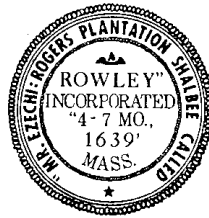


## TOWN OF ROWLEY



## BOARD OF HEALTH

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# REGULATIONS IN ADDITION TO TITLES AND RELATING TO PRIVATE WATER SUPPLIES AND WASTEWATER

## AUTHORITY AND PURPOSE

These regulations shall be effective after which date they are published, and shall so remain until modified or amended by the Rowley Board of Health. They are enacted under authority which includes but is not limited to, one or more of the following: Massachusetts General Laws, Chapter 111, Sections 31, 122, 122A, 127, 143, 155, 187, Sections 310 CMR (Code of Massachusetts Regulations) 11.02; Board of Health regulations are an exercise of the power under which the various levels of government are responsible for protection of the public health, safety, welfare, and the environment.

This regulation of the Board of Health has been enacted for the purpose of protection of the citizens of the Town of Rowley and also the protection of the environment. The Town of Rowley relies upon on-site subsurface systems for the disposal of sewage in 100% of the town. It relies solely upon ground water for its water supply, from either public or private on-site wells. There are considerable areas of severe geologic conditions which consist of poorly drained soils, poor filter soils, shallow soil depth to fractured ledge and ground water, wetlands, flood plain, and contributing areas to the water supply, known as a Zone II area. There are three rivers in Town, the Mill River, the Rowley River and the Parker River, as well as a significant salt march area, shell fish beds, and Plum Island Sound, resulting in sensitive conditions in those areas. Accordingly, local Board of Health regulations are necessary to assure more complete protection from sewage overflows to the ground surface, which are sources of filth and disease, and also to assure more complete protection from potential pollution of ground water, wells, surface waters, and wetlands. Local regulations are also necessary for purposes of efficient administration and management, as well as for additional guidance in the process of construction of septic systems. These regulations do not conflict with Title 5, but rather complement them, and provide additional guidance.

All submittals to the Rowley Board of Health must be identified with Town of Rowley Assessor's Map, Parcel/Block, and Lot number as well as street address and legal owner's name.

## PART I ON-SITE SEWAGE TREATMENT SYSTEMS

**Section 1 1.0 Soil & Percolation Tests:** All Soil and Percolation tests shall be conducted in conformance with the rules and regulations of the Rowley Board of Health and 310 CMR 15.00, Massachusetts Title 5. It is the intention of these regulations to supplement and to clarify the Title 5, State Environmental Code.

**1.1 Applications:** Applications for soil tests for new construction must be completed in full and shall be submitted to the Rowley Board of Health on or before April 1 for testing to begin April 1st of that year, and ending on a date set by the Board of Health. A maximum of four lots/applications will be accepted at one time from the same applicant/owner. Once the testing associated with the four applications has been completed, including field work and receipt of required reports, ties, and mapping, any applicant may submit another set of up to four more applications to be acted upon as scheduling time allows.

Application and/or testing dates may vary, at the discretion of the Board or its Agent. Soil testing for replacement (repair) systems shall be done year round at the discretion of the Health Agent or Board of Health.

**1.1a Percolation Tests:** Four deep holes and two percolation tests are required for new lots; a minimum of two deep holes and one percolation test is required for "repair" perc tests, pursuant to 310 CMR 15.102. A maximum of four sets of perc test/soil evaluations and payments for new lots will be accepted at one time. The applicant's soil evaluator/designer is responsible for completing the perc test application. A completed wetlands delineation is required for all\* lots in the form of either a Request for Determination or a Notice of Resource Area Delineation in compliance with the Town of Rowley Conservation Commission rules and regulations and the MA Wetlands Protection Act prior to scheduling a perc test. A map (scale 1" = 40' minimum) of the wetlands delineation, that has been accepted and approved by the Rowley Conservation Commission, is required to be filed with the perc test application.

\*Those single lots that are entirely in upland areas may be "okayed" by the Conservation Commission Administrator or agent via a written memo to the Board of Health. Emergency repair situations may complete the delineation and filing processes after the fact of perc testing, (if the designer provides an accurate delineation which either shows the wetlands location or a statement saying "I certify that there are no wetlands located within 100 feet of the test site."), but an emergency does not preclude compliance with the Title 5 and the Wetlands Protection Act.

All fees are due at time of application, are non-refundable, and are valid only for the season in which the application is submitted.

**1.2 Groundwater and Temperature:** The Rowley Board of Health reserves the right to adjust the ground water elevation, as it deems necessary. Percolation tests, including overnight soaks, are not allowed in frozen ground, or at times when the temperature is below freezing, 32 F.

**1.3 Required Information:** Requests for soil evaluation and percolation tests shall include:

- a. A required fee set annually.
- b. A completed written request on an approved Board of Health form.
- c. The number of lots to be tested. Maximum of four lots/applications accepted.
- d. Lot perimeter staked out.
- e. Approved delineation of on site wetlands as defined by 310 CMR 10.00 and mapped.
- f. Assessor's plot plan or survey of the property.

#### **1.4 Submission of Test Results**

The information submitted shall be certified by a Registered Massachusetts Professional Engineer, Registered Sanitarian or a qualified person authorized by the Rowley Board of Health. The information submitted shall contain: test results, soil types, test locations, and any other information as requested by the Rowley Board of Health, its Agent, or D.E.P. All deep holes and perc tests, both passing and failed, must be shown on a locus map with at least two dimensional ties to a fixed reference point, also surveyed onto the map. This "tie" map must be provided with the soil evaluation report. These original ties must also appear on the septic plan.

**1.5 Time Limit:** The Rowley Board of Health will set aside a time limit of three hours for each individual lot to undergo soil testing. Some fieldwork may be completed concurrently, at the discretion of the Health Agent. Additional time for such testing may be allowed by the Rowley Board of Health if, at the end of the test period, there is time available. Those applicants receiving additional time will be charged an additional fee (set annually), payable to the Town of Rowley.

**1.6 Coarse Aggregate Limitations:** Soils evaluated with greater than 60% coarse aggregate, (USDA methodology) shall be considered inappropriate for conventional sewage treatment and may require general use Innovative/Alternative (I/A) technology. Glacially derived outwash soils that contain greater than 60% aggregate, as opposed to basal glacial till, may be effectively treated with alternative design specifications. Saprulite is not considered soil and is unsuitable.

## **Section 2**

### **Location and Construction of Disposal Systems**

#### **2.0 General Conditions**

- a.** No person shall engage in the installation or repair of any individual sewage disposal system or component of said system without first taking a written examination prepared by the Rowley Board of Health. The person must pass the examination with a minimum score of 75%. All testing must be made by appointment with the Health Agent. A fee, as set by annual fees by the Board of Health, will be charged for this exam.
- b.** No person shall engage in the installation or repair of any individual sewage disposal system or component without first notifying the Rowley Board of Health a minimum of 24 hours before the start of work. Appointments must be scheduled in advance.
- c.** All proposed building lot(s) and buildings shall comply with the Rowley Zoning Bylaws in addition to Title 5. Repairs to existing systems, with no increase in flow, and no change to any existing buildings, shall include a table of existing zoning conditions and offsets, as well as certification that "No new construction shall occur which impacts Zoning."
- d.** Installation of septic systems for new construction shall not occur between December 1 and March 1, inclusive. Emergency repairs may occur all year weather permitting.
- e.** If a well is proposed within 125 feet of any septic system component, the proposed well and leaching area locations shall be staked by the design engineer prior to construction of the septic system. A well permit and plan must be submitted in accordance with the following local regulations, (Part 2).

**2.1 Minimum Distances:** The following relative distances shall be regarded as minimum distances for the Town of Rowley:

- a.** The distance between the disposal system and the lot line shall be a minimum of 30 feet, including the street property line, and all associated grading shall occur on the lot unless a formal easement is obtained. No retaining walls, or impervious barriers are allowed to mitigate grading requirements on new construction. Reserve Areas must comply with the grading requirements on new construction. No retaining walls or impervious barriers are allowed to mitigate grading requirements on new construction.
- b.** The disposal system shall not be less than 100 feet from any wetland as defined in 310 CMR 10.00, Wetlands Protection Act. For the purpose of this regulation, isolated land subject to flooding (ILSF) shall not be defined as a wetland.
- c.** No sewerage disposal system located within 200 feet of the waterway known as the Mill River will be approved by the Rowley Board of Health. Resource area delineation shall be in compliance with the

Town of Rowley Conservation Commission rules and regulations, the MA Wetlands Protection Act and the MA Rivers Protection Act. This is required to protect the Town's drinking water supply, present and future.

