in the Town of Acton until he has presented a petition therefore upon a prescribed form to the Board of Health and received a permit from the said Board. No permit will be issued for construction of a stable on any plot containing less than two (2) acres (87,120 square feet). This permit must be presented to the Building Inspector when application is made for the building permit.

Regulation 12-3. Permit to Use

12-3.1 No person shall use any building in the Town of Acton as a stable until he has presented a petition upon a prescribed form to the Board of Health and been granted a license authorizing such use.

Regulation 12-4. Construction of Stables

12-4.1 Every stable hereafter constructed in the Town of Acton shall

be provided with a suitable watertight manure pit, unless the manure is removed daily in a manner satisfactory to the Board of Health. The stable shall be properly ventilated; the gutter and wash stand properly connected with an approved dry well unless otherwise allowed by the Board of Health.

Regulation 12-5. Disposal of Manure

- 12-5.1 No owner or occupant of a stable shall allow quantities of manure exceeding two cords to accumulate in or near said stable, and no manure shall be allowed to accumulate or remain uncovered outside of a stable building.
- 12-5.2 No person shall remove or carry any manure through any public or private street except in a proper vehicle and in such a manner that no manure shall be dropped on the street.
- 12-5.3 Manure pits shall be emptied at least once in ten (10) days from April first to November first, unless the same are so constructed as to be proof against the entrance of flies.

Regulation 12-6. Cleaning of Stables

- 12.6.1 All gutters, stalls, runways, and floors shall be kept clean and free from accumulations of manure, and shall be treated with chloride of lime or other suitable disinfectant at least once in every ten (10) days.

Regulation 12-7. The area of the paddock which is that area where the horse or horses exercise or feed shall be kept clean of manure. Manure shall be removed at least once every ten (10) days in area where it has accumulated. Agricultural lime can be used to also help control a fly problem.

Regulation 12-8. Revocation of Permits

- 12-8.1 Every permit granted for the occupancy of a stable may be revoked at any time when it shall appear to the Board of Health that such revocation is necessary to protect the public health or safety or that the conditions of the permit have been violated.

Regulation 12-9. Variances

- 12-9.1 The Board of Health may vary the application of any

provision of this article with respect to any particular case when, in its opinion, the enforcement thereof would do manifest injustice; provided that the decision of the Board of Health shall not conflict with the spirit of these minimum standards.

Any variance granted by the Board of Health shall be in writing. A copy of any such variance shall, while it is in effect, be available to the public at all reasonable hours in the office of the Clerk of the Town, or in the office of the Board of Health.

12-9.2 Variance, Grant of Special Permission, Expiration, Modifications, Suspension of:

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

ARTICLE 14. MINIMUM STANDARDS FOR SANITARY LANDFILL OPERATION

Regulation 14.1. Selection of Site

14-1.1 Sanitary landfill operations shall be limited to areas where spreading forms of pollution are considered not likely to occur.

14-1.2 Geological characteristics of the site shall be determined by on-site testing including, but not limited to, borings and test pits and may be supported by any other reliable survey information available. Information of this nature is necessary to:

14-1.2.1 Determine the availability of cover material of suitable quality and quantity from the site.

14-1.2.2 Evaluate the influence that such geological factors would have on the

ease of excavation, surface water and groundwater pollution; and determine maximum ground water table.

14-1.2.3 The Board of Health reserves the right to require additional engineering or other data which, in its opinion, are needed to assure appropriate selection and operation of a landfill area.

14-1.3 In the selection of a sanitary landfill site, no area shall be considered or assigned which does not provide for a minimum distance of four (4) feet from the lowest point of refuse to the maximum ground water elevation as determined by seasonal high water.

Regulation 14.2 Plan Approval

14.2-1 All sanitary landfills shall be designed in accordance with these regulations by a registered professional engineer experienced in matters of solid waste disposal.

14.2-2 The design for a sanitary landfill shall include scaled topographic plans and profiles of the proposed fill area, access roads, grades for proper drainage, streams, ponds and wetlands, slopes, depth of fill, surface and groundwater control, fencing, proximity to nearest dwelling, utilities, employee facilities, operating and finished grades, groundwater determinations, buffer zones, water for fire control, adjacent and abutting land use, zoning, and all other pertinent information which may be required to indicate clearly the orderly development, operation, and completion of the sanitary landfill area.

14-2.3 Detailed plans, operational specifications, and other necessary reports pertinent to the sanitary landfill shall be submitted to the Board of Health for review and approval.

Regulation 14-3. Permit Requirements

14-3.1 No person shall maintain or operate a sanitary landfill without the written permission of the

Board of Health. The permit shall be subject to the regulations set forth herein.

- 14-3.2 No permit shall be issued until plans are approved by the Acton Board of Health.
- 14-3.3 No permit shall be issued until assignment of the site has been made by the Board of Health.
- 14-3.4 The permit to operate a sanitary landfill shall include, but not be limited to, a description of the exact location and area (in acres) of the land to be used, the owner(s) of this land, and the operator(s) of the landfill. Pertinent restrictions or limitations of the assignment shall be specified on the permit.
- 14-3.5 A new permit shall be issued by the Board of Health following any modification of assignment.
- 14-3.6 Permits may be suspended by the Board of Health for failure of the owner or operator of the sanitary landfill facility to comply with the requirements of these regulations.
- 14-3.7 Permits shall expire one year from the date of issue and shall be renewable provided that the amount of time remaining for utilization of the landfill area is specified.

Regulation 14-4. Special Wastes

- 14.4.1 The operator may make special provisions for the limited disposal of certain special wastes; provided that such disposal is conducted in a separate area specially designed for this purpose and with the permission of and under the direction of the Board of Health.
- 14-4.2 The Board of Health may, by regulation, prohibit the deposition of certain toxic, harmful or hazardous waste materials.
- 14-4.3 No untreated body wastes may be discharged in the area without special permission of the Board of Health.

14-4.4 No oily or chemical wastes may be discharged in the area without special permission of the Board of Health.

Regulation 14-5. Disposal of Large Items

14-5.1 The Board of Health may, by regulation, restrict the optimum size of certain large, heavy, or bulky items to be disposed of in the sanitary landfill.

14-5.2 A specific area will be set aside for the disposal of large metal objects.

Regulation 14-6. Salvage

14-6.1 The salvaging of material from a sanitary landfill site shall not be allowed except by permit from the Board of Health.

14-6.2 The operator may make provisions for the limited salvaging of material, provided that such operations are conducted only when a special permit for this purpose is issued by the Board of Health and provided that a definite plan of procedure is established and followed to enable such operation to be carried out in an organized, sanitary, orderly, and dependable manner with no interference to the routine sanitary landfill operations.

Regulation 14-7. Inspection and Evaluation

14-7.1 Routine inspections and evaluations of the landfill operations shall be made by the Board of Health.

14-7.2 Notice of any deficiencies, together with any recommendations for their correction, shall be provided by the inspecting agency to the owner or person responsible for the use of the land; and to the appropriate individual, firm or governmental agency responsible for the landfill operation.

Regulation 14-8. General Administration and Enforcement

14-8.1 The provisions of Article 1 of the State Sanitary Code shall govern the administration and enforcement of these minimum standards except as supplemented by the following regulations.

Regulation 14-9. Assignment of Sanitary Landfill Facility

14-9.1 No place shall be designated as a site for a sanitary landfill unless this place is so assigned by the Board of Health, in accordance with the provisions of Section 150A of Chapter 111 of the General Laws.

14-9.2 No person shall operate a sanitary landfill unless he is the holder of a permit granted by the Board of Health.

Regulation 14-10. Orders: Service and Content

14-10.1 If an examination reveals the existence of a health or safety hazard at any sanitary landfill, the Board of Health may, as it considers necessary, issue an order which revokes or suspends a permit. Such an order shall be complied with in accordance with its direction and the disposal of solid wastes at the particular sanitary landfill will not be permitted unless and until the permit has been re-issued or the order has been revoked in writing by the Board of Health.

14-10.2 Every order authorized by these regulations shall be in writing. All orders shall be served on the designated person:

14-10.2.1 Personally, by any person authorized to serve civil process, or

14-10.2.2 By leaving a copy of the order at his last and usual place of abode, or

14-10.2.3 By sending him a copy of the order by registered or certified mail, return receipt requested, if he is within the Commonwealth,
or

14-10.2.4 If his last and usual place of abode

is unknown or outside the Commonwealth,
By posting a copy of the order in a
conspicuous place on or about the sanitary
landfill.

14-10.3 Any order issued under the provisions of These regulations shall:

- 14-10.3.1 Include a statement of the violation or defect, and may suggest action which if taken will effect compliance with this code, and
- 14-10.3.2 Allot a reasonable time for any action it requires, and inform the person to whom it is directed of his right to a hearing and of his responsibility to request a hearing, and to whom the request shall be made.

Regulation 14-11. Hearing

14-11.1 The person or persons to whom any order served pursuant to Regulation 10 of these regulations has been directed may request a hearing before the Board of Health by filing within seven (7) days after the day the order was served in the office of the Board of Health a written petition requesting a hearing on the matter. Upon receipt of such petition the Board of Health shall set a time and place for such hearing and shall inform the petitioner thereof in writing. The hearing shall be commenced not later than ten (10) days after the day on which the petition, the Board of Health may postpone the date of the hearing for a reasonable time beyond such ten-day period if in the judgement of the Board of Health, the petitioner has submitted a good and sufficient a good and sufficient reason for such postponement.

14-11.2 At the hearing the petitioner shall be given an opportunity to be heard and to show why the order should be modified or withdrawn.

14-11.3 After the hearing, the Board of Health shall sustain, modify, or withdrawn the order, and may suspend or revoke the permit and/or assignment and

shall inform the petitioner in writing of the decision. 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.

14-11.4 Every notice, order, and 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.

14-11.5 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 this Commonwealth.

14-11.6 If a written petition for a hearing is not filed in the office of the Board of Health within seven (7) days after an order as provided in Regulation 10 has been issued, 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 revised shall constitute an additional offense.

Regulation 14-12. Appeal

14-12.1 Any person aggrieved by the final decision of the Board of Health with respect to the denial of a plan approval, the denial of, revocation of, or failure to renew a permit, or with respect to any order issued pursuant to Regulation 10 may appeal for a trial de novo in the district court of the district in which the affected sanitary landfill is situated.

Regulation 14-13. Penalties

14-13.1 Any person who operates or maintains a sanitary landfill without the unexpired and unrevoked written permission of the Board of Health shall upon conviction be fined not less than one hundred (\$100.00) nor more than five hundred (\$500.00) dollars.

14-13.2 Any person who shall violate any provision of these regulations which penalty is not otherwise provided in any of the General Laws or in any other provision of these regulations or of

Article I of the State Sanitary Code shall upon conviction be fined not less than ten (\$10.00) nor more than fifty (\$50.00) dollars.

14-13.3 Any person who shall fail to comply with any order issued pursuant to the provisions of these regulations shall upon conviction be fined not less than one hundred \$100.00 nor more than five hundred (\$500.00) dollars. Each day's failure to comply with an order as issued shall constitute an additional offense.

Regulation 14-14. Variance

14-14.1 The Board of Health may vary the application of any provision of these regulations with respect to any particular case when, in its opinion, the enforcement thereof would do manifest injustices; provided, that the decision of the Board of Health shall not conflict with the spirit of these regulations. Any variance granted by the Board of Health shall be in writing. A copy of any such variance shall, while it is in effect, be available to the public at all reasonable hours in the office of the Clerk of the Town, or in the office of the Board of Health, and notice of the grant of variance shall be filed with the Commissioner of Public Health of the Commonwealth within seven (7) days of the vote of the Board of Health.

14-14.2 Any variance or other modification authorized may be subject to such qualification, revocation, suspension, or expiration as the Board of Health expresses in its grant. A variance or other modification authorized may otherwise be revoked, modified, or suspended, in whole or in part, only after the holder thereof has been notified in writing and has been given an opportunity to be heard, in conformity with the requirements for an order and hearing as specified in Regulation 10 of these regulations.

Regulation 14-14. Operator May Promulgate Rules.

