

# **Town of Dedham Board of Health Regulations INDEX**

1. GENERAL REGULATIONS
2. SUBSURFACE SEWERAGE DISPOSAL AMMENDMENTS TO TITLE V
3. HOUSEHOLD REFUSE COLLECTION
4. PRIVATE WATER SUPPLIES/GEO-THERMAL WELLS
5. DUMPSTER REGULATIONS
6. FOOD SERVICE ESTABLISHMENTS
7. KEEPING OF DOMESTIC ANIMALS
8. BODY ART ESTABLISHMENT REGULATIONS
9. TOBACCO REGULATIONS
10. MEDICAL MARIJUANA
11. FEE SCHEDULE
12. CYROGENIC CHAMBER THERAPY
13. RULES AND REGULATIONS FOR THE MAINTENANCE OF GREASE TRAPS

PART ONE  
GENERAL REGULATION

Section:

- 1.01 Authority, Purpose
- 1.02 Scope, Effective Date
- 1.03 Conformity with State and Federal Law
- 1.04 Enforcement by Board of Health
- 1.05 Penalties
- 1.06 Variances
- 1.07 Procedures for Variances
- 1.08 Records
- 1.09 Nuisance Procedure

1.01 Authority, Purpose

The within regulation of the Dedham Board of Health are adopted pursuant to the powers set forth in Massachusetts General Laws Chapter 111, Sections 31, 31A, 31B, 122, 127A and 143. The purpose of these regulations is to promote and protect the public health within the Town of Dedham.

1.02 Scope, Effective Date

These regulations govern the conduct of certain specified activities within the Town of Dedham, provide procedures for restraint of nuisances and violation of State, Federal and Municipal law and regulations enforceable by the Board of Health, and provide procedures for the obtaining of the relief from those regulations and certain State regulations which are within the enforcement jurisdiction of the Board of Health. These regulations, as any amendments or addition thereto become effective upon their adoption by the Board of Health and seven days after publication in a newspaper of general circulation in the Town of Dedham. However, no regulation is first published in a newspaper or general circulation in the Town for at least 21 days prior to the meeting at which such regulation is to be adopted. The adoption and publication of these regulations or any part thereof shall not prior inconsistent regulation will only be superseded to the extent that there is a conflict with the later regulations. If any part of

these regulations is deemed unenforceable, such enforceability shall not affect the remainder of the regulations .

### 1.03 Conformity with State Law

Nothing in these regulations is intended to conflict applicable State law or regulation. These regulations are intended to complement duly adopted State regulations and to operate in addition to State requirements. It is resumed that any State regulation of any subject also regulated by the Town of Dedham shall not pre-empt that regulation of the Board of Health of the Town of Dedham unless such pre-emption is clearly established by the express terms of the superseding State regulation or by a final judgment of a court of competent jurisdiction.

### 1.04 Enforcement by the Board of Health

Each of the members of the Board of Health as well as the Health agent or any assistant health agent, may enforce these regulations by criminal complaint or by civil action commenced by him in the name of the Board of Health. This authority shall remain in force unless revoked by a majority vote of the Board held at a public meeting. Service orders of the Board of Health under these regulations and under the State Environmental Code and State Sanitary Code shall be made in the manner prescribed in 310 CMR 11.07

### 1.05 Penalties

Penalties may be adopted by the Board of Health during regularly scheduled public meetings and shall be published in a newspaper of general circulation in the Town of Dedham after an adoption. Except as noted in Section 1.02, above, penalties shall be effective seven days after publication. In those areas for which a maximum penalty has been established by state statute or regulation, the maximum penalty hereunder shall be the maximum allowable under State law or regulation. The current schedule of fees and penalties in effect shall be maintained as an Appendix to these regulations.

### 1.06 Variances

The Board of Health may vary the application of any requirements of these regulations, except where expressly forbidden by law or State regulation, or where expressly prohibited in these regulations, with respect to any particular case when, in its opinion, (1) the enforcement thereof would cause substantial hardship, financial or otherwise; and (2) the applicant for variance has established by clear and convincing evidence that the same degree of protection of the public or the environment required under these regulations can be achieved without strict application of the particular provision from which relief is sought. The board may impose appropriate conditions, limitations or alternative construction standards to assure appropriate protection of the public and the environment. The Board of Health also acts on applications for variances from state regulations such as those regulating subsurface sewage disposal as set

forth in 310 CMR15.20 the standards and procedures for variances from state regulations shall be governed by those regulations and not by the regulations of the Dedham Board of Health.

#### 1.07 Procedures for variances

Every request for a variance shall be in writing, on a form approved by the board of Health and, where the application involves the construction or alteration of any structure, sanitary system or septic system, the application must be accompanied by one set of plans. A notice, prepared by the Board of Health, shall be sent by certified mail, at the applicant's expense to all abutters as shown on the current Assessor's Maps within 300 feet of the proposed structure or system. A public hearing, pursuant to the notice shall be held on the application and notice of the hearing shall be published once not less than seven days prior to the hearing at the applicant's expense. The decision of the Board shall be in writing and shall be filed with the Town Clerk and posted in the Town Hall for 30 days following the filing with the Town Clerk. All persons desiring to be notified of the decision and indicating that desire at the public hearing shall be notified by the Board at the time of the filing of the decision. All persons aggrieved by the decision of the Board of Health may seek refile by appeal to the Superior Court of Norfolk County.

#### 1.08 Records

Records of the Board of Health shall be kept in accordance with State regulation and disposed of in accordance with state disposal schedule DS-7-7. Permanent records of the Board of Health shall include the following:

- (a) Copies of all licenses and permits issued by the Board of Health as well as the applications for such licenses and permits.
- (b) Copies of all investigative files opened by the Board of Health or by any Health agent.
- (c) Record of the proceedings of every public administrative hearing held by the Board and minutes of all meetings.

#### 1.09 Nuisance Procedure

The Board of Health shall accept and investigate all oral written complaints of nuisance which arise from the existence of any condition constituting a danger to the public health or a source of pollution on either public or private property. The Board may pursue all available legal remedies, both criminal and civil, to abate such nuisances. However, in the event that the Board deems it necessary for the proof of a case before a court of law, the Board may require that the person or persons making the original complaint be willing to testify at trial. If a person is willing to testify in support of the action of the Board of Health, the Board may, at its option, abandon the prosecution of the action.

PART TWO  
SUBSURFACE SEWAGE DISPOSAL

SECTION:

2.01 SCOPE OF PART II

2.02 PLANS FOR INDIVIDUAL SEWAGE DISPOSAL SYSTEMS

2.03 ACCESSIBILITY TO PUBLIC SEWER

2.04 ACCESS TO WATER SUPPLY

2.05 MULTIPLE DWELLINGS

2.06 COMMERCIAL BUILDINGS

2.01 Scope of Part II

This Part II is intended to supplement the regulations set forth in Title V of the State Sanitary Code 310 CMR 15.00. **Percolation rates in soils between 30mpi to 60mpi to be changed to 30mpi to 50mpi effective June 1<sup>st</sup>, 2005 for new construction.**

And to impose additional requirements on the installation of private subsurface sewage disposal systems. The regulation of common sewers within the Town of Dedham is carried out by the Selectman in their capacity as Sewer Commissioners and technical support for common sewers is the responsibility of the Department of Public Works acting under the direction of the Sewer Commissioners. Authority for approval of private subsurface sewage disposal systems, plans and percolation tests has been delegated to the Health Agent by the Board of Health.

\*Bolted area is an Amendment to Section 2.01 Title 5 310 CMR 15.000 effective June 1<sup>st</sup>, 2005 for new construction.

2.02 Plans for Private Sewage Disposal Systems

No private subsurface sewage disposal system shall be installed, altered or replaced without the approval of the Dedham Board of Health or the Health Agent action on their behalf. No approval may be granted until the application for such approval completes an application in full and submits three full sets of plans for the proposed system or the alterations or repairs to such a system. The plans must be certified by a registered professional engineer and shall show the entire parcel of land upon which the system is to be installed. The plans shall indicate the location of any building within 100' of the proposed system as well as the distance to any wells

within 200' of the proposed system and the presence of any Wetlands Protection Act. Plans shall be in scale of 1" equals 20" or such other scale as is approved by the Board and provides sufficient detail to adequately describe the proposed system. All structures, tanks, pumps, machinery and other parts of the system shall be portrayed on the plan by top view and at least one other profile. All information regarding sewage output and system capacity shall be set forth on the application and certified by a registered professional engineer.

### 2.03 Accessibility to Common Sewer

No application for a permit for a private subsurface sewage disposal system shall be approved if a common sewer or public sewer is available for use by the applicant within 300' of the proposed subsurface sewage disposal system. The distance to the nearest public sewer shall be determined by the amount of line needed to reach such sewer by the most direct route that the applicant may legally use. Ordinarily, such route would follow public ways, public easements and private ways and easements in which the applicant has the right to install utilities. This provision may be varied in cases of hardship pursuant to the procedures set forth in Section 1.07

### 2.04 Access to Water Supply

No permit will be issued until an adequate supply of water is assured to the site. In the event that a well is to provide the water supply, the well must actually be in existence and capable of providing sufficient uninterrupted flow in the opinion of the Health Agent to adequately service the disposal system.

### 2.05 Multiple Dwellings

No private individual sewage disposal system shall serve more than one dwelling unit defined as a room or group of rooms intended to be used by one household or family for living, sleeping, cooking or eating. A separate system shall be provided for each dwelling unit. This provision may be waived pursuant to Section 1.07 upon the submission of sufficient evidence that the proposed system would provide the same degree of protection to the public health and the environment as would the required number of individual systems and that the proposed multiple system would have at least 125% of the capacity of the minimum required capacity of the single systems combined.

### 2.06 Commercial Buildings

With the exception of industrial buildings or office buildings employing 25 persons or less, no private sewage disposal system will be approved for any commercial use where there is a public or common sewer available for use by the applicant or owner within 1000' of the proposed system. The distance to the nearest available public or common sewer shall be measured in the same manner as specified in Section 2.03.

## PART THREE

### HOUSEHOLD REFUSE COLLECTION

Section:

3.01 Scope of Part III

3.02 Household refuse, Placement for Collection

3.03 Time Limitations for Collection

3.04 Penalties, Recovery of Cleanup Costs

#### 3.01 Scope of Part III

This part regulates the placement of household refuse, whether in containers or otherwise, for collection by the Town or by those under contract to the Town to provide municipal refuse collection. This Part is intended to minimize health hazards which may be caused by placement of household refuse on streets and ways for collection.

#### 3.02 Household Refuse, Placement for Collection:

All persons served by municipal refuse collection in the town of Dedham shall place all household refuse to be collected within ten feet of the curb in such a manner as to leave all sidewalks open for passage while permitting ready access for collection. All refuse shall be placed in covered metal or plastic containers or in sealed plastic bags of sufficient strength and thickness to prevent bursting or tearing by animals.

#### 3.03 Time Limitations on Collection:

No household refuse shall be left outside of a building or placed for collection any earlier than 5:00pm of the day prior to normally schedule collection day. In cases in which there have been repeated instances of litter or scattering of refuse attributable to a particular household, or the Health Agent or any member of the Board of Health may order that the placement of the refuse for collection for such a household may be limited to the daylight hours of the normally scheduled collection day. Any person aggrieved by such an order may appeal the issuance of the order to the full Board of Health for hearing at the next regularly scheduled meeting of the Board.

### 3.04 Penalties, Recovery of Cleanup Costs:

The penalty for the violation of any portion of this part shall be twenty dollars (\$20.00) for the first violation and fifty dollars (\$50.00) for any subsequent violation within one year of the first violation. The Health Agent, any member of the Board or any police officer of the Town of Dedham is hereby authorized to issue notices of violation under this part. In addition to the foregoing penalties, in the event that the Town of Dedham is required to clean up any liter or scattered refuse caused by the failure to use adequately secure household refuse containers, the Board may recover such cleanup costs from the person or person who failed to adequately secure refuse. A determination to recover cleanup costs shall be made by the full Board after notice to the person to be assessed. Due regard shall be given to the degree of care assessed when it is demonstrated by clear and convincing evidence that the litter or scattering of refuse was the result of vandalism by others.



## PART FOUR

### PRIVATE WATER SUPPLIES/GEO-THERMAL WELLS

#### Section:

4.01 Scope of Regulation

4.02 Installation of Wells

4.03 Potability Standards

4.05 Existing Wells

4.06 Irrigation/Geo-Thermal testing

4.07 Aquifer Protection District

4.08 Fees

#### 4.01 Scope of Regulations:

This part is intended to establish minimum standards for the installation and use of private wells for potable water, **irrigation and geo-thermal wells** within The Town of Dedham. This part shall not apply to Public Water Supplies which are subject to comprehensive State regulation such as those of the Dedham-Westwood Water district.