- d.** Estimated seasonal high water table, as defined by DEP Soil Evaluator and Soil Science practices, must be deeper than 12" below the naturally occurring surface grade.
- e.** If a septic system design is submitted under the 1978 Mass. Title 5, no disposal system or any part of the system shall be constructed within a zone where the maximum ground water elevation is less than or equal to 6 feet below the naturally occurring surface of the ground (as per Rowley regulation 2. 1 1e in effect pre 1995 Title 5 Code, pre 3-31-95).

### **Section 3**

**3.0 Application and Plans:** All plans for construction of septic systems submitted for approval by the Rowley Board of Health shall conform to the rules and regulations of the Rowley Board of Health and the most current revision of MA Title 5 of the State Sanitary Code. Replacement, repair, or upgrade of an existing soil absorption system shall mandate replacement of all components of the system to bring it into compliance with the requirements for new construction. Any plan requiring more than one revision shall be considered a new plan and charged accordingly.

First submittal requires one copy of the plan with original stamp and signature and date of the designer. The applicant's name as well as the owner's name, if different, must appear in the Title Block. The Town of Rowley Assessor's Map, Block and Lot as well as the designated street address for the site must also appear in the Title Block on every page. Revisions must show the date of the revision and all changes must be highlighted on one copy for review. Second submittal requires four copies of the revised plan, showing all of the above specifications. A Disposal System Construction Permit (DSCP) Application allows for one plan revision, all other revisions must have a DSCP Application submitted. Any plans submitted without a current and corresponding DSCP Application shall be incomplete.

### **Section 3.1 Design and Plan Specifications**

In addition to 310 CMR 15.02(5), the Professional Engineer or Registered Sanitarian who designs the disposal system shall also include the following on the submitted plan:

- a.** Benchmarks located on all plans submitted and at least one shall be permanent. Any additional benchmark installations must be performed by the designer and certified in writing, showing the new location, the elevation, identification of the new benchmark, and the date of the transfer. If the original Benchmark is destroyed, then the plan and DSCP Application is null and void, and a new plan submittal shall be required.
- b.** Location of the primary and reserve leaching facilities so that the perc and deep holes are within their perimeter.
- c.** The area between leaching trenches shall not be considered as part of the reserve area.
- d.** The scale of 1" = 20'. On larger lots scale may be varied but the area containing the building and disposal area shall not be smaller than the stated scale.
- e.** An original signature and stamp of a Professional Engineer or Registered Sanitarian on every page.
- f.** Clear designation of any part of the lot that lies in the 100 or 500 year floodplain as designated on the most recent F.E.M.A. map of Rowley.
- g.** The elevation of observed and estimated groundwater.
- h.** Total number of rooms in the existing/proposed house.

- i.** A copy of a certified surveyor's property plan must be submitted with the septic plan package, either an endorsed approved plan by the Rowley Planning Board or a plan not requiring subdivision approval registered or recorded in the Essex County Registry of Deeds. Repairs to existing properties may be exempt from this requirement except in cases where either local or State property line offset variances are requested. This exemption does not preclude the designer from accurately showing property line locations and providing details concerning the property line establishment, as shown on the septic plan.
- j.** Garbage Grinders are not allowed.
- k.** Location of driveways and parking lots.
- l.** Wetland locations approved by the Conservation Commission.
- m.** All lot lines with names of abutting property owners.
- n.** For new construction, distances to septic systems on adjacent property must be shown; minimum offset 75 feet to adjacent soil absorption systems.
- o.** Soils on the lot, in terms conforming to the NRCS method as described in the most current "Soil Survey of Essex County, Northern Part", US Department of Agriculture, NRCS.
- p.** Locus map composed of an 8 1/2 x 11" section of the US Quadrangle map of the area with the proposed development delineated.
- q.** Town of Rowley, Board of Assessor's tax map, block/parcel and lot parcel number.
- r.** Certification that no part of the lot and/or proposed septic system lies within an area noted by D.E.P. as an estimated setback area for Title 5. Certifications must be listed on the plan, including but not limited to: distance to reservoirs, public drinking supplies, tributaries to reservoirs; nitrogen sensitive areas, (as mapped on the most current Rowley "Areas Affected by Title 5" map prepared by DEP and MA GIS); flood plains; floodways; wetlands; riverfront areas; and private drinking water wells. Either distance must be shown or specific offsets must be certified.
- s.** Designs for a sanitary sewerage disposal area based on a minimum flow of 150 gallons per day per bedroom for single and multiple residences. Requirements for other establishments shall be based on gpd as outlined in Title 5(310 CMR 15.203). Number of bedrooms in a dwelling, for design purposes, shall be determined by the Title 5 definition of bedrooms.
- t.** Use of an effluent filter in the septic tank. Risers: All tanks shall have risers to grade, especially where effluent filters are required at the outlet end of the septic tank; a watertight insulated fiberglass or cast-iron riser and locking lid\*\* shall also be installed over the riser/manhole for effective access to the effluent filter. In areas where the tank will be subject to vehicular traffic, all risers, manholes, and lids must handle "H-20" loading. The Board of Health recommends that a high level alarm is utilized with the effluent filter.\* (Approximate cost of materials: \*\$100.00 and \*\*\$150.00). It is the responsibility of the owner to ensure that the lid remains child-proofed and locked.
- u.** Any system that utilizes pressure distribution must contain inspection and maintenance portals to evaluate, inspect, and maintain distal pressure at each and every lateral in the soil absorption system as required in DEP Title 5 Guidance Appendix 8. Quarterly operation and maintenance on the pressure distribution system must include verification of distal pressure at the soil absorption system laterals, in accordance with the approved plan and recommendations of the Board of Health or its Agent.
- v.** Innovative/Alternative, (1/A), systems must comply with valid and renewable Operation and Maintenance contracts as well as any necessary deed restrictions per DEP and local requirements. A Restrictive Covenant must be recorded in the property title that stipulates an Operation and Maintenance is required for the life of the septic system.
- w.** Impervious barriers (used for repair systems) must meet the following specifications: 1). Top elevation must equal the "breakout" elevation; 2). Bottom elevation must extend four feet below the bottom of the system or two feet into natural ground, whichever is greater; 3). The barrier must be

certified as to being "impervious" that can be buried in soil without degradation; and 4). The designer must supervise installation and certify to the above details on the As-Built plan.

x. Other items required by the B.O.H or its Agent.

y. Any systems that pump effluent upgradient are required to be pressure-dosed by pressure distribution.

z. Pressure-distribution systems must be designed with both soil absorption system inspection portals and distal pressure Operation & Maintenance portals covered to grade with landscaping irrigation boxes. Pressure-distribution soil absorption systems, shall also be equipped with at least two inspection portals to evaluate the system for Title 5 Inspection purposes in lieu of a D-Box, (extending vertically to the bottom of the leaching aggregate and located horizontally at proximal corners of the system), to evaluate potential ponding (Schematic available in Board of Health office).

**Section 3.2 As-Built Plans:** Three copies of As-Built plan with original stamp and signature of the designer identified by the Town of Rowley Assessor's Map, Block and Lot number. The designer of the approved plan must complete the As-Built plan unless extenuating circumstances, (i.e. dissolution of business, relocation, or death) prevent designer from completing project. Applicants requesting exceptions must apply in writing for a variance through the Board of Health at a public meeting; the request for variance must state the reasons why the original designer is not being utilized for the As Built plan. If said variance is granted, then the "new" designer must prepare a complete set of plans in compliance with 310 CMR 15.220. Any additional Benchmarks must be completed by the designer and certified on the As-Built plan. As-Built plans must also include inspections and certifications by the designer at the following stages:

a). elevation of proper excavation of topsoil and subsoil;

b). elevations of system;

c). horizontal ties from two permanent points;

d). materials compliance; and

e). any other detail certifications, such as pump operation, distal pressure elevations, impervious barrier installation; and/or final grading.

**Section 3.2a Certificate of Compliance:** As required in Title 5,310 CMR 15.021, the designer must sign the DEP approved form. The installer holding the permit shall sign the Certificate of Compliance in the presence of the Health Agent in the Board of Health office. It shall be the responsibility of the installer to deliver the approved Certificate to the owner. Copies may be obtained from the Board of Health during office hours by any party.