14-15.1 An operator may promulgate such rules and

regulations governing the operation of a solid waste disposal facility in his care, charge or control as he shall deem necessary or desirable in furtherance of, and that are not inconsistent with the Rules and Regulations herein contained, provided such Operator's Rules and Regulations shall be approved by the Board of Health prior to becoming effective.

ARTICLE 15. RECOMBINANT DNA ACTIVITY REGULATION

Regulation 15-1

15-1.1 No person, corporation or entity shall use recombinant DNA technology in the Town without first obtaining a permit from the Board of Health.

15-1.2 No permit for any activity involving the use of recombinant DNA technology ("activity") shall be granted unless the applicant submits the following information:

15-1.2.1 The names, addresses, official positions and qualifications of all persons responsible for conduct of such activity.

15-1.2.2 The nature of the organisms to be used in the activity, the location where the activity is to take place, the measures taken to insure proper handling, containment, isolation, emergency response, disposal and security of the organisms.

15-1.2.3 Proper procedures which will be used for: monitoring such activity, screening and training employees, establishing and enforcing safety standards, keeping and retaining records both of the recombinant DNA activity, any accidents or release of organisms containing recombinant DNA and of the health of employees.

- 15-1.3 All activity conducted under a permit for the use of recombinant DNA technology shall be conducted in accordance with the procedures and representations stated in the application.
- 15.1.4 All activity involving the use of such technology shall be conducted in accordance with the National Institutes of Health Guidelines for Research Involving Recombinant DNA Molecules, published in the Federal Register of May 7, 1986, and any subsequent Federal amendment thereto.
- 15-1.5 The Board of Health may deny an application or impose conditions on any permit issued under this regulation (including inspection or reporting requirements) where necessary to prevent release into the environment of any organism containing recombinant DNA, or to otherwise protect the health of the public or of the persons conducting such activity.
- 15.1.6 Permits under this regulation shall be granted for a one year period unless otherwise specified by the Board of Health. A permit may be suspended or revoked for cause.
- 15-1.7 Any person, entity or facility conducting activity covered by this ordinance is subject to reasonable inspections to insure compliance with the conditions governing conduct of such activity.

ARTICLE 16. MINIMUM REQUIREMENTS FOR RESOURCE PROTECTION, WASTE MATERIALS MANAGEMENT AND ACTIVITIES WITHIN SURFACE AND GROUNDWATER PROTECTION ZONES.

Regulation 16-1. Purpose

- 16-1.1 The purposed of this regulation is to protect the public health by protecting and improving the quality of the surface and groundwater upon which the Town of Acton relies for its water supply, public and private.
- 16-1.2 Protecting and improving the surface and groundwater shall include, but not be limited to the following actions:

- 16-1.2.1 Preventing degradation of, and improving the quantity and quality of surface water, underground aquifers, public water supply, and groundwater within the Town of Acton.
- 16-1.2.2 Maintaining, improving, and preventing reduction of groundwater recharge,
- 16-1.2.3 Preventing discharge, or potential discharge, onto or into the ground of any hazardous substance, or any other substance which may degrade the quality of groundwater,
- 16-1.2.4 Preventing any other activity which may degrade, reduce, interfere with, or otherwise adversely affect surface water, underground aquifers, public water supply and the groundwater within the Town of Acton.
- 16-1.2.5 Preventing any activity within the Town of Acton that will alter quality of the Regulated Waters in such a way as to pose a threat to public health, safety or welfare.

Regulation 16.2. Definitions

16.2.1 Regulated Activities shall include, but not be limited to the following:

- 16.2.1.1 Excavation, disposal, filling, construction, reconstruction, use, change or expansion of use, storage, or other activity involving any risk of discharge of any substance, including septic system leachate, directly, or indirectly, into the groundwater within the Permit Area,
- 16-2.1.2 Any change of the recharge characteristics of any property within the Permit Area,

- 16-2.2 Regulated Entity (Entities) shall include any individual(s), agent(s), corporation(s), or other entity (entities).
- 16.2.3 Action(s) shall include, but not be limited to any or all activities listed above in Section 16-1.2(.1-.5) - Purpose.
- 16.2.4 Regulated Waters shall mean the surface water, underground aquifers, public water supply, semi-public or private water supplies and/or groundwater within the Permit Area.
- 16.2.4.1 Regulated protected surface and ground water resources areas include: the public water supply Well Protection Area (Zone 1), the Recharge Protection Area (Zone 2) and the Aquifer Protection Area (Zone 3) and other areas of the Town including Zone 4 as defined in the "Groundwater Protection District Map of the Town of Acton, January 1989," contained in the Goldberg, Zoino and Associates "'Final Report - Aquifer Protection/Areas, Town of Acton, Massachusetts," January 1989 and any updates to that map as adopted by the Acton Board of Health., Acton Planning Department, Acton Board of Selectmen, Annual Town Meeting and/or Special Town Meeting, the public water supply Zone A and tributaries of Nagog Pond as defined in 310 CMR 22.00 and semi-public and private water supplies in the Town of Acton.
- 16.2.5 The Permit Area shall be the Town of Acton.
- 16-2.6 Permit shall be a "Permit for Work in a Permit Area" which shall be granted by the Issuing Authority. The Permit shall specify in writing which of the Regulated Activity (Activities) may be undertaken by the Permit applicant.
- 16-2.7 The Issuing Authority shall be the Board of Health, or the Health Department of the Town of Acton, as delineated in Section 16-6., PERMITS GRANTED BY THE HEALTH DIRECTOR, and Section 16-5, Issuing Authority.
- 16-2.8 Information shall include, but not be limited to information supplied by the applicant, the Health Department, or any other information before

the Board.

16-2.9 Risk(s) shall include, but not be limited to the reduction of quantity and/or quality of, or the discharge of any substance to, or any other risk to the Regulated Waters, which may in turn cause any threat to the public health or safety by contact with or ingestion of the Regulated Waters.

Regulation 16-3 Permit Required

16-3.1 No Regulated Entity (Entities) shall undertake, perform, or cause to be performed any Regulated Activity within the Town of Acton without a Permit from the Issuing Authority.

Regulation 16-4 Issuance of Permits

16-4.1 Standards for Issuance. The Issuing Authority shall grant a Permit if it finds, based upon the Information, that the proposed activity poses no significant risk of reducing, interfering with, or degrading the groundwater or causing any threat to the public health and safety.

16-4.1.1 The Issuing Authority shall deny the permit if the Information does not demonstrate that the Regulated Activity, poses no significant risk to the Regulated Waters.

16.4.1.2 No permits shall be granted for new construction activities which discharge to the groundwater in Zone 1

16-4.1.3 No permits shall be granted for new construction activities which discharge to the groundwater in Zone A

16-4.2 Conditions. The Board of Health or the Health Director in accordance with section 16-6.2 may take any Action(s) or impose such conditions and limitations on the Permit as may be required to prevent Risk to the Regulated Waters.

16.4.2.1 Such conditions and limitations may include substance containment

requirements, depth to groundwater requirements, run-off containment requirements, requirements to preserve groundwater recharge, limits on density of use, limits on the extent of impervious cover, treatment of water run-off, or other condition or limitation necessary to further the purposes of this regulation. All construction, use, or other activity shall be conducted in strict compliance with any conditions or limitations imposed in the Permit.

- 16-4.2.2 The Board may require the applicant to provide, at its own expense, such studies, test results, analyses or other data as may be necessary in order to determine whether granting the Permit would be consistent with the standards in this regulation.
- 16-4.2.3 Prior to the Board recommending approval of any subdivision to the Planning Board, an evaluation of the site and a design by competent soil scientists and qualified personnel, shall be submitted by the applicant to the Board.
- 16-4.2.4 A nitrate loading assessment for any project or subdivision which will have a total effluent discharge greater than 2,000 gallons per day shall be submitted by the applicant to the Board.
- 16-4.2.5 Within the Well Protection area (Zone 1), monitoring wells, downgradient of all septic systems with a capacity greater than 550 gallons per day, or any commercial or industrial use, shall be provided.
- 16-4.2.6 Within the Recharge Protection area (Zone 2), monitoring wells, downgradient of all septic

systems with a capacity greater than 2,000 gallons per day, or any commercial or industrial use, shall be provided.

16-4.2.7 Within the Well Protection area (Zone 1), septic systems shall be set back 300' from any public, semi-public or private well supply system or otherwise required.

16-4.2.8 Within the Recharge Protection area (Zone 2), septic systems shall be set back 150' from any public, semi-public or private well supply system.

16-4.2.9 On site Sewer Treatment Plants, with advanced capabilities, shall be required for all projects with a capacity of 10,000 gallons or greater per day within any aquifer protection zone.

16-4.2.10 On site wastewater treatment systems, utilizing DEP approved I/A technologies for enhanced nitrogen, phosphorous and pathogen removal, shall be required for all projects with a capacity of greater than 2,000 gallons per day within any aquifer protection zone.

16-4.2.11 All leaching areas within Aquifer zone 1, 2 and 3 shall be set back 100' from any subsurface/surface recharge, retention, detention or surface drainage area, including bordering vegetated wetlands. All leaching areas within an aquifer 4 shall be set back 75' from any subsurface/surface recharge, retention, detention or surface drainage area, including bordering vegetated wetlands.

16-4.2.12 Hydrogeological studies shall be submitted to the Board for any proposed effluent flow with a capacity greater than 2,000 gallons on any one property.

16-4.3 Issuance and Renewal. Permits shall be issued by the Issuing Authority, and shall remain in force so long as no significant change occurs in the extent or nature of the activity conducted by the applicant. If there has been any significant change in the extent or

nature of the use or activity or if new information suggests that the current use or activity poses a Risk to the groundwater or to public health or safety, a new Permit shall be required from the Issuing Authority.

16-4.3.1 Every applicant for a Permit shall complete and file a written application in a form prescribed by the Health Director and appear in person or by an authorized representative before the Issuing Authority at the hearing on the issuance of the Permit, unless the Issuing Authority waives the requirement for a personal appearance. The Board may also require the attendance of such other agents or employees of the applicant as may be necessary to provide Information relative to the application.

16-4.4 Revocation. The Board may revoke a Permit at any time if it concludes that the Regulated Activity or the manner in which the Regulated Activity is being conducted poses a significant Risk to the Regulated Waters or any other public health or safety risk. Except in an emergency, no Permit shall be revoked without a hearing before the Issuing Authority prior to the revocation. If a Regulated Activity presents an immediate and significant Risk to the Regulated Waters or any other immediate and public health or safety risk, the Health Director may revoke a Permit without a prior hearing. In the event that a Permit is revoked by the Health Director, the permittee shall be entitled, upon request, to a hearing before the Issuing Authority within ten days after the revocation.

Regulation 16.5 Issuing Authority

16-5.1 The Board of Health shall be the Issuing Authority for all permits for all lands, properties, and realty trusts, regardless of ownership within the Permit Area except for those which meet the criteria given in Section VI, PERMITS GRANTED

BY THE HEALTH DIRECTOR. The Board has delegated to the Health Director the authority to grant permits for the Health Director the authority to grant permits for the Health Director the authority to grant permits for properties that meet the criteria of Section 16-6.

Regulation 16-6. Permits Granted by the Health Director

16-6.1 Notwithstanding the provision of Section 16-3, Permits for installation of septic systems with a flow greater than 660 gallons per day in areas with percolation rates of greater than or equal to 6 mpi may be granted by the Health Director with conditions if all of the following criteria are met:

- 16-6.1.1 The total flow from the system, calculated in accordance with Title 5 of the Massachusetts Code of Regulations, will not exceed 660 gallons per day.
- 16-6.1.2 The percolation rates observed in accordance with required testing procedure exceeds six minutes per inch, or the depth from the bottom of the septic system to groundwater is at least six feet, or the system is at least 1.5 miles from any current or reasonably likely Well Protection Area (Zone 1).
- 16-6.1.3 The proposed system is not located within any Well Protection Area (Zone 1).
- 16-6.1.4 All other requirements of Title 5 of the Massachusetts Code of Regulations and the Acton Health Department are met.
- 16-6.1.5 There are no special circumstances which, in the opinion of the Health Director, could pose a risk of degradation of the groundwater or other public health or safety threat.