#### 4.02 Installation of Wells

No well shall be installed in the Town of Dedham except by a well drilling contractor licensed by the Board of Health and by the Commonwealth of Massachusetts pursuant to the State Environmental Code. The licensed well drilling contractor shall apply to the Board of Health for each permit to drill a well and such application for a permit shall be accompanied by a plot plan showing the proposed location of the well and showing the locations of the nearest roadways, septic systems, buildings and wetland as well as the legal boundaries of the lot in which the well is to be drilled. Each well must be at least 100 feet from any septic system, 50 feet from any watercourse, pond or drainage ditch and 25 feet from the property lines. There shall be a separate **potable** well for each building of up to two dwelling units. Private wells are not regarded as suitable water supplies for any commercial building except for warehouse storage and manufacturing establishments having no more than 15 employees present at any time during normal operations. **All Geo-Thermal wells must have an UIC registration from DEP prior to review from the Board of Health.**

#### 4.03 Potability Standards:

No well for the purpose of supplying potable water shall be connected to the water distribution system of any structure until a Certificate of compliance has been issued for such well by the Dedham Board of Health. A complete chemical and bacteriological analysis must be taken on each well intended to supply water for human consumption. Testing shall be made at the

owner's expense by a laboratory approved by the Board of Health and the Board shall be provided with a copy of the report of analysis. The Health Agent shall approve any well which meets the Potability standards for public water supplies set forth in the state Environmental Code. Any well not meeting such minimum standards may be approved by the full Board of Health upon a substantial showing that the applicant proposes a plan of remediation and abatement of the contaminant(s) sufficient to render the water safe for human consumption. Such approval may impose conditions upon the use of the well for potable water.

#### 4.04 Access to Public Water Supply:

No application for a private well shall be approved if public water supplies are available within 400 feet of the proposed structure to be served. Said distance shall be measured as the shortest linear distance that the applicant could legally traverse through this own property, public or private ways and utility easements available for use by the applicant.

#### 4.05 Existing Wells:

No regulation in this part shall affect the continued use of existing wells actually used as sources of potable water on January 1, 198-. However, repair or replacement of existing wells will be governed by these regulations and any regulations enacted by the Commonwealth in Title VI of the State Environmental Code. The location of all existing wells shall be reported to the Board of Health on or before June 30, 1991. The board shall maintain a register of the location of all private wells reported to the Board.

#### 4.06 Irrigation and Geo-Thermal Standards:

**No well for the purpose of irrigation or geo-thermal shall be connected to the water distribution system of any structure until a Certificate of Compliance has been issued for such well by the Dedham Board of Health. A chemical analysis must be taken on each well at the discretion of the Health Department. Testing shall be made at the owner's expense by a laboratory approved by the Board of Health and the Board shall be provided with a copy of the report of analysis. If any additives are used for system operation the MSDS sheets must be submitted with application.**

#### 4.07 Aquifer Protection District:

Private Wells for irrigation be prohibited from the Aquifer Protection District boundaries as delineated in Section 11-6 of the Dedham zoning by-laws. **Geo-Thermal wells for heating and cooling are also prohibited from the Aquifer Protection District.**

#### 4.08 Fees:

Potable/Irrigation 75.00

Geo-Thermal Well residential 150.00

**Geo-Thermal Well Commercial 250.00**

\*Bolded areas are amendments to well regulations 3/06/2007.

## PART FIVE DUMPSTER REGULATIONS

### Section

#### 5.01 Scope

#### 5.02 Permits Required

#### 5.03 Use of Dumpsters

#### 5.04 Violation

#### 5.01 Scope

The purpose of this section is to regulate the use of dumpsters defined, as a refuse container of greater than 75 gallons capacity used for the storage, collection and transportation of garbage scrap or refuse, whether for disposal or for recycling. Person regulated by this section include both private individuals and businesses.

#### 5.02 Permits Required

No person, corporation, partnership, association or other entity shall use or keep a dumpster in the Town of Dedham unless there is a dumpster permit issued by the Board of Health for such dumpster. Permits for dumpsters will be issued after an applicant for such permit files a written application with the Board of Health together with a certified plot plan showing the location of the proposed dumpster and the location of the property lines, buildings, fences and screening proposed on the lot. Such plot plan need not be as the result of an instrument survey, but the locations thereon shall be certified by a registered professional engineer or a registered surveyor. Dumpster permits shall expire at Midnight on the 31<sup>st</sup> of December of each year and must be renewed annually. The fee for such permit shall be set by the Board of Health and published on the Boards' schedule of fees and penalties.

#### 5.03 Use of Dumpsters

Each dumpster shall be of sufficient capacity to contain the material therein without overflowing and shall be emptied when full. Each dumpster used in whole or in part for the storage of garbage or other offensive organic waste shall be fitted with a tight fitting lid which shall be closed at all times except during loading and unloading and shall be locked tight between the hours of 11:00PM and 7:00AM. Owners and operators of dumpsters shall insure that the areas surrounding such dumpsters are free of debris, overflow and other nuisances. All dumpsters shall be screened from view at ground level by opaque fencing (e.g. stockade fencing). No food service establishment built after the adoption of this regulation shall use any

dumpster for the disposal of garbage or kitchen waste unless specifically permitted to do so by the Board of Health which permission may only be granted on the condition that the food service establishment shall place garbage and kitchen waste in airtight containers prior to placement in the dumpster.

#### 5.04 Violation

In the event that an owner or operator of a dumpster violates the provisions of these regulations, or the use of the dumpster constitutes a nuisance or danger to the public health, the Board of Health may revoke the permit for the dumpster or impose reasonable conditions on its use at any time. Use of dumpsters by food service establishments may be conditioned upon the installation and use of garbage disposals in such food service establishments for the disposal of garbage and kitchen waste. Civil penalties for the violation of these regulations shall also be established by the Board of Health and published in the schedule of fees and penalties.

## PART SIX

### FOOD SERVICE ESTABLISHMENTS

#### Section

#### 6.01 Plans and Permits Required

#### 6.02 Disposal Systems Required

#### 6.03 Existing Establishments, Disposal Systems

#### **6.04 Anti-choking procedures in Food Service Establishments**

##### 6.01 Plans and Permits Required

No food service establishment shall be licensed to operate by the Board of Health until the operator of such establishment has obtained all permits from the Building Inspector and the Board of Selectmen which are required for legal operation. Prior to licensing by the Board of Health, each applicant proposing a new establishment or an alteration to an existing establishment shall submit a set of plans of the proposed establishment or alteration, drawn to scale, showing the floor layout, equipment, and plumbing locations, ventilation, refuse storage, sewage disposal and other pertinent information. Submission of such plans shall not relieve the operator of the requirement for compliance with the State Sanitary Code.

##### 6.02 Disposal Systems Required

All new food service establishments licensed after June 30, 1990 shall be equipped with a garbage disposal system approved by the Board of Health and the Plumbing Inspector of the Town. Persons requesting relief from this requirement may apply for a variance pursuant to the procedures set forth in Part I of these regulations.

##### 6.03 Existing Establishments, Disposal Systems

Garbage disposal systems are not ordinarily required of food service establishments in operation prior to June 30, 1990. However in the event that the disposal of garbage, kitchen waste or other organic material consistories a nuisance and a written complain thereof is made to the Board of Health, the Board may order the installation of a garbage disposal at such food service establishment after a hearing before the Board at a regularly scheduled meeting. In reaching a decision to order the installation of a disposal system, the Board shall visit the site complained of shall take the testimony of the parties filing the complaint and shall take the testimony of any person affected by the installation of the disposal system. The decision of the

Board shall be in writing and shall be filed with the Town Clerk as an administrative decision subject to appeal in the Superior Court.

#### **6.04 Anti-choking Procedures in Food Service Establishments**

**Each food service establishment having a seating capacity of one or more shall:**

**(1) Have on its premises, while food is being served, and employee trained in manual procedures approved by the Department to remove food lodged in a person's throat.**

\*Bolded area is an Amendment to Part 6 Food Service Establishments section adding section 6.04 effective on July 1, 2006.

### **Rules and Regulations pertaining to Certification of Managers in Food Safety**

#### Section 1 Authority

The Dedham Board of Health, pursuant to the authority granted under Massachusetts General Laws Chapter 111 Sections 31 and 127A hereby adopts the following regulations to protect the public health of the community.

#### Section 2 Purpose

The Dedham Board of Health recognizes that an ideal food protection program is supported by a partnership effort between industry and food regulatory officials. Together, educated food handlers and effective inspection programs can reduce the incidence of high-risk practices which can lead to foodborne disease outbreaks.

Other benefits of food manager training include providing industry with a more professional approach to food safety, improving communication between industry and regulators, increasing consumer confidence in their food supply and avoiding negative economic impacts associated with foodborne disease outbreaks. Food establishments which have trained food handlers are also more likely to be in compliance, resulting in less inspection and enforcement time spent by the Board of Health.

Accordingly, the Board of Health declares that the purpose of this regulation is to improve the general sanitation conditions in Dedham food establishments, this protecting the public health and welfare of the dining public.

Food manager certification will ensure that these managers have knowledge of the principles and practices for food sanitation with the primary purpose of preventing foodborne illness and protecting the public health in accordance with Chapter X of the State Sanitary Code, 105 CMR 590.000 Minimum Sanitation Standards for Food Establishments.

#### Section 3 Definitions

Board: The Board of Health or its agent or designee.

Certified food manager: An individual employed by the establishment who has passed an exam as described in Section 5 and has supervisory, training or management responsibilities, as well as any other individual working in food establishment who may be in charge of food preparation or service with authority and responsibility to direct or control such activities.

Health Director: The Health Director for the Dedham Health Department or designee.

Compliance risk: A food establishment which has one or more of the following:

1. Failed to correct conditions identified in an inspection process resulting in an administrative hearing or
2. An emergency closure due to sanitary code violations or permit suspension or
3. Has confirmed foodborne illness outbreak.

Food establishment: any place where food is prepared and intended for individual portions are provided. The term includes any such place, regardless of whether consumption is on or off the premises, and regardless of whether there is a charge for the food. The term includes but is not limited to restaurants, caterers, nursing and retirement homes, hospitals, private clubs' industrial cafeterias, public and private educational institutions and delicatessens in retail food stores that cook and/or offer prepared food individual service portions.

Foodborne illness outbreak: An incident in which two or more persons experience illness after ingestion of common food or one case botulism or chemical food intoxication and an epidemiological investigation or laboratory analysis implicates the food as the source of the illness.

Full time equivalent: An individual, or combination of individuals, who work a total of at least thirty five hours per week.

Person: Any individual, or owner of a business, partnership, company, firm, group, town, county or city.

Susceptible populations: A group of person who are more likely than other populations to experience foodborne disease because they are immunocompromised or older adults and in a facility that provides health care or assisted living services; such as hospital or nursing home, or children in a day care facility or elementary school.

Any terms not specifically defined herein are to be construed in accordance with the definitions of Chapter X of the State Sanitary Code 105 CMR 590.001

#### Section 4 Food Manager Certification Required

All licensed food establishments which prepare and/or serve potentially hazardous food to susceptible populations and any licensed food establishment designated as a compliance risk

shall have at least one full-time equivalent on-site person who has a certificate of training as described in Section 5.

In the case of a certified food manager leaving the employment of the food establishment or transferring to another establishment the establishment shall have 90 days to comply with these regulations.

#### Section 5 Certification

Certification shall be achieved by attending a food safety and sanitation course and attaining a passing grade on a an exam provided by the Educational Testing Services (Food Protection Certification Program) or the Educational Foundation of the National Restaurant Association (ServSafe) an equivalent exam recognized by the Massachusetts Department of Public Health and approved by the Board.

A list of suggested available courses shall be available from the Board/Health Director.

The certificates shall be posted on the premises.

#### Section 6 Renewal of Certification

The certification shall be valid for **three years**

#### **Section 7 Certificate Not Transferable**

A food manager certificate is not transferable from one person to another.

#### **Section 8 Reciprocity**

The Dedham Board of Health will recognize prior certification from any course which meets section 5.

#### **Section 9 Variances**

The Board/Health Director may vary the application of any provision of these regulations, with respect to any particular case when, in its opinion, the enforcement thereof would do manifest injustice: provided that the decision of the Board shall not conflict with the spirit of any minimum standard established by these regulations. Any variance shall, while it is in effect be available to the public at all reasonable hours in the office of the clerk of the town of Dedham, or in the office of the Board.

#### **Section 10 Enforcement and Penalties**

Any person who violates the terms of these regulations shall be subject to a fine of \$50 per offense. Each day shall constitute a separate offense. Failure to comply within fifteen business days shall result in the process for suspension or revocation of the food service permit. In the case of a suspension or revocation of the food service permit, the procedure as specified in 105



CMR 590.054 and 105 CMR 590.055 shall be used. (For those city/towns which have the ticketing by-law).

These regulations may be enforced by those procedures noted in the Town of Dedham Board of Health regulations. In the event that procedure is followed, the person shall be subject to a fine of \$50 per offense. Each day that the offense continues shall constitute a separate offense.

### **Section 11 Severability**

In the even any section, subsection or provision of the regulations are held to be invalid, each invalidity shall not affect the validity of any other section, subsection or provision thereof.

### **Section 12 Effective Date**

These regulations shall be effective January 1, 1998.

### **Appendices**

1. List of current suggested courses
2. Massachusetts Guideline for Food Protection Management Training and Testing available from Department of Public Health, Division of Food and Drug.