**Section 3.3 Variances:** All variances must be in compliance with Title 5,310 CMR 15.410. All variance processes, including abutter notification, shall be the responsibility of the applicant or the/applicant's consultant. Local variances to the Rowley Board of Health Regulations on new construction and/or new lots must be heard at public meeting of the Board of Health, all abutters must be notified in the same manner as State variances. Return receipt cards shall be identified with that abutter's Assessor's Map, Block/Parcel, and Lot number and the hearing applicant's name in an inconspicuous location on the card. A "hearing" fee is required for new construction (or expansion/change of use) variances. Variances, both State and local, shall not be referred to as "waivers."

**Section 3.3a.** Requests to be placed on the agenda: All requests shall be made in writing and shall state the pertinent facts of the request. The Agent shall refer all requests to Chairman for review. It is the applicant's responsibility to check on the status of the request.

**Section 3.4 Additions & Remodeling:** A file review is required to evaluate pre-existing conditions and proposed conditions with respect to the operation of the existing septic system. A site plan is required that shows the location of the proposed house footprint. Drawings of the existing interior rooms are required as well as the proposed changes or additions. Expansions may require a Title 5 Inspection and/or system upgrade. Any room that meets the definition of a "bedroom" under Title 5 regulation, 310 CMR 15.002, shall be calculated into the potential design flow on the soil absorption system.

**Section 3.5 Document Maintenance and Transmittal:** Approved septic plans and permits are important legal documents that should be kept with important household documents, such as a property plan or deed. It is the responsibility of the owner/builder to transfer copies of all septic related documents to the new buyer. These documents should include 1). Approved septic plan (final revision); 2). Completed Application for Disposal System Construction Permit; and 3). Completed Certificate of Compliance and As-Built plan with dimensional ties. At a minimum, the Board of Health advises that a copy of the As-Built plan, with dimensional ties, be kept in plastic (bag or envelope) in the basement at the location of the building sewer, i.e. plumbing exiting the building. Septic tank pumping receipts should also be kept with household records.

**Section 3.6 Expirations and Fees:** All timelines and expirations shall be the same as in Title 5; the timeline begins on the date on which the plan is approved, either on the local or State level, (or from the date of the failed Title 5 Inspection report) regardless of a request for a Disposal Works Permit from the installer. Percolation tests and soil evaluations shall be repeated and/or confirmed at the request of the Board of Health and/or its Agent. Any perc test and/or soil evaluation, that is not yet built upon prior to September 1999, shall be re-confirmed with soil evaluations and percolation tests. Applications must conform to Rowley Board of Health regulation 1.1.

The Board of Health, at its discretion and at the expense applicant, may engage an independent consultant, (not to exceed \$300.00) to review any septic design plan, septic installation or soil and site conditions. This regulation will be used to assist the Board of Health in the review and evaluation of projects that involve unique or unusual site conditions and/or design proposals.

The Rowley Board or Health will set all fees annually.

## **Section 4**

### **Installers Information**

**Section 4.1 Installers:** All applicants, both new and renewal must pass a written or oral test, as well as a field test for an Annual Installer's License.

**Section 4.2 Installations:** The licensed installer taking out the permit for Disposal System Construction shall be on-site to supervise and/or conduct all work and shall be present for all inspections. Any workers on permitted projects shall be employees of the installer holding the permit. No septic system may be installed prior to placement of the dwelling foundation. The building sewer must be properly

connected in order for a Certificate of Compliance to be applied for and issued. Any non-licensed work or unauthorized transfer of license shall result in stop-work orders and permit revocations.

**Section 4.3 Inspections:** There shall be a minimum of two on-site construction inspections, such as a). "primary" excavation of topsoil and subsoil, and b). "final" during which all elevations, system components, and operation shall be inspected, and shall be made by appointment with the Health Agent. Testing of any and all materials may be required, including but not limited to tank water tightness, aggregate cleanliness, and sand fill sieve specifications. The cost of the testing shall be borne by the applicant. The Designer shall also be required to inspect all of the above-mentioned items, including, but not limited to, any other aspect of the septic system at the request of the Board of Health or its Agent.

**Section 4.4 Pumping and Haulers:** Pumping records submitted to the Board of Health by Septage pumpers must include the owner's name, the accurate street address, and the Town of Rowley Assessor's Map, Block/Parcel and Lot number. All pumping records must comply with Title 5 standards. The pumping records must report on whether an effluent filter exists, its condition and whether it was cleaned and replaced.

**Section 4.5 Sub-division plan review:** All sub-division plans must be presented to the Board of Health at a meeting and the applicant or applicant's agent must request to appear on the agenda, (see 3.3.a).

**Section 4.6 Title 5 Inspections:** A fee is charged for Board of Health review of all Title 5 Inspection reports; and all reports shall be referenced by the property Assessor's Map, Block/Parcel, and Lot number. Title 5 reports shall include, but not be limited to, the following additional information:

- a.** The septic tank, and any other tank to be inspected, shall be pumped as part of the Title 5 Inspection;
- b.** A distance shall be measured and noted from the ground surface at the soil absorption system to the bottom of the soil absorption system, in order to evaluate groundwater proximity to said "bottom of soil absorption system";
- c.** Pressure-distribution (non-D-Box) soil absorption systems, shall be equipped with at least two inspection portals, (extending vertically to the bottom of the leaching aggregate and located horizontally at proximal corners of the system), to evaluate potential ponding in lieu of a D-Box inspection and that any liquid level observed above the invert level at the soil absorption system laterals shall be an indicator of failure equivalent to the Title 5 standard liquid level above the outlet inverts in a D-Box \*; pressure-distribution shall include distal pressure operation measurements of all laterals; and
- d.** Innovative/Alternative systems shall have the I/A component inspected by a DEP Class 2 Waste Water Treatment Plant (CL2 WWTP) Operator; the non-I/A components may be inspected by a DEP Title 5 Inspector.

\*(Schematic and Policy available in the Board of Health office).

## **PART 2 PRIVATE WATER SUPPLY**

### **Section 1**

**1.0** An approved water supply must be available for new or rehabilitated buildings. The two acceptable sources are:

- a. Town water supply
- b. Well water supply with or without a storage tank

**1.2** No wells may be installed until a permit has been issued by the Rowley Board of Health. Permit application must show the proposed well location including setbacks from property lines, proposed or existing building, and septic system disposal area (including reserve). Application and plan must include locus address, Town of Rowley Assessor's Map, Block, and Lot number, and owner's name. Application and plan must be delivered to the Board of Health 30 days prior to any well construction. The plan must be prepared by either a Professional Engineer or Registered Sanitarian.

All wells proposed within 125 feet of any septic system component shall have the proposed well and leaching area locations staked by the design engineer prior to installation of the well.

No septic system construction shall begin until the well has been installed and the water has been deemed a potable water source.

No well shall be constructed closer than 100' from any privy, cesspool or leaching facility.

All abandoned wells shall be tightly sealed by approved methods, according to state code.

All wells must be pump tested for at least four hours by the well contractor. The results shall be submitted to the Board of Health as a public record.

All wells must be tested and found to be 1 p.p.m. or less Total Organic Halides (T.O.X.) and within the Massachusetts drinking water standards for the following standards before occupation of the dwelling and prior to property transfer: Copies of these results must be forwarded to the Board of Health within 30 days of the well construction and shall be kept on file at the B.O.H. office. All reports must include the Town of Rowley Assessor's Map, Block, Lot number as well as the street address and owner's name and owner's mailing address.

- a. Nitrate as Nitrogen not to exceed 10 p.p.m.
- b. Sodium; 20 p.p.m.
- c. Chloride; 250 p.p.m.
- d. Iron; 0.3 p.p.m.
- e. Manganese; 0.05 p.p.m.
- f. Coliform not to exceed 4 per 100 ml

These are Rowley Board of Health standards. If the results exceed these limits the water will be considered non-potable and the well unacceptable.

### **ENFORCEMENT**

The Rowley Board of Health, its agents, officer and employees, shall have the authority to enter upon privately owned land for the purpose of performing their duties for the administration and review of the Regulations. Any person found to be in violation of any of the provisions of this Regulation for which a

penalty is not otherwise provided shall be subject to a fine to be determined by the Board of Health and not to exceed \$1,000 (one thousand dollars). Each day or portion thereof during which a violation occurs or continues shall constitute a separate offense. These rules and regulations become effective upon publication.

### **APPEAL**

Any person aggrieved an order, variance, issuance, or denial by the Rowley Board of Health may appeal to any court of competent jurisdiction provided for by the laws of the Commonwealth of Massachusetts.

### **SEVERABILITY**

Each section of these rules and regulations shall be construed as separate; and to the end that if any section, item, sentence, clause or phrase shall be held invalid for any reason. The remainder of these rules and regulations shall continue in full force and effect.