16-6.2 Notwithstanding the provisions of Section 16-3, permits for installation of septic systems with a flow greater than 660 gallons per day in areas with percolation rates of less than 6 mpi may be granted by the Health Director, with conditions if all of the following criteria is met:

- 16-6.2.1 No underground fuel storage tanks shall be permitted on the site.
- 16-6.2.2 The septic tank shall be pumped a minimum of once every one/two years.
- 16-6.2.3 The site shall fully conform to the Town of Acton Hazardous Materials Control Bylaw.
- 16-6.2.4 The sewage disposal system for the proposed buildings at this site shall be approved by Acton Board of Health staff.
- 16-6.2.5 The leaching facility is designed and installed with pressure dosing of the system, said pressure dosing designed in accordance with the 105 CMR 400, or it shall be in compliance with 16-6 Figure I.
- 16-6.2.6 Floor cleaning procedures for the building shall use only nontoxic and biodegradable cleaning compounds.
- 16-6.2.7 Sewage disposal system shall be a minimum 100 feet from flood plain and/or wetlands.
- 16-6.2.8 Floor drains are not permitted.

16-6.3 Notwithstanding the provisions of Section 16-6.1 and 16-6.2. permits for installation of septic systems may be granted by the Health Director, if the following criteria are met:

- 16-6.3.1 The proposed system is not located within any Well Protection Area (Zone 1).
- 16-6.3.2 No underground fuel storage tanks shall be permitted on the site.

- 16-6.3.3 Sewage disposal system shall be a minimum 100 feet from flood plain and/or wetlands.
- 16-6.3.4 The septic tank shall be pumped a minimum of once every one/two years.
- 16-6.3.5 The site shall fully conform to the Town of Acton Hazardous Materials Control Bylaw.
- 16-6.3.6 The sewage disposal system for the proposed buildings at this site shall be approved by Acton Board of Health staff.

**16-6 Figure 1
Groundwater Separation
for Bottom of Septic Systems
in Aquifer Zones**

Percolation Rate	Well Buffer Zone (1)	Recharge Zone (2)	Protection Zone (3)
2 minutes per inch	8.00'	7.00'	6.00'
3 minutes per inch	7.00'	6.00'	5.00'
4 minutes per inch	6.00'	5.25'	4.50'
5 minutes per inch	5.50'	4.75'	4.25'
6 minutes per inch	5.00'	4.50'	4.00'
7 minutes per inch	4.75'	4.25'	4.00'
8 minutes per inch	4.50'	4.00'	4.00'
9 minutes per inch	4.25'	4.00'	4.00'
10 minutes per inch	4.00'	4.00'	4.00'

Regulation 16-7. Fees

- 16-7.1 Both the initial grant of the Permit and any renewal shall be subject to a reasonable Permit fee established by the Board of Health. Fees shall be paid when the application is filed.

Regulation 16-8. Enforcement and Penalties

16-8.1 The provisions of any Permit shall be enforced by the Health Department. Permittees shall provide access, at reasonable times and upon notice, to employees or authorized agents of the Department for inspection of records or facilities, sampling, or other observation, testing or procedures necessary to ensure compliance with this regulation.

16-8.2 Any initial violation of the provisions of this regulation shall result in a fine of not more than fifty dollars per day for each day during which the violation continues. Any second or subsequent violation of the regulation shall result in a fine of not more than one hundred dollars per day for each day during which the violation continues. Upon learning of an initial violation the Health Director shall contact the person or persons involved and attempt to resolve the matter informally. The Health Director may hold a hearing on the violation and require the person or persons alleged to be in violation to attend.

16-8.3 In the event that an initial violation can not be resolved by the parties, or of a second or subsequent violation, the Board of Health shall hold a hearing, after notice to the person or persons alleged to be in violation of the regulation, who shall be required to attend and provide any Information necessary to resolve the issues and assure compliance with this regulation.

Regulation 16-9. Variances

16.9.1 Variances may be granted as follows:

The Board of Health may vary the application of any provisions of this Article with respect to any particular case when, in its opinion (1) the enforcement therefore would do manifest injustice; and (2) the applicant has demonstrated that the same degree of environmental protection required under this article can be achieved without strict application of the particular provision.

16.9.2 The Board of Health may issue order of conditions consistent with Regulation 16-1 to any permit that is granted with Variances to this Article.

Regulation 16-10 Severability

16-10.1 If any part or portions of these regulations were adjudicated as invalid, the adjudication shall apply only to the material so adjudged, and the remaining Rules and Regulations shall be deemed valid of full force and effect.

ARTICLE 17: REGULATIONS FOR BODY ART ESTABLISHMENTS

Regulation 17.1 Purpose and Scope

The purpose of the Regulations for Body Art Establishments is to set forth a regulatory scheme governing the practice of body art in Acton.

These regulations; when they are pertinent will also cover the licensure procedures and the requirements for the maintenance and operation of micro blading, collagen induction therapy and permanent makeup facilities in the Town of Acton.

Regulation 17.2 Definitions

Body art -is **art** made on, with, or consisting of, the human **body**. The most common forms of **body art** are tattoos and **body** piercings. Other types include scarification, branding, sub dermal implants, scalping, shaping (for example tight-lacing of corsets), full **body** tattoo and **body** painting.

Micro blading also known by a variety of names such as embroidery, micro stroking, feather touch and hair like strokes, is a form of permanent makeup that provides a means to partially or fully camouflage missing eyebrow hair with the appearance of simulated hair using fine deposits of cosmetic tattoo pigments.

Collagen induction therapy (CIT) also known as **microneedling** or **skin needline** is an aesthetic medical procedure that involves repeatedly puncturing the skin with tiny, sterile needles (microneedling the skin). CIT should be separated from other contexts in which microneedling devices are used on the skin, e.g. transdermal drug delivery, vaccination, etc.

Permanent makeup means a cosmetic technique which employs tattoos (permanent pigmentation of the dermis) as a means of producing designs that resemble makeup, such as eye lining and other permanent enhancing colors to the skin of the face, lips, and eyelids.

Regulation 17.3 Exemptions

(A) Physicians permitted in accordance with M.G.L. c. 112 § 2 who perform body art, micro-blading, collagen induction therapy or permanent makeup 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.

Regulation 17.4 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.

Regulation 17.5 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:

(1) Walls, floors, ceilings, and procedure surfaces shall be smooth, free of open holes or cracks, light-colored, washable, and in good repair.

(2) 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.

(3) The establishment shall take all measures necessary to ensure against the presence or breeding of insects, vermin, and rodents within the establishment.

(4) Each body art station shall have a minimum of 45 square feet of floor space for each practitioner.

(5) The establishment shall be well ventilated and provided with an artificial light source equivalent to at least 20 foot candles 3 feet off the floor, except that at least 100 foot candles shall be provided at the level where the body art, micro-blading, collagen induction therapy or permanent makeup procedure is being performed, and where instruments and sharps are assembled.

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

(7) There shall be a minimum of one toilet room containing a toilet and sink.

(8) At least one covered, foot operated waste receptacle shall be provided in each operator area and each toilet room.

(9) At least one janitorial sink shall be provided in each body art, micro-blading, collagen induction therapy or permanent makeup 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.

(10) All instruments and supplies shall be stored in clean, dry, and covered containers.

(11) 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.

(12) 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, micro-blading, collagen induction therapy or permanent makeup establishment used for body art activity.

(13) No animals of any kind shall be allowed in a body art, micro-blading, collagen induction therapy or permanent makeup establishment except service animals used by persons with disabilities.

(14) Smoking, eating, or drinking is prohibited in the area where body art, micro-blading, collagen induction therapy or permanent makeup 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:

(1) Single-use items shall not be used on more than one client for any reason.

(2) All products applied to the skin, such as but not limited to body art stencils, micro-blading, collagen induction therapy or permanent makeup applicators, gauze and razors, shall be single use and disposable.

(3) Hollow bore needles or needles with a cannula shall not be reused.

(4) All inks, dyes, pigments, solid core needles, and equipment shall be specifically manufactured for performing body art, micro-blading, collagen induction therapy or permanent makeup procedures and shall be used according to manufacturer's instructions.

(5) Inks, dyes or pigments may be mixed and may only be diluted with water from an approved potable source.

(C) Sanitation and Sterilization Measures and Procedures:

(1) All non-disposable instruments used for body art, micro-blading, collagen induction therapy or permanent makeup 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.

(2) After being cleaned, all non-disposable instruments used for body art, micro-blading, collagen induction therapy or permanent makeup shall be packed individually in sterilizer packs and subsequently sterilized in a steam autoclave.

(3) The autoclave shall be used, cleaned, and maintained according to manufacturer's instruction.

(4) Each holder of a permit to operate a body art, micro-blading, collagen induction therapy or permanent makeup 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.

(5) All instruments used for body art, micro-blading, collagen induction therapy or permanent makeup procedures shall remain stored in sterile packages until just prior to the performance of a body art procedure.

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

(7) If the body art, micro-blading, collagen induction therapy or permanent makeup establishment uses only sterile single-use, disposable instruments and products, and uses sterile supplies, an autoclave shall not be required.

(8) When assembling instruments used for body art, micro-blading, collagen induction therapy or permanent makeup procedures, the operator shall wear disposable medical gloves.

(9) Reusable cloth items shall be mechanically washed with detergent and dried after each use.

(D) Posting Requirements:

The following shall be prominently displayed:

(1) 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, micro-blading, collagen induction therapy or permanent makeup procedures.

(2) The name, address and phone number of the local Board of Health that has jurisdiction and the procedure for filing a complaint.

(3) An Emergency Plan.

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

(5) A current establishment permit.

(6) 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:

(1) Establishment information.

(2) Employee information.

(3) Client Information.

(4) All client information shall be considered confidential and shall not be provided to any persons except to the Board of Health or its authorized agent.

(F) Information:

The establishment shall require that all body art, micro-blading, collagen induction therapy or permanent makeup practitioners have either completed, or were offered and declined, in writing, the hepatitis B vaccination series. Records documenting compliance with this requirement shall be available for viewing by the Board.

Regulation 17.6 Standards of Practice

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

(A) A practitioner shall perform all body art, micro-blading, collagen induction therapy or permanent makeup 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 appears to be under the influence of alcohol or drugs.

(C) Practitioners who uses ear-piercing systems must conform to the manufacturer's directions for use, and to applicable U.S. Food and Drug Administration requirements. No practitioner shall use an ear piercing system on any part of the client's body other than the lobe of the ear.

(D) Health History and Client Informed Consent. Prior to performing a body art, micro-blading, collagen induction therapy or permanent makeup procedure on a client, the practitioner shall:

(1) Inform the client, verbally and in writing that the following health conditions may increase health risks associated with receiving a body art, micro-blading, collagen induction therapy or permanent makeup procedure:

(a) History of diabetes;

(b) History of hemophilia (bleeding);

(c) History of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants etc.;

(d) History of allergies or adverse reactions to pigments, dyes, or other sensitivities;

(e) History of epilepsy, seizures, fainting, or narcolepsy;

(f) Use of medications such as anticoagulants, which thin the blood and/or interfere with blood clotting; and

(g) Any other conditions such as hepatitis or HIV.

(2) Require that the client sign a form confirming that the above information was provided, that the client does not have a condition that prevents them from receiving body art, micro-blading, collagen induction therapy or permanent makeup, that the client consents to the performance of the body art, micro-blading, collagen induction therapy or permanent makeup procedure and that the client has been given the aftercare instructions.

(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, micro-blading, collagen induction therapy or permanent makeup procedures.

(F) In performing body art, micro-blading, collagen induction therapy or permanent makeup 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.

(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, micro-blading, collagen induction therapy or permanent makeup establishment in any capacity which such practitioner is so affected.

(H) Any item or instrument used for body art, micro-blading, collagen induction therapy or permanent makeup that is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.

(I) Preparation and care of a client's skin area must comply with the following:

(1) Any skin or mucosa surface to receive a body art, micro-blading, collagen induction therapy or permanent makeup procedure shall be free of rash or any visible infection.

(2) Before a body art, micro-blading, collagen induction therapy or permanent makeup procedure is performed, the immediate skin area and the areas of skin surrounding where body art, micro-blading, collagen induction therapy or permanent makeup 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.