\*Bolded areas are amendments to Rules and Regulations Pertaining to Certification of Mangers in Food Safety May 8<sup>th</sup>, 1997

## PART SEVEN

### KEEPING OF DOMESTIC ANIMALS

Section 7-1. Authority Section

7-2. Statement of Purpose Section

7-3. Definitions Section

7-4. General Requirements

7-5. Permit and Application Requirements

7-6. Facility standards

7-7. Manure Management

7-8. Pest Management

7-9. Keeping of Horses

7-10. Keeping of Poultry

7-11. Keeping of Pigeons

7-12. Exceptions

7-13. Animal Health and Safety

7-14. Enforcement

7-15. Right to a Hearing

7-16. Variance

7-17. Severability

7-18. Adoption and Effect

#### **Section 7-1. Authority**

These regulations are adopted under the authority of MGL Chapter 111, section 31, as reasonable health regulations designed to protect and improve the health and quality of life of

those who reside with the Town of Dedham. These regulations shall take effect as the date of their approval as indicated below.

**Section 7-2. Statement and Purpose**

Whereas minimum standards to promote the responsible care and welfare of animals, protection of the public health, and environmental protection are considered necessary for the health, safety and welfare of the community, the Dedham Board of Health has adopted these regulations.

**Section 7-3. Definitions**

**Abutters:** Owners of abutting land or property within one hundred (100) feet of the applicant’s property line. A person will only qualify as an abutter for the purpose of this regulation if they possess an ownership interest in the abutting land.

**Accessory Structure:** a structure subordinate to the principle building on the same lot and serving an animal related use.

**Animal:** all animals such as, but not limited tom cattle, goats, sheep, swine, equines, llamas, poultry, pigeons, livestock, reptiles or snakes, which are kept or harbored as domestic animals.

**Animal Units:** for the purpose of permitting a given number of animals or fowl, the following shall be considered equivalent and each will be regarded as a single animal unit. The Board may determine unit(s) to any animal not specifically listed below.

Horse, donkey, mule, pony, llamas	1
Bovine (Cow)	1
Goats, alpaca, sheep	1
Swine- Pot bellied pigs	1
Rabbits	5
Fowl	4
Chickens	4
Pigeons	6

**Applicant:** one who applies for a permit to keep one (1) or more Animal Units.

**Board of Health or “the Board”:** The Dedham Board of Health

Town: means the Town of Dedham and its officers, agents and employees including the health department.

Coop: a structure for the keeping or housing of poultry, pigeons, or other types of fowl.

Corral: any pen, or enclosure for the confining of one or more animals.

Dwelling: any building, shelter, or structure used or intended for human habitation.

Exotic: refers to an animal not native to this region and/or country.

Facility: the total accommodations to be used for the keeping or housing and care of one or more animals, including but not limited to a barn, stable, pen, coop, loft or corral.

Feral Cats: a cat born in the wild, which is not domesticated or socialized to humans and has been abandoned or allowed to become free roaming.

Fowl: birds for food, show, or hunted as game.

Household Pets: animals that are normally kept inside an owner's residential dwelling or commercial building including but not limited to dogs, cats, ferrets, fish, domesticated or exotic birds, certain reptiles and guinea pigs, hamsters, and mice.

Keeping of Animals Permit: refers to a permit issued for the keeping or housing of one (1) or more Animal Units in accordance with the provisions of the regulation.

Lot: a parcel of land, which is or may be occupied by building and accessory structure, including open spaces required under this Article. "Lot" includes the words "plot" or "parcel".

Manure Management Plan (MMP): is a plan for the handling of manure. The MMP shall address cleaning, composting, storage, utilization, and removal of manure.

Nuisance: shall mean any condition including, but not limited to, noise, offensive odor, attraction or breeding of insects, an environment supporting growth of vermin, presence of rodents, or any other condition having public health or environmental significance. This definition shall be mindful of MG L c. 111 section 125A.

Owner: every person who alone or jointly with one or more other persons has legal title to any lot, building, structure, dwelling or dwelling unit.

Pen: a structure for the keeping or housing of one or more animals.

Pest Management Plan (PMP): is a plan, which adequately defines the measures that shall be taken by the owner to minimize the presence of rodents, insects, and the creation of odors and other nuisances.

Pigeons: member of the Columbidae family of birds that include 'racing', 'fancy', and 'sporting' pigeons.

Poultry: refers to domesticated or semi-domesticated birds including chickens, ordinarily kept for food or eggs.

Responsible Party: each person who has care, charge or control of any building, structure dwelling unit or as agent, executrix, administrator, administratrix, trustee, leasee or guardian of the estate of the holder of legal title.

Runoff: water from natural or unnatural sources that flows over the surface of the ground.

Stable: means an accessory building or structure used for the shelter and/or the feeding of one or more animals.

Stall: a compartment in a stable used for the keeping of one or more animals.

Unsanitary Conditions: the Facility's state of being or condition which, in the judgment of the Board of Health, are conducive to or results in, breeding of flies, creation of offensive odors, rodent infestation, liquid effluent, runoff, and/or noise, in such concentrations and/or such duration as to causes a nuisance, be injurious, maybe considered potentially injurious to human health, or unreasonably interfere with the health and safe enjoyment of life and property.

Usable Area: land area suitable for the raising of animals such as pastures, fields, wooded uplands. This area does not include wetlands, dwellings, or any other area(s) as may be restricted by town, state, or federal regulations.

Vermin: various types of insects, bugs, and/or rodents.

Watercourse: any river, stream, Drain, pond, lake and tributaries thereto or other body of water drained by a stream, dry ditch, or other depression that will permit drainage water to empty into any waters of the Commonwealth.

Wetlands: land area or surface area so defined by Massachusetts Wetlands Protection Act M.G.L. Chapter 131, Section 40 and regulations promulgated pursuant thereto at 310 CMR 10.00 or pursuant to Section 404 of the Federal Water Pollution Control Act, U.S.C. 1341.

Wild Animal: any animal not normally found or kept as a domesticated animal, including but not limited to poisonous reptiles, alligators, monkeys, lions, and tigers.

#### **Section 7-4. General Requirements**

- A. The Usable Area for calculating the number of Animal Units allowed on a lot shall consist of upland area only. Wetlands may not be used in calculating the number of

Animal Units allowed on any parcel of land. Lot dimensions may be considered by the Board of Health when determining the total number of Animal Units allowed on a parcel of land. The Facility shall be located no less than:

1. 100 Feet from a Wetland as defined by M.G.L. c. 131, section 40.
  2. 30 Feet from a sideline, rear line or public way
  3. 50 Feet from any abutting dwelling
  4. 100 Feet from any well, public or private, used as drinking water supply.
- B. The Facility must comply with all applicable zoning requirements

### **Section 7-5. Permit and Application Requirements**

A permit is required for anyone keeping 1 Animal Unit as defined in this regulation. At time of application, the applicant shall provide the Board of Health with the following documents:

- A. Application(s) for a permit for the purpose of keeping animals shall be submitted on a form supplied by the Board of Health for each location where animals are kept in the Town. Such application shall be accompanied by the following information:
1. Full name, address, and telephone number of the applicant
  2. Location-street address of the premises to be used
  3. Number and species of animals to be kept. No animals in excess of the specified number on initial application shall be kept. The addition of any new Animal Units requires an applicant to make application for a modification of said permit with the Board of Health.
  4. Applicant shall submit a copy of all required animal immunizations to the Board of Health such as EEE, Tetanus, and Rabies for horses, Rabies for cows.
  5. A plot plan, acceptable to the Board, showing the lot borders with dimensions of area where the animals will be kept and used by animals, location of accessory structure(s), principal structure(s), abutting structure(s), confining fences and barriers, any Wetlands located on the lot of the housing for the one (1) or more animals, location of any septic system on the premises, location of any private wells within one hundred (100) feet of the perimeter, showing location of manure containers, and drainage details. Also, the plan shall show the locations of all lots and with the houses shown thereon within 500 feet of the proposed area for keeping of the animals.
  6. A written Manure Management Plan for the management and disposal of animal waste, storage of feed, and a Pest Management Plan used to control flies and vermin.
  7. Name of the principal veterinarian for each animal.
- B. The initial applicant/application shall meet and receive zoning clearance from the Dedham Building Commissioner.
- C. The initial applicant/application shall meet and receive conservation clearance from the Dedham Conservation Commissioner.
- D. For the initial application for a permit to keep animals after the effective date of this regulation, the applicant shall notify the adjacent property abutters by certified mail

- or certificate of mailing that an application has been filed at the Board of Health for a permit to keep animals. A copy of the notification sent to the abutters and proof of notification (the green card) shall be provided to the Board of Health.
- E. 30 days after notice to abutters has been sent out, if there are no objections and if the applicant meets all the requirements, then the Health Agent may issue the permit without going before the Board for a hearing.
  - F. The Board will hold a hearing on the application only if a variance is being sought or if there is an objection from an abutter filed in writing. The variance request or objection from abutter must be made within 30 days of the initial application being submitted.
  - G. The applicant shall serve a copy of the hearing notice to all abutters by certified mail or certificate of mailing, 7 days prior to any hearing.
  - H. Fee scheduled shall be determined by the Board of Health.
  - I. A hearing for a variance can be scheduled on the following months Board Meeting Agenda, subject to no objections from Abutters.
  - J. Permits shall expire on June 30, of each year, unless sooner revoked by the Board of Health upon violation of any of the provisions of these regulations. Any permit holder must apply for a renewal of the permit at least forty-five (45) days prior to the expiration of said permit. Any changes from the previous permit shall be provided on a renewal application.
  - K. Exotic and Wild animal(s) shall not be kept within the Town of Dedham limits without expressed written approval of the Board of Health or it's authorized agent and shall be in accordance of Massachusetts General Laws.
  - L. No person shall propose or erect, remodel, occupy or use for a Stable, or Accessory Structure intended for the housing of animals unless and until he/she has submitted an initial or revised plan to the Board of Health for review and the same has been approved.
  - M. Permits are not transferable and shall be posted in a conspicuous area.
  - N. An applicant must comply with all federal, state, and local regulations and bylaws.

#### **Section 7-6. Facility Standards**

- A. The Facility for the keeping of one or more Animal Units shall not allow the floor and/or grounds of the Facility for the keeping of one or more Animal Units to be designed, constructed, and/or maintained in manner that would likely endanger the animals or promote unsanitary Conditions.
- B. Each Facility shall have a supply of potable water available to the structure for drinking and cleaning purposes.
- C. The Facility shall be adequately ventilated, provide protection from weather elements and provide food and water in all Facilities.
- D. Where appropriate an adequate structurally sound dry shelter for the one or more Animal units shall be maintained within the Facility.
- E. The Facility in which the one or more Animal Units are kept shall be maintained in such a manner as to prevent the spread of infectious or contagious diseases
- F. The Owner and/or permit holder of the Facility for the keeping of one or more

Animal Units shall keep the Facility in a clean, sanitary, and presentable condition, free from decaying food, filth, feces, vermin infestation and stagnant water.

- G. Food shall be stored in sealed, moisture-proof and vermin-proof containers, when appropriate.
- H. Dead animals shall be disposed of or incinerated, at an appropriate Facility, within a reasonable time but in no event more than forty-eight (48) hours after death. Storage of deceased animal shall be in such a way to prevent odors and attraction of vermin.

### **Section 7-7. Manure Management**

The following are requirements for the keeping and maintenance of manure and fecal matter within the Facility. The permit holder is responsible to implement a MMP for the Facility. This plan requires approval by the Board of Health or their authorized agent at the time the permit is granted.

- A. Drainage or liquid effluent containing urine, fecal matter and manure from any one or more Animal Units kept at said Facility is not to be discharged in runoff, or to flow over the surface of the ground onto a neighboring property, public way, Watercourse or Wetlands. Water including drainage, shall not become stagnant or collect or create a ponding affect upon said Facility.
- B. The Owner and/or permit holder of Facility for the keeping of one or more Animal Units shall provide for the sanitary storage and disposal of all waste, fecal matter and manure related to the keeping of the one or more Animal Units.
- C. Management and disposal of manure and soiled bedding shall be such as to minimize odors, breeding of flies, and the attraction of vermin. Manure shall be collected and kept in suitable pit or receptacle at a single location. This location shall also be carefully chosen to maximize the distance from the abutting properties and Wetlands and with due consideration of the prevailing winds.
- D. The following requirements shall apply to the use, accumulation and/or disposal of manure.
  - 1. The accumulation, stockpiling, and storage of manure outside of a pit or receptacle is prohibited.
  - 2. No manure storage area shall be closer than the distances shown to the components listed in the following table. The distances shown are minimum distances and may be required by conditions particular to the location or by zoning requirements.

Wetlands	100'
Surface/subsurface drains	100'
Abutting Dwellings	100'
Side & Rear lot lines	30'
Public or private roadway	30'
Tributary to a public water supply	100'
Private water supply	100'



However, no portion of a stable, corral, grazing area or manure storage area shall be located within the Zone 1 of a Public Water Supply. (Aquafer water protection area?)

3. The dimensions and/or drainage conditions of any particular lot may, in the opinion of the Board of Health or its authorized agent, require off-property disposal of manure. In such cases, the manure shall not be put out for general town trash collection. It shall be the responsibility of the Owner and/or permit holder to dispose of manure in a safe and sanitary manner and not be allowed to accumulate on the property or interior of an Accessory Structure.
4. The Board of Health or its authorized agent will allow the composting of manure generated at the Facility for the keeping of one point five (1.5) or more Animal Units upon specific written Board of Health approval.