Per Vote of the Board of Health of March 18, 2002  
Effective on Publication Date: March 22, 2002

# COMMERCIAL / INDUSTRIAL FLOOR DRAIN REGULATION

Adopted October 6, 1995

## Section I. PURPOSE OF REGULATION

Whereas:

- Floor drains within commercial and industrial facilities are often connected to a subsurface leaching structure (e.g., dry well, cesspool, or septic system); and
- Subsurface leaching structures provide a direct provide a direct pathway to groundwater for petroleum and other toxic and hazardous substances; and
- Toxic and hazardous substances introduced to groundwater may contaminate public and private water supplies, threaten public health, and cause significant economic losses to the community;

**Therefore:**

The Town of Rowley Board of Health adopts the following regulations as a preventative measure for the purposes of:

- Preserving and protecting the Town of Rowley's water resources, including drinking water supplies, from discharges of pollutants to the ground via commercial and industrial floor drains, and
- Preventing or minimizing economic losses to the Town due to such discharges.

## Section II SCOPE OF AUTHORITY

The Town of Rowley Board of Health adopts the following regulation under authority granted by Massachusetts General Laws Chapter III, Sections 31 and 122. The regulation shall apply to all applicable facilities, existing and new, within the Town of Rowley.

## Section III. DEFINITIONS

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

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

Department: The Massachusetts Department of Environmental Protection.

Discharge: The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, incineration, or placing of toxic or hazardous material or waste upon or into any land or water so that such hazardous waste or any constituent thereof may enter the land or water of the Commonwealth.

Discharge includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site leaching structure or sewage disposal system.

Floor Drain: An intended drainage point on a floor constructed to the otherwise impervious which serves as the point of entry into any subsurface drainage, treatment, disposal, containment, or other plumbing system.

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

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

Use of Toxic or Hazardous Material: The handling, generation, treatment, storage, or management of the toxic or hazardous materials.

#### **Section IV. PROHIBITIONS**

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

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

#### **Section V. REQUIREMENTS FOR EXISTING FACILITIES**

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

1. disconnect and plug all applicable inlets to and outlets from (where possible) applicable leaching structures, oil / water separators, and / or septic systems;
2. remove all existing sludge in oil / water separators, septic systems, and where accessible, leaching structures. Any sludge determined to be a hazardous waste shall be disposed of in accordance

with state hazardous waste regulations (310 CMR 30.000). Remedial activity involving any excavation and / or soil or groundwater sampling shall be performed in accordance with appropriate Department policies;

3. Alter the floor drain system so that the floor drain shall be either:
  - a. connected to a holding tank that meets all applicable requirements of Department policies and regulations, with hauling records submitted to the Rowley Board of Health at the time of hauling;
  - b. permanently sealed. Any facility sealing a floor drain shall be required to submit for approval by the Board of Health a Hazardous Waste Management Plan detailing the means of collecting, storing, and disposing any hazardous waste generated by the facility, including any spill or other discharge of hazardous material or waste.

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

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

D. Upon complying within of the options listed under Section V.A.3., the owner / operator of the facility shall notify the Department of the closure of said system by filing the Department's UIC Notification Form (which may be obtained by calling the Department), and shall send a copy of the same to the Board of Health.

## **Section VI. EFFECTIVE DATES FOR ALL FACILITIES**

The effective date of this regulation is the date posted on the front page of the regulation.

### **A. Existing Facilities**

1. Owners / operators of a facility affected by this regulation shall comply with all of its provisions within six (6) months of the effective date;

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

### **B. New Facilities**

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

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

3. The use of any new oil / water separator shall comply with the same requirements as for existing systems, as specified in Section V.B. above.

## **Section VII. PENALTIES**

Failure to comply with the provision of this regulation shall result in the levy of a fine of \$200.00 per day. Each day's failure to comply shall constitute a separate violation.

## **Section VIII. SEVERABILITY**

Each provision of this regulation shall be construed as separate to the end that, if any provision, sentence, clause, or phrase thereof shall be held invalid for any reason, the remainder of that section and all other sections shall continue in full force and effect.

**TOWN OF ROWLEY BOARD OF HEALTH**  
Rowley, Massachusetts 01969

**RULES AND REGULATIONS OF MASSAGE OR CONDUCT  
OF AN ESTABLISHMENT FOR THE GIVING OF  
MASSAGE, VAPOR, POOL OR SAUNAS**

The Board of Health Rowley hereby orders that the following Regulations be and are hereby adopted under authority of Section 31 of Chapter III, and Sections 51 and 53, Chapter 140 of the General Laws of the Commonwealth of Massachusetts.

**I. LICENSE REQUIRED AND FEE:** No person shall practice massage or conduct an establishment for the giving of massage or vapor, pool, shower or other saunas for hire or reward or advertise or hold themselves as being engaged in the business of massage, or the giving said saunas, in the Town of Rowley without first obtaining a license from the Board of Health. The license fee for each establishment and for each massage therapist shall set annually by the Board of Health.

A license issued to an establishment or massage therapist is not transferable. All licenses shall expire December 31 following the date of issue.

**II. DEFINITIONS:** For the purpose of these regulations.

**A. Massage/bodywork** shall be defined as the application of various techniques to the muscular structure and soft tissues of the human body. Application of massage and bodywork techniques may include, but in not limited to, stroking, kneading, tapping, compression, friction, pressure, and those techniques based on manipulation or the application of pressure to the muscular of soft tissues of the human body.

**B. Establishment** shall mean the room or group of rooms, office, building, place of business, or premises where massage is practiced or where therapeutic or conditions saunas of water, vapor, or other substance are given.

**C. Approved** shall mean approved by the Rowley Board of Health.

**D. Approved course of massage** shall mean a course on the act and science of massage which includes both theory and practice that is approved by the Rowley Board of Health. This course of study shall include a 500 hour course of study which meets the standards of the Associated Bodywork & Massage Professionals (ABMP) or the American Massage Therapy Association(AMTA).

- D. **Massage therapist** shall mean a person who provides massage services or therapy for compensation.

**III. EXEMPTIONS AND EXCLUSIONS:**

- A. **Individual:** These regulations shall not apply to the following individuals while engaged in the regular performance of the duties of their respective professions:
- (1) Physicians, chiropractors, osteopaths, or physical therapists who are duly licensed to practice their respective professions in the Commonwealth of Massachusetts.
  - (2) School athletic trainers.
  - (3) Nurses who are registered or licensed under the laws of the Commonwealth of Massachusetts.
  - (4) Barbers and beauticians who are duly registered under the laws of the Commonwealth of Massachusetts except that this exemption shall apply solely to the massaging of the neck, face, scalp, and hair of the customer or client for cosmetic or beautifying purposes.
  - (5) A person licensed to massage in any City or Town in the Commonwealth may conduct massage in Rowley, at the request of a Physician, without taking out an additional license, upon notification to the Health Agent with written orders.
- B. **Establishments:** These regulations shall not apply to institutions licensed as health care facilities such as hospitals.

**IV. REQUIREMENTS FOR INDIVIDUAL LICENSING:** No person shall be licensed to practice massage in the Town of Rowley unless they meet the following requirements:

- A. Submits to the Rowley Board of Health a completed application form, in a form adopted by the Board of Health, containing all information therein requested. False statements in said application shall be grounds for denial, suspension or revocation of a license or a license request.
- B. Has successfully completed a 500 hour course of study at an institution approved by the A.B.M.P. or the A.M.T.A.
- C. Provides written evidence of having satisfactorily completed a course of 500hrs. or more of study and is certified from the institution mentioned above and that the institution has ABMP or AMTA certification.
- D. Provides written evidence that he/she is at least eighteen years of age.
- E. Provides one front face photograph at least two inches by two inches taken within thirty days prior to the submission of the application.

- F. Provides written evidence of professional membership with the ABMP or the AMTA including professional liability insurance.
- G. Provides proof of negative Tuberculin test as provided in Article V, §J.
- H. Provides three letters of reference from unrelated persons.
- I. Provide a list of towns and cities where applicant is or has been licensed.