(3) In the event of bleeding, all products used to stop the bleeding or to absorb blood shall be single use, and discarded immediately after use.

(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, micro-blading, collagen induction therapy or permanent makeup 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, micro-blading, collagen induction therapy or permanent makeup site. The written instructions shall advise the client:

(1) On the proper cleansing of the area which received the body art, micro-blading, collagen induction therapy or permanent makeup;

(2) To consult a health care provider for:

(a) Unexpected redness, tenderness or swelling at the site of the body art, micro-blading, collagen induction therapy or permanent makeup procedure;

(b) Any rash;

(c) Unexpected drainage at or from the site of the body art, micro-blading, collagen induction therapy or permanent makeup procedure; or

(d) A fever within 24 hours of the body art, micro-blading, collagen induction therapy or permanent makeup procedure; and

(3) Of the address, and phone number of the establishment.

A copy shall be provided to the client. A model set of aftercare instructions shall be made available by the Department.

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

Regulations 17.7 Injury Reports

A written report of any injury, infection complication or disease as a result of a body art, micro-blading, collagen induction therapy or permanent makeup 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.

Regulation 17.8 Complaints

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.

Regulation 17.9 Application for Body Art Establishment Permit

(A) There will be an establishment application fee set by the Acton Board of Health that each person must pay before operating a body art, micro-blading, collagen induction therapy or permanent makeup procedure or permanent makeup establishment.

(B) No person may operate either except with a valid permit from the Acton Board of Health.

(C) The Board shall require that the applicant sign and date an acknowledgement that he or she has received, read and understood the requirements of the Board's body art, micro-blading, collagen induction therapy or permanent makeup procedure regulations.

(D) An establishment permit shall automatically expire in one (1) year from the date of issuance.

Regulation 17.10 Application for Body Art Practitioner Permit

(A) There will be a body art, micro-blading, collagen induction therapy or permanent makeup procedure practitioner application fee set by the Acton Board of Health that each person must pay before any body art procedure can occur.

(B) No person shall practice body art, micro-blading, collagen induction therapy or permanent makeup procedure or perform any body art procedure without first obtaining a practitioner permit from the Board.

(C) The applicant shall provide proof of coverage by an individual professional liability insurance policy covering the Town of Acton minimum requirements per occurrence and at least one million dollars (\$1,000,000) aggregate.

(D) A practitioner shall be a minimum of 18 years of age.

(E) Training for all practitioners shall be approved by the Board and, at a minimum shall include the following:

(a) Blood borne pathogen training program which included infectious disease control; waste disposal; handwashing techniques; sterilization equipment operation and methods; and sanitization, disinfection and sterilization methods and techniques.

(b) First Aid and CPR.

(c) Completed a course on anatomy, or possesses an equivalent combination of training and experience.

(d) Completed a course on skin diseases, disorders and conditions, including diabetes.

Regulation 17.11 Application for Body Art Practitioner Apprenticeship

(A) A person may apply for a body art, micro-blading, collagen induction therapy or permanent makeup procedure practitioner apprenticeship permit in order to complete training required to obtain a body art practitioner permit.

(B) An apprentice body art, micro-blading, collagen induction therapy or permanent makeup procedure practitioner shall be a minimum of 18 years of age.

(C) Apprentice body art, micro-blading, collagen induction therapy or permanent makeup procedure practitioner training and experience training shall include the following:

1. One of the following blood borne pathogen training programs, which includes infectious disease control, waste disposal, hand-washing techniques, sterilization equipment operation and methods, sanitation, disinfection and sterilization methods and techniques:

(a) "Preventing Disease Transmission" (American Red Cross)

(b) Blood borne Pathogen Training" (U.S. OSHA).

2. Current certification in first aid and Cardiopulmonary Resuscitation (CPR).

3. The applicant for apprentice body art, micro-blading, collagen induction therapy or permanent makeup procedure practitioner permit shall provide documentation that he or she has completed a skin course.

4. A valid permit for an establishment and/or permitted body art, micro-blading, collagen induction therapy or permanent makeup procedure practitioner must be maintained for 1 year in the Town of Acton prior to a permitted body art, micro-blading, collagen induction therapy or permanent makeup procedure practitioner at the establishment serving as a supervisor to an apprentice. The establishment and the practitioners must have no violations or validated complaints for one (1) year in the

Town of Acton prior to submittal of an apprentice permit application from an establishment. This applies to permits for establishments and practitioners issued after [date regulations take effect].

5. Once an apprentice body art, micro-blading, collagen induction therapy or permanent makeup procedure practitioner permit has been obtained, the applicant must complete and document the completion of the apprentices' requirements, prior to applying for a body art, micro-blading, collagen induction therapy or permanent makeup procedure practitioner permit.

6. The apprentice must be sponsored by a permitted practitioner throughout his/her entire training. Each permitted body art, micro-blading, collagen induction therapy or permanent makeup procedure practitioner may supervise only one apprentice at a time.

7. Each establishment may have a maximum of two apprentice practitioners.

8. The owner of an establishment must obtain liability insurance that would be inclusive of all apprentices working at the establishment at any given point.

9. All regulations, grounds for suspension, denial, revocation, refusal to renew permit and fines within Board of Health Article 17 for Body Art Establishments shall apply to the apprentice body art practitioner.

(D) Body Art Apprenticeship requirements:

1. The Apprenticeship must be performed under the supervision of a body art, micro-blading, collagen induction therapy or permanent makeup procedure practitioner with a valid permit from the Acton Board of Health.

2. The apprentice body art, micro-blading, collagen induction therapy or permanent makeup procedure practitioner must complete 75 hours of direct observation of tattooing techniques.

3. The apprentice body art, micro-blading, collagen induction therapy or permanent makeup procedure practitioner must complete 75 hours of work station preparation and clean-up.

4. Once the requirements in (2) and (3) are completed, an apprentice body art, micro-blading, collagen induction therapy or permanent makeup procedure practitioner may proceed with body art practice, under the supervision of the body art practitioner who has a valid permit.

5. The Board requires a minimum of 150 procedures and / or 500 hours to complete the apprenticeship.

6. Before any person acting under a Body Art, micro-blading, collagen induction therapy or permanent makeup procedure apprentice permit conducts any form of body art, micro-blading, collagen induction therapy or permanent makeup procedure upon a client, such person must obtain the client's written consent.

Regulation 17.12 Grounds for Denial of Permit, Revocation of Permit, or Refusal to Renew Permit

The Board may deny, revoke or refuse to renew a permit sought or issued pursuant to a body art, micro-blading, collagen induction therapy or permanent makeup procedure establishment, practitioner or apprentice practitioner for any violation of these regulations.

Regulation 17.13 Grounds for Suspension of Permit

The Board or its agent may summarily suspend a permit pending a 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 or its agent.

Regulation 17.14 Procedure for Hearings

(A) Any person who has received a Notice of Violation may request a hearing thereon by filing a written request with the Board or its agent with seven (7) days after receipt of such notice.

(B) The Board shall schedule a hearing on such violations, as soon as practicable but in any case not more than twenty-one (21) days after receipt of the request for a hearing, and shall notify the permittee of the date and time of such hearing in writing.

(C) The permittee shall be entitled to be heard with respect to any violations contained in the Notice of Violations.

(D) The Board shall act by majority vote of the members who attend the hearing, provided quorum of the Board is present.

(E) Following the hearing, the Board shall issue a written decision containing its findings of facts and a statement of its action.

Regulation 17.15 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, micro-blading, collagen induction therapy or permanent makeup procedure.

Under Chapter E 45 of the Bylaws of Town of Acton, any person in violation of the Rules and Regulations of the Acton Board of Health shall be subjected to fines.

Regulation 17.16 Severability

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

ARTICLE 18. REGULATIONS CONCERNING TOBACCO USE AND DISTRIBUTION IN ACTON (TOBACCO REGULATIONS)

ARTICLE 18. REGULATIONS CONCERNING TOBACCO USE AND DISTRIBUTION IN ACT (TOBACCO REGULATIONS)

Article 18-1 Authority

Whereas there exists conclusive evidence that tobacco smoking causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat¹;

Whereas the Massachusetts Supreme Judicial Court has held that “. . . [t]he right to engage in business must yield to the paramount right of government to protect the public health by any rational means”². The Acton Board of Health (BOH) under the authority of Massachusetts General Law (MGL) Ch 111, S.31, amendments and additions thereto, and in the interest of preserving and protecting the public health, hereby rescinds all previous Acton BOH regulations concerning tobacco use and adopts the following regulations.

Article 19-2 Definitions

For the purpose of this regulation, the following words shall have the following meanings, unless the context requires otherwise:

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

² Druzik et al v. Board of Health of Haverhill, 324 Mass.129 (1949).

Adult-Only Retail Tobacco Store: An establishment that is not required to possess a retail food permit whose only purpose is to sell or offer for sale but not for resale, tobacco products and tobacco paraphernalia, in which the sale of other products or offer of services is merely incidental, and in which the entry of persons under the minimum legal sales age is prohibited at all times, and which maintains a valid permit for the retail sale of tobacco products as required by the Acton Board of Health.

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

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

Characterizing Flavor: A distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

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

Compensation: Money, gratuity, privilege, or benefit received from an employer in return for work performed or services rendered.

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

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

Coupon: Any card, paper, note, form, statement, ticket or other communication distributed for commercial or promotional purposes to be later surrendered by the bearer so as to receive an article, service or accommodation without charge or at a discount price.

Customer Service Area: An area of the workplace that a business invitee may access.

Distinguishable: Perceivable by either the sense of smell or taste.

E-Cigarette: Any electronic device composed of a mouthpiece, heating element, battery and/or electronic circuits that relies on vaporization or aerosolization. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes, e-hookah or under any other product name.

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

Employee: Any individual who performs services for an employer.

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

Enclosed: All space between the floor and ceiling which is surrounded on all sides by solid walls or windows (exclusive of doors or passageways).

Flavored Tobacco Product: Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a Flavored Tobacco Product.

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

Lodging Home: A dwelling or part thereof which contains one or more rooming units in which space is let or sublet for compensation by the owner or operator to four or more persons. The residential portion of boarding houses, rooming houses, dormitories, and other similar dwelling places are included in this definition. Assisted living homes are not included.

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

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

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

Minimum Legal Sales Age (MLSA): The age an individual must be before that individual can be sold a tobacco product in the municipality.

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

Non-Smoking Area: Any area that is designated and posted by the proprietor or person in charge as a place where smoking by patrons, employees or others is prohibited.

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

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

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

Proper Ventilation: Separate ventilation directly to the outside in which no air recirculates through the building ventilation system. The area shall be under negative pressure so as to reduce air from escaping into other areas that may be accessed by non-smokers. The ventilation rate in this area shall be in accordance with ASHRAE Standard 62.1- Indoor Air Ventilation or some other generally accepted

standard for venting a smoking lounge that is approved in writing on a case by case basis by the Acton Board of Health.

Public Building: Any enclosed, indoor area that is located in a building owned or occupied by any department or agency of the Town of Acton, or any political subdivision thereof.

Public Place: An enclosed, indoor area when open to and used by the general public, including but not limited to the following facilities: auditoriums, licensed child care locations during hours of operation, schools, clinics, hospitals, , public libraries, municipal buildings, museums, theaters, retail stores, permanent food permit licensees, indoor sports arenas, public transit facilities, enclosed shopping malls, hotel and motel lobbies, stairwells, hallways, entrances, public rest rooms, elevators accessible to public, town recreational beaches and fields, common areas in privately owned buildings, and rooms or halls when used for public meetings.

Public Transportation Conveyance: A vehicle or vessel used in mass public transportation or in the transportation of the public, including a train, passenger bus, school bus or other vehicle used to transport pupils, taxi, enclosed ski lifts or trams, passenger buses or vans regularly used to transport customers. Notwithstanding the foregoing, a private vehicle or vessel not open to the public or not used for the transportation of the public during the times of use, including a private passenger vehicle, a private charter or rental of a limousine, bus or van or the private rental of a boat or another vessel, shall not be considered a public transportation conveyance.