### **Section 7-8 Pest Management**

The Owner and/or permit holder is responsible to implement a Pest Management Plan for the Facility. This plan requires approval by the Board of Health or its authorized agent and will be performed by a licensed pest control operator whenever required by law. Extermination shall be performed as deemed necessary by the Board of Health or its authorized agent or a licensed pest control operator.

### **Section 7-9 Keeping of Horses/ Donkey/ Mule/ Pony/ llamas/ Bovine/ Goats/ Sheep/ Alpaca**

No permit shall be issued to keep a horse on any lot of land containing less than one (1) acre. The usable area, drainage conditions and dimensions of the lot must also be acceptable to the Board of Health. Additional horses up to a total of four (4) shall not be permitted unless the lot contains a minimum of two thirds (2/3) of an acre per each additional horse. More than four horses may be permitted to be kept on lots containing more than three (3) acres, provided that lot dimensions are acceptable to the Board, the general provisions of these regulations have been met, and that the granting of such permit and any necessary variance, will not adversely affect the public health, safety and welfare.

### **Section 7-10 Keeping of Poultry**

- A. No rooster shall be allowed unless a permit is specifically issued. An application shall be furnished by the Board of Health. It shall be adequate cause for refusing or revoking a permit to keep a rooster if one or more abutters complain of its presence by reason of noise.
- B. There shall be at least three (3) square foot of floor space for each mature Poultry kept

within the coop. Coops shall be cleaned regularly to maintain sanitary conditions and thoroughly disinfected at least three times a year.

- C. The minimum lot area shall be one quarter (1/4) acre of useable land. Additional Animal Units up to a total of four (4) shall not be permitted unless the lot dimensions are acceptable to the Board, the general provisions of these regulations have been met, and that the granting of such permit and any necessary variance, will not adversely affect the public health, safety and welfare.

### **Section 7-11 Keeping of Pigeons**

- A. All Pigeons shall be confined to their coop except for limited periods necessary for exercise, training, and competition. At no time shall Pigeons be allowed to perch or linger on buildings or the property of others. Flight activities shall not adversely affect adjacent properties.
- B. There shall be at least one (1) square foot of floor space for each mature Pigeon kept within the coop. Coops shall be cleaned regularly to maintain sanitary conditions and thoroughly disinfected at least three times a year.
- C. Training, exercising, and the release of Pigeons from the Facility shall not be undertaken during the hours of 10:00 a.m. to 4:00 p.m. from June to September as not to disturb yard use and the enjoyment of abutting neighbors.
- D. The minimum lot area shall be one quarter (1/4) acre of useable land. Additional Animal Units up to a total of four (4) shall not be permitted unless the lot dimensions are acceptable to the Board, the general provisions of these regulations have been met, and that the granting of such permit and any necessary variance, will not adversely affect the public health, safety and welfare.

### **Section 7-12 Exceptions**

- A. The Board may impose a permit for an Owner of less than 1.5 Animal Units where an order of public Nuisance has been issued by the Board of Health.
- B. Household pets shall be excluded from these regulations with the exception that the Board may impose a permit in situations where animals are kept in unreasonable numbers or conditions that result in an order of public Nuisance or recognized hazard to the health and welfare of the community. Section 7-13 Animal Health and Safety A. All animals shall be cared for in a humane manner. It shall be illegal to abuse, either physically or by neglect, any animal. The Dedham Board of Health or its agent may at any time require the removal of an animal from the custody of any person when it is determined that the health, safety, or welfare of an animal is jeopardized. The Board will assist the Massachusetts Society for the Prevention of Cruelty of Animals (MSPCA) and/or the Animal Rescue League of Boston (ARL) in this process. B. All animals shall be immunized against Rabies, when appropriate for that species, with proof supplied annually prior to the issuance or renewal of a permit. No permit will be issued without proof of immunization. All animals shall additionally meet any State-mandated immunization requirement(s).

- C. It is recommended that horses be immunized for Eastern Equine Encephalitis, Tetanus, Strangles, West Nile Virus, Influenza, and Rhino. It is also recommended that a Coggins Test be conducted as circumstances dictate
- D. When there is a USDA approved vaccine available for use to combat certain disease(s), it shall be required that those animals approved to receive it be vaccinated unless the animal's veterinarian recommends otherwise.

#### **Section 7-14 Enforcement**

- A. The Board of Health may deny, suspend, revoke, or refuse to renew a permit for failure to comply with any provision of these regulations.
- B. The Owner, a permit holder, their designee, or Responsible Party in charge of a Facility covered by these regulations who fails to comply with this regulation shall be subject to a fine or penalty of up to but not more than one thousand dollars (\$1,000.00) per each violation. Each violation of these regulations shall be considered a separate offense.
- C. The person(s) who have had a permit denied or revoked shall be ordered to remove all animals from the property within 30 days of said denial or revocation or within a time frame determined by the Board of Health.
- D. The continuance of any violation of these regulations beyond a date specified by the Board of Health, when the Owner and/or permit holder of the Facility has been ordered by an agent of the Board of Health to ablate any such violations in a safe and sanitary manner, shall be cause for revocation of permit and/or initiation of legal proceedings to eliminate said conditions.
- E. The Board of Health, or its authorized agent, may reasonably conduct unannounced inspections of a Facility for the keeping of the one point five (1.5) or more Animal Units to ensure compliance with these regulations. Section 7-15 Right to a Hearing  
Any person or persons aggrieved by a Board of Health order that has been served pursuant to any section of these regulations may request a hearing before the Board of Health by filing a written petition to the health department within seven days of receipt of said order.

#### **Section 7-16 Variance**

The Board of Health may grant a variance to any of the provisions of these regulations when, in its opinion, the strict enforcement would do manifest injustice and does not jeopardize public health or the environment. All variances must go before the Board of Health at the regular board meeting.

#### **Section 7-17 Severability**

Each provision of these regulations shall be considered as separate to the extent that if any section, item, sentence, clause, or phrase is determined to be invalid for any reason, the remainder of these regulations shall continue in full force and effect.

**Section 7-18 Adoption and Effect**

These rules and regulations were adopted by a unanimous vote of the Board of Health, Town of Dedham, Dedham, Massachusetts, on June 2019 and are to be in full force and effect on and after June 13,2019. A summary explanation of these regulations shall be published in a newspaper of this town and a copy thereof shall be deposited in the Office of the Town Clerk.

## PART EIGHT

### RULES AND REGULATIONS FOR BOARD ART ESTABLISHMENT AND PRACTITIONERS

#### Section:

1. Purpose
2. Authority
3. Definitions
4. Exemptions
5. Restrictions
6. Operations of Body Art Establishments
7. Standards' of Practice
8. Explore Incident Report
9. Injury Report
10. Complaints
11. Application for Body Art Establishment Permit
12. Application for Body Art Practitioner Permit
13. Grounds for Denial of Permit, Revocation of Permit or Refusal to Renew Permit
14. Grounds for Suspension of Permit
15. Procedure for Hearings
16. Severability
17. Fines for Violations
18. Non-criminal disposition
19. Effective Date

#### **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 City/Town of Dedham passes these rules and regulations for the practice of body art in the City/Town of Dedham 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 and 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 processing which results in the destruction of all forms of microbial life, including highly resistant spores, by the use of an autoclave for a minimum of thirty minutes at 20 pounds of pressure (PSI) at a temperature of 270 degrees Fahrenheit.

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

Board of Health or Board: means the Board of Health that has jurisdiction in the community in which a board 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 pre-sterilized single- use needles and the insertion of pre-sterilized jewelry or other adornment into the opening. This definition excludes piercing of the earlobe with a pre-sterilized single-use stud-an-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 patten 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 parts 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 pre-sterilized 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 equipment establishment.

Exposure: means an event whereby there is an eye, mouth, or other mucus membrane, non-intact skin or parental contact with blood or bodily fluids of another person of contact of an eye, month or other mucous membrane, non-intact skin or parental 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 of 110o -130o 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% or greater.

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

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 and 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 the regulations. Said permit is exclusive of the establishment's compliance with other licensing or permitting requirement 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 know 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 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 form 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, Vol,38 No. S-6, and as “Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures” in MMWR July 12, 1991, Vol.40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluid are infected with 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 pre-sterilized 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 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 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 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 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, and 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 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 and where the 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 (GGCI) protected receptacles.
7. A separate, readily accessible hand sinks with hot and cold running water under pressure, preferably equipped with wrist or foot-operated controls and supplied with liquid soap, and disposable paper towel stored in fixed dispensers shall be readily accessible within the establishment. Each operator areas 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 preventer 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 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 sterilized 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 procedure 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 any re-sterilizing.
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 160oF or a temperature of 120oF 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 DEDHAM 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;
  - f. A Material Safety Data Sheet, when available, for each ink and dye used by the establishment;
  - g. copies of waste hauler manifests
  - h. copies of commercial biological monitoring tests
  - i. 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 from as specified by 7(D)(2); and if the client is a person under the age of 18, proof of a 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 Blood borne pathogens Standards et seq, as amended from time to time. A copy of the plan shall be maintained at the Body Art Establishment at all times and shall be made available to the Board upon request.

#### 5. 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:

- i. 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.
- ii. A practitioner shall refuse service to any person who may be under the influence of alcohol or drugs.

- iii. Practitioners who use ear-piercing systems must conform to the manufacturer's directions for use, and to applicable U.S. Food and Drug Administration requirements. No practitioner shall use an ear-piercing system on any part of the client's body other than the lobe of the ear.
  
- A. Health History and Client Informed Consent. Prior to performing a body art Procedure on a client, the practitioner shall
  - a. Inform the client, verbally and in writing that the following health conditions may increase health risks associated with receiving a body art procedure:
    - i. history of diabetes;
    - ii. history of hemophilia (bleeding);
    - iii. history of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants etc.
    - iv. history of allergies or adverse reactions to pigments, dyes or other sensitivities;
    - v. history of epilepsy, seizures, fainting, or narcolepsy;
    - vi. use of medications such as anticoagulants, which thin the blood and/or interfere with blood clotting; and
    - vii. any other conditions such as hepatitis or HIV.
  - b. Require that the client sign a form confirming that the above information was provided, that the client does not have a condition that prevents them from receiving body art, that the client consents to be performance of the body art procedure and that the client has been given the aftercare instruction as required by section 7(K).
  
- B. A practitioner shall maintain the highest degree of personal cleanliness, conform to the 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.
  
- C. 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 the 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 hand washing procedures as part of a good personal hygiene program.
  
- D. 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.
- E. 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.
  - F. Preparation and care of a client's skin area must comply with the following:
    - a. Any skin or mucosa surface to receive a body art procedure shall be free of any rash or visible infection.
    - b. Before a body art procedure is performed, the immediate skin area and the areas 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 shavings, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.
    - c. In the event of bleeding, all products used to stop the bleeding or to absorb blood shall be single use and discarded immediately after use in appropriate covered containers, and disposed of in accordance with 105 CMR 480.000
  - G. 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.
  - H. The practitioner shall provide each client with verbal and written instructions on the aftercare of the body art site. The written instructions shall advise the client:
    - a. on the proper cleaning of the area which received the body art;
    - b. to consult a health care provider for:
      - i. unexpected redness, tenderness or swelling at the site of the body art procedure;
      - ii. any rash;
      - iii. unexpected drainage at or from the site of the body art procedure; or a fever within 24 hours of the body art procedure; and
    - c. 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.
  - I. Contaminated waste shall be stored, treated and disposed in accordance with 105CMR 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 incidents;
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, in 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 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 for no longer than one year 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:
  - a. Name, address, and telephone number of:
    - i. the body art establishment
    - ii. the operator of the establishment; and
    - iii. the body art practitioner(s) working at the establishment;
  - b. The manufacturer, model number, model year, and serial number, where applicable, of the autoclave used in the establishment;
  - c. A signed and dated acknowledgement that the applicant has received, read and understood the requirements of the Board’s body art regulations;
  - d. A drawing of the floor plan of the proposed establishment to scale for a plan review by the Board, as part of the permit application process; and,
  - e. Exposure Report Plan
  - f. Such additional information as the Board may reasonably require.
- E. The annual fee for the Body Art Establishment Permit shall be \$1,000.
- 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 Board shall set a reasonable fee for such permits.
  - a. A practitioner shall be a minimum of 18 years of age.
  - b. A practitioner permit shall be valid from the date of issuance and shall expire no later than one year from the date of issuance unless revoked sooner by the Board.
  - c. Application for a practitioner permit shall include:
    - i. name
    - ii. date of birth
    - iii. residence address
    - iv. mailing address
    - v. phone number
    - vi. place(s) of employment as a practitioner; and

- vii. training and/or experience as set out in (d) below
- d. Practitioner Training and Experience
  - i. 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.
  - ii. Training for all practitioners shall be approved by the Board and, at a minimum, shall include the following:
    - 1. blood borne pathogen training program (or equivalent) which includes infectious disease control; waste disposal; hand washing techniques; sterilization equipment operation and methods; and sanitization, disinfection and sterilization methods and techniques; and
    - 2. Current certification in First Aid and cardiopulmonary resuscitation (CPR).