**V. REQUIREMENTS FOR LICENSING OF AN ESTABLISHMENT:**

Every establishment for the giving of massage or vapor, pool, shower or other saunas shall meet the following requirements:

- A. Applicant must submit to the Rowley Board of Health a completed application form containing all information therein requested. False statements in said application shall be grounds for denial of a license request.
- B. Every licensee shall notify the Rowley Board of Health prior to any change of name, address or ownership or prior to any physical alteration or renovation of the establishment.
- C. No licensed establishment shall operate under any name or designation not specified on the license.
- D. No licensed establishment shall be kept open between the hours of 9:00 pm and 7:00 am, unless specifically authorized in writing by the Board of Health.
- E. Every licensee shall permit the Rowley Board of Health to inspect their place of business at any time to the maximum extent permitted by law.
- F. No establishment shall employ a massage therapist not licensed by the Rowley Board of Health or allow a massage therapist not licensed by the Rowley Board of Health to the establishment.
- G. It is forbidden to employ or permit any person in or on the licensed premises to perform a sexual act or acts, or to simulate an act or acts of sexual intercourse, or any sexual acts prohibited by law.
- H. If food is served, the establishment must be in compliance with Article X of "The State Sanitary Code".
- I. No alcoholic beverages shall be permitted in that portion of a building used for the purpose of giving massage, vapor or other saunas as determined by the Rowley Board of Health.

- J.** No person shall treat or be treated if afflicted with a communicable disease such as draining herpes zoster (shingles). However, they may treat or be treated when a written statement is received from a physician to the effect that the condition is no longer contagious. The Board of Health requires proof of freedom from tuberculosis and immunization or proof of immunity for measles, mumps, rubella, diphtheria, and tetanus. All records must be current.
- K.** The hands of every person practicing massage shall be thoroughly cleansed washing with soap and hot water immediately before and after treating a patron.
- L.** All rooms shall be well lighted, well ventilated and properly heated in accordance with local and/or State regulations except during those periods declared as emergencies by local or state officials. Lighting in areas used for massage or saunas shall be of such intensity that all parts of the room are clearly visible at all times for any employee of the Board of Health to see the room from outside the room.
- M.** There shall be a safe, adequate supply of hot and cold running water in a massage treatment room or immediately adjacent thereto at all times.
- N.** In an establishment where saunas, vapors or other substance therapy is provided, there shall be separate toilets, hand washing facilities and showers and treatment rooms if the establishment is to be used concurrently by both sexes.
- O.** All areas of the establishment, including the equipment and furniture therein, shall be kept in a sanitary condition at all times. This shall include the regular application of sanitizing cleansers and antibacterial agents.
- P.** All robes, sheets, towels, etc., which may come in direct contact with the body shall be properly cleaned and laundered with bleach at high temperatures and stored in a sanitary manner. Single service items are acceptable.
- Q.** Visual access to therapy rooms shall be designed by the establishment licensee to enable viewing of the interior thereof from the outside, subject to the approval of the Public Health Agent.
- R.** No rooms used for conducting the practice of massage or giving of vapor or other saunas shall be fitted with doors capable of being locked.
- S.** The license of the establishment and all massage therapists must be displayed in a conspicuous place.
- T.** The establishment must comply with all local zoning and/or building code requirements.

- U. The Board of Health, at its discretion, may waive any of these requirements in its sole and absolute discretion.
- V. The establishment must supply drinking water from an acceptable source to hydrate all Patrons.

## **VI. CONDUCT**

- A. Licensees shall maintain the highest standards of professional conduct.
- B. Licensees are to provide services within the scope of the definition of massage/bodywork and the limits of their training. Licensees are not to employ those massage or bodywork techniques for which they have not had adequate training and shall represent their education, training, qualifications, and abilities honestly.
- C. Licensees shall not perform manipulations or adjustments of the human skeletal structure, diagnose, prescribe, or provide any other service, procedure, or therapy, which requires a license to practice chiropractic, osteopathy, physical therapy, podiatry, orthopedics, psychotherapy, acupuncture, or any other profession or branch of medicine unless specifically licensed to do so.
- D. Licensees shall acknowledge the limitations of their skills and, when appropriate, refer clients to the appropriate qualified professional.
- E. Licensees shall not make false claims regarding the potential benefits of the techniques rendered and shall actively participate in educating the public regarding the actual benefits of massage and bodywork.
- F. Licensees shall conduct the" business in a professional and ethical manner in relation to their clientele, business associates, acquaintances, and the general public.
- G. Licensees shall practice honesty in advertising, promote their services ethically and in good taste, and practice and advertise only those techniques for which they have received adequate training and certification.
- H. Licensees shall to be thoroughly educated and understand the physiological effects of the specific massage/bodywork techniques utilized in order to determine whether such application is contraindicated and/or to determine the most beneficial techniques to apply to a given individual.

- I. Licensees shall not apply massage or bodywork techniques in those cases where they may be contraindicated without a written referral from the client's primary care provider.
- J. Licensees shall refrain from the use of any mind-altering drugs, alcohol, or intoxicants prior to or during professional massage or bodywork sessions.
- K. Licensees shall always dress in a professional manner, proper dress being defined as attire suitable and consistent with accepted business and professional practice.
- L. Licensees shall not in any way instigate or tolerate any kind sexual advance while acting in the capacity of massage or bodywork practitioner.
- M. Licensees shall not be affiliated with or employed by any business that utilizes any form of sexual suggestiveness or explicit sexuality in its advertising promotion of services or in the actual practice of its services.
- N. Individual licensees may practice massage only in Licensed Establishments, except as provided herein: application of pressure to the muscular structure of soft tissues of the human body, massage/bodywork as provided for the basic purpose of relaxation, stress reduction, and relief of muscular tension.

**VII. MANDATORY DISCLOSURE:** No licensee shall provide any massage/bodywork to a client for the first time without first having provided the client with a disclosure document, and requiring the client to sign said document, that includes the following language in not less than 12 point type:

**DISCLOSURE REQUIRED BY THE BOARD OF HEALTH**

1. Massage/Bodywork is defined as the application of various techniques to the muscular structure and soft tissues of the human body. Application of massage and bodywork techniques may include, but is not limited to, stroking, kneading, lapping, compression, friction, pressure, and those techniques based on manipulation or the application of pressure to the musculature of soft tissues of the human body.
2. Massage/bodywork should not be construed as a substitute for medical examination, diagnosis, or treatment. A physician, chiropractor, or other qualified medical specialist should be consulted for any medical physical ailment.
3. Massage therapists are not qualified to perform spinal or skeletal adjustments, diagnose, prescribe, or treat any physical or mental illness.
4. Because massage should not be done under certain conditions, all known medical conditions should

be disclosed to the massage therapist.

5. Illicit or sexually suggestive remarks or advances will result in immediate termination of the session.
6. The issuance of a license for the practice of massage therapy does not constitute endorsement of the licensee or establishment by the Board of Health.

The signed disclosure document shall be retained by the licensee or establishment for at least one year after services are provided. Licensee shall maintain a log listing client names, dates and times of service. These logs and signed disclosure forms shall be made available for inspection by representatives of the Board of Health.

#### **VIII. DENIAL OF APPLICATION FOR LICENSE OR RENEWAL THEREOF:**

Any person or establishment whose application for a license or license renewal is denied may within ten (10) days of said denial request, in writing, a hearing upon the cause or causes of said denial. The Board of Health may set a time and place for said hearing within a reasonable time, not to exceed fourteen (14) days.

#### **IX. SUSPENSION/REVOCAION OF LICENSE:**

- A. No license granted under these regulations, whether for individual practitioner or for establishments, may be suspended or revoked without a hearing, **except** that the Health Agent may suspend establishment and individual licenses for flagrant violation of these regulations or under emergency circumstances as determined by the Health Agent. In the event that the Health Agent shall suspend any license as herein provided, the licensee shall be entitled to have such suspension reviewed by the Board of Health at its next regularly scheduled meeting or within fourteen (14) days of receipt of hearing request, whichever is sooner.
- B. Such licenses may be suspended or revoked if, after a hearing, the Rowley Board of Health finds that the licensee has:
  - (1) Made a material false statement on the application form:
  - (2) Violated or permitted a violation of any of these regulations or of any conditions of the license
  - (3) Violated or permitted a violation of any law of the Commonwealth.

**X. PENALTIES:** Whoever violates any provisions of these rules and regulations shall be punished by a fine of not more than One Hundred (\$ 100.00) dollars or imprisonment for not more than six (6) months or both in accordance with General Laws, Chapter 140, Section 53, as amended. Each day that these violations exist shall constitute a separate violation.