Residence: The part of a structure used as a dwelling including without limitation: a private home, townhouse, condominium, apartment, mobile home, vacation home, cabin or cottage; a residential unit in a governmental public housing facility; and the residential portions of a school, college or university dormitory or facility. A residential unit provided by an employer to an employee at a place of employment shall be considered to be a residence if the unit is an enclosed indoor space used exclusively as a residence, and other employees, excluding family members of the employee, or the public has no right of access to the residence. For the purposes of this definition, a hotel, motel, inn, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home or assisted living facility shall not be considered a residence.

Restaurant: Any establishment regulated by Title X of the State Sanitary Code. This category includes cafeterias in the workplace.

Retail Food Establishment: Any establishment commonly known as a supermarket or grocery store in which the primary activity is the sale of food items to the public for off-premise consumption.

Retail Store: Any establishment selling goods, articles or personal services to the public, except Retail Tobacco Stores as defined below; including such places as barbershops, hair salons and tanning salons.

Self-Service Display: Any display from which customers may select a tobacco product, as defined herein, without assistance from an employee or store personnel.

Schools: Public or private elementary or secondary schools.

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

Smoking (or smoke): the lighting of a cigar, cigarette, pipe or other tobacco product or possessing a lighted cigar, cigarette, pipe or other tobacco or non-tobacco product designed to be combusted and inhaled.

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

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

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

Workplace: Any area within a structure or portion thereof at which one or more employees perform services for their employer. It also includes private offices, individual work stations and all common areas including but not limited to the following areas: employee lounges, rest rooms, conference rooms, hallways, stairways and entrance ways.

Terms not defined herein shall be defined as set forth in M.G.L. Ch. 270, §22 and/or 105 CMR 661. To the extent any of the definitions herein conflict with M.G.L. Ch. 270, §22 and 105 CMR 661, the definition contained in this regulation shall control.

Article 18-3 Prohibition of Smoking in Public Places

- 18-3.1 Smoking in a workplace is prohibited.
- 18-3.2 Smoking is prohibited in Public Places, Public Buildings, Public Transport, Restaurants, Retail Stores, and Retail Food Establishments.
- 18-3.3 A person shall not smoke in a municipal building or in a building or in a vehicle or vessel owned, leased, or otherwise operated by the Town of Acton or in a space occupied by the Town of Acton that is located in another building, including a private office in a building or space, or at an open meeting of a governmental body as defined in MGL Ch 30A, S.11A, Ch 39,S.23A & S.9F, or Ch 34, or in a courtroom or courthouse.
- 18-3.4 The prohibition of smoking in public places shall apply to retail stores doing business with the general public.
- 18-3.5 Smoking in hotels/motels/inns is prohibited, except a hotel/motel/inn may designate smoking rooms by the proprietor(s) or other person(s) in charge of a hotel/motel/inn, and may not exceed twenty percent of the total rooms licensed for guests. Non-smoking room locations shall not be located between smoking rooms. Non-smoking rooms shall be situated as to utilize physical barriers and ventilation systems to minimize the effect of tobacco smoke on non-smokers. Signage at the front desk shall alert customers of the availability of non-smoking rooms. Rooms shall be posted as smoking prohibited or smoking permitted.
- 18-3.6 The use of e-cigarettes is prohibited wherever smoking is prohibited per M.G.L. Ch. 270, §22 and this regulation.

Article 18-4 Outdoor Spaces

- 18-4.1 Smoking is permitted in Outdoor Spaces, except within 30 feet of the wall, border, or boundary of any location where smoking is prohibited by this regulation.
- 18-4.2 All outdoor spaces shall be physically separated from an enclosed workspace. If doors, windows, sliding or folding windows or doors or other fenestrations form any part of the border to the outdoor space, the openings shall be closed to prevent the migration of smoke into the workspace. If the windows, sliding or folding windows or doors or other fenestrations are opened or otherwise do not prevent the migration of smoke into the workspace, the outdoor space shall be considered an extension of the enclosed workspace and subject to this Section.

Article 18-5 Signage Requirements

- 18-5.1 A designated smoking room in a hotel, motel, inn, and bed and breakfast or lodging home shall be clearly marked as a designated smoking room on the exterior of all entrances from a public hallway and public spaces, and in the interior of the room. Instead of marking each room, an establishment may designate an entire floor of residential rooms as smoking. The floor shall be conspicuously designated as smoking at each entranceway on to the floor. Smoking shall not be allowed in the common areas of the floor, such as halls, vending areas, ice machine locations and exercise areas and shall comply with Section 18-4.
- 18-5.2 A retail tobacco store that permits smoking on the premises shall, pursuant to Section 18-5, post in a clear and conspicuous manner: a sign at each entrance warning: persons entering the establishment that smoking may be present on the premises; of the health risks associated from secondhand smoke; and that persons under the age of 21 years of age may not enter the premises.
- 18-5.3 Suitable signs and templates for signage may be obtained from the Massachusetts Department of Public Health or the Acton Health Department.
- 18-5.4 It shall be the responsibility of the owner or operator of an establishment to ensure that the appropriate signage is displayed and that an individual or group renting the space complies with and, if appropriate, enforces the prohibition against smoking.

Article 18-6 Time Share Properties

- 18-6.1 Companies that sell ownership rights to owners of time-share properties shall distinguish between smoking and nonsmoking time-share properties. Such companies shall disclose to potential buyers whether the unit they are purchasing is a smoking or nonsmoking property and post signs accordingly.

Article 18-7 Retail Sale of Tobacco Products, Permits

- 18-7.1 No person shall sell or otherwise distribute tobacco products, as defined herein, within the Town of Acton without first obtaining a Tobacco Product Sales Permit issued annually by the Acton Board of Health. Only owners of establishments with a permanent, non-mobile location in Acton are eligible to apply for a permit and sell tobacco products, as defined herein, at the specified location in Acton.

18-7.2 As part of the Tobacco Product Sales Permit application process, the applicant will be provided with the Acton regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation, a copy of which will be placed on file in the office of the employer, and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco product sales regarding federal, state and local laws about the sale of tobacco and this regulation.

18-7.3 Each applicant who sells tobacco products is required to provide proof of current Tobacco Retailer Licenses issued by the Massachusetts Department of Revenue, when required by state law, before a Tobacco Product Sales Permit can be issued. Applicant may be asked to provide evidence that a legitimate business transfer or business purchase has taken place.

18-7.4 A separate permit, displayed conspicuously, is required for each retail establishment selling tobacco products, as defined herein. The fee shall be determined by the Acton Board of Health annually.

18-7.5 A Tobacco Product Sales Permit is non-transferable. A new owner of an establishment that sells tobacco products, as defined herein, must apply for a new permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.

18-7.6 Issuance of a Tobacco Product Sales Permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation.

18-7.7 A Tobacco Product Sales Permit will not be renewed if the permit holder has failed to pay all fines issued and the time period to appeal the fines has expired and/or the permit holder has not satisfied any outstanding permit suspensions.

18-7.8 Every establishment shall send one manager at least once every other year to participate in a merchant training provided by the Board of Health. Failure to attend shall constitute grounds for revocation or non-renewal of a Tobacco Product Sales Permit.

Article 18-8 Smoking on School Grounds Banned

18-8.1 The use of any tobacco products within a school building, school facilities, on school grounds, or on school buses by any individual, including school personnel, is prohibited. Duly authorized agents of the Board of Health may enforce this section. The School Committee of the Acton-Boxborough Regional School District may submit to the Board

of Health the names of recommended personnel to be authorized to enforce this regulation during hours when the schools are in session.

Article 18.9 Tobacco Sales to Minors Prohibited

18-9.1 No person shall sell or provide a tobacco product, as defined herein, to a person under the minimum legal sales age. The minimum legal sales age in Acton is twenty-one (21).

18-9.2 Required Signage:

18-9.2.1 In conformance with and in addition to Massachusetts General Law, Chapter 270, Section 7, a copy of Massachusetts General Laws, Chapter 270, Section 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be provided by the Massachusetts Department of Public Health and made available from the Acton Board of Health. The notice shall be at least 48 square inches and shall be posted conspicuously by the permit holder in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than 4 feet or greater than 9 feet from the floor. The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post any additional signs required by the Massachusetts Department of Public Health. The owner or other person in charge of a shop or other place used to sell hand rolled cigars must display a warning about cigar consumption in a sign at least 50 square inches pursuant to 940 CMR 22.05 (2) (e).

18-9.2.2 The owner or other person in charge of a shop or other place used to sell tobacco products, as defined herein, at retail shall conspicuously post signage provided by the Acton Board of Health that discloses current referral information about smoking cessation.

18-9.2.3 The owner or other person in charge of a shop or other place used to sell tobacco products that rely on vaporization or aerosolization, as defined herein as "Tobacco Products", at retail shall conspicuously post a sign stating that "The sale of tobacco products, including e-cigarettes, to someone under the minimum legal sales age of 21 years is prohibited." The notice shall be no smaller than 8.5 inches by 11 inches and shall be posted conspicuously in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor.

18-9.3 Identification: Each person selling or distributing tobacco products, as defined herein, shall verify the age of the purchaser by means of a valid government-issued photographic identification containing the bearer's date of birth that the purchaser is 21 or older. Verification is required for any person under the age of 27.

18-9.4 All retail sales of tobacco products, as defined herein, must be face-to-face between the seller and the buyer and occur at the permitted location.

Article 18-10 Tobacco Vending Machines and Self-Service Displays:

18-10.1 No person, firm, corporation, establishment or agency shall sell tobacco products, as defined herein, from a vending machine or a self-service display in the Town of Acton.

Article 18-11 Cigar Sales Regulated

18-11.1 This Section shall not apply to a person or entity engaged in the business of selling or distributing cigars for commercial purposes to another person or entity engaged in the business of selling or distributing cigars for commercial purposes with the intent to sell or distribute outside the boundaries of Acton.

18-11.2 The Acton Board of Health may adjust from time to time the amounts specified in this Section to reflect changes in the applicable Consumer Price Index by amendment of this regulation.

Article 18-12 Prohibitions of the Sale of Blunt Wraps and Flavored Tobacco Products

18-12.1 No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, except in smoking bars and adult-only retail tobacco stores.

18-12.2 No person or entity shall sell or distribute blunt wraps in Acton.

Article 18-13 Free Distribution and Coupon Redemption

18-13.1 Distribute or cause to be distributed, any free samples of tobacco products, as defined herein.

18-13.2 Accept or redeem, offer to accept or redeem, or cause or hire any person to accept or redeem or offer to accept or redeem any coupon that provides any tobacco product, as defined herein, without charge or for less than the listed or non-discounted price.

18-13.3 Sell a tobacco product, as defined herein, to consumers through any multi-pack discounts (e.g., "buy-two-get-one-free") or otherwise provide or distribute to consumers any tobacco product, as defined herein, without charge or for less than the listed or non-discounted price in exchange for the purchase of any other tobacco

product.

Article 18-14 Out-of-Package Sales

18-14.1 The sale or distribution of tobacco products, as defined herein, in any form other than an original factory-wrapped package is prohibited, including the repackaging or dispensing of any tobacco product, as defined herein, for retail sale. No person may sell or cause to be sold or distribute or cause to be distributed any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.

18-14.2 Permit holders who sell Liquid Nicotine Containers must comply with the provisions of 310 CMR 30.000, and must provide the Acton Board of Health with a written plan for disposal of said product, including disposal plans for any breakage, spillage or expiration of the product.

18-14.3 All permit holders must comply with 940 CMR 21.05 which reads: "It shall be an unfair or deceptive act or practice for any person to sell or distribute nicotine in a liquid or gel substance in Massachusetts after March 15, 2016 unless the liquid or gel product is contained in a child-resistant package that, at a minimum, meets the standard for special packaging as set forth in 15 U.S. C.§§1471 through 1476 and 16 CFR §1700 et. Seq."

18-14.4 No permit holder shall refill a cartridge that is prefilled and sealed by the manufacturer and not intended to be opened by the consumer or retailer.

Article 18-15 Non-Residential Roll-Your-Own Machines

18-15.1 All Non-Residential Roll-Your-Own machines are prohibited.