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

- iii. The applicant for a body piercing practitioner permit shall provide documentation, acceptable to the Board, that she/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 integument system (skin).
- iv. The applicant for a tattoo, branding or scarification practitioner permit shall provide documentation, acceptable to the Board, that she/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 integument system (skin). Such other course or program as the Board shall deem appropriate and acceptable may be substituted for the anatomy course.
- v. 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.
- e. 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, and revoke a permit or refuse to renew a permit on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for suspension, denial, revocation or refusal to renew:
- a. Any actions which would indicate that the health or safety of the public would be at risk.
  - b. fraud, deceit or misrepresentation in obtaining a permit, or its renewal;
  - c. criminal conduct which the Board determines to be of such a nature as to render the establishment, practitioner or applicant unfit to practice body art as evidenced by criminal proceedings resulting in a conviction, guilty plea of nolo contendere or an admission of sufficient facts;
  - d. any present or past violation of the Board's regulations governing the practice of body art;
  - e. practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;
  - f. being habitually drunk or being dependent on, or a habitual user narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
  - g. knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a permit;
  - h. continuing to practice while his/her permit is lapsed, suspended, or revoked; and
  - i. Having been disciplined in another jurisdiction in any way by the proper permitting authority for reasons substantially the same as those set forth in the Board's regulations.
  - j. 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 model 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 \$ per offense. Each day that a violation continues shall be deemed to be a separate offense.

**18. Non-criminal Disposition** (for those cities/towns who have passed enabling legislation)

In accordance with MGL chapter 40. Section 21D and (the local enabling legislation) whoever violates any provision of these Rules and Regulations may be penalized by non-criminal disposition.

**19. Effective Date**

These rules and regulations shall be effective as of \_\_\_\_\_.

PART NINE

REGULATION AFFECTING SMOKING AND THE SALE AND DISTRIBUTION OF  
TOBACCO AND NICOTINE DELIVERY PRODUCTS IN DEDHAM

The Board of Health of the Town of Dedham, County of Norfolk, Massachusetts, acting under the authority of Chapter 111, Section 31 of the Massachusetts General Laws, Tercentenary Edition and Amendments and Additions thereto, hereby makes the following addition to the Board of Health Regulations in the interest of and for the preservation of the public health.

Section 9.1: Authority

This regulation is promulgated under the authority granted to the Dedham Board of Health under Massachusetts General Laws Chapter 111, Section 31 “boards of health may make reasonable health regulations.”

Section 9.2: Rational/Statement of Purpose

Whereas conclusive evidence exists that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose, and throat; and whereas the harmful effects of tobacco smoke are not confined to smokers but also cause severe discomfort and illness to nonsmokers; and whereas environmental tobacco smoke [hereinafter ETS], which includes both exhaled smoke and the side stream smoke from burning tobacco products, causes the death of 53,000 Americans each year (McGinnis JM, George W, ‘Actual Causes of Death in the United States’, JAMA 1993 270:2207-2212); and whereas the U.S. Environmental Protection Agency classified secondhand smoke as a known human carcinogen (IARC-WHO, 2002); now therefore, the Board of Health of Dedham recognizes the right of those who wish to breathe smoke-free air and establishes this regulation to protect and improve the public health and welfare by prohibiting smoking in public places and workplace.

Whereas more than eight 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 to a minors, access by minors to tobacco products is a major problem.

Whereas many non-cigarette tobacco products, such as cigars and cigarillos, can be sold in a single “dose;” enjoy a relatively low tax as compared to cigarettes; are available in fruit, candy and alcohol flavors; and are popular among youth (CDC, 2009); and according to the CDC’s youth risk behavior surveillance system (2010), the percentage of high school students in Massachusetts who reported the use of cigars within the past 30 days went from 11.8% in 2003 to 14.9% in 2009; and in Massachusetts, youth use of all other tobacco products, including cigars, rose from 13.3% in 2003 to 17.6% in 2009, and was higher than the rate of current cigarette use (16%) for the first time in history (*Data Brief, Trends in Youth Tobacco Use in Massachusetts, 1993-2009*, Commonwealth of Massachusetts); research shows that increased cigar prices significantly decreased the probability of male adolescent cigar use and a 10% increase in cigar prices would reduce use by 3.4% (*Effects of Public Policy on Adolescents’ Cigar Use: Evidence from the National Youth Tobacco Survey*, Ringel, Wasserman & Andreyeva, 2005); and nicotine levels in cigars are generally much higher than nicotine levels in cigarettes (*Cigar Smoking and Cancer*, National Institute of Health, NCI, 2010).

Whereas limiting the number of tobacco sales permits helps cities and towns in their efforts to reduce the influence of the tobacco industry in their community. Studies indicate that point-of-purchase exposure to tobacco products directly influence what products youth buy and use. (U.S. Dept. of Health and Human Services, Office of the Surgeon General. Preventing Tobacco Use among Youth and Young Adults: A Report of the Surgeon General, 2012. Access on 8/15/2012 at <http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/index.html>.) Research has shown that kids who shop at stores with tobacco two or more times a week are 64% more likely to start smoking than their peers who don’t. (Henriksen, Schleicher, Feiughery and Fortmann. Pediatrics: The Official Journal of the American Academy of Pediatrics. July 19, 2010, DOI: 10.1542/peds.2009 3021).

Whereas, according to the US Surgeon General’s “2014 Surgeon General’s Report: The Health Consequences of Smoking” (Report), smoking remains the leading preventable cause of death and disease in the United States.

Whereas according to the US Surgeon General’s 2014 Report, “... tobacco smoke contains toxic chemicals that can damage DNA and lead to cancer and that one out of every three cancer deaths in this country is from smoking.



Whereas according to the Center for Disease Control and Prevention (CDC), nearly all tobacco use begins during youth and progresses during young adulthood. More than 3,200 children age 18 or younger smoke their first cigarette every day. Nearly 9 out of 10 smokers start before the age of 18 and almost all start smoking by age 26. Every adult who dies early because of smoking is replaced by two new young smokers. If smoking continues at current rates, 5.6 million—or 1 out of every 13—of today’s children will ultimately die prematurely from a smoking-related illness ... and that more than 400,000 babies born in the United States every year are exposed to chemicals in cigarette smoke before birth because their mothers smoke. In the last 50 years, 100,000 babies have died from smoking-related prematurity, low birth weight, sudden infant death syndrome (SIDS), or other conditions caused by exposure to chemicals in secondhand smoke during infancy or before they were born (Ibid) ... and that today about half of all children between ages 3 and 18 years in this country are exposed to cigarette smoke regularly (Ibid) ... and compared to children who are not exposed, children exposed to secondhand smoke have more, ear infections, more respiratory infections, more asthma attacks, and miss more days of school than children who don’t smoke (Ibid).

Whereas according to data published by the CDC and the U.S. Food and Drug Administration’s Center for Tobacco Products (CTP) in the April 16, 2015 Morbidity and Mortality Weekly Report (MMWR), current e-cigarette use among middle and high school students tripled from 2013 to 2014. And findings from the 2014 National Youth Tobacco Survey show that current e-cigarette use among high school students increased from 4.5 percent in 2013 to 13.4 percent in 2014, rising from approximately 660,000 to 2 million students and among middle school students, current e-cigarette use more than tripled from 1.1 percent in 2013 to 3.9 percent in 2014—an increase from approximately 120,000 to 450,000 students.

Whereas according to the US Surgeon General’s Report, there is no safe level of exposure to tobacco smoke... and cigarettes are designed for addiction. The design and contents of tobacco products make them more attractive and addictive than ever before. Nicotine addiction keeps people smoking even when they want to quit (Ibid) ... and any exposure to tobacco smoke—even an occasional cigarette or exposure to secondhand smoke is harmful (Ibid).

Whereas the Surgeon General's Advisory Committee on the Health Consequences of Using Smokeless Tobacco Summary Report, (Public Health Rep. 1986 Jul-Aug;101(4):355-73) states "...smokeless tobacco is used predominantly in the forms of chewing tobacco and snuff.", and "National estimates indicate that more than 12 million persons age 12 and older in the United States used some form of smokeless

tobacco...”. And, “The highest rates of smokeless tobacco use occurred among adolescent and young adult males. Examination of the relevant epidemiologic, experimental, and clinical data revealed that oral use of smokeless tobacco is a significant health risk. This behavior can cause cancer in humans, and the evidence is strongest for cancer of the oral cavity...”, and “Smokeless tobacco use can also lead to the development of noncancerous oral conditions, particularly, oral leukoplakia and gingival recession. Further, the levels of nicotine in the body resulting from smokeless tobacco can lead to nicotine addiction and dependence.”

Whereas the US Surgeon General and the U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin... and there is no safe cigarette.

Whereas according to the Center for Disease Control and Prevention (CDC), the use of e-cigarettes is unsafe for kids, teens, and young adults. Most e-cigarettes contain nicotine which is highly addictive and can harm brain development, \*through young adulthood, and other harmful substances in addition to nicotine.

([https://www.cdc.gov/tobacco/basic\\_information/e-cigarettes/Quick-Facts-on-the-Risks-of-E-cigarettes-for-Kids-Teens-and-Young-Adults.html](https://www.cdc.gov/tobacco/basic_information/e-cigarettes/Quick-Facts-on-the-Risks-of-E-cigarettes-for-Kids-Teens-and-Young-Adults.html)).

Whereas, nationally from 2017 to 2018 vaping use among youth has increased 78% among high school students and 48% among middle school students and the total number of children who are currently vaping rose to 3.6 million in 2018; (Excerpted from Massachusetts Governor, Charlie Baker’s Emergency Order, September 24, 2019).

Whereas, these confirmed and probable cases in Massachusetts are among both teenagers and older adults and are linked to a range of vaped products; (Excerpted from Massachusetts Governor, Charlie Baker’s Emergency Order, September 24, 2019).

Whereas, there are certain tobacco products such as blunts that are frequently marketed and sold to the youth and are also known to be used as drug paraphernalia.

Section 9.3 Definitions:

For the purposes of this regulation, the following words shall have the meanings respectively ascribed to them by this paragraph:

**Bidi:** (also spelled “beedie”) means a product containing tobacco that is wrapped in temburni leaf (*diospyros melanoxylon*) or tendu leaf (*diospyros exculpra*), or any product that is offered to, or purchased by, consumers as bidis.

**Blunt wrappers:** Blunt Wrap means cigarette-like rolling paper that is thick and dark and usually made from tobacco leaves. Blunt wraps come in flavored varieties and are heavily marketed to the youth and often used as drug paraphernalia. Also known as cigar wraps.

**Board:** Board of Health of the Town of Dedham

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

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

**Cigar Wraps:** means Blunt Wrap means cigarette-like rolling paper that is thick and dark and usually made from tobacco leaves. Blunt wraps come in flavored varieties and are heavily marketed to the youth and often used as drug paraphernalia. Also known as blunt wraps.

**Drug Paraphernalia:** as stated in MGL Chapter 94C section 1 and below, all equipment, products, devices and materials of any kind which are primarily intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling

or otherwise introducing into the human body a controlled substance in violation of this chapter. It includes, but is not limited to:

(1) kits used, primarily intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) kits used, primarily intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(3) isomerization devices used, primarily intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) testing equipment used, primarily intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

(5) scales and balances used, primarily intended for use or designed for use in weighing or measuring controlled substances;

(6) diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, primarily intended for use or designed for use in cutting controlled substances;

(7) separation gins and sifters used, primarily intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marihuana;

(8) blenders, bowls, containers, spoons and mixing devices used, primarily intended for use or designed for use in compounding controlled substances;

(9) capsules, balloons, envelopes and other containers used, primarily intended for use or designed for use in packaging small quantities of controlled substances;

(10) containers and other objects used, primarily intended for use or designed for use in storing or concealing controlled substances;

(12) objects used, primarily intended for use or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:

(a) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, which pipes may or may not have screens, permanent screens, hashish heads or punctured metal bowls;

(b) water pipes;

(c) carburetion tubes and devices;

(d) smoking and carburetion masks;

(e) roach clips; meaning objects used to hold burning material, such as a marihuana cigarette that has become too small or too short to be held in the hand;

(f) miniature cocaine spoons and cocaine vials;

(g) chamber pipes;

(h) carburetor pipes;

(i) electric pipes;

(j) air-driven pipes;

(k) chillums;

(l) bongs;

(m) ice pipes or chillers;

(n) wired cigarette papers;

(o) cocaine freebase kits.

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

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

**Enclosed Area:** a space bounded by walls (with or without windows) continuous from the floor to the ceiling and enclosed by doors, including, but not limited to, offices, rooms and halls.

**Electronic Nicotine Delivery System:** An electronic device, whether for 1-time use or reusable, that can be used to deliver nicotine or another substance to a person inhaling from the device including, but not limited to, electronic cigarettes, electronic cigars, electronic cigarillos, electronic pipes, vaping pens, hookah pens and other similar devices that rely on vaporization or aerosolization; provided, however, that “electronic nicotine delivery system” shall also include any noncombustible liquid or gel that is manufactured into a finished product for use in such electronic device; provided further, that “electronic nicotine delivery system” shall also include any component, part or accessory of a device used during the operation of the device even if the part or accessory was sold separately; provided further, that “electronic nicotine delivery system” shall not include a product that has been approved by the United States Food and Drug Administration for the sale of or use as a tobacco cessation product or for other medical purposes and is marketed and sold or prescribed exclusively for that approved purpose.