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

**XII. EFFECTIVE DATE:** These rules and regulations shall be effective as of May 1, 2006.

## **Regulations of the Rowley Board of Health Sale of Tobacco Products to Minors**

### A. Statement of Purpose:

Whereas there exists conclusive evidence that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat; and whereas more than eighty percent of all smokers begin smoking before the age of eighteen years (Centers for Disease Control and Prevention, “Youth Surveillance – United States 2000,” 50 MMWR 1 (Nov. 2000)); and whereas nationally in 2000, sixty-nine percent of middle school age children who smoke at least once a month were not asked to show proof of age when purchasing cigarettes (Id.); and whereas the U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin; and whereas despite state laws prohibiting the sale of tobacco products to minors, access by minors to tobacco products is a major problem; now, therefore, it is the intention of the Rowley Board of Health to curtail the access of tobacco products by minors.

### B. Authority:

This regulation is promulgated pursuant to the authority granted to the Rowley Board of Health by Massachusetts General Laws Chapter 111, Section 31 that “Boards of Health may make reasonable health regulations”.

### C. Definitions:

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

**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.

**Employee:** Any individual who performs services for an employer.

**Employer:** Any individual, partnership, association, corporation, trust or other organized group of individuals, including Rowley or any agency thereof, which uses the services of one (1) or more employees.

**Minor:** Any individual who is under the age of eighteen (18).

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

**Person:** An individual, employer, employee, retail store manager or owner, or the owner or operator of any establishment engaged in the sale or distribution of tobacco products directly to consumers.

Self Service Display: Any display from which customers may select a tobacco product without assistance from an employee or store personnel, excluding vending machines.

Tobacco Product: Cigarettes, cigars, chewing tobacco, pipe tobacco, bidis, snuff or tobacco in any of its forms.

Vending Machine: Any automated or mechanical self service device, which upon insertion of money, tokens or any other form of payment, dispenses cigarettes or any other tobacco product.

#### D. Tobacco Sales to Minors Prohibited:

1. No person shall sell tobacco products or permit tobacco products to be sold to a minor; or not being the minor's parent or legal guardian, give tobacco products to a minor.
2. In conformance with and in addition to Massachusetts General Law, Chapter 270, Section 7, a copy of the 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 Rowley 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 four (4) feet or greater than nine (9) feet from the floor.
3. Identification: Each person selling or distributing tobacco products shall verify the age of the purchaser by means of government-issued photographic identification containing the bearer's date of birth that the purchaser is 18 years old or older. Verification is required for any person under the age of 27.
4. All retail sales of tobacco must be face-to-face between the seller and the buyer. The only exception is Section I of these regulations.

#### E. Tobacco Sales Permit:

1. No person shall sell or otherwise distribute tobacco at retail within Rowley without first obtaining a tobacco sales permit issued annually by the Rowley Board of Health.
2. As part of the tobacco sales permit application process, the applicant will be provided with the Rowley Board of Health regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco sales regarding both state laws regarding the sale of tobacco and this regulation.
3. Each applicant is required to provide proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a tobacco sales permit can be issued.

4. The fee for a tobacco sales permit shall be determined by the Rowley Board of Health annually. All such permits shall be renewed annually by January 1.
5. A separate permit is required for each retail establishment selling tobacco.
6. Each tobacco sales permit shall be displayed at the retail establishment in a conspicuous place.
7. No tobacco sales permit holder shall allow any employee to sell cigarettes or other tobacco products until such employee reads this regulation and state laws regarding the sale of tobacco and signs a statement, a copy of which will be placed on file in the office of the employer, that he/she has read the regulation and applicable state laws.
8. A tobacco sales permit is non-transferable. A new owner of an establishment that sells tobacco must apply for a new tobacco sales permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.
9. Issuance of a tobacco sales permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation.

F. Free Distribution:

No person shall distribute, or cause to be distributed, any free samples of tobacco products.

G. Out-of-Package Sales:

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.

H. Self Service Displays:

All self service displays of tobacco products are prohibited. All humidors including, but not limited to, walk-in humidors must be locked. The only exception is self service displays that are located in facilities where the retailer ensures that no person younger than eighteen (18) years of age is present, or permitted to enter, at any time.

I. Tobacco Vending Machines:

All tobacco vending machines are prohibited. The only exception is tobacco vending machines are permitted if equipped with a lock-out device, in an establishment with a valid pouring liquor license, and located in facilities where the retailer ensures that no person younger than eighteen (18) years of age is present, or permitted to enter, at any time. A lock-out device locks out sales from the vending machine unless a release mechanism is triggered by an employee. The release mechanism must not allow continuous operation of the vending machine and must be out of the reach of all consumers and in a location accessible only to employees.

J. Violations:

1. It shall be the responsibility of the 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. The violator shall receive:

a. In the case of a first violation, a fine of one hundred dollars (\$100.00).

b. In the case of a second violation within 24 months of the date of the current violation, a fine of two hundred dollars (\$200.00) and the tobacco sales permit shall be suspended for seven (7) consecutive business days.

c. In the case of three or more violations within a 24 month period, a fine of three hundred dollars (\$300.00) and the tobacco sales permit shall be suspended for thirty (30) consecutive business days.

2. Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the tobacco sales permit for thirty (30) consecutive business days.

3. In addition to the monetary fines set above, any permit holder who engages in the sale or distribution of tobacco products directly to a consumer while his or her permit is suspended shall be subject to the suspension of all board of health issued permits for thirty (30) consecutive business days.

4. The Rowley Board of Health shall provide notice of the intent to suspend a tobacco sales permit, which notice shall contain the reasons therefore and establish a time and date for a hearing which date shall be no earlier than seven (7) days after the date of said notice. The permit holder or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision, and the reasons therefore in writing. The Rowley Board of Health, after a hearing, may suspend the tobacco sales permit. All tobacco products shall be removed from the retail establishment upon suspension of the tobacco sales permit. Failure to remove all tobacco products shall constitute a separate violation of this regulation.

5. Any permit holder who does not pay the assessed fine within twenty-one days from fine issuance may be subject to criminal proceedings.

#### K. Non-Criminal Disposition:

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

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

#### L. Enforcement:

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

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

M. Severability:

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

N. Effective Date:

This regulation shall take effect on May 1, 2006.

# Rowley Rules and Regulations for Body Art Establishments and Practitioners

## 1. Purpose

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

## 2. Authority

These regulations are promulgated under the authority granted to the Board of Health under Massachusetts General Law 111, section 31.

## 3. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Contaminated Waste means waste as defined in 105 CMR 480.000: Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII and/or 29 Code of Federal Regulation part 1910.1030. This includes any liquid or semi-liquid blood or other potentially infectious material; contaminated items that would release blood or other potentially infectious material in a liquid or semi-liquid state if compressed; items on which there is dried blood or other potentially infectious material and which are capable of releasing these materials during handling; sharps and any wastes containing blood or other potentially infectious materials.

Cosmetic Tattooing, also known as permanent cosmetics, micro pigment implantation or dermal pigmentation, means the implantation of permanent pigment around the eyes, lips and cheeks of the face and hair imitation.

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

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

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

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

Exposure means an event whereby there is an eye, mouth or other mucous membrane, non-intact skin or parenteral contact with the blood or bodily fluids of another person or contact of an eye, mouth or other mucous membrane, non-intact skin or parenteral contact with other potentially infectious matter.

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

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

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

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

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

Light colored means a light reflectance value of 70 percent or greater.

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

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

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

Permit means Board approval in writing to either (1) operate a body art establishment or (2) operate as a body art practitioner within a body art establishment. Board approval shall be granted solely for the practice of body art pursuant to these regulations. Said permit is exclusive

of the establishment's compliance with other licensing or permitting requirements that may exist within the Board's jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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

Temporary Body Art Establishment means the same as Mobile Body Art Establishment.

Three dimensional “3D” Body Art or Beading or Implantation means the form of body art consisting of or requiring the placement, injection or insertion of an object, device or other thing made of matters such as steel, titanium, rubber, latex, plastic, glass or other inert materials, beneath the surface of the skin of a person. This term does not include Body Piercing.

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

Universal Precautions means a set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus (HIV) and Hepatitis B Virus (HBV) to Health-Care and Public-Safety Workers" in Morbidity and Mortality Weekly Report) (MMWR), June 23, 1989, Vo1.38 No. S-6, and as "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures" in MMWR, July 12,1991, Vo1.40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other blood pathogens. Precautions include hand washing; gloving; personal protective equipment; injury prevention; and proper handling and disposal of needles, other sharp instruments, and blood and body fluid-contaminated products.

#### 4. Exemptions

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

#### 5. 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. Properly identified shall mean a valid photo identification of the adult and a birth certificate of the minor.
- (C) No body art shall be performed upon an animal.