Article 18-16 Prohibition of the Sale of Tobacco Products by Health Care Institutions

18-16.1 No health care institution located in Acton shall sell tobacco products, as defined herein. No retail establishment that operates or has a health care institution within it, such as a pharmacy, optician/optometrist or drug store, shall sell tobacco products, as defined herein.

Article 18-17 Prohibition of the Sale of Tobacco Products by Educational Institutions

18-17.1 No educational institution located in Acton shall sell or cause to be sold tobacco products, as defined herein. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

Article 18-18 Anti-Preemption

18-18.1 Nothing in this regulation shall permit smoking in an area in which smoking is or may hereafter be prohibited by law including, without limitation: any other law or ordinance or by-law or any health, fire or safety regulation. Nothing in this regulation shall preempt further limitation of smoking by the State or any department, agency or political subdivision of the State.

Article 18-19 Exemptions

18-19.1 Notwithstanding Section 18-3, smoking is permitted in the following places and circumstances:

18-19.1.1 Private residences, except during such time when the residence is utilized as part of a business as a group child care center, school age day care center, school age day or overnight camp, or a facility licensed by the Office of Child Care Services or as a health care related office or facility.

18-19.1.2 Premises occupied by a membership association, if the premises is owned, or under a written lease for a term of not less than 90 consecutive days, by the association during the time of the permitted activity and if the premises are not located in a public building.

18-19.1.2.1 No smoking shall be permitted in an enclosed indoor space of a membership association during the time the space is:

- Open to the public; or
- Occupied by a non-member who is not an invited guest of a member or an employee of the association

18-19.1.2.1 Membership Associations must provide proper ventilation as defined in Section 18-2. Smoking may be permitted in an enclosed indoor space of a membership association at all times if the space is restricted by the association to admittance only of its members, the invited guest of a member, and the employees of the membership association. A person who is a contract employee, temporary employee, or independent contractor shall not be considered an employee of a membership association under this subsection. A person who is a member of an affiliated chapter or branch of a membership association that is fraternal in nature operating under the lodge system, and is visiting the affiliated association, shall be an invited guest for the purposes of this subsection.

- 18-19.3 A guest room in a hotel, motel, inn, bed and breakfast or lodging home that is designed and normally used for sleeping and living purposes, and which is rented to a guest and designated as a smoking room pursuant to Section 18-3 of these Regulations.
- 18-19.4 By a theatrical performer upon a stage or in the course of a professional film production, if the smoking is part of a theatrical production.
- 18-19.5 By a person, organization or other entity that conducts medical or scientific research on tobacco products, if the research is conducted in an enclosed space not open to the public, in a laboratory facility at an accredited college or university or in a professional testing laboratory as defined by regulation of the Department of Public Health.
- 18-19.6 Religious ceremonies where smoking is part of the ritual; and
- 18-19.7 A tobacco manufacturer, importer, exporter, or wholesale distributor of tobacco products, may permit smoking in the workplace for the sole purpose of testing said tobacco for quality assurance purposes; if the smoking is necessary to conduct the test.
- 18-19.8 Retail Tobacco Stores may operate as Smoking Bars after receiving a special permit from the Board of Health.

Article 18-20 Variances

- 18-20.1 Written application must be made to the Board of Health for a variance from these Regulations.
- 18-20.2 Every application for a variance is subject to a public hearing. Notice of the hearing shall be posted as part of a public notice of a Board of Health meeting, at which the Board will consider the application. The notice shall be posted no less than 24 hours before the meeting.
- 18-20.3 By vote of a majority of its membership in attendance, the Acton Board of Health may vary the application of any provision of these regulations with respect to a particular case in which, in the Board's opinion, both of the following requirements are fulfilled:
 - 18-20.3.1 The enforcement of the regulations would do manifest injustice; and
 - 18-20.3.2 The applicant has provided evidence that the degree of protection of the public health, safety and welfare can be achieved without strict application of the particular

provision. The alternative means of protection shall be detailed and documented by the applicant to the satisfaction of the Board.

18-20.3.3 Any variance granted by the Board shall be in writing, and shall expire at the time fixed by the Board at the time of issuance. If no expiration is specified by the Board, the variance shall expire one year from issue. An applicant may renew a variance by application to the Board.

18-20.3.4 A copy of the variance granted under this Section shall be available for public inspection at the Health Department.

Article 18-21 Penalties and Enforcement

18-21.1 Violations

18-21.1.1 It shall be the responsibility of the establishment, permit holder and/or his or her business agent to ensure compliance with all sections of this regulation pertaining to his or her distribution of tobacco and/or nicotine delivery products. The violator shall be punished by a fine of:

- a) \$100 for the first violation;
- b) \$200 for a second violation occurring within two (2) years of the date of the first offense; and
- c) \$300 for a third or subsequent violation occurring within two (2) years of the second violation.

18-21.1.2 Each calendar day on which a violation occurs shall be considered a separate offense.

18-21.1.3 Any establishment that receives three violations within any two-year period will have its permit to sell tobacco products in Acton suspended for a period of up to ten days for each day of noncompliance.

18-21.1.5 Any employee who sells tobacco to a minor is subject to a fine of fifty dollars (\$50) per offense. This penalty is separate and in addition to the penalty that may be added at the discretion of the Health Director upon the establishment above.

18-21.1.6 This regulation may be enforced by the Board of Health its agents and its designees, in addition to other entities charged with the enforcement of the laws of the Commonwealth of Massachusetts or Acton Regulations, and having jurisdiction in Acton.

18-21.2 An individual or person who violates this regulation by smoking in a place where smoking is prohibited shall be subject to a civil penalty of \$100 for the first violation, \$200.00 for the second violation, and \$300.00 for each subsequent violation.

18-21.3 Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the Tobacco and Nicotine Delivery Product Sales Permit for thirty (30) consecutive business days.

18-21.4 Violations of these Regulations may be considered civil violations and subject to Acton Bylaw E45.

18-21.5 The Acton Board of Health shall provide notice of the intent to suspend a Tobacco and Nicotine Delivery Product Sales Permit, which notice shall contain the reasons therefor and establish a time and date for a hearing which date shall be no earlier than seven (7) days after the date of said notice. The permit holder or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision and the reasons therefore in writing. After a hearing, the Acton Board of Health shall suspend the Tobacco and Nicotine Delivery Product Sales Permit if the Board of Health finds that a violation of this regulation occurred. For purposes of such suspensions, the Board shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All tobacco products and nicotine delivery products shall be removed from the retail establishment upon suspension of the Tobacco and Nicotine Delivery Product Sales Permit. Failure to remove all tobacco and nicotine delivery products shall constitute a separate violation of this regulation.

Article 18-22 Severability

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

Article 18-23 Other Applicable Laws

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

Article 18-24 Conflict With Other Laws or Regulations

Notwithstanding the provisions of Section 18-3 of these Regulations nothing herein shall be deemed to amend or repeal applicable fire, health or other regulations so as to permit smoking in areas where it is prohibited by such regulations.

Article 18-25 Adoption and Date of Effect

These Regulations and any amendments thereto shall become effective January 1, 2020 after Hearing upon a majority vote by members of the Board and a summary of this regulation has been published in a local newspaper.

ARTICLE 19

**DESIGN, OPERATION, AND MAINTENANCE OF
WASTEWATER TREATMENT FACILITIES**

19-1.00 PERMIT REQUIREMENTS

19-1.10 DISPOSAL WORKS CONSTRUCTION PERMITS

No system or facility to be used for treating, neutralizing, stabilizing or disposing of wastewater from homes, public buildings, commercial or industrial buildings, or any types of establishments shall be located, constructed, installed, operated, altered, or repaired until a Disposal Works Construction Permit³ for such shall have been issued by the Board of Health. No construction of any building or facility which relies upon such wastewater system or facility shall be allowed until a Disposal Works Construction Permit has been issued by the Board of Health.

Such system or facility as regulated herein shall include, but not be restricted to: sewers serving such facility, Wastewater Pumping Stations, Wastewater Treatment Works, All Wastewater Treatment Operations, Sludge Treatment And Management, Disinfection, Advanced Waste Treatment, Subsurface Disposal And Land Treatment, Wastewater Recycling And Reuse.

Such system or facility as regulated herein shall be referenced as Wastewater Treatment Facility (WWTF).

19-1.10.1 EXCEPTIONS

Notwithstanding the requirements of these regulations, all onsite wastewater systems with a design flow less than 10,000 gallons per day, including those that employ Innovative/Alternative Technologies as defined in 310 CMR 15.280-15.289 are exempted.

Existing facilities in operation prior to the promulgation of these regulations shall be exempt from all except the following sections, unless the WWTF is being upgraded,

³ as defined in 310 CMR 15.00, and the Acton Board of Health Regulations, Article 11

expanded or unless otherwise adjudicated by the Acton Board of Health: 19-1.30, 19-1.40, 19-2.10, 19-3.10, 19-9.10, 19-9.20, and 19-11.10

19-1.20 CERTIFICATE OF COMPLIANCE

No WWTF as permitted here shall be placed in service, nor shall any buildings or facilities or additions to existing buildings or facilities which rely upon such WWTF be occupied or used until the Board of Health issues a Certificate of Compliance for the WWTF.

19-1.30 OPERATIONS PERMIT

All currently operating WWTFs, at the date of promulgation are, required to obtain an Operations Permit within sixty (60) days. All newly constructed WWTFs shall be required to receive an Operations Permit before the Certificate of Compliance may be issued by the Board of Health.

To receive an Operations Permit, the owner of the WWTF shall present the following information to the Board of Health:

- (1) The name, address, phone number and emergency contact information for the Owner, Chief Operator and Back-up Operator.
- (2) A copy of the current operations and maintenance contract, if applicable, between the owner and the operator of the WWTF.
- (3) A copy of the current Groundwater Discharge Permit⁴, issued by the Massachusetts Department of Environmental Protection.
- (4) Any other relevant information required by the Board of Health or its Agent.
- (5) Operation and Maintenance Manual that includes the current staffing plan.

Operations Permits will be issued on a calendar year basis. The above listed information must be submitted each calendar year, unless otherwise directed in writing by the Agent of the Board of Health, along with the appropriate fee in order to receive the permit.

19-1.40 FEES

The fees for Operations and Construction Permits shall be as recommended by the Acton Board of Health and approved by the Acton Board of Selectmen.

⁴ As defined in 314 CMR 5.00

19-2.00 SUBMITTALS

19-2.10 APPLICATIONS, REPORTS, PLANS, DATA, DOCUMENTS

A copy of all applications, reports, plans, specifications, data and supporting documents required by these regulations and by the regulations of any other agency in connection with the approval or operation and maintenance of the subject facility shall be submitted to the Board of Health. In the case of requests for a Board of Health action, such materials shall be submitted a minimum of 45 days prior to the date upon which an action by the Board of Health is desired. In the case of submittals to other agencies, all material shall be submitted to the Board of Health at the time of submittal to that agency. A Board of Health Disposal Works Construction Permit, as required under this Article, will not be issued prior to approval by the Massachusetts Department of Environmental Protection. Other submittals shall be made in accordance with schedules as specifically designated by the Board of Health.

19-3.00 OTHER REGULATIONS AND GUIDELINES

19-3.10 FEDERAL, STATE AND LOCAL REGULATIONS

The applicant for any WWTF shall comply with all applicable, Federal, State and Town regulations as existing and may be amended from time to time. All data, reports, and plans designated by those regulations shall be submitted to the Board of Health. All data required by these regulations shall be promptly submitted to the Board of Health at the time of submittal to the governing entities.

19-4.00 GENERAL PROJECT PLANNING REQUIREMENTS

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

19-4.10 ENVIRONMENTAL COMPATIBILITY

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

An Environmental Impact Report must be prepared which details current conditions and specifies changes that will occur due to the discharge created by the Wastewater Treatment Facility.

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

19-4.20 GENERAL DISCHARGE AND TREATMENT REQUIREMENTS

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

19-4.30 HYDROGEOLOGICAL INVESTIGATION

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

19-4.40 WETLANDS AND FLOOD PLAINS

No component of the treatment plant, except for the underground piping, shall be constructed less than two (2) feet above the high water level in any area subject to flooding. Such distances are considered “minimum” and may be increased by the Board of Health if site specific conditions warrant.