**Entity:** any single individual, group of individuals, corporation, partnership, institution, employer, association, firm or any other legal entity whether public or private.

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

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

**Municipal Building**: any building or enclosed facility owned, operated, rented, leased or occupied by the Town of Dedham, including school buildings and school grounds.

**Municipal Vehicle**: any vehicle owned, rented, leased or operated by the Town of Dedham, including without limitation, cars, trucks and buses.

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

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

**Non-Smoking Area**: any area that is designated and posted by the proprietor or person in charge as a place where smoking by patrons, employees, visitors or others is prohibited and where smoke and smoking by-products are not permitted.

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

**Public Place**: any building or facility owned, leased, rented, operated and/or occupied by the Town of Dedham, including school buildings and grounds; any area open to the general public, including but not limited to restaurants, bar areas of restaurants, bars,

auditoriums, licensed child care locations and other child care facilities, schools and school property, public and private educational facilities, clinics, hospitals, health care facilities, nursing homes, long-term care facilities, public libraries, municipal buildings, private clubs, museums, theaters, retail stores, laundromats, hair cutting establishments, salons, massage and body art establishments, retail food establishment, fast food or take-out food facilities, indoor sports arenas, public transit facilities, enclosed shopping malls, common areas in privately owned buildings, common areas in public access buildings, any clubs, rooms or halls when open to the public or when used for public meetings, all areas available to and customarily used by the public in all businesses and non-profit entities patronized by the public, including but not limited to, attorneys' offices and other offices, banks, hotels and motels, stairwells, hallways, entranceways, waiting areas, lobbies, public rest rooms, and elevators accessible to the public.

**Public Transportation:** buses, taxis, and other means of transportation available to the general public while such means of transportation is operating within the boundaries of the town including indoor platforms by which such means of transportation may be accessed.

**Restaurant:** any coffee shop, cafeteria, workplace cafeteria, sandwich stand, private and public school cafeteria, and other eating establishment that gives or offers food for sale to the public, guests, or employees for on-premises consumption. This includes all food service establishments licensed by the Board of Health, including catering facilities.

**Retail Food Establishment:** any establishment commonly known as a supermarket, grocery store, bakery, or convenience store in which the primary activity is the sale of food items to the public for off-premises consumption. This includes any "take-out" food service establishment and all other food service establishments not included in the definition of a restaurant.

**Retail Store:** any retail service establishment whose primary purpose is to sell or offer for sale to consumers any goods, wares, merchandise, articles, other things or services. "Retail store" shall include retail food stores but shall not include restaurants as defined herein.

**Retail Tobacco Store:** An establishment which is not required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and tobacco paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the age of 18 is prohibited at



all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the Dedham Board of Health.

**Smoking (or Smoke):** The inhaling, exhaling, burning or carrying of a lighted or heated cigar, cigarette, pipe or other tobacco product intended for inhalation in any manner or form, including the use of electronic cigarettes, electronic cigars, electronic pipes or other similar products that rely on vaporization or aerosolization.

**Smoking Bar:** An establishment that: (i) exclusively occupies an enclosed indoor space and is primarily engaged in the retail sale of tobacco products for consumption by customers on the premises; (ii) derives revenue from the sale of food, alcohol or other beverages that is incidental to the sale of a tobacco product and prohibits entry to a person under 21 years of age; (iii) prohibits a food or beverage not sold directly by the establishment from being consumed on the premises; (iv) maintains a valid permit for the retail sale of a tobacco product as required to be issued by the Town of Dedham; and (v) maintains a valid permit issued by the department of revenue to operate as a smoking bar.

**Tobacco Product:** A product containing or made or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, electronic cigarettes, electronic cigars, electronic pipes, electronic nicotine delivery systems or any other similar products that rely on vaporization or aerosolization regardless of nicotine content in the product; provided, however, that “tobacco product” shall also include any component, part or accessory of a tobacco product; and provided further, that “tobacco product” shall not include a product that has been approved by the United States Food and Drug Administration for the sale of or use as a tobacco cessation product or for other medical purposes and is marketed and sold or prescribed exclusively for the approved purpose.

**Town:** the Town of Dedham, Massachusetts.

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

twenty (20) feet of the entrance doors or other areas where smoke would migrate into the enclosed area of a structure.

#### Section 9.4: Smoking Prohibited in Public Places and Workplaces

No person shall smoke or use an e-cigarette nor shall any person having control of the premises upon which smoking is prohibited by this regulation or by M.G.L. c. 270, §22, or the business agent or designee of such person, permit a person to smoke or use an e-cigarette in any of the following places as defined herein: restaurants, health care facilities, municipal buildings, municipal vehicles, public places, public transportation, retail stores, any establishment that is required to possess a valid Tobacco Sales and Nicotine Delivery Products Permit from the Dedham Board of Health (including, but not limited to, smoke shops, tobacconists, retail tobacco stores) and workplaces except as otherwise provided in Section 9.4.2 of this regulation. Additionally, no person shall smoke in any place in which a sign conforming to the requirements of Section 9.4.1 of this regulation is posted. No person shall remove a sign posted under the authority Section 9.4.1 of this regulation.

##### 9.4.1 Posting Notice of Prohibitions

Every person having control of premises upon which smoking is prohibited by and under the authority of this regulation shall conspicuously display upon the premises "No Smoking" signs provided by the Massachusetts Department of Public Health and available from the Dedham Board of Health or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a circle with a bar across it) and comparable in size to the sign provided by the Massachusetts Department of Public Health and available from the Dedham Board of Health.

##### 9.4.2 Exclusions

Notwithstanding any other provision of these regulations, smoking may be permitted in the following places and/or under the following circumstances consistent with all applicable state laws:

(a) Private residences except those portions used as a public place, food service establishment, childcare, adult care, or health care office during the hours when operating as such;

Nothing shall prohibit an establishment from being completely smoke-free.

#### Section 9.5: Smoking Bar

Smoking Bars are prohibited in the Town of Dedham.

#### Section 9.6: Retail Sale of Tobacco Products

As of January 1, 2014, no person shall sell tobacco products or Nicotine Delivery Products or permit tobacco products or Nicotine Delivery Products to be sold to any person under the age of twenty-one (21) or not being the recipient's parent or legal guardian, give tobacco products or Nicotine Delivery Products to any person under the age of twenty-one (21).

9.6.1 In conformance with and in addition to Massachusetts General Law, Chapter 270, Section 7, a copy of Massachusetts General Laws, Chapter 270, Section 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be provided by the Massachusetts Department of Public Health and made available from the Dedham 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.

9.6.2 In addition to the notice required under Section 9.7.2, notices provided by the Dedham Health Department shall also be posted by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail: (a) As of January 1, 2014, such notice shall state that the sale of tobacco products to persons under age 21 is illegal; (b) The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post signage that discloses current referral information about smoking cessation; (c) The owner or other person in charge of a shop or other place used to sell nicotine delivery products at retail shall conspicuously post a sign stating "The sale of nicotine delivery products to minors under 21 years of age is prohibited."; and (d) The owner or other person in charge of a shop or other place used to sell e-cigarettes at retail shall conspicuously post a sign stating, "The use of e-cigarettes at indoor establishments may be prohibited by local law." The notices shall be no smaller than 8.5" by 11" and shall be posted conspicuously in the retail establishment or other place in such a manner so that they may be readily seen by a person standing at, or approaching the cash register. These notices shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than 4 or greater than 9 feet from the floor.

9.6.3 Each person selling or distributing tobacco products or Nicotine Delivery 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 twenty-one (21) years or older. Verification is required for any person under the age of 27.

9.6.4 All retail sales of tobacco or Nicotine Delivery Products must be face-to-face between the seller and the buyer.

9.6.5 No health care facility, as per our regulations, located in the Town of Dedham shall sell or cause to be sold tobacco products and Nicotine Delivery Products. Additionally, no retail establishment that operates or has a health care facility within it, such as a pharmacy or drug store, shall sell or cause to be sold tobacco products and Nicotine Delivery Products.

9.6.6 No educational institution located in the Town of Dedham shall sell or cause to be sold tobacco products and Nicotine Delivery Products. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

9.6.7 No person or entity shall sell or distribute blunt wraps in the Town of Dedham.

9.6.8 No person, firm, entity or corporation shall sell or offer for sale or distribute drug paraphernalia, cigar wraps, bidi (beedie) and/or flavored Tobacco Products of any kind in The Town of Dedham.

9.6.9 No person or entity shall sell or distribute e-cigarettes in the Town of Dedham.

#### 9.7: Tobacco and Nicotine Delivery Products Sales Permit

9.7.1 No person shall sell or otherwise distribute tobacco or Nicotine Delivery Products at retail within Dedham without first obtaining a Tobacco and Nicotine Delivery Products Sales Permit issued annually by the Dedham Board of Health.

9.7.2 As part of the Tobacco and Nicotine Delivery Products Sales Permit application process, the applicant will be provided with the Dedham 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 or Nicotine Delivery Product sales regarding both state laws regarding the sale of tobacco and this regulation.

9.7.3 As a condition for obtaining and/or renewing a Tobacco and Nicotine Delivery Products Sales Permit, the Dedham Board of Health may require tobacco or Nicotine Delivery Products retailers and any employee involved in the act of sale of tobacco products or Nicotine Delivery Products to participate in training programs provided by or approved by the Board regarding compliance with the laws and regulations prohibiting

the sale of tobacco products or Nicotine Delivery Products to minors and to individuals as stated in section 9.6.a,b, and c..

9.7.4 Each applicant selling tobacco products is required to provide proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a Tobacco Sales and Nicotine Delivery Products Permit can be issued.

9.7.5 The fee for a Tobacco Sales and Nicotine Delivery Products Permit shall be determined by the Dedham Board of Health annually. All such permits shall be renewed annually by January 1st.

9.7.6 A separate permit is required for each retail establishment selling tobacco or Nicotine Delivery Products.

9.7.7 Each Tobacco and Nicotine Delivery Products Sales Permit shall be displayed at the retail establishment in a conspicuous place.

9.7.8 No Tobacco and Nicotine Delivery Products 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.

9.7.9 A Tobacco and Nicotine Delivery Products Sales Permit is non-transferable, except a new permit will be issued to a retailer who changes location.

9.7.10 Issuance of a Tobacco and Nicotine Delivery Products 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.

9.7.11 A Tobacco and Nicotine Delivery Products Sales Permit will not be renewed if the permit holder has failed to pay all fines issued and the time period to appeal the fines has expired.

9.7.12 The Board of Health shall issue no more new permits for Tobacco. If an establishment closes, then the license is forfeited. If establishment is sold the permit may be renewed by the buyer at the time of purchase.

#### 9.8: Free Distribution and Coupon Redemption

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

## 9.9: Cigarette Packaging and Cigar Sales

9.9.1 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.

9.9.2 No retailer, retail establishment, or other individual or entity shall sell or distribute or cause to be sold or distributed a cigar unless the cigar is contained in an original package of at least four (4) cigars. This Section shall not apply to (a) the sale or distribution of any cigar having a retail price of two dollars and fifty cents (\$2.50) or more; (b) a person or entity engaged in the business of selling or distributing cigars for commercial purposes to another person or entity engaged in the business of selling or distributing cigars for commercial purposes with the intent to sell or distribute outside the boundaries of the Town of Dedham.

## 9.10: Self Service Displays

All self-service displays of tobacco products and/or Nicotine Delivery Products are prohibited. All humidors including, but not limited to, walk-in humidors must be locked.

## 9.11: Tobacco Vending Machines and Roll-Your-Own Machines

9.11.1 All tobacco vending and/or Nicotine Delivery Product machines are prohibited.

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

## 9.12: Violations

9.12.1 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 or Nicotine Delivery Products. Any permit holder, proprietor(s) or other persons(s) in charge of a place covered by this regulation or his or her business agent or designee who fails to comply with this regulation shall be subject to the following:

a. In the case of a first violation, a fine of one hundred dollars (\$100.00), and the Tobacco Sales and Nicotine Delivery Products Permit shall be suspended for seven (7) consecutive business days.

b. In the case of a second violation within 24 months of the date of the first violation, a fine of two hundred dollars (\$200) and the Tobacco Sales and Nicotine Delivery Products Permit may be suspended for 6 months.

c. In the case of three or more violations within a 24-month period, a fine of three hundred dollars (\$300) and the Tobacco Sales and Nicotine Delivery Products Permit may be suspended for 12 months.

A permit holder whose permit has been suspended for 12 months may not apply for a new permit prior to the expiration of the 12-month suspension period.

9.12.2 Refusal to cooperate with inspections pursuant to this regulation may result in the suspension of the Tobacco Sales and Nicotine Delivery Products Permit for thirty (30) consecutive business days.

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

9.12.4 The Dedham Board of Health shall provide notice of the intent to suspend, revoke, or deny the issuance or renewal of a Tobacco Sales and Nicotine Delivery Products 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 may 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 Dedham Board of Health after a hearing, may suspend, revoke, or deny the issuance or renewal of the Tobacco Sales and Nicotine Delivery Products Permit. All tobacco products and Nicotine Delivery Products shall be removed from the retail establishment upon suspension of the Tobacco Sales and Nicotine Delivery Products Permit. Failure to remove all tobacco products and Nicotine Delivery Products shall constitute a separate violation of this regulation.