- (D) The following body piercings are hereby prohibited: piercing of the uvula; piercing of the tracheal area; piercing of the neck; piercing of the ankle; piercing between the ribs or vertebrae; piercing of the web area of the hand or foot; piercing of the lingual frenulum (tongue web); piercing of the clitoris; any form of chest or deep muscle piercings, excluding the nipple; piercing of the anus; piercing of an eyelid, whether top or bottom; piercing of the gums; piercing or skewering of a testicle; so called “deep” piercing of the penis – meaning piercing through the shaft of the penis, or “trans-penis” piercing in any area from the corona glandis to the pubic bone; so called “deep” piercing of the scrotum – meaning piercing through the scrotum, or “transcrotal” piercing; so called “deep” piercing of the vagina.
- (E) The following practices hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts: tongue splitting; braiding; three dimensional/beading/implementation tooth filing/fracturing/removal/tattooing; cartilage modification; amputation; genital modification; introduction of saline or other liquids.

## 6. 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, durable, free of open holes or cracks, light-colored, washable, and in good repair. Walls, floors, and ceilings shall be maintained in a clean condition. All procedure surfaces, including client chairs/benches, shall be of such construction as to be easily cleaned and sanitized after each client.
  - (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 operator area shall have a minimum of 45 square feet of floor space for each practitioner. Each establishment shall have an area that may be screened from public view for clients requesting privacy. Multiple body art stations shall be separated by a dividers or partition at a minimum.
  - (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 procedure is being performed, where instruments and sharps are assembled and all cleaning areas.

- (6) All electrical outlets in operator areas and cleaning areas shall be equipped with approved ground fault (GFCI) protected receptacles.
- (7) A separate, readily accessible hand sink with hot and cold running water under pressure, preferably equipped with wrist- or foot-operated controls and supplied with liquid soap, and disposable paper towels stored in fixed dispensers shall be readily accessible within the establishment. Each operator area shall have a hand sink.
- (8) There shall be a sharps container in each operator area and each cleaning area.
- (9) There shall be a minimum of one toilet room containing a toilet and sink. The toilet room shall be provided with toilet paper, liquid hand soap and paper towels stored in a fixed dispenser. A body art establishment permanently located within a retail shopping center, or similar setting housing multiple operations within one enclosed structure having shared entrance and exit points, shall not be required to provide a separate toilet room within such body art establishment if Board-approved toilet facilities are located in the retail shopping center within 300 feet of the body art establishment so as to be readily accessible to any client or practitioner.
- (10) The public water supply entering a body art establishment shall be protected by a testable, reduced pressure back flow preventor installed in accordance with 142 Code of Massachusetts Regulation 248, as amended from time to time.
- (11) At least one covered, foot operated waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily. Solid waste shall be stored in covered, leak proof, rodent-resistant containers and shall be removed from the premises at least weekly.
- (12) At least one janitorial sink shall be provided in each body art establishment for use in cleaning the establishment and proper disposal of non-contaminated liquid wastes in accordance with all applicable Federal, state and local laws. Said sink shall be of adequate size equipped with hot and cold running water under pressure and permit the cleaning of the establishment and any equipment used for cleaning.
- (13) All instruments and supplies shall be stored in clean, dry, and covered containers. Containers shall be kept in a secure area specifically dedicated to the storage of all instruments and supplies.

- (14) 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.
- (15) The establishment shall have a customer waiting area, exclusive and separate from any workstation, instrument storage area, cleaning area or any other area in the body art establishment used for body art activity.
- (16) No animals of any kind shall be allowed in a body art establishment except service animals used by persons with disabilities (e.g., Seeing Eye dogs). Fish aquariums shall be allowed in waiting rooms and nonprocedural areas.
- (17) Smoking, eating, or drinking is prohibited in the area where body art is performed, with the exception of non-alcoholic fluids being offered to a client during or after a body art procedure.

(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. After use, all single-use sharps shall be immediately disposed of in approved sharps containers pursuant to 105 CMR 480.000.
- (2) All products applied to the skin, such as but not limited to body art stencils, applicators, gauze and razors, shall be single use and disposable.
- (3) Hollow bore needles or needles with cannula shall not be reused.
- (4) All inks, dyes, pigments, solid core needles, and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions.
- (5) Inks, dyes or pigments may be mixed and may only be diluted with water from an approved potable source. Immediately before a tattoo is applied, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single-use paper cups or plastic cups. Upon completion of the tattoo, these single-use cups or caps and their contents shall be discarded.

(C) Sanitation and Sterilization Measures and Procedures

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

- (2) After being cleaned, all non-disposable instruments used for body art shall be packed individually in sterilizer packs and subsequently sterilized in a steam autoclave sold for medical sterilization purposes under approval of the U.S. Food and Drug Administration. All sterilizer packs shall contain either a sterilizer indicator or internal temperature indicator. Sterilizer packs must be dated with an expiration date not to exceed six (6) months.
- (3) The autoclave shall be used, cleaned, and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of the autoclave must be available for inspection by the Board. Autoclaves shall be located away from workstations or areas frequented by the public.
- (4) Each holder of a permit to operate a body art establishment shall demonstrate that the autoclave used is capable of attaining sterilization by monthly spore destruction tests. These tests shall be verified through an independent laboratory. The permit shall not be issued or renewed until documentation of the autoclave's ability to destroy spores is received by the Board. These test records shall be retained by the operator for a period of three (3) years and made available to the Board upon request.
- (5) All instruments used for body art procedures shall remain stored in sterile packages until just prior to the performance of a body art procedure. After sterilization, the instruments used in body art procedures shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.
- (6) Sterile instruments may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing.
- (7) If the body art establishment uses only single-use, disposable instruments and products, and uses sterile supplies, an autoclave shall not be required.
- (8) When assembling instruments used for body art procedures, the operator shall wear disposable medical gloves and use medically recognized sterile techniques to ensure that the instruments and gloves are not contaminated.
- (9) Reusable cloth items shall be mechanically washed with detergent and mechanically dried after each use. The cloth items shall be stored in a dry, clean environment until used. Should such items become contaminated directly or indirectly with bodily fluids, the items shall be washed in accordance with standards applicable to hospitals and medical care facilities, at a temperature of 160°F or a temperature of 120°F with the use of chlorine disinfectant.

(D) Posting Requirements

The following shall be prominently displayed:

- (1) A Disclosure Statement, a model of which shall be available from the Board. A Disclosure Statement shall also be given to each client, advising him/her of the risks and possible consequences of body art procedures.
- ~~(2)~~ The name, address and phone number of the Rowley Board of Health
- (3) An Emergency Plan, including:
  - (a) a plan for the purpose of contacting police, fire or emergency medical services in the event of an emergency;
  - (b) a telephone in good working order shall be easily available and accessible to all employees and clients during all hours of operation; and
  - (c) a sign at or adjacent to the telephone indicating the correct emergency telephone numbers.
- (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, which shall include:
  - (a) establishment name;
  - (b) hours of operation;
  - (c) owner's name and address;
  - (d) a complete description of all body art procedures performed;
  - (e) an inventory of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers and serial or lot numbers, if applicable. Invoices or packing slips shall satisfy this requirement; a Material Safety Data Sheet, when available, for each ink and dye used by the establishment;
  - (f) copies of waste hauler manifests
  - (g) copies of commercial biological monitoring tests
  - (h) Exposure Incident Report (kept permanently)
  - (j) a copy of these regulations.
- (2) Employee information, which shall include:
  - (a) full legal names and exact duties;
  - (b) date of birth;

- (c) home address;
- (d) home /work phone numbers;
- (e) identification photograph;
- (f) dates of employment;
- (g) Hepatitis B vaccination status or declination notification; and
- (h) training records

- (3) Client Information, which shall include:
  - (a) name;
  - (b) age and valid photo identification
  - (c) address of the client;
  - (d) date of the procedure;
  - (e) name of the practitioner who performed the procedure(s);
  - (f) description of procedure(s) performed and the location on the body;
  - (g) a signed consent form as specified by 7(D)(2); and,
  - (h) if the client is a person under the age of 18, proof of parental or guardian identification, presence and consent including a copy of the photographic identification of the parent or guardian.

Client information shall be kept confidential at all times.

- (4) Exposure Control Plan

Each establishment shall create, update, and comply with an Exposure Control Plan. The Plan shall be submitted to the Board for review so as to meet all of the requirements of OSHA regulations, to include, but not limited to, 29 Code of Federal Regulation 1910.1030 OSHA Bloodborne Pathogens Standards et seq, as amended from time to time. A copy of the Plan shall be maintained at the Body Art Establishment at all times and shall be made available to the Board upon request.