19-4.50 GENERAL SITING AND DESIGN REQUIREMENTS

WWTF design shall include attenuation of potential odor or noise problems, in accordance with the requirements set forth in 310 CMR 7.09-7.10, to both protect the operator and to satisfy neighborhood environmental requirements.

19-4.51 DISTANCES

No portion of the WWTF shall be located less than the following distances from the features listed as follows in Table 1:

Table 1: Minimum Acceptable Separation Distances in Feet						
Component	Plant Buildings	Pumping Station	Subsurface Tank	Disposal Area	Sewer Force Main	Sewer Gravity Main
Public Well *¥	400	400	400	400	400	400
Private Well *¥	50	50	50	150	50	50
Water Supply Line		10	10	25	10	10
Dwelling Unit	75	50	10	25	10	10
Subsurface		25	25	50*	5	5

Drain **						
Property Boundary	25	25	10	25	10	10
Surface Water *¥	100	50	50	100	50	50
Wetland *¥	100	25	100	100	50	50
Flood Plain ¥	100	100	50	100	50	50

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

** These distances are for subsurface drains that intercept groundwater

¥ This distance may be greater to come into compliance with Article 16: Minimum Requirements for Activities within the Groundwater Protection Zones and/or MADEP Regulations

19-4.60 ULTIMATE DISPOSAL OF SLUDGE AND SOLIDS

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

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

19-4.70 TREATMENT PLANT RELIABILITY

The WWTF shall be planned and designed so as to provide for maximum reliability at all times. The facility shall be capable of operating satisfactorily during power failures, flooding, peak loads, equipment failure, and maintenance shut downs. Such reliability shall be obtained through the use of appropriate design techniques.

19-4.80 DISINFECTION

Disinfection of the WWTF effluent by ultraviolet irradiation, ozonation, or other approved equivalent method shall be required.

19-5.00 SUBSURFACE DISPOSAL FACILITIES

19-5.10 GROUND WATER

The bottom interface of any subsurface disposal or leaching facilities shall be located a minimum of four (4) feet above the Maximum Elevation of the Ground water or Saturated Soil Zone. This elevation shall include consideration of the mounding effect of the ground water caused by the discharge of the WWTF effluent. Such analysis shall be

performed by a qualified geotechnical engineer or hydrogeologist as part of the required hydrogeological investigation.

19-5.20 DISTANCE TO BEDROCK

The bottom interface of any subsurface disposal or leaching facilities shall be located a minimum of six (6) feet above the elevation of bedrock or impervious soil layer. Impervious soil shall be defined as having a percolation rate of greater than 60 minutes per inch.

19-5.30 THICKNESS OF PERMEABLE SOIL

A depth of at least five (5) feet of naturally occurring permeable soil shall be maintained below the bottom of the leaching area. To be considered permeable, the soil shall have a percolation rate less than or equal to 60 minutes per inch.

19-6.00 SEWERS

19-6.10 SEWER CONSTRUCTION

The lateral sewer system serving the WWTF shall be of a design and construction in accordance with Water Environment Federation Manual of Practice #9 or other guidelines approved by the Board of Health. Adequate capacity shall be provided for peak flow rates and shall provide for a cleansing velocity of at least two (2) feet per second at 75 percent of the estimated peak discharge. For low service connection areas, peak flow rate shall be calculated by the fixture unit method as described in MOP #9. The minimum gravity pipe size allowed shall be four (4) inches in diameter.

19-7.00 GROUNDWATER MONITORING

19-7.10 INSTALLATION

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

- One up-gradient monitoring well
- Two down-gradient monitoring wells
- One piezometer, for groundwater level only, near the center of the disposal area.

Screen depths for the wells shall be set at elevations such that at least two screen depths will yield samples at time of seasonal low ground water (e.g. October sampling period).

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

19-7.20 GROUNDWATER ELEVATION

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

19-8.00 EFFLUENT LIMITS AND TESTING REQUIREMENTS

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

19-8.10 TREATMENT PLANT INFLUENT

The influent to the treatment plant shall at a minimum be sampled and tested monthly for 5-day Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS).

19-8.11 TREATMENT PLANT EFFLUENT

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

DAILY	Flow (gallons discharged) pH
MONTHLY	5-day Biochemical Oxygen Demand (BOD) Total Suspended Solids (TSS) Fecal Coliform Bacteria Nitrate Nitrogen Total Phosphorus Dissolved Phosphorus Total Nitrogen
QUARTERLY	Oil and Grease
SEMI-ANNUALLY	Volatile Organic Compounds (US EPA Procedure #624)

The sampling periods prescribed above may be increased or decreased by the Board of Health during the initial application or renewal of any Operations Permit. Frequency will not be decreased to levels below those required in the DEP Groundwater Discharge Permit. All sampling and analyses, except for the daily and monthly frequency tests, which will commence at time of plant startup, shall be performed initially at 60 days after plant startup and at the stated frequency thereafter.

19-8.20 GROUND WATER MONITORING WELLS

Monitoring Well Testing in the upgradient and down gradient wells shall be performed, at a minimum, semiannually in the months of April and October for the following parameters:

Nitrate Nitrogen
Total Phosphorus
Dissolved Phosphorus

On a monthly basis, the permittee shall monitor the following parameters, and submit the results to the Board of Health along with other required monthly reporting:

Water level (below ground surface)
Specific Conductance pH

On an annual basis, the permittee shall sample and analyze the monitoring wells for the following parameters

Volatile Organic Compounds (EPA Method #624)

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

19-9.00

OPERATOR

19-9.10 OPERATOR

A Massachusetts Certified Wastewater Treatment Plant Operator, having the Grade appropriate for the plant, as determined by the regulations of the Board of Certification of Operators of Wastewater Facilities, shall be retained by the permittee. Such Operator shall be designated the Chief Operator and shall be responsible for the operation of the WWTF.

19-9.20 BACK-UP OPERATOR

An alternate Massachusetts Certified Wastewater Treatment Plant Operator, having the same grade as the Chief Operator, shall be available in the absence of the Chief Operator.

19-9.20(a) The provisions of 19-9.10 and 19-9.20 are not meant to dictate singular staffing of any permitted WWTF, yet they are meant to designate a primary and secondary operations contact for the facility.

19-9.30 FINANCIAL SURETY

Prior to the issuance of the Certificate of Compliance and Operations Permit, the permittee shall provide a surety bond or other financial guarantees acceptable to the Board of Health in an amount specified by the Board of Health to guarantee the

operation of the WWTF for a period of at least one-year. The security shall provide for salaries, operational costs, and cost for immediate replacement, if necessary, of a major unit of operation of the plant, or in the event of plant failure to operate, an amount sufficient to cover the costs of hauling 100% of the wastewater to another facility for disposal for a one year period.

19-10.00 SEVERABILITY

If any part or portions of these regulations are adjudicated as invalid, the adjudication shall apply only to the material so adjudged, and the remaining Rules and Regulations shall be deemed valid of full force and effect.

19-11.00 VARIANCES

19-11.10 VARIANCES

The Board of Health may vary the application of any of the provisions of this Article with respect to a particular case when, in its opinion:

- (1) The enforcement therefore would do manifest injustice; and
 - (2) The applicant has proved that the same degree of environmental and public health protection required under this article can be achieved without strict application of the particular provision.
- (1) The applicant has demonstrated maximum feasible compliance with all other sections of the regulations.

ARTICLE 20: Regulations Governing the Practice of Bodywork

Regulation 20.1 Authority

The Acton Board of Health, pursuant to the authority granted under Massachusetts General Laws (M.G.L.), Chapter 111, Section 31 shall adopt the “Regulations Governing the Practice of Bodywork” to protect the public health and safety of the community.

Regulation 20.2 Purpose and Scope

The purpose of the Regulations Governing the Practice of Bodywork is to set forth rules and guidelines. Persons working in this particular service industry have often been found to identify themselves as bodyworkers in order to gain exemption from the Massachusetts Rules and Regulations Governing Massage Therapists. It is necessary to enact these Regulations Governing the Practice of Bodywork to

protect the public health and safety of the community. The scope of these Regulations is broad and includes many aspects, which if not particularly regulated could endanger the community with the risk of prostitution, human trafficking and disease transmission. It is the Board's intent that only individuals who meet and maintain a minimum standard of competence and conduct within their scope of practice as a professional may provide services to the public. These Regulations designate the requirements for obtaining a permit to operate a bodywork establishment and permit to practice bodywork, as well as grounds for suspension, revocation or denial of such a permit.

Regulation 20.3 Definitions

Administrative Revocation shall mean an administrative action with immediate effect taken by the Department for cause when a permit holder fails to renew a permit, or denies entry to an agent of the Department during the conduct of an inspection. A permit holder whose permit has been administratively revoked cannot lawfully continue to practice as a bodywork therapist or to operate a bodywork establishment in the Town of Acton. Permits that have been administratively revoked may be reinstated upon meeting the conditions contained in these Regulations.

Agent shall mean a person who has received delegation of authority from the Board of Health to perform functions subject to these Regulations.

Applicant shall mean a person seeking a permit that has submitted an application and the applicable application fee for a permit.

Application shall mean the application approved by the Director of Health and provided by the Department.

Board of Health shall mean the Acton Board of Health

Bodywork shall refer to the practice of a person representing themselves as a bodyworker or bodywork therapist, or the practice of a person using primarily touch to manipulate tissue, which does not constitute Massage as defined in M.G.L., c. 135, in the course of a treatment or therapy provided to another person. Bodywork may include the affectation of the human energy system or acupoints or Qi meridians of the human body. The Board, in conjunction with the Department, will maintain a list of treatment and therapy modalities considered Bodywork for the purposes of these Regulations.

Client shall mean a person with whom the bodywork therapist has an agreement to provide bodywork therapy services.

Certification shall mean successful completion of the most current requirements of the American Organization for Bodywork Therapies of Asia (AOBTA®), National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM), American Reflexology Certification Board, or alternate experience (including apprenticeship) approved by the Board of Health or other national professional membership organization recognized by the Institute for Credentialing Excellence, or its accrediting body, that provides a certification or credential. Any such national professional membership

organization or national certification commission must include an established set of educational standards, require compliance with a specific code of ethics, and offer a grievance process. All certifications and/or credentials must be approved by the Director of Health or the Board of Health.

Department shall mean the Department of Health, Office of the Board of Health.

Director shall mean the Director of Health

Establishment shall mean any location, or portion thereof, as listed on the permit and under the control of an individual operator, which advertises and/or provides bodywork therapy services on the premises. Any health care facility licensed by an agency of the Commonwealth of Massachusetts, or the office of any health care professional licensed by the Commonwealth of Massachusetts wherein bodywork therapy services are not advertised or provided except on an occasional outcall basis is not an establishment for the purposes of these Regulations.

Operation shall mean the times when the establishment is open to the public for the practice of bodywork.

Operator shall mean the person possessing the permit to operate a bodywork establishment issued by the Department.

Permit shall mean either a document issued by the Department allowing a specific person to operate a bodywork establishment in the Town of Acton, or a document issued by the Department allowing a specific person to practice bodywork in the Town of Acton.

Permit holder shall mean a person holding a permit, which is in his or her name, issued by the Department.

Person shall mean any individual, firm, corporation, partnership, organization, or body politic.

Person in charge shall mean the permit holder present at the bodywork establishment who is responsible for the operation at the time of inspection, and who is authorized to sign Department inspection forms and communicate with the Department or its authorized agent(s).

Retired permit shall mean a permit that has not been renewed for more than twelve (12) consecutive months.

Therapist shall mean a person holding a permit to practice bodywork, which is in his or her name, issued by the Department.

Regulation 20.4 Exemptions

Any physician, chiropractor, osteopath, nurse, physical therapist, occupational therapist, massage therapist, multiple massage establishments or acupuncturist operating within the scope of his/her Commonwealth of Massachusetts license or registration and not representing him/herself as a bodywork therapist shall be exempt from these Regulations.

Hospitals, long-term care facilities, and home health agencies licensed or certified under the laws of the Commonwealth of Massachusetts shall be exempt from these Regulations.