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

#### 9.13: 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 and Town of Dedham General By Laws or by filing a criminal complaint at the appropriate venue.

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

#### 9.14: Enforcement

## PART TEN

### REGULATION OF THE DEDHAM BOARD OF HEALTH RESTRICTING THE SALE OF MARIJUANA

Enforcement of this regulation shall be by the Dedham Board of Health, Health Director, Environmental Health Agent, Public Health Nurse, other Health Agent, or the Dedham Police.

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

#### 9.15 Other Applicable Laws

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

#### 9.16: 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.

#### 9.17 Effective Date

This regulation shall take effect on **April 1, 2020**

#### **A. Statement of Purpose:**

The purpose of this Regulation is to complement the Humanitarian Medical Use of Marijuana Act G.L. c. 94C, App. 1-1, Chapter 369 of the Acts of 2012 (:the act”) and the Commonwealth’s regulations, 105 CMR 725.00, to allow for local enforcement of dispensaries and to ensure that Registered Marijuana Dispensary (RMD) environments are controlled to meet the requirements set forth by the Town of Dedham’s Board of Health (“the Town” or “Board of Health”) Massachusetts Department of Public Health (DPH) regulation regarding the medical use of marijuana still apply.

Whereas the town of Dedham aims to abide by the goals of this law and ensure that RMD abide by further regulations to ensure the safety of our residents.



Now, therefore it is the intention of the town of Dedham to regulate the sale of marijuana.

**B. Authority:**

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

**C. Definitions:**

Any terms not defined in this Section but defined elsewhere in the Town of Dedham By-laws, Building Department and Board of Health Regulations or DPH regulations shall have the same meanings given therein to the extent the same are not inconsistent with this Regulation.

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

Board of Health: Town of Dedham Board of Health and its designated agents.

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

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.

Card Holder: A registered qualifying patient, a personal caregiver, or a dispensary agent of a RMD who has been issued and possesses a valid registration card by the DPH.

Cultivation Registration: A registration issued to a Medical Marijuana Treatment Center for growing marijuana for medical use under the terms of state law and regulation, or to a qualified patient or personal caregiver under the terms of state law and regulation.

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

Dispensary Agent: A board member, director, employee, manager, or volunteer of a RMD who is at least 21 years of age. Employee includes a consultant or contractor who provides on-site services to a RMD related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of marijuana.

E-Cigarette: Any electronic nicotine delivery product composed of a mouthpiece, heating element, battery and/or electronic circuits that provides a vapor of liquid nicotine to the user or

relies on vaporization of solid nicotine or any liquid. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

Employee: Any individual who performs services for an employer.

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

Enclosed, Locked Facility: A closet, room, greenhouse, or other area equipped with locks or other security devices, accessible only to dispensary agents, patients, or personal caregivers.

Marijuana: All parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination, including a Marijuana-Infused Product (MIP). [MGL Ch. 94C, §1, "Marihuana"]

Marijuana-Infused Product (MIP): A product infused with marijuana that is intended for use or consumption, including but not limited to edible products, ointments, aerosols, oils, and tinctures. These products, when created or sold by a Registered Marijuana Dispensary, shall not be considered a food or a drug as defined in G.L. c.94 sec. 1.

Medical Marijuana Treatment Center: A not-for-profit entity registered under 105 CMR 725.100, to be known as a Registered Marijuana Dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) for dispensing, cultivation, and preparation of marijuana.

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

Non-Residential Roll-Your-Own (RYO) Machine: A mechanical device made available for use (including to an individual who produces rolled marijuana products solely for the individual's own personal consumption or use) that is capable of making rolled marijuana products. RYO

machines located in private homes used for solely personal consumption are not Non-Residential RYO machines.

Permit: RMD Permit.

Personal Caregiver: A person, registered by the DPH, who is at least 21 years old, who has agreed to assist with a registered qualifying patient's medical use of marijuana, and is not the registered qualifying patient's certifying physician. An employee of a hospice provider, nursing, or medical facility or a visiting nurse, personal care attendant, or home health aide providing care to a qualifying patient may serve as a personal caregiver, including to patients less than 18 years of age as a second caregiver.

Registration Card: An identification card issued by DPH to a registered qualifying patient, personal caregiver, or dispensary agent. The Registration Card verifies either that a certifying physician has provided a written certification to the qualifying patient and the patient has been registered with the DPH; that a patient has designated the individual as a Personal Caregiver; that a patient has been granted a hardship cultivation registration; or that a Dispensary Agent has been registered with the DPH and is authorized to work at a RMD. The Registration Card allows access into appropriate elements of the DPH- supported, interoperable database in which detailed information regarding certification and possession criteria are stored. The Registration Card identifies for the DPH and law enforcement authorities, those individuals who are exempt from Massachusetts criminal and civil penalties due to their medical use of Marijuana in compliance with 105 CMR 725.00 and the Act.

RMD Permit: Issued by the Town, to be renewed annually, that permits a RMD to operate.

RMD Permit Holder: Any person engaged in the sale of Marijuana or marijuana products who applies for an receives a Permit or any person, or his or her business agent, who is required to apply for a Permit pursuant to these Regulations.

Self-Service Display: Any display from which customers may select Marijuana or a marijuana product without assistance from a Dispensary Agent or store personnel.

Sixty-Day Supply: The amount of marijuana that a qualifying patient would reasonably be expected to need over a period of sixty (60) days for their personal medical use, as defined by DPH.

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

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

Town: Town of Dedham

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

**D. Permit to Operate a Registered Marijuana Dispensary:**

1. No person shall sell or otherwise distribute marijuana or marijuana products within the Town of Dedham **without** first obtaining a RMD Permit issued annually by the Town. As a condition for application for RMD Permit, the RMD shall provide the Board of Health with evidence that: (a) the RMD has a permanent, non-mobile location in Dedham, such evidence shall include a lease or deed to the property or other evidence acceptable to the Board of Health; and (b) the RMD is in compliance with and/or has obtained all necessary planning/zoning approvals and permits from the Town.
2. As part of the RMD Permit application process, the applicant will be provided with the Board of Health the detailed summary of operating policies and procedures for the RMD as submitted to DPH with their Phase II application in accordance with 105 CMR 725.00, including, but not limited to, detailed floor plan, provisions for security, prevention of diversion, storage of Marijuana and marijuana products, transportation of Marijuana and marijuana products, inventory procedures, procedures for quality control and testing of product for potential contaminants, procedures for maintaining confidentiality as required by law, personnel policies, dispensing procedures, record-keeping procedures, plans for patient education, and any plans for patient or Personal Caregiver home-delivery.
3. As part of the RMD Permit application process, the Town shall provide the applicant with a copy of this Regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulations and that the applicant acknowledges that it is responsible for instructing any and all Dispensary Agents who will be responsible for sales as to the requirements of the Regulation.
4. Each applicant is required to provide proof of a current RMD registration, issued by DPH, before a Permit can be issued.
5. For RMD's that cultivate marijuana, the cultivation and processing facility shall not adversely affect the health or safety of the nearby residents or businesses by creating dust, glare, heat, noise, noxious gases, materials, processes, products or wastes. Growing areas shall be within a self-contained structure, with a 1-hour firewall assembly made of green board, well ventilated with odor control, and shall not create humidity or mold issue within the establishment.
6. No RMD is permitted to sell alcohol or tobacco products and must not be in possession of either a tobacco sales permit or a liquor license issued by Town.
7. No RMD is permitted to hold a Common Victualler License issued by town for on-premises food consumption.

8. No RMD is permitted to be a Massachusetts lottery dealer.
9. A one-time fee for application is \$900.00 and to review the application, regardless of the need for a plan review under Section E, shall be eight hundred dollars (\$800.00).
10. The fee for a RMD Permit shall be four hundred dollars (\$400.00) annually.
11. A separate Permit is required for each retail establishment selling marijuana and/or marijuana products.
12. Each Permit shall be displayed at the retail establishment in a conspicuous place.
13. No RMD Permit Holder shall allow any Dispensary Agent to sell marijuana or marijuana products until such Dispensary Agent certifies that the agent has read this Regulation and State Law regarding the sale of sale of marijuana and signs a statement, a copy of which will be placed on file in the office of the RMD Permit Holder, that he/she has read the regulations and applicable state laws.
14. Dispensary Agents must present their Registration Card to any Town law enforcement official or Board of Health agent who questions the agent concerning their marijuana-related activities.
15. A RMD Permit is non-transferable. A new owner of a RMD must apply for a new Permit. No new Permit will be issued unless and until all outstanding penalties incurred by the previous License Holder are satisfied in full.
16. A RMD Permit Holder shall submit a copy of all DPH inspection reports to the Board of Health within five (5) business days of the report date.
17. Issuance and maintaining of a RMD Permit shall be conditioned on an applicant's consent to unannounced, Board of Health inspections of their retail establishment to ensure compliance with this regulation.
18. Issuance and maintaining a RMD Permit shall be conditioned on an applicant's consent to provide the Board of Health with copies of the DPH registration card for Dispensary Agents working at the RMD, and to submit any changes in staffing and registration information within five (5) business days of the issuing of new registration card(s).
19. Issuance and maintaining of a RMD Permit shall be conditioned on an applicant's on-going compliance with current DPH requirements and policies regarding marijuana sales.
20. Issuance and maintaining a RMD Permit shall be conditioned on an applicant's agreement to maintain a closed-circuit camera system that records all sales transactions and any recording from the previous 24-hour period must be provided to any law enforcement official or municipal agent who requests such recording.

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

22. At any given time, there shall be no more than **one** Licenses issued in Dedham.

23. License Holders agree that a RMD will not open for business before **9:00 a.m.** and shall close no later than **7:00 pm** daily on each day the RMD is open.

**E. Plan Review of Marijuana-Infused Product Facilities:**

1. Applicants who wish to produce edible MIPs at their RMD must, prior to beginning operations, undergo plan review of food processing and preparation facilities with the Board of Health to ensure sanitary food handling conditions and practices, notwithstanding that edible MIPs are not considered a food.

**F. Marijuana Sales by Registered Marijuana Dispensary:**

1. No person shall sell marijuana from any location other than at a RMD that possesses a valid RMDE Permit issued by the Town.

2. Required Signage: The owner or other person in charge of a RMD shall conspicuously post signage at all entrances indicating that the entry to persons not possessing a valid Registration Card is prohibited. The signage shall be provided by the Town. The sign shall be no smaller than 8.5" by 11" and shall be posted conspicuously in the establishment or other place in such a manner so that they may be readily seen by a person approaching the RMD. Such sign shall directly face the Card Holder 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. All signs shall be at least forty-eight (48) square inches in area and must use at least two (2) contrasting colors.

3. Identification: Dispensary Agents shall verify the Registration Card of the Card Holder by means of a valid government-issued photographic identification. No separate identification is required for valid Registration Cards bearing a photograph of the Holder.

4. All retail sales of marijuana must be face-to-face between the Dispensary Agent and the Card Holder and occur at the permitted location, unless the qualifying patient or Personal Caregiver requires home delivery.

5. No person shall distribute, or cause to be distributed, any free samples marijuana or marijuana products. No means, instruments or devices that allow for the redemption of marijuana or marijuana products are prohibited.

6. RMD are prohibited from using self-service displays.

7. RMD are prohibited from using vending machines.

8. RMD are prohibited from using Non-Residential Roll-Your-Own machines.

**G. Marijuana Sales by Individuals:**

1. The sale of marijuana by any person outside of a RMD, including Card Holders, is prohibited and shall be punishable in accordance with applicable state and local laws.
2. The use of marijuana by persons who are not Card Holders, including Personal Caregivers who are Card Holders, shall be punishable in accordance with applicable state and local laws.

**H. Marijuana Possession:**

1. A Card Holder must present his or her Registration Card to any law enforcement official who questions the patient or caregiver regarding use of marijuana.
2. A Card Holder must not possess an amount of marijuana that exceeds his/her sixty-day supply.
3. Growing marijuana is prohibited except for those possessing a valid Cultivation Registration issued by DPH.

**I. Marijuana Use:**

1. The smoking of any marijuana is prohibited in locations governed by the Massachusetts Smoke-Free Workplace Law (MGL Ch. 270 §22) and by any local laws or regulations that further ban smoking.
2. The use of marijuana by all persons, including Card Holders, is prohibited in public schools, on public school grounds and on public school buses.

**J. Violations:**

1. It shall be the responsibility of the RMD 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 marijuana and/or marijuana products. The violator shall receive:
  - a. In the case of a first violation, a fine of three hundred dollars (\$300.00).
  - b. In the case of a second violation within twenty-four (24) months of the date of the current violation, a fine of six hundred dollars (\$600.00) and the Permit shall be suspended for seven (7) consecutive business days.

- c. In the case of three or more violations within a twenty-four (24) month period, a fine of nine hundred dollars (\$900.00) and the 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 Permit for thirty (30) consecutive business days.

3. In addition to the monetary fines set above, any RMD Permit Holder who engages in the sale or distribution of marijuana or marijuana products while his or her RMD permit is suspended shall be subject to the suspension of all Dedham -issued permits and licenses for thirty (30) consecutive business days.