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

## 7. Standards of Practice

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

- (A) A practitioner shall perform all body art procedures in accordance with Universal Precautions set forth by the U.S Centers for Disease Control and Prevention.
- (B) A practitioner shall refuse service to any person who may be under the influence of alcohol or drugs.
- (C) Practitioners who use ear-piercing systems must conform to the manufacturers directions for use, and to applicable U.S. Food and Drug Administration requirements. No

practitioner shall use an ear piercing system on any part of the client's body other than the lobe of the ear.

- (D) Health History and Client Informed Consent. Prior to performing a body art procedure on a client, the practitioner shall:
- (1) Inform the client, verbally and in writing that the following health conditions may increase health risks associated with receiving a body art 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, that the client consents to the performance of the body art procedure and that the client has been given the aftercare instructions as required by section 7(K).
- (E) A practitioner shall maintain the highest degree of personal cleanliness, conform to best standard hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, the practitioner must thoroughly wash their hands in hot running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.
- (F) In performing body art procedures, a practitioner shall wear disposable single-use gloves. Gloves shall be changed if they become pierced, torn, or otherwise contaminated by contact with any unclean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed in accordance with section (E) before the next set of gloves is put on. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable single-use gloves does not preclude or substitute for handwashing procedures as part of a good personal hygiene program.
- (G) The skin of the practitioner shall be free of rash or infection. No practitioner affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any

capacity in which there is a likelihood that that person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.

- (H) Any item or instrument used for body art that is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.
- (I) Preparation and care of a client's skin area must comply with the following:
  - (1) Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.
  - (2) Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding where body art procedure is to be placed shall be washed with soap and water or an approved surgical skin preparation. If shaving is necessary, single-use disposable razors or safety razors with single-service blades shall be used. Blades shall be discarded after each use, and reusable holders shall be cleaned and autoclaved after use. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.
  - (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 in appropriate covered containers, and disposed of in accordance with 105 CMR 480.000.
- (J) Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to receive a body art procedure with sterile gauze or other sterile applicator to prevent contamination of the original container and its contents. The applicator or gauze shall be used once and then discarded.
- (K) The practitioner shall provide each client with verbal and written instructions on the aftercare of the body art site. The written instructions shall advise the client:
  - (1) on the proper cleansing of the area which received the body art;
  - (2) to consult a health care provider for:
    - (a) unexpected redness, tenderness or swelling at the site of the body art procedure;
    - (b) any rash;
    - (c) unexpected drainage at or from the site of the body art procedure; or
    - (d) a fever within 24 hours of the body art 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 Board.

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

#### 8. Exposure Incident Report

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

Each Exposure Incident Report shall contain:

- (1) A copy of the application and consent form for body art activity completed by any client or minor client involved in the exposure incident;
- (2) A full description of the exposure incident, including the portion of the body involved therein;
- (3) Instrument(s) or other equipment implicated;
- (4) A copy of body art practitioner license of the involved body art practitioner;
- (5) Date and time of exposure;
- (6) A copy of any medical history released to the body art establishment or body art practitioner; and
- (7) Information regarding any recommendation to refer to a physician or waiver to consult a physician by persons involved.

#### 9. Injury and/or Complication Reports

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

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

#### 10. Complaints

- (A) The Board shall investigate complaints received about an establishment or practitioner's practices or acts, which may violate any provision of the Board's regulations.
- (B) If the Board finds that an investigation is not required because the alleged act or practice is not in violation of the Board's regulations, then the Board shall notify the complainant of this finding and the reasons on which it is based.

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

11. Application for Body Art Establishment Permit

- (A) No person may operate a body art establishment except with a valid permit from the Board.
- (B) Applications for a permit shall be made on forms prescribed by and available from the Board. An applicant shall submit all information required by the form and accompanying instructions. The term "application" as used herein shall include the original and renewal applications.
- (C) An establishment permit shall be valid from the date of issuance and shall expire December 31 following the date of issue unless revoked sooner by the Board.
- (D) The Board shall require that the applicant provide, at a minimum, the following information in order to be issued an establishment permit:
  - (1) Name, address, and telephone number of:
    - (a) the body art establishment;
    - (b) the operator of the establishment; and
    - (c) the body art practitioner(s) working at the establishment;
  - (2) The manufacturer, model number, model year, and serial number, where applicable, of the autoclave used in the establishment;
  - (3) A signed and dated acknowledgement that the applicant has received, read and understood the requirements of the Board's body art regulations;
  - (3) A drawing of the floor plan of the proposed establishment to scale for a plan review by the Board, as part of the permit application process; and,
  - (4) Exposure Report Plan
  - (5) Such additional information as the Board may reasonably require.
- (E) The annual fee for the Body Art Establishment Permit shall be set annually by the Board of Health.
- (F) A permit for a body art establishment shall not be transferable from one place or person to another.

## 12. Application for Body Art Practitioner Permit

- (A) No person shall practice body art or perform any body art procedure without first obtaining a practitioner permit from the Board. The annual fee for the Body Art Practitioner Permit shall be set by the Board of Health.
- (B) A practitioner shall be a minimum of 18 years of age.
- (C) A practitioner permit shall be valid from the date of issuance and shall expire December 31 following the date of issue unless revoked sooner by the Board.
- (D) Application for a practitioner permit shall include:
  - (1) name;
  - (2) date of birth;
  - (3) residence address;
  - (4) mailing address;
  - (5) phone number;
  - (6) place(s) of employment as a practitioner; and
  - (7) training and/or experience as set out in (E) below.

### (E) Practitioner Training and Experience

- (1) In reviewing an application for a practitioner permit, the Board may consider experience, training and/or certification acquired in other states that regulate body art.
- (2) Training for all practitioners shall be approved by the Board and, at a minimum, shall include the following:
  - (a) bloodborne pathogen training program (or equivalent) which includes infectious disease control; waste disposal; handwashing techniques; sterilization equipment operation and methods; and sanitization, disinfection and sterilization methods and techniques; and
  - (b) Current certification in First Aid and cardiopulmonary resuscitation (CPR).

Examples of courses approved by the Board include "Preventing Disease Transmission" (American Red Cross) and "Bloodborne Pathogen Training" (U.S. OSHA). Training/courses provided by professional body art organizations or associations or by equipment manufacturers may also be submitted to the Board for approval.

- (3) The applicant for a body piercing practitioner permit shall provide documentation, acceptable to the Board, that s/he completed a course on anatomy and physiology

with a grade of C or better at a college accredited by the New England Association of Schools and Colleges, or comparable accrediting entity. This course must include instruction on the system of the integumentary system (skin).

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

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

- (A) The Board may suspend a permit, deny a permit, revoke a permit or refuse to renew a permit on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for suspension, denial, revocation or refusal to renew:
- (1) any actions which would indicate that the health or safety of the public would be at risk;
  - (2) fraud, deceit or misrepresentation in obtaining a permit, or its renewal;
  - (3) criminal conduct which the Board determines to be of such a nature as to render the establishment, practitioner or applicant unfit to practice body art as evidenced by criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts;
  - (4) any present or past violation of the Board's regulations governing the practice of body art;
  - (5) practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;
  - (6) being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;

- (7) knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a permit;
  - (8) continuing to practice while his/her permit is lapsed, suspended, or revoked; and
  - (9) having been disciplined in another jurisdiction in any way by the proper permitting authority for reasons substantially the same as those set forth in the Board's regulations.
  - (10) other just and sufficient cause which the Board may determine would render the establishment, practitioner or applicant unfit to practice body art;
- (B) The Board shall notify an applicant, establishment or practitioner in writing of any violation of the Board's regulations, for which the Board intends to deny, revoke, or refuse to renew a permit. The applicant, establishment or practitioner shall have seven (7) days after receipt of such written notice in which to comply with the Board's regulations. The Board may deny, revoke or refuse to renew a permit, if the applicant, establishment or practitioner fails to comply after said seven (7) days subject to the procedure outlined in Section 15.
- (C) Applicants denied a permit may reapply at any time after denial.

#### 14. Grounds for Suspension of Permit

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

#### 15. Procedure for Hearings

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

In the case of a suspension of a permit as noted in Section 13, a hearing shall be scheduled no later than 21 days from the date of the suspension.

#### 16. Severability

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

17. Fine for Violation

The fine for a violation of any provision of these Rules and Regulations shall be \$200.00 per offense. Each day that a violation continues shall be deemed to be a separate offense.

18. Effective Date

These rules and regulations shall be effective as of May 1, 2006.