Regulation 20.5 Requirements for a Permit to Practice Bodywork

To practice bodywork therapy, or to be employed in a bodywork establishment in the Town of Acton, a person must possess a current and valid permit to practice bodywork issued by the Department. The process for obtaining a permit to practice bodywork is as follows:

- (a) An application shall be obtained from the Department.
- (b) The applicant shall answer every question truthfully and completely and supply all information requested in the application. The applicant shall submit the completed application to the Department. False statements shall constitute grounds for denial.
- (c) The applicant shall submit a drivers license, government identification, passport or certified copy of his/her birth certificate or its equivalent to establish that the applicant is at least eighteen (18) years of age at the time of application.
- (d) The applicant shall be able to communicate effectively in English.
- (e) The applicant shall attach to his/her application a signed passport type photograph taken within the preceding 12 months.
- (f) The applicant shall provide satisfactory evidence of being appropriately certified in accordance with Section 3 'Certification'.
- (g) The applicant shall provide proof of coverage by an individual professional liability insurance policy of at least one million dollars (\$1,000,000) aggregate.
- (h) The applicant shall complete a release of Criminal Offender Record Information (CORI) and a release of Sexual Offender Registry Information (SORI) to the Department.
- (i) The applicant shall disclose the circumstances surrounding any of the following:
 - (1) Revocation or denial of a permit or license to practice bodywork issued by any state or municipality.
 - (2) Loss or restriction of a permit, license or certification by any jurisdiction for any reason.
- (j) The applicant shall submit a non-refundable application fee with their application. The fee will be determined by the Board of Health. An application is not considered complete unless accompanied by the applicable fee.
- (k) The application shall be sworn to and signed by the applicant under the pains and penalties perjury.

(l) All documents submitted for the purpose of obtaining a permit become the property of the Department and will not be returned.

Regulation 20.6 Requirements for a Permit to Operate a Bodywork Establishment

To operate a bodywork establishment in the Town of Acton, a person must possess a current and valid permit to operate a bodywork establishment issued by the Department. The process for obtaining a permit to operate a bodywork establishment is as follows:

- (a) An application shall be obtained from the Department.
- (b) The applicant shall answer every question truthfully and completely and supply all information requested in the application. The applicant shall submit the completed application to the Department. False statements shall constitute grounds for denial.
- (c) The applicant shall include in the application copies of the permits to practice bodywork of all therapists performing bodywork at the establishment. To obtain a permit, an establishment shall have at least one (1) duly permitted body worker employed at all times.
- (d) The applicant is responsible for ensuring all persons performing bodywork in his/her establishment are permitted by the Department.
- (e) The applicant shall submit a non-refundable application fee with their application. The fee will be determined by the Board of Health. An application is not considered complete unless accompanied by the applicable fee.
- (f) The application shall be sworn to and signed by the applicant under the pains and penalties of perjury.
- (g) All documents submitted for the purpose of obtaining a permit become the property of the Department and will not be returned
- (h) Applicants for a Permit to Operate a Bodyworks Establishment shall provide the name or names of individuals that are currently certified in basic cardiopulmonary resuscitation (CPR) and a copy of their valid certification form. One individual trained in CPR or its equivalent shall be on-site at all times during operating hours.

Regulation 20.7 Permits

1. All permits expire on the thirty-first (31st) day of December each year.
2. Permit holders intending to renew a current permit shall submit the appropriate renewal application(s) provided by the Department along with the applicable fee, as determined by the Board of Health, before the thirty-first (31st) day of December.
3. Any permits not renewed by the thirty-first (31st) day of December shall be administratively revoked.

4. Administratively revoked permits may be subject to a reinstatement fee, as determined by the Board of Health.
5. Administratively revoked permits may be reinstated upon meeting all renewal requirements.
6. A permit shall be considered retired if not renewed for more than twelve (12) months. A retired permit may not be renewed; an initial permit application must be submitted to the Department.
7. No permit is transferable in any way; including new ownership or change of location
8. No replacement permits will be issued
9. All permit holders shall notify the Department of a change of name and/or address within (30) days.
10. All permits shall be displayed on the premises in a location that is conspicuous, open, and obvious to all people entering the establishment.

Regulation 20.8 Requirements and Standards for Bodywork Establishments and Bodywork Therapists

1. Bodywork Establishment:

- (a) All new establishments initially permitted after the effective date of these Regulations must contain a waiting area for clients within the establishment.
- (b) Handwashing facilities for establishments shall be accessible and located no more than (50) feet from the treatment area.
- (c) All establishments shall comply with the zoning requirements and bylaws of the Town of Acton.
- (d) The establishment, and any facilities or equipment contained therein, including any showers, table showers and sinks, shall at all times meet the requirements of the Acton Building Department.
- (e) Bodywork may be conducted only in adequately lighted, heated and ventilated rooms, which are so constructed that they can be kept clean. Floors, walls, ceilings and windows must be kept free of dust, soil, and other unclean substances.
- (f) The waiting room or reception area for all Bodywork establishments shall not include blackout curtains, shades, etc.
- (g) All equipment, furniture, linens and supplies used in the performance of bodywork shall be cleaned, maintained and stored greater than or equal to OSHA requirements.
- (h) A written plan shall be submitted at the time of the permit application, describing sanitation measures must be submitted by the applicant to the Department for any bodywork that entails disrobing and/or draping, use of oils or lotions, and/or use of a massage-type of table.

(i) If any latex-containing products are used, a sign shall be conspicuously posted alerting all clients that latex-containing products are in use.

2. Bodywork Therapist:

(a) A therapist may only perform bodywork at the permitted establishment listed on his/her permit to practice bodywork. Therapists may provide services off-site for single events, such as health fairs and demonstrations, or in the homes of clients who are medically homebound, as documented by a health care professional.

(b) All therapists shall maintain a sufficient level of personal cleanliness and wear clothing that is clean, as determined by the Department.

(c) All therapists shall be properly clothed, within the bounds of decency and propriety, in accordance with the standards of their profession. The Board, the Director, the Department, or an agent will make the judgment in regard to what constitutes inappropriate or prohibited attire.

Regulation 20.9 General Requirements

1. Hours of operation for any establishment shall be limited to 7:00 AM to 9:00 PM, both inclusive.
2. There shall be at least one (1) bodywork therapist present in the establishment at all times of operation.
3. All permit holders shall notify the Department of any criminal complaint brought against him/her within seven (7) days and a hearing will be scheduled with the Board of Health.
4. No false statements or information shall be presented to the Department, or any agent thereof.
5. No alcoholic beverages may be served in any bodywork establishment
6. No therapist in a bodywork establishment may be unclothed.
7. No therapist shall provide bodywork therapy services on a client when a communicable disease will be spread through the bodywork process. All therapists must practice safe work-related procedures in accordance with universal precautions, Occupational Safety and Health Administration (OSHA) standards, and the established guidelines of their profession.
8. All bodyworks establishments will keep records of clients who have received services, which may be used in the event of a communicable disease being reported to the Board.
9. No room or section of a bodywork establishment shall be used as a bedroom or for sleeping or domicile.

Regulation 20.10 Sexual Activity Prohibited

1. Sexual activity by any person or persons in any establishment is prohibited.

Regulation 20.11 Advertising

1. In compliance with local bylaws, the permit holder shall post all permits on the wall in the waiting/reception area of the establishment.
2. Only permit holders may advertise him/herself as being a permitted or licensed bodywork therapist or to hold him/herself out to the public as being permitted or licensed by using a title on signs, mailboxes, address plates, stationery, announcements, telephone listings, calling cards, or other instruments of professional identification or advertisements of any sort.
3. The use of aliases is prohibited. If the therapist or establishment operator wishes to use a name other than that which appears on a permit, both names must be used together in all advertising and representations.

Regulation 20.12 Department of State Know Your Rights Pamphlet

Any place of employment that is thought to be a common location of human trafficking, as reports by the National Human Trafficking Resource Center, shall conspicuously post a Department of State – Know Your Rights Pamphlet in a commonly visited employee information posting area.

The Acton Board of Health has the right to include more business locations that are common locations for human trafficking as they become known to the Acton Health Department, Acton Police Department, or the National Human Trafficking Resource Center.

This pamphlet is available free of charge at the following web address:

<http://travel.state.gov/content/visas/english/general/rights-protections-temporary-workers.html>

Regulation 20.13 Inspections

1. Establishments and therapists are subject to inspections by the Board or its authorized agent(s) during all times of operation.
2. Inspections will be conducted at random at least twice a year
3. The purpose of inspections is to verify compliance with these Regulations.
4. Denial of access to an agent of the Board shall result in the immediate administrative revocation of the permit to operate a bodywork establishment.
5. If, upon inspection, conditions are found that do not comply with the provisions set forth in these Regulations, both the operator and any bodywork therapist responsible for violating these Regulations may be subject to enforcement proceedings and penalties pursuant to Section 14 and Section 15 below.
6. If, upon inspection, conditions are found that do not comply with the standards and requirements set forth in these Regulations, a re-inspection may be necessary to ensure corrective action was taken to

achieve compliance with these Regulations. A re-inspection fee, as determined by the Board of Health, shall be issued to the operator.

Regulation 20.14 Enforcement

These regulations may be enforced by the Board of Health, or its agent, except that only the Board of Health may grant, deny, revoke, suspend or modify permits or variances of these regulations.

The grounds on which the Board of Health may deny renewal, revoke, suspended, or modify any permit or certification issued pursuant to these regulations include, but are not limited to:

- (1) Refusal to permit an agent of the Board or other government official to inspect the facility;
- (2) Interference with an agent of the Board or other government official in the performance of their duty;
- (3) A criminal conviction of the permit holder relating to the operation of the establishment;
- (4) Failure of the permit holder to submit the appropriate documentation;
- (5) Failure to pay the required permit fees or assessed fines or penalties;
- (6) The establishment's owner, operator, or employee's failure to comply with these regulations;
- (7) Committing a Prohibited or Criminal Act
- (8) Keeping or submitting any misleading or false records or documents related to the operation of the establishment or practicing bodywork;

Otherwise operating a bodywork facility or practicing bodywork so as to cause a threat to the public health or safety shall cause suspension, modification, or revocation of license. Such action by the Board of Health may include ordering other appropriate relief, including but not limited to ordering corrections to the physical facility. These regulations may be enforced through appropriate criminal or civil process, including but not limited to that specified at M.G.L .c. 40, section 21D, in any court of competent jurisdiction. All criminal acts or violations of M.G.L. will be enforced by the Acton Police Department. In addition, the Acton Police Department or Health Department may issue fines per this regulation on top of fines that may be issued by the appropriate criminal court.

Regulation 20.15 Penalties

1. Criminal penalties. Under Massachusetts General Laws (M.G.L.), Chapter 111, Section 31, any person who violates any provision of these Regulations shall, upon conviction, be fined not more than one thousand dollars (\$1,000.00) for violation of these regulations. Each day's failure to comply with an order of the Department shall constitute a separate offense.

2. Non-criminal penalties. Under Massachusetts General Laws (M.G.L.), Chapter 21D, Section 40, a civil penalty of fifty dollars (\$50.00) may be assessed by the Director, the Department or the Board of Health for violation(s) of these Regulations.

Regulation 20.16 Variance

1. The Board of Health may vary the application of any provision of these Regulations with respect to any particular case, when, in the Board’s opinion, the enforcement thereof would do manifest injustice; provided that the decision shall not conflict with the intent and spirit of these Regulations.

2. A request for a variance shall be submitted in writing. The Board of Health may ask for supporting evidence in order to consider the variance request. The request shall not be deemed complete until all such requested evidence has been received by the Department.

3. Any variance granted under this section may be subject to qualification, revocation, suspension, or expiration. A variance granted may be revoked, modified, or suspended in whole or in part, only after the holder thereof has been notified in writing and has been given an opportunity to be heard in accordance with these Regulations.

4. Any variance granted by the Board of Health shall be in writing. A copy of any such variance, while it is in effect, shall be available to the public at all reasonable hours at the Department. A copy of the variance shall also be on file in the usual place of practice of the applicant.

Regulation 20.17 Severability

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

ADOPTION AND DATE OF EFFECT

These Rules and Regulations were adopted by a vote of the Board of Health, Town of Acton, Commonwealth of Massachusetts, on 11/19/2012

Filed with the Town Clerk of Acton, Massachusetts on _____.