4. The Board of Health shall provide notice of the intent to suspend a RDM Permit, which notice shall contain the reasons therefor and establish a time and date for a hearing which date shall be no earlier than seven (7) days after the date of said notice. The RDM Permit or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the Town's decision and the reasons therefore in writing. After a hearing, the Town shall suspend the RMD Permit if the Town finds that a violation of this Regulation occurred. For purposes of such suspensions, the Town shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the state law for the same offense. All marijuana and marijuana products shall be removed from the retail establishment upon suspension of the RMD Permit. Failure to remove all marijuana and marijuana products shall constitute a separate violation of this Regulation.

5. An individual or person who violates Sections G and H of this Regulation shall be subject to a penalty of \$100 for each violation.

**K. Non-Criminal Disposition:**

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

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.

Any resident who desires to register a complaint pursuant to the regulation may do so by contacting the Dedham Board of Health 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.

**M. Effective Date:**

This regulation shall take effect on March 23, 2016.

Town of Dedham Board of Health

## DEDHAM BOARD OF HEALTH 2018 FEE SCHEDULE

<b>Disposal Works Permit</b>	
Installers-New	\$150
Construction-New	\$200
Construction-Well	100
Construction –Repair	\$125
Permit to transfer offal/rubbish	\$150
Permit to transfer contents of cesspool and or/septic tank	\$150
Witness to percolation test (each)	\$100
Maintain dumpster enclosed	\$50

<b>Licenses: Services</b>	
Funeral Director	\$75
Burial Permits	\$20
Operate public/Semipublic pool annual	\$300
Seasonal Pool	\$200
Whirlpool or saunas-annual	\$250
whirlpool or saunas-seasonal	\$175
Tanning facility & 25.00 booth/bed	\$200
Body art facility	\$1000
Body art practitioner	\$250
Body art apprentices	\$100

<b>Food Service</b>	
Operate mobile/canteen	\$200
Bakery	\$200
One day food service	\$50
Caterers annual	\$200
Retail food	\$200
Butchery	\$200
Fish market	\$200
Operate a food service	\$200
*1-75 seats	\$100
*76-100 seats	\$200
*100 or more	\$400
<b>All Permit and License Renewal</b>	
<b>Milk Licenses</b>	
Regular	\$5
Milk vehicle	\$5
Manufacturing of ice cream	\$100
Frozen dessert machine	\$100
<b>Housing Inspections</b>	
Housing inspection per dwelling	\$100
Each add. Apt. in same dwelling	\$25
<b>Tobacco Permit</b>	\$200

<b>Day Camp Permit</b>	\$250
<b>Plan Reviews</b>	
Variance request	\$100
<b>Pool /Septic</b>	
Spa/pools-new construction	\$100
Spa/pools-upgrade	\$50
Septic systems new construction	\$100
Septic system-each changes made	\$50
<b>Retail</b>	
Small convenient store	\$50
Large conv store/small market	\$75
Each change	\$25
<b>Restaurant</b>	
Less than 25 Seats	\$50
26-50 seats	\$100
50+seats	\$200
Each change	\$ 50
<b>Permit for keeping of Animals</b>	
Small per Unit	\$50
Large per Unit	\$100
<b>Ice Skating Rink</b>	\$100
<b>Copy of BOH Regulations</b>	\$10.00
Other copies/per page	\$0.25
<b>***Fees for re-inspect after initial inspection of restaurants, retail, pools, etc.</b>	\$50 per violation or \$100
2 <sup>nd</sup> follow up visit	\$100
3 <sup>rd</sup> follow up visit	2 x permit fees
**fees are at discretion of inspector	

## PART TWELVE

### CRYOGENIC CHAMBER THERAPY

#### Authority

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

#### State of Purpose

The purpose of this Regulation is to protect the customers and employees within the Town of Dedham so they may make informed decisions about using the cryogenic chamber therapy and to allow local enforcement to ensure requirements are being met.

#### **Definitions**

**Agent**-means any duly authorized agent of the Board of Health as specified under MGL c. 111 sect.30

**Board of Health**-Town of Dedham Board of Health and its designated agents.

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

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

**Establishment**-Place where cryogenic chamber therapy takes place.

**Permit**-to show establishment is permitted through the Board of Health

**Cryotherapy**-enveloping the body with hyper-cooled air (using liquid nitrogen) ranging from negative 184 to negative 256 within time frame of 1 to 3 minutes.

**Certifications and Training**- comprehensive training to show proof of knowledge

**Consent Form**- A form that must have establishments name, address, phone number, clients name, address, phone number date of service, time of service, length of time in sauna, show that a review of the screening process with employee of establishment has been done, both client and employee sign consent form.

#### **A. General Provisions for customers**

1. Must be 18 years or older (no minor’s even with parental permission)
2. One session per day (for max of 3 minutes)

3. No jewelry
4. Protective Clothing- customers must wear the appropriate protective clothing (no moisture or dampness)
5. Must be in good health

**B. Screening**

1. Any person considering using a cryogenic chamber should consult their medical provider prior to use. Customers should not use machines if they currently have, or have recently had, any of the previous health conditions:

Heart Attack or stroke

High blood pressure

Pregnancy

Seizure Disorder

Reynaud's Syndrome

Cold Allergies

Vein Thrombosis or Clotting Issues

An infection or fever

Pacemaker and other implanted medical devices

Certain medications

Claustrophobia

Or any serious medical condition not already mentioned

2. List of medical conditions must be on the consent form that the customer is signing
3. Full Description of the cryotherapy process along with a short video of explanation which clearly states there are no proven medical benefits to cryotherapy.
4. Cryotherapy is not an FDA approved medical device.

**C. Physical Facility:**

1. Defibrillator-on premises of establishment and staff trained on how to use.
2. Emergency phone- Emergency phone numbers listed directly beside it with phone clearly marked "Emergency Phone Only".

3. Warning signs- Must list health conditions in Screening part B; Cryotherapy is not an approved FDA medical device nor is there any proven health benefits to cryotherapy and must be posted in screening area along with cryotherapy room.
4. Permits must be visible at all times to patrons.
5. Oxygen Deficiency Monitors as needed to properly monitor in each area separated by walls and on each sauna.
6. Oxygen Deficiency Monitors shall be tested periodically as manufacturer calls for but no less than four times in a twelve-month period.
7. Automatic shut-off when oxygen levels fall below 20%.
8. OSHA Requirements: The facility must meet all OSHA requirements along with proper signage (All Warning Signs Posted Red with White lettering 2" letters).
9. Standing Operating Procedures for facility must be kept up to date and available for review at all times (cleaning of machines, maintenance records service calls etc.)

**D. Employee Training:**

1. All employees and owners must have proof of Basic Life Support CPR and defibrillator class-based training and must be kept valid at all times.
2. All employees and owners must be trained by manufacturer's guidelines and show proof of such.
3. Establishment Owner must have periodic training reviews with all staff at a minimum of two times within a twelve-month period and documented.

**E. Enforcement and Inspections**

1. The Board of Health shall enforce the provisions of this regulation. Any agent of the Board of Health may, according to law, enter upon premises at any reasonable time to inspect for compliance.
2. Upon request by an agent of the Board of Health, an owner or operator shall furnish all information required to enforce and monitor compliance with this Regulation, including but not limited to , a complete inventory of all product that are purchased by the establishment along with receipts.
3. The Board of Health may, after providing opportunity for a hearing, order the revocation of a Permit to Operate a Cryogenic Chamber Therapy type facility of one or more particular operations for:
  - a. Serious or repeated violations of this regulation
  - b. Interference with the board of Health in the performance of its duty.

- c. For keeping or submitting any misleading or false records or documents required by the regulations.
- 4. Standard Operating Procedure Log must be maintained and up to date.
- 5. Employee records must have copies of all trainings and certifications.

**F. Application and Fees:**

- 1. Application, plans, equipment, spec sheets must be submitted for review prior to approval
- 2. Once approved maintenance agreements must be submitted with application and updated annually with permit to operate
- 3. Application must be filled out annually for renewal
- 4. Fees are as follows:
  - a. Review of new or upgraded facility \$100.00
  - b. Application for establishment \$350.00 annually
  - c. Per sauna per person \$50.00 additional

## PART THIRTEEN

### RULES AND REGULATIONS FOR THE MAINTENANCE OF GREASE TRAPS AND REMOVAL OF GREASE FROM FOOD ESTABLISHMENTS

#### I. Authority

The Dedham Health Department acting under the authority of Chapter 111, Section 31 of the Massachusetts General Laws and any amendments and addition thereto, Town-by-Law Chapter 13 Section 49 Restaurant Sewage Disposal; Title V 105 CMR 310.15.02 on site disposal design flow, has adopted the following rules and regulation during its May 6<sup>th</sup>, 2001 meeting.

#### II. Purpose

The purpose of this regulation is to protect the residents and business within the Town of Dedham from blockages of the Town's Sanitary Sewer caused by grease discharged from food service establishments located in the Town.

#### III. Definitions

Agent- means any duly authorized agent of the Dedham Board of Health as specified under MGL c. 111 sec. 30

Permitted Offal Hauler-means any offal Hauler which is issued a permit to Haul Offal by the Dedham Health Department.

Food Establishment-which is issued a Permit to Operate a Food Establishment by the Health Department under FC 1-201.10(B) (31)

Grease Trap-also referred to as a grease interceptor by the State Plumbing Code, is a device designed to remove dissolve and/or suspend grease and waste oil from wastewater

Sewer pipe-means any building or town sanitary sewer piping including but not limited to interior and exterior building sanitary sewer piping, any main, or lateral sanitary sewer piping regardless wither it is located on private or municipal land.

Waste grease or oil-means waste oil or grease generated by A food Service Establishment during the cooking process

#### IV. General Provisions

##### A. Grease Trap installation

The Board of Health may at any time require the installation of a grease trap, as it may deem necessary to maintain any particular building sewer pipe, any lateral sewer pipe, or sewer main pipe free from obstructions caused by grease or oil emanating from a food establishment.

##### B. Food Establishment or related Business

In every case where a food establishment is preparing or selling food, or other business in which grease is a byproduct of production a suitable internal or external grease trap in compliance with specifications on file with the Board of health, and conforming to applicable building and plumbing codes must be installed.

##### C. New or remodeled Food Establishments

New or remodeled establishments that prepare food with a seating capacity in excess of fifty seats must install an external grease trap with a 1500-gall capacity.

##### D. Grease trap maintenance

Internal grease traps must be cleaned monthly by the owner; operator, or permitted Offal Hauler, external grease traps must be pumped by a permitted Offal Hauler at least every six months. Service records must be maintained in a binder readily accessible to the Board of Health Inspectors and Agents.



#### E. Waste grease and oil storage and removal

Waste grease and oil shall not be disposed by the sanitary sewer. All waste oil and grease must be collected in an appropriate container provided by an approved vendor, stored in an approved location on premise. The container must be stored on an impervious surface such as concrete or pavement. All waste and grease oil shall be removed by a permitted Offal Hauler; said material should be removed from the premises monthly. While being stored all grease containers and surrounding areas must be kept in a sanitary condition at all times.

#### V. Enforcement and Inspection

A. the board of health shall enforce the provisions of this regulation. Any agent of the Board of Health may according to law enter upon any premises at any reasonable time to inspect for compliance.

B. All records pertaining to purchasing, storage and removal of grease-related products, and waste products shall be retained by the owner or operator on premise for no less than two years.

C. Upon request by an agent of the Board of health, and owner or operator shall furnish all information required to enforce and monitor compliance with this regulation, including but not limited to a complete inventory of all food and maintenance related products that are purchased by the establishment, receipts from Permitted Offal Haulers retained to removed waste grease or oil from establishment.

D. the Board of Health may, after providing opportunity for a hearing, order the revocation of a Permit to Operate a Food Establishment the termination of one or more particular operations for:

1. Serious or repeated violations of the regulation
2. Interference with the Board of Health in the performance of its duty.

3. for keeping or submitting any misleading or false records or documents required by the regulation

#### VI. Violation

Written notice of any violation of this Regulation, shall be given to the Owner and Operator by an agent of the Board of Health, specifying the nature, time and date of the violation any preventative measure required to avoid future violations, and a schedule of compliance.

#### VII. Variance

Any request for a variance from the provisions of this regulation must be presented in writing, the request should specify if the variance is being requested due to restrictions in the amount of available space, and/or economic hardship. Variance requests regarding the size of a grease traps should be accompanied by kitchen flow calculations prepared by a Massachusetts licensed plumber supporting an alternate size.

#### VIII. Hearing

The person or persons, to whom any order or notice issued pursuant to this regulation has been directed, may request a hearing before the Board of Health. Such request shall be in writing and shall be filed in the office of the Board of Health within ten days after receipt of the order or notice.

#### IX. Penalty

Any person that violates any provision of this Regulation may be punished under Chapter 40 Section 21D of the Massachusetts General laws, by a fine of no more than 100.00 or by filing a criminal complaint at the appropriate venue. Each day or portion thereof during which a violation continues shall constitute a separate offense. Failure to correct violations of any provision of this Regulation may result in the suspension or

revocation of a Permit to Operate a Food Establishment or refusal to issue a Permit to Operate a Food Establishment as provided in 105 CMR 590.012 or 105 CMR 590.014

X. Severability

Each provision of this regulation shall be construed as a separate to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

**\*EFFECTIVE DATE OF THESE REGULATIONS JUNE 1, 2